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1 the government's opening statement. I think it will be
2 Mr. O'Neill who will be giving the opening statement for the
3 government. All right.

4 OPENING STATEMENT

BY MR. O'NEILL:

6 Ladies and Gentlemen, this case is about power and how
7 it can corrupt. The evidence will show that this case is about a
8 public official using her public office for private gain. It is
9 about looking out for No. 1. The evidence will show that the
10 public official in this case breached the public trust that is
11 owed to the United States of America. That public official was
12 the defendant, Deborah Gore Dean.

m 13 She used her position to benefit herself and her
14 family. Instead of looking out for the interests of low-income
15 families, families who needed public housing, she looked out for

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16 the interests of her and her family. Rather than providing the
17 United States of America with her undivided loyalty, since they
18 were paying her salary, she was loyal to herself and not the
19 United States, not to the public to whom she deserved to be

8

g 20 loyal.

2 The evidence will further show that the defendant
2 consistently disguised what she had been doing and in public
2 pronouncements stated that the program worked as it was supposed
2 to work, for the benefit of low-income people. Instead, that is :
2 not how it was working, and the evidence will show that's not how

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1 it was working, but she did not want the public .to know how it

2 actually did work.

3 In fact, the evidence will show that in the setting in
4 which the defendant had to testify under oath before the United
5 States Senate, she lied and covered up what she had been doing
6 through the years 1984 to 1987 at the Department of Housing and
7 Urban Development, and the reason why she lied was because she
8 didn't want her actions to be exposed. She didn't want the
9 public to know that she had been utilizing her position for
10 private gain.

11 May it please the Court, Judge Hogan, counsel, Ladies
12 and Gentlemen of the Jury, good morning.

13 THE JURORS: Good morning.

14 MR. O'NEILL: We've been introduced several times,
15 people at government table, by His Honor, but since this is my
16 first opportunity to speak to you, I'd like to tell you who we
17 are and introduce ourselves. My name, as you know, is Robert
18 O'Neill. Immediately to my left is Ms. Paula Sweeney. Together
19 we represent the United States in this action. We are the
20 prosecutors in this case. We will be presenting the evidence.
21 Now I'd just like to state for you that we are not
2 witnesses. We will not be testifying. We were not present when
2 these events unfolded. We are merely the vehicles by which the
2 United States presents its evidence. We ask questions of
2 potential witnesses.

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You'll also see at counsel table there's another
2 individual, and His Honor said that's Special Agent Mark Batts of
3 the Federal Bureau of Investigation. He will be assisting us in
4 the presentation of this evidence that we'll be presenting in
5 this case.

6 Now I expect you to hear a lot of information today,
7 and I'm sure some of you might be a little concerned. There's
8 going to be a lot of legal issues, and you may never have been a
9 juror before, and you'll also hear a lot of housing issues, and
10 you might think, "well, I'm not an expert in housing."
11 Don't be worried about the legal issues, the housing
12 issues. That's my job. It's my job now to explain for you
13 basically what this case is all about. If I don't do that,
14 that's my fault, my problem, not yours.
15 And we'll take it one step at a time, because this is
16 really not a complex case. It is very straightforward. There
17 are a lot of names, lot of people involved, but right now you're
18 getting an opening statement, and I'll be speaking for an hour or
19 so, and you're getting all of the case, as His Honor said, sort
20 of a road map in one hour, whereas in the next several weeks
21 you'll be getting all of this information as you go along, and
22 those of you who have been jurors know that. For some of you,
23 it's a new experience. So don't be concerned. It will all come
24 together over time.

25 This is a criminal case, Ladies and Gentlemen, as you

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1 all know, but I'm sure a lot of you when you got a notice for
2 jury duty were not thinking of this type of case. You know, we
3 all are familiar with regular street crime: robbery, car theft,
4 drugs. Those are the things we usually hear about, experience in
5 our day-to-day lives.

6 This type of case is what's called white collar, and
7 the reason for that is the emphasis is slightly different. It
8 depends on the position generally of the person. This case is
9 going to be about a public official who used a public office for
10 private gain, and at first blush, since we're all familiar with
11 street crime, you might not be as familiar with white color

5 12 crime.

13 Well, it can be every bit as bad as street crime,
14 Ladies and Gentlemen, every bit as serious, in fact, more so. In
15 street crime, we usually have a single victim -a
16 car stolen,
17 the owner is quite upset, but it only usually affects the owner.
18 Same thing with a burglary: It's a terrible crime, but it's only
19 the people in the house.
20 When a public official does not act properly and
21 engages in illegal behavior, we are all harmed, because we all
22 lose confidence in our public institutions. And that is
23 primarily the difference between street crime and white collar
24 crime.
25 Now you will hear in this case that the defendant was a
26 public official during the time frame relevant to the charges.

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1 She was what's called an executive assistant at the Department of
2 Housing and Urban Development, and I'll get into that, but as
3 such, she owed certain duties to the American people, to the
4 general public. The United States government was paying her
5 salary, a pretty good salary, and she had to work on behalf of
6 the United States.
7 What does that require? What kind of standards of
8 conduct should a public official be held accountable to or is
9 held accountable to? Well, there are certain marks: Honesty.
10 You must be honest in your approach in what you do.
11 Impartiality. You can't favor somebody that you like
12 over someone you don't, because you're working for the United
13 States. You're working for everyone.
14 Fairness. You must be fair to all.
15 Again, it encompasses the notion of equality. It's for
16 everyone. And you must have the undivided loyalty of the general
17 public, of the public good in mind, not your own personal
18 interests, not what you want to get out of the program.
19 You can't serve two masters is basically the premise,
20 and if you're being paid by the United States, if you're a public
21 official, you must work for the United States and do what's best
22 for the American people, the people as a whole.
23 You will hear in this case that the defendant was
24 required to live up to those standards as a public official, and
25 very early on, she was even told about these standards. She was

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1 told, the evidence will come out, to be careful in her dealings,
2 because you are a public official, and you must be careful. You
3 cannot just do what you want. And you will hear about that
4 evidence.
5 Now obviously, we're going to talk about the Department
6 of Housing and Urban Development, and in order to talk a little
7 about that, we have a few charts. We hope these charts will
8 assist you in seeing what we're talking about, in analyzing the
9 evidence. They basically summarize the evidence so we don't take
10 a lot of time talking about things that are much easier to see,
11 the old saying a picture is worth a thousand words, and we'll see
12 these from the charts. I'm going to put these up so you can see
13 that.
14 I'll start with this first chart, Government's 1 for
15 identification. If it stays up there, we're in pretty good
16 shape.
17 MR. WEHNER: Your Honor, excuse me, could we see the
18 charts? Can we go over to the other side so we can see them?
19 THE COURT: Yes, you can certainly move around.
20 MR. WEHNER: Thank you, Your Honor.

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2 MR. O'NEILL: Now, Ladies and Gentlemen, this chart
2 basically covers some of the structure of HUD, and before I
2 begin, I would like to state to you HUD is a big organization,
2 and many of you in filling out your jury questionnaires mentioned
2 you know people at HUD or you have friends or family that work

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there.

2 well, it usually, obviously, is a very large
3 organization, and every job at HUD is not listed on this, because
4 for the most part we're not concerned with all of HUD. HUD's
5 headquarters are here in Washington, D.C., but they also have
6 regional offices around the country. There are approximately ten
7 regions throughout the country, Northeast, Southeast, Midwest.
8 Then within a region you have field offices within each
9 individual city, so if we listed that, the chart would be as big
10 as the room. That we're not concerned with. We just want to
11 give an overview of the main jobs that you're going to hear about
12 in this case.
13 HUD starts at the top with the secretary, the top
14 position in HUD. It's not called president or CEO. It's called
15 secretary. The secretary of HUD during the period we're going to
16 talk about, 1984, 1985, 1986, 1987, was an individual by the name
17 of Samuel Pierce. He occupied that position, okay? He was the
18 top position at HUD.
19 You will see this position here, executive assistant.
20 That was the defendant's job during the years 1984 to 1987. The
21 defendant was the executive assistant to Samuel Pierce.
22 Now there are a lot of other jobs here. You'll hear
23 various people testify they were special assistants. No need to
24 get into this right now. Don't worry about being a little bit
25 confused by this. I've had the benefit of looking at this for a

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1 long time, so I know some of the titles and what they are. It is
2 confusing, but we don't have to worry about that.
3 You'll see this position, under secretary. That's a
4 pretty important position at HUD. You can see because of the way
5 it goes down. But for the most part of the time we're talking
6 about, that position is vacant. Nobody is in that position, so
7 pretty much we won't have to worry about that too much.
8 Directly below the under secretary is something called
9 the assistant secretary for housing/FHA commissioner. Now a lot
10 of us have probably heard of the FHA. That person has a lot of
11 authority. That person signs off on the funding that we're going
12 to hear about in this case, as His Honor said, the Moderate
13 Rehabilitation Program. I'll get into that. This person signs
14 off on that.
15 And during the years 1984 through 1987, there were
16 several people holding that slot. They sort of rotated pretty
17 quickly. No one person stayed for a long time. Some took that
18 job in an acting capacity; some were actually nominated for that
19 position, because it's a pretty big job. You've got to be
20 nominated, you've got to go before the Senate, they've got to ask
2 you questions.
2 So you'll see several people had that position. You'll
2 hear names: Maurice Barksdale, Shirley Wiseman, Janet Hale,
2 Silvio DeBartolomeis, Thomas Demery. Now again, don't worry
2 about memorizing those names. You'll hear about them over the

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1 next couple of weeks, okay? That's not all that important. I
2 just want you to get alerted to the fact that these are some of
3 the people.
4 Then you work your way down, and we'll get into a
5 little, but at this time, it's not all that important, these are
6 people who are involved with the funding process.
7 That is basically the structure at HUD, Ladies and
8 Gentlemen, the structure that we're concerned with, and as you
9 can see, the defendant had a very high position as executive
10 assistant. She worked right below the secretary and as such was
11 a public official.
12 Now what is HUD? What is the purpose of HUD? And I'm
13 going to call it HUD. It's of course the Department of Housing
14 and Urban Development, but everyone calls it HUD. HUD was
15 created approximately 20, 30 years ago, and for what purpose?
16 well, the purpose was to provide housing for low-income
17 recipients, people who need housing. At various times, something
18 happens in someone's life, they need government assistance,
19 that's what HUD was for, primarily in the area of housing.
20 But it had a second purpose. It's called Housing and
2 Urban Development. It also was involved in urban development,
2 the development of the cities.
2 We've all seen what's happened to the cities over the
2 last 20, 30 years. Cities are crumbling. They need help. Money
2 has to be put in. That's HUD's function again. HUD does that.

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1 They provide housing. They benefit the cities. That is the
2 mission of HUD. That's what HUD's set up for.
3 Now obviously, HUD has many programs in which they
4 perform this function, this mission. They have various different
5 programs that they utilize to provide money for housing, to work
6 on the cities. There are a whole bunch. We don't need to get
7 into it. Primarily we're involved in a project called the
8 Moderate Rehabilitation Project, and that is a project that His
9 Honor has already noted the name of.
10 Now again, what do we mean by the Moderate
11 Rehabilitation Program? Moderate rehabilitation, it means very
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g 12 much like it sounds. HUD had various programs that were designed
13 to create housing. They had something that was called
14 substantial rehabilitation; in other words, if an apartment was a
15 total mess and basically had to be completely gutted and then
16 fixed up, substantial rehabilitation filled that role.
17 well, moderate rehabilitation was sort of that in
18 between, where an apartment was messed up but with some work
19 could become good, could be fixed up, and that's what they
20 decided.
2 HUD decided we need this kind of program not for the
2 really bad apartments, but for the apartments to encourage the
2 landlords to put some money in it. So they came up with the
2 Moderate Rehabilitation Program, and the purpose of that is to
2 make apartments safe, sanitary, livable.

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1 That is not the way it worked, Ladies and Gentlemen.
2 The evidence will show it did not work that way. The defendant
3 manipulated this program so it did not work, so that money went
4 to headquarters, to the public housing authorities, and then
5 they, with all the information that they knew in their local
6 community, of the problems they knew in their community, gave it
7 to a particular developer.
8 It worked much differently. How it worked is that the

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9 developers did not go here anymore. This box was effectively
10 taken out of the equation. They were gone. Developers hired
11 people, powerful, prominent people, who bypassed this whole thing
12 and went right here to the defendant. These people were taken
13 out of the loop.
14 Consultants, I've just mentioned them for the first
15 time. Again, anytime I come up with a new term, I'm try to
16 define what I'm talking about. When I say "consultants," there's
17 nothing wrong with consultants; we've all heard of them probably
18 in businesses, especially nowadays when we're all coming on to
19 computers, someone has computer consultants. All of us who went
20 to school before the computer age came through have no idea
2 what's going on, so they have a guy come in, and he teaches you.
2 He has experience in that field, and that's why a consultant is
2 used.
2 In this case, this is not a case where consultants were
2 needed, because they had no expertise in housing. The

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1 individuals you're going to hear about are prominent, powerful
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2 people, but they're not in the housing area.
3 One of the first persons you're going to hear about is
4 an individual by the name of Louie Nunn, and that's his name, not
5 Louis; it's Louie. He's the ex-governor of the State of
6 Kentucky. You will hear he has no background in housing, but
7 he's utilized as a consultant.
8 Another person will be John Mitchell, and your question
9 is, you saw already a question, he's a former attorney general of
10 the United States. He had no background in housing.
11 You will hear from other individuals. Richard Shelby's
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12 name will come up. Louis Kitchin's name will come up. They're
• 13 political consultants, prominent, powerful people, but they had
14 no housing development.
15 So instead, developers were hiring these people, these

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16 consultants with no expertise in housing whatsoever, to bypass,

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17 so the experts in the local community, such as Miami, who wanted

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18 certain things done -- and let's face it, as in any project,

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19 there's only a limited matter of government money to go around,
20 so they would prioritize and say where we want to put that money.

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2 They couldn't do it anymore, because their place had been taken
2 by these rich, powerful consultants. They took the place of the
2 public housing authorities. They were making the decisions.
• 2 How did these consultants get to take that place? How
2 did they get to get the public housing authorities out of this

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1 whole equation? They knew the defendant. They had access to the

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2 defendant. And she benefited them. She was willing to give them
3 the projects, the funding, because it benefited her.
4 You will learn that the defendant's role in the
5 moderate rehabilitation process was she was essentially the focal
6 point for that. She was the person behind the scenes. You will
7 not see her name on the funding documents, because every time
8 units are sent, somebody has to approve it. Her name is not on
9 it. She's behind the scenes, steering things, pulling the

10 strings. The evidence will show that. Her name is not on
11 anything, but she is behind the scenes. She is the one who knows
12 Louie Nunn, John Mitchell, Richard Shelby, Andrew Sankin.

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13 And she's doing this because by giving units to
14 particular projects, it's benefiting her and her family. It
15 doesn't matter that it might not be benefiting low-income
16 families the way it was designed to benefit them. It's
17 benefiting her and her family, and that's why she's engaging in
18 this conduct.
19 You will hear once again the defendant, although she is
20 doing these things behind the scenes, is telling the general
2 public she is not doing any of this, that it doesn't work the way
2 it actually works, that we're going to see how it worked; it was
2 working the way it was designed. So just so you know, the monies

• 2 come down from HUD headquarters for, for units/apartments. Those
2 apartments are owned by developers/landlords. That's the way the

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1 system works.
2 How does the government go about proving its case? How
3 do we prove the things I'm telling you? His Honor has already
4 talked about it a little. I'd like to go into it.
5 Evidence. We must do it through evidence. Again, it's
6 a legal term. You might say, "Hey, I'm not a lawyer. What do
7 you mean by evidence?"
8 There are basically three types. The first type you're
9 going to hear about is oral testimony. What that means is
10 individuals will come into this court, and they will sit in the
11 witness chair. Gloria will swear them to an oath; they will have
12 to tell the truth. His Honor is here listening to it.

13 Those witnesses will be there, and you'll have the
14 opportunity to judge their credibility and assess what they say
15 for you. Those of you who have been jurors before have done
16 this, and you're familiar with it, so forgive me if I go on a
17 little for those who haven't. But you can judge what they are
18 like.
19 You determine are they telling the truth or not. How
20 do you do that? You do it like you would judge anybody else that
2 you come in contact in your day-to-day life and experiences,
2 whether it be at home, social, or, or during work. Judge whether
2 you believe the person, whether you think the person is telling
2 the truth, whether you think the person is fabricating or
2 falsifying testimony.

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1 That's what you do, because as His Honor has stated
2 earlier and as you will hear again and again, you are the judges
3 of the facts, Ladies and Gentlemen. You determine what happened.
4 His Honor is the judge of the law, but you determine the facts.
5 Now in light of witnesses you're going to hear, there
6 will be several different types of witnesses in this case. Not
7 everybody there is the same. Some of the witnesses who will
8 testify have been convicted of crimes. They are former HUD
9 employees who have been convicted of things they did either at
10 HUD or later on. They will testify.
11 Listen to them. Listen to them carefully. Make sure
12 what they tell you squares with your common sense and good
13 judgment, because after all, Ladies and Gentlemen, that's the key
14 thing here. Use your common sense, your good judgment, and
15 listen to these people.
16 You're also going to hear, I mentioned these
17 consultants who have taken the place of public housing
18 authorities. You will hear from a number of them, and they've
19 been immunized. They refused to tell the government what they
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20 had done without being awarded immunity, and that's their right.
2 They have the right to do that. But listen to their testimony.
2 Pay close attention to them, and you'll hear what they have to
2 say.
2 There's also another type of evidence, what we call
2 physical evidence. The chart is a good example, something you

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1 can see and it's out there, photographs, documents. There will
2 be a number of those that we're going to use in this case, and
3 the importance of documents, especially in a case like this,
4 where the events occurred in 1984, 1985, 1986, and 1987, is that
5 the documents were made back then, not now. They weren't made
6 for this trial or for an investigation. They were made back
7 then.
8 And we all know memories fail, and sometimes people's
9 memories can fail conveniently. Sometimes people want to fail.
10 Documents don't. The documents are there. That's why we rely on
11 them.
12 And you might see a fancy machine sort of at the end of
13 the table. I know His Honor spoke about it the other day.
14 That's called the visual presenter. We're going to use that to
15 present a lot of the documents. We're now in the high-tech days.
16 In the old days, I'd take the document, and I'd go to Juror No.
17 1, and I'd hand it to him. Mr. Phillips would look at it, he'd
18 read it, analyze it, then pass it on to Juror No. 2, Juror No. 3.
19 It takes a lot of time.
20 So by using this, we're hoping it will save a lot of
2 time. You put the document there, it goes on the big screen TV,

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2 the defendant can look on their screen, we can, the Judge can.
2 So it should measurably speed up the trial.
2 There's a third type of evidence, and that's called
2 stipulations. What are stipulations? That's merely a legal word

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1 for agreements between the prosecution and the defense. Let's
2 say it's important to this case that right now it's sunny
3 outside. If we both agree that it's sunny outside, you'll be
4 told both sides agree it's sunny out; don't worry about it.
5 There's no sense in you wasting time by putting on evidence to
6 decide a point that isn't even material to this case. So that's
7 what stipulations are.
8 Now it is through that evidence that the government
9 must prove the charges in this case, and central to all these
10 charges is the defendant's use of a public office for a private
11 gain to benefit herself and her family rather than the low-income
12 people she had chosen to represent by becoming a public official.
13 And then when it was possible to be exposed, she lied about her
14 involvement.
15 I would now like to talk about the charges. His Honor
16 mentioned I would go into it in more depth, so he did it quickly.
17 There are twelve criminal charges in this case, and they are
18 contained in the indictment. That indictment will be given to
19 you at the time of your deliberations. I will not read that
20 indictment to you at this time, because it's approximately 70
2 pages long, and instead, and you can see the purpose of the
2 chart. Rather than read 70 pages, we'll talk about one chart,
2 one page, and hopefully then it summarizes what's in the
2 indictment and makes it a lot quicker.
2 You will note that the first three charges, or

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1 counts -- in an indictment, we call charges counts. It's a fancy
2 word for charges. There are twelve charges. They're numbered 1
3 through 12. Counts 1, 2, and 3 are all conspiracy. The
4 government will prove that the defendant unlawfully agreed with
5 the individuals named up there to send funding units to projects
6 so that she could benefit herself and her family.
7 As an overview, in Count 1 you will hear that John
8 Mitchell was involved in each of these projects. What is the
9 relationship of John Mitchell to the defendant? He lived with
10 her mother, and she considered him to be her father, even though
11 there was no legal relationship. She called him "Daddy." How
12 can you be impartial in your dealings as a public official when
13 you're dealing with someone so close to you that you consider
14 that your family?
15 Count 2, the overview will show that Andrew Sankin is
16 involved in all of this, the first time his name comes up. Who
17 is Andrew Sankin? He's a person that the defendant met and
18 became friends with. She met him through another employer,
19 Silvio DeBartolomeis.
20 Silvio DeBartolomeis you'll hear about, I mentioned his
2 name briefly before, he's one of these individuals who has pled
2 guilty for what he did at HUD during this period of time. You
2 will hear from him. He will testify.
2 She met Andrew Sankin through Silvio DeBartolomeis.
2 They became friends. Andrew Sankin had just started in the

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1 business world, getting out of school. What was he doing? He
2 started to do lots of favors for defendant. You will hear he

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3 provided services for her and her family. So every time he
4 received units, that was benefiting her and her family, because
5 he was providing services to her.
6 Again, how can you be impartial, how can you have
7 undivided loyalty to the United States when you're dealing like
8 that?
9 On Count 3, you will hear that behind the awards of
10 units was an individual by the name of Louis Kitchin, another one
11 of these prominent, powerful consultants, a big-time political
12 consultant, a guy that runs presidential campaigns. You will
13 learn that when defendant needed something, she went to him.
14 when he needed something, he went to her. That's what Count 3 is
15 about.
16 You will see one of the things that she needed at one
17 time was \$4,000. She asked Mr. Kitchin for it. He gave it to
18 her. Again, ask yourselves how can you be impartial, loyal, and
19 faithful to the United States when you're accepting money from
20 someone with whom you're doing business?
2 Now the rest of the indictment, although it has a lot
2 of counts, can generally be summed up -- and I'll go into it in a
2 little more detail -- as basically the lies and coverups to cover
2 up the first part of what she did at HUD.
2 Let's look at Count 1. Let's talk about Count 1. Let

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1 me tell you what the government expects the evidence will show.
2 Count 1 starts in Miami, Florida. It starts with a developer by
3 the name of Art, Aristides Martinez. He's a Cuban individual.
4 He goes by the name of Art; it's easier than Aristides.
5 Mr. Martinez is a developer of properties in Miami,
6 Florida, and at a certain point in time, you will learn that he
7 sought to get moderate rehabilitation units. Again, he had
8 apartments; he wanted units. He wanted 293 units for a project
9 called Arama, A-r-a-m-a.
10 And I'm just putting some of these names down so that
11 when you hear them later on, it will ring a bell.
12 Mr. Martinez wanted 293 units for Arama. Now you might
13 think to yourself right off the bat, "293, that's an odd number.
14 I mean, why don't you ask for 300? You know, if you're asking,
15 go for the 300." It's important to remember these numbers.
16 293 was a coded way of knowing whether you would get
17 the units or not, because you see, as I said earlier, let me just
18 show it to you quickly, the public housing authorities were now
19 out of the loop. They're no longer here. So the developer is
20 hiring a consultant, who goes right to the top to get the funding
2 units, but now the money is coming down to here.
2 So how can you be sure that the money will go to you if
2 you're Mr. Martinez? How can you be sure that if 300 units come
2 down, they're going to go to your project, Arama? The way you do
2 it is you ask for 293 units or later on 219, 142. Why do you ask

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1 for specific numbers? And remember, I said they're units.
2 They're apartments. They come in different bedroom sizes: no
3 bedrooms, one bedroom, two bedroom.
4 So if you ask for 293 units, let's just say 200 of one
5 bedroom, 93 at two bedroom, and those monies come down like that
6 to the local housing authority, the local housing authority knows
7 exactly who it's going for. It's going for Art Martinez.
8 And you will hear from the local housing authorities
9 that they were willing to play along in this game, because
10 otherwise they weren't getting any funding, because remember,
11 they were cut out of this process. They no longer had any say as
s 12 to what was important for their community, but they wanted these,

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13 because everybody in this country needs units.
14 This was a shrinking pie, and there was only so much
15 money to go around. The government had cut much of this funding,
16 so these units became really important things. They became very
17 important, very worth having, as we will explain.
18 So Mr. Martinez wants 293 units for Arama, so what does
19 he do? Mr. Martinez knows the public housing authority has no
20 say, so he doesn't go through them. He hires a prominent,
2 powerful person. He hires Louie Nunn -- you might remember I
2 said Louie Nunn is the ex-governor of the State of Kentucky --
2 and he agrees to pay him hundreds of thousands of dollars if he
2 can get him the units.
2 They enter into a contract, and Louie Nunn agrees to

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work on his behalf, and he's working to get these units
and make hundreds of thousands of dollars.

The evidence will show that Louie Nunn at this time went to an individual by the name of John Mitchell. Again, we've spoken about John Mitchell, an ex-attorney general of the United States, a person who the defendant considers to be her father. Nunn asks Mitchell to help him out to try to get the units,, and what does Mitchell do? Mitchell goes to the defendant. Now John Mitchell died in 1988, so you might say, "well, how are you going to prove that he went to the defendant?" We're going to prove it through documents, the documents in black and white are going to show that Mr. Mitchell spoke with the defendant about Arama and that she agreed to senjLioo units to Arama.

And the evidence will show that Louie Nunn made hundreds of thousands of dollars for his part in this, and the evidence will further show that John Mitchell made \$75,000. The evidence will show they nothing for this. They did nothing except make a few phone calls, speak to the right person. It all comes down to access. It's a public official using a public office for private gain.

So I'm sure you're not surprised to learn now that Martinez wants more units. He's got another project in mind. It's called South Florida. How many units is he asking for now? 200? 250? 300? 219 units.

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1 Remember, it's a coded reference. There's going to be
2 no doubt whose units they're going to be. If Art Martinez is
3 paying Louie Nunn hundreds of thousands of dollars, he wants to
4 make sure he's getting the product. And as I said, this is a
5 very prized item, these units. They're in demand. These

6 developers want them.
7 So what does Mr. Martinez do when he wants to get 219
8 units for South Florida? Does he go to the local public housing
9 authority? He goes to Louie Nunn once again, the ex-governor of
10 Kentucky, a powerful, prominent person, and he asks him to help
11 him go to HUD headquarters and get him those units.
12 What does Louie Nunn do? The same thing all over
13 again, Ladies and Gentlemen. He goes right up to John Mitchell.
14 How do we know that? We'll go into a little background. John
15 Mitchell at this time has a company called Global Research
16 International. It's a company that does various consulting work.
17 And he has a partner there by the name of Colonel Jack Brennan.
18 Again, you'll hear the terms "General Mitchell,"
19 "Colonel Brennan." "General Mitchell" refers to him having been
20 an ex-attorney general in the United States, "Colonel Brennan,"
2 because that was his title when he was in the military.
2 Colonel Jack Brennan was working with John Mitchell at
2 the time at Global Research, and the evidence will show, again in
2 black and white, in documents, and you're going to see on that
2 television screen that Art Martinez writes Louie Nunn a letter,

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1 and he cc's, carbon copies, he sends a copy to Jack Brennan
2 saying, "I want 219 units for South Florida."
3 And what happens? Louie Nunn talks to Jack Brennan and
4 says, "Go see the defendant."
5 What does Jack Brennan do? He sets up a meeting, and
6 he goes to see the defendant. He asks her for 219 units for
7 South Florida, and the evidence will show 219 units went to South
8 Florida.
9 Mr. Brennan then thanks her for her help, and what
10 happens here? South Florida, on this one deal, Louie Nunn makes
11 \$110,000. Global Research gets -- \$109,000, a thousand dollars a
12 unit, pretty much the going rate at the time, a very valuable
13 piece of commodity.
14 Now there's a third project in Count 1, three projects.
15 The next one is called Park Towers. It changes a little. We're
16 still in Miami. The developer in that project is an individual
17 by the name of Martin Fine, and you'll learn that Martin Fine is
18 a rather prominent attorney in Miami. He has his own law firm, a
19 pretty big law firm. He's an older gentleman. Mr. Fine also on
8 20 the side is very involved in housing matters, and he owned a
I
2 building that he wanted to get some moderate rehabilitation funds
2 for. It's called Park Towers.
2 Now Mr. Fine went to the local public housing
2 authority, as the system was designed. He didn't get anything,
2 and he waited, and he didn't get anything, and he waited, and he

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1 didn't get anything, and finally he realized he wasn't going to
2 get anything unless he hired a consultant, so he reached out to a
3 consultant he knew in Miami by a name of Eli Feinberg. Again,
4 the names aren't all that important. You'll hear from most of
5 these people during the course of trial, and you'll be able to
6 see him.
7 Eli Feinberg was willing to help Mr. Fine, but he, too,
8 realized he didn't have the expertise. You needed somebody with
9 connections in Washington, so they hired an individual by the
10 name of Rick Shelby, or Richard Shelby.
11 Now this is the first time we've heard of Richard
12 Shelby. Who is he? Again, a very prominent political
13 consultant. Not a guy with housing experience. Not a guy that
14 can tell you about the needs of housing in Miami, but a political

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15 consultant, a guy who had access and who had access to the
16 defendant.
17 what's the first thing that Richard Shelby does?
18 Again, in black and white, the documents, Mr. Shelby goes to John
19 Mitchell, and he requests John Mitchell's assistance in securing
20 units for Park Towers. Mitchell agrees to help him.
2 what's the next thing he does? You'll see he meets
2 with the defendant. The evidence will show that Richard Shelby
2 meets with Mr. Mitchell, has lunch with him, discusses the
2 project, goes out with the defendant, has lunch with her,
2 discusses the project, has lunch with her, and the

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1 evidence will show Park Towers gets awarded. Mr. Fine gets his
2 units for Park Towers.
3 And how much money is made? The consultants made
4 approximately \$175,000, and John Mitchell through his company
5 received an additional \$50,000.
6 That in broad strokes, Ladies and Gentlemen, is
7 Count 1.
8 what did the defendant receive? well, as you've heard,
9 John Mitchell made slightly under \$250,000 for his involvement in
10 these three projects. That is a person that the defendant
11 considers to be her father, who she calls "Daddy." How much
12 closer could you be?
13 what the defendant gets out of this, Ladies and
14 Gentlemen, is family enrichment. She's doing this to benefit her
15 family. She's not doing this to benefit low-income people, who
16 needed it in Miami. She's doing it to benefit her family, John
17 Mitchell, her father.
18 Let's go on to Count 2, Ladies and Gentlemen. That one
19 changes a little. The story changes somewhat. Again, it's
20 conspiracy, and the pattern continues. The names change; the
2 pattern continues.
2 In Count 2, it starts with an individual by the name of
2 John Rosenthal. You will learn that John Rosenthal was a
2 developer in the State of Pennsylvania. He had developed a
2 project called Necho Allen, and he was seeking something called

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1 exception rights, non-Mod Rehab. Exception rights is just a
2 fancy word. He wanted higher rents, and the government could
3 give him those higher rents.
4 And what does he do? He applies to HUD for the rents.
5 He's turned down. So he applies again. He's turned down again.
6 what does he do? He hires a consultant. He agrees to pay an
7 individual \$10,000 if he can get him the exception rents.
8 who does he hire? The evidence will show once again,
9 Ladies and Gentlemen, that Mr. Rosenthal goes to Andrew Sankin.
10 He's the individual I mentioned earlier, a friend of the
11 defendant, a person during this period of time you will learn is
12 providing services for her. He was winning and dining her. He
13 was buying her gifts. He was providing legal services for her at
14 no cost, because he had just gotten out of law school. If she
15 needed someone to come over to help repair her apartment, he
16 would do that.
17 More importantly, her family owned an apartment
18 building, and he began to manage that apartment for her, and he
19 did various things to that property, turning it from a property
20 running in the red to one running in the black that ultimately
2 made money.
2 And he did certain things. You'll hear about getting
2 certain approvals and the like that he would normally charge but
2 didn't charge. And he didn't charge her, because he's making

2 money on these deals.

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1 Now John Rosenthal hires Andrew Sankin and promises him
2 \$10,000 if he can get the exception rents. The evidence will
3 show the first thing Mr. Sankin does is go to the defendant, and
4 he asked her to help Mr. Rosenthal get these exception rents, and
5 you will learn that's exactly what happened. She helped him, and
6 the exception rents were granted, and Andrew Sankin made \$10,000.
7 It might not sound like a lot of money in light of what we've
8 been talking about, but he's just getting started. He has time
9 to make more.

10 Now Mr. Rosenthal is seeking to get some moderate
11 rehabilitation units for a project call Regent Street in
I 12 Pennsylvania. So what does he do? He contacts Andy Sankin once
13 again and asks, "Can you help me? If you do, I'll pay you some
14 money."

15 Again, we're going to show you in black and white some
16 documents. He says, "Set up something with" the defendant. "Let
17 me get the lay of the land. Can she help?"

18 And you'll see letters going back and forth between
19 Mr. Rosenthal and the defendant, even though in her public
20 pronouncements she's saying it doesn't work this way. You're
2 going to learn how it really worked during this time frame.

2 Does he get the mod rehab units? Of course he does,
2 and Sankin gets paid. He gets paid \$11,000. It's a small amount
2 of units, only 26 units, so he gets paid \$11,000.

2 So now he's interested in bigger pay days, and who does

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i he go to? He goes to the defendant once again, and through the
2 defendant's intervention, he hooks up with another person by the
3 name of Thomas Broussard.

4 Again, this is the first time we hear about Mr.
5 Broussard. who is Mr. Broussard? He's an attorney out of
6 California, another prominent person.

7 Mr. Broussard and Mr. Sankin, they hook up, and they
8 decide to do business together, and they go and do business
9 together. what kind of business do they do? They want to get
10 mod rehab units, and this is very interesting. They go to the
11 defendant, and the defendant promises them 150 units of moderate
§ 12 rehabilitation.

13 Now remember, Ladies and Gentlemen, this was a program
14 designed so that the local public housing authorities could
15 determine the priorities in that community. Instead, these
16 consultants, these powerful, prominent people have these units in
17 their hand. They're promised that. They're not a public housing
18 authority. They don't even have a background in housing. But
19 they're promised these units, and now they go out, take these
20 units and hawk them and peddle them and try to sell them.
21 The evidence will show, having been given those 150
22 units, Mr. Broussard and Mr. Sankin went to Puerto Rico, where
23 they believed they'd have to take these units, and they found a
24 developer interested in buying them, and they knew the value of
25 their product, because they didn't just go in there and start

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1 for this. somebody else is better. Somebody else can develop
2 this better. So they don't give it to the Altmans, and
3 Mr. Shelby and Mr. Sankin don't make the other 57,500.
4 what does the defendant get out of this case? Well,
5 Count 1, we saw it was family benefits. She was looking out for

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6 her family. She was looking out for a person she considered to
7 be her father. Here she's looking out for her family, because
8 don't forget that Andy Sankin is managing her family property.
9 He's providing legal services to her at no cost. He's helping
10 her.

11
Rick Shelby, he intercedes on her behalf at the White
12 House when she's looking for a particular job. That's what he
13 does. And he promises to support her in a future political
14 career. Those are the benefits she's getting. That's what she's
15 getting out of this. And they, they get money, just like we saw
16 in Count 1.

17 Now we'll go on to Count 3, Ladies and Gentlemen.

18 Different names, same pattern, same thing occurring again, the
19 defendant using a public office for private gain and then lying
20 about it.

2 In Count 3, we see it a little different. It starts
2 with an individual by the name of Jack James. He's a developer
2 in San Diego, California, and he's looking to develop a
2 retirement community out there. That's his development. And he
2 goes to HUD, because he wants HUD monies to fund this project.

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1 The problem is HUD believes this retirement community
2 in San Diego is saturated, that they don't need another
3 retirement community; they already have a whole bunch. So they
4 deny Jack James. The field office says, "No, you can't do it."
5 So he goes up the ladder. He goes to the regional
6 office. He goes to the regional office, and they go, "No dice.
7 No way."
8 So what does he do? He takes it to HUD headquarters.
9 He says, "Look, I'd like to develop this retirement center in San
10 Diego."
11 what do they say? "No."
12 So he appeals the decision. He loses on appeal. But
13 he's undeterred, because what does he do? He goes to Louis
14 Kitchin, the individual we see in Count 3.
15 who is Louis Kitchin? That's the first we're hearing
16 of his name. Once again, you will hear that Louis Kitchin was a
17 prominent political consultant. He wasn't familiar with mod
18 rehab or anything, but he was a prominent political consultant.
19 And Louie Kitchin goes to the defendant. That's what
20 the testimony will show, and you will hear that because of
2 defendant's intervention after he goes to her, Mr. James is
2 allowed to build a retirement center. HUD reverses their
2 decision. They reversed the decision of the area office,
2 regional office, area office, by headquarters, headquarters on
2 appeal. It shows the importance of having access to the

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defendant.

2 So it's not surprising then that when Mr. Kitchin wants
3 to secure mod rehab units and mod rehab funding, when he wants to
4 be a consultant and get involved in this, he goes to the
5 defendant, and he has 200 units to go to Atlanta. Atlanta is
6 basically his home turf. That's where he's comfortable. He
7 wants 200 units.

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8 She promises to give him 200 units to Atlanta, and you
9 will hear testimony that Lou Kitchin went around looking for a
10 buyer for those units, just like we saw in Alameda Towers. The

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whole system had been corrupted to such an extent that the local
11 public housing authority is not controlling what's important for
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Miami or Atlanta; it's these prominent consultants.
13

He's holding 200 units. Now he's looking for a
14

developer. Anybody who's willing to buy it, he'll sell it to
15

them if the price is right, and he finds one, an individual by
16

the name of Nicholas Bazan agrees to buy those units, the 200
17

units, but agrees to pay Lou Kitchin only if the units actually
18

go to Nicholas Bazan, and that was a good move on Nicholas
19

Bazan's part, because you're going to hear the local housing
20

public authority refused to give it to Nicholas Bazan. They
21

didn't think he was the best developer for the project. So
22

millions of dollars of taxpayers' money was saved by their not
23

sending it to him. These decisions were being made just because
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the defendant knew these people and that had benefited her.
25

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1 So what does Lou Kitchin do? He goes to Miami,
2 Florida. You've heard a lot about Miami. You already know Miami
/
was willing to play along. They were willing to do what needed

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to be done to get units to Miami.
So Lou Kitchin asks the defendant for approximately 200
units again for Miami, Florida, and he looks around, and he sees
7 where he can go, and he looks for a buyer, and he finds one. He
8 finds a company called FFE, it doesn't really matter, and an
9 individual by the name of Claude Dorsy and Jim Mitchell, who own
10 that property. Jim Mitchell is no relation to John Mitchell.
11 They just have the same last name.
12 You will hear that these individuals wanted to develop
13 two projects they had called Cutlerwood and Springwood, and to
14 develop those two projects, they needed 203 units of funding, 203
15 apartments. They needed HUD to send enough money down to
16 guarantee rents for 15 years for these apartments, because that's
17 what it all is.
18 Just so we're all clear, HUD gives enough money so that
19 that landlord is guaranteed a stream of income for rents of 15
20 years. So for most of these projects, if not all, HUD is still
21 paying for these projects as we sit here today, and that's the
22 beauty to the developer. He's guaranteed 15 years, the landlord
23 is guaranteed 15 years of rents if he just fixes them up.
4/H So they want 203 units for these two projects, and they
Kitchin to get them, because Mr. Kitchin says he can get

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them, he knows the defendant. And what does Mr. Kitchin do? He
goes to the defendant, and 203 units are ultimately awarded to
Cutlerwood and Springwood.
4 what does the defendant get out of this? We know what
5 Mr. Kitchin gets. He gets \$203,000.
6 what does the defendant get? In Count 1, we saw she
7 benefited her family. She benefited John Mitchell, her dad. In
8 Count 2, she benefited her family and herself. In Count 3, she's
9 benefiting herself. Lou Kitchin is a prominent political
10 consultant. He, too, intercedes on her behalf, as you'll see, at
11 the white House when she's looking for a job.

CO

g 12 And one other thing: when she needs money, she goes to
13 him. Now you'll see on the board Count 4, and that's illegal
14 payment of \$4,000. Don't forget the defendant is a public
15 official. She cannot take money from people that she's doing
16 business with. It cannot affect your judgment. And that's why
crin

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w 17 public officials, those of you who have worked in government know
18 you can't do that, because it affects your loyalty. It affects
19 your honesty. It affects your impartiality. You cannot have
20 undivided loyalties when you're taking money from someone you're
21 doing business with. Clearly, you're going to favor that person.
22 Now you might not think -- we've talked a lot of money.
23 we've talked hundreds of thousands of dollars. 4,000 might seem
24 not that much, although I'm sure you'd like to have it in your
25 back pocket right now. But \$1 is too much for a public official

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1 to take when you're doing business with that person and it's
2 illegal.
3 You'll see and you'll hear a lot of evidence about
4 this. The defendant asked Mr. Mitchell for \$4,000, and he gave
5 her a check for \$4,000, and on that he wrote "loan."
6 You will hear that's an illegal payment, and the reason
7 that's illegal is because it affects your impartiality. You
8 cannot be impartial when you're accepting money as a public
9 official. When you're a public official, you should work for all
10 of us, not for people who pay you.
11 Also, the time frame is very important with this
I 12 \$4,000, and I'll tell you why. At or around that time, the
13 defendant is seeking a position, and it ties into the remaining
14 counts. I promise you I won't be that much longer. It ties into
15 the remaining counts with what she's looking for.
16 The defendant applies for a job to be assistant
17 secretary for Community Planning and Development, a big job
18 within HUD. It's not the kind of job we're all used to, you
19 know, you go for a job interview, you see the boss, if the boss
20 likes you, you get hired, if the boss doesn't like you, you don't
2 get hired.
2 This is the kind of job the president of the United
2 States has to nominate you, okay? Once he nominates you, then
2 the United States Senate has to confirm you. You've got to go
2 before the United States Senate, swear to take an oath, and they

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1 talk to you. They ask you a number of questions. That's the
2 type of job she's going for.
3 And at this point, she needed money, and that's why she
4 asked for \$4,000. So it's important to keep in mind the time
5 frame.
6 And let's talk about that job that she was looking for.
7 She was seeking that very fancy, important job. What does she do
8 in seeking that job? She goes to those very same consultants
9 we've talked about: John Mitchell, Louie Nunn, Richard Shelby,
10 Lou Kitchin, and she asks them for their help, and again, you'll
11 see in black and white in the evidence, there'll be a Mailgram,
12 Western Union sent to the white House with these individuals
13 signing.
14 And ask yourselves, Ladies and Gentlemen, these are
15 prominent, powerful people who intercede on her behalf at the
16 white House. why are they doing that? Because she helped them.
17 This is the pay back. This is what's benefiting her.
18 And in getting that nomination, the defendant had to
19 testify before the United States Senate, and she did so on August

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20 6, 1987, because she was able to get the nomination. She
2 testified before a panel of the United States senators, and at
2 that time, she was asked questions about her role in the moderate
2 rehabilitation funding process.
2 Now the evidence, as you will hear, will show that it
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2 was designed to go one way, and the defendant said all the time

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1 Andy Sankin, directly with Louis Kitchin. It didn't work the way
2 she said. It worked if you have access to the defendant, you
3 could get something done, and you could only get something done
4 if you could benefit her and her family. That was her concern.
5 That's a lie, and it's an attempt to cover your tracks.
6 Counts 7 and 8, again perjury, concealment, lies and
7 covering up what you've done. She's asked about developers.
8 They've heard that developers are involved in this process, that
9 it's not going the way it's supposed to. She states, "I have
10 never given or approved or pushed or coerced anyone to help any
11 developer^^^A lot of times, public housing authorities send
2 developers to HUD, and they meet with people all over the
building. It's a tremendous waste of time, and I let them know
that, because those funds go to the public housing authorities."
15 That's a lie, Ladies and Gentlemen, and it's an attempt
16 to cover up what she had done. If it was such a waste of time,
17 why did John Rosenthal want to meet Deborah Dean? Why did he
18 want a lay of the land? Why did he, in fact, meet with her?
19 You will hear from a number of witnesses in the trial
20 that they met directly with the defendant and that as a result of
2 the dealings with her, they were awarded the funds or the units
2 or apartments that they needed. You will see evidence, "Dear
2 Debbie," a developer who went to her directly asking for units
2 and he gets them. That's what this case is about. That is a
2 bald-faced lie.

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1 Counts 9 and 10, again, perjury, concealment, "I've
2 never heard of Baltimore Uplift One. It was a moderate
3 rehabilitation project?" "But I've never heard of Baltimore
4 Uplift One."
5 You will hear that Baltimore Uplift One was a project
6 in the State of Maryland, in Baltimore, Moderate Rehabilitation
7 Program. The defendant denied knowledge of it. The evidence
8 will show she knew about it.
9 And that becomes important, and I'll blend it in in the
10 next one, Counts 11 and 12, perjury and concealment. I'm sorry
11 if you all can't see it. I'll read it out loud. "As a matter of
12 fact, no moderate rehabilitation units that I know of, unless
13 they were sent directly by the secretary, have ever gone to my
14 home state of Maryland, simply for that reason, that I sat on the
15 panel."
16 That is what she said when she was asked whether any
17 units ever went to the State of Maryland, just like she denied
18 Baltimore uplift. why? Because that is where she's from, and
19 she was interested in running for public office in the State of
20 Maryland, as the evidence will show, and she wanted these
2 consultants to back her in that effort, and if all of this became
2 exposed, her political career was down the drain.
2 And you know from what I've told you just before that
2 we've explained so far in this hour or so two went directly to
2 the State of Maryland, Foxglenn and Eastern Avenue, and those

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1 were backed by Richard Shelby and Andrew Sankin, two of the
2 people that she specifically dealt with. It's a lie, and it's an
3 effort to cover up the tracks.
4 Ladies and Gentlemen, that in broad strokes is what the
5 government intends to prove in this case. It is a case of power
6 corrupting a public official, of using your official position
7 illegally and entering into unlawful agreements to sell out the
8 United States government.
9 I've been speaking for approximately an hour. All of

10 this evidence will come out in the next few weeks. Most of it
11 is, to keep it fresh in your mind, as His Honor said, a road map,
s 12 let you know where we're going, what this case is about.

P:
13 At the end of this trial, I will again have an
14 opportunity to speak with you, and at that time, I will be able
15 to tell you what the government has proven, not what the
16 government expects to prove, and at that time, I will be asking
17 you, make no mistake about it, to find the defendant guilty as
18 charged.

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§ 19 Thank you for your kind attention.

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20 THE COURT: All right. Thank you, Mr. O'Neill.
2 MR. O'NEILL: Thank you.

2 THE COURT: Mr. Wehner, Mr. O'Neill, can I just see you
2 for one minute about scheduling?
2 MR. WEHNER: Yes, sir.
2 THE COURT: Thank you.

(Bench conference on the record.)

2 THE COURT:
3 MR. WEHNER:
4 THE COURT:
5 MR. WEHNER:
6 MR. O'NEILL:
7 THE COURT:

How about a quick lunch and we come back?
Yes, sir.
Is that all right for you?
That's acceptable.

Yes, sir.
Rather than taking a ten-minute break and

8 coming back, everybody would be hungry by the time you get
9 finished.
10 MR. WEHNER: Yes, sir. I think that's all right.
11 THE COURT: All right.
12 (End of bench conference.)
13 THE COURT: Ladies and Gentlemen, because of the hour,
14 I just talked to counsel, I think what we'll do is have a quick
15 lunch and then come back, rather than go ahead with the opening
16 statements again. So we're going to take a quick lunch break.
17 Let's be back at 1:00, if we could, please, all right? So you're
18 going to be excused now to come back at 1:00 p.m.
19 Remember the admonitions again, please. During this
20 luncheon recess and every recess we take throughout the trial,
2 you don't talk about the case among yourselves, with anyone else,
2 or let anyone talk about it in your presence. If you happen to
2 go downstairs and sit next to some people on the case for lunch,
2 please move just so you can't overhear their conversation, et
2 cetera.

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1 So we'll see you back here at 1:00. Just come back to
2 the jury room behind the courtroom, Courtroom No. 9 on the fourth
3 floor, Judge Hogan's courtroom. We'll see you back here at 1:00.
4 We'll have the rest of the opening statements in, that is, the
5 opening statement from the defendant, Ms. Dean.
6 when we finish that, we're going to recess early today,
7 so we'll get out early, and then we'll be back tomorrow to start
8 the testimony. 1:00, please.
9 (Jury out.)
10 THE COURT: All right, recess until 1:00.
11 (Recess from 12:05 p.m. to 1:00 p.m.)
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AFTERNOO N SESSIO N
2 (1:10 p.m.)
3 (Defendant present, Jury out.)
4 THE COURT: We're ready to bring the jury back, please.
5 (Jury in.)
6 THE COURT: All right, Ladies and Gentlemen, we're
7 ready to proceed now for this afternoon's session. The Court is
8 going to recognize Mr. Stephen Wehner on behalf of Ms. Dean.
9 He'll give his opening statement at this time.
10 OPENING STATEMENT
11 BY MR. WEHNER:
I 12 Thank you, Your Honor. May it please the Court, good
13 afternoon.

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14 THE JURORS: Good afternoon.
15 MR. WEHNER: Ladies and Gentlemen, it was almost ten
16 years ago this month that Deborah Gore Dean, this young lady,
17 became the executive assistant to Samuel R. Pierce, a cabinet
18 officer at the Office of Housing and Urban Development, one of
19 the members of the President's Cabinet. For three years, she was
20 his assistant. She was loyal to him, she was honest with him,
21 she was honest with others, and she did her job as best as she
22 possibly could.
23 The government would have you believe that she's a
24 criminal. They want you to believe she's a liar. They want you
25 to believe she's a conspirator, and they want you to believe that

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1 the very government that she tried to serve for those three years
2 can successfully prove that she's a criminal.
3 They want you to believe with all these hundreds of
4 thousands of dollars floating around, with all this money and all
5 these units, that she didn't receive any of it, but she somehow
6 caused it, that she, at 28 years old, manipulated the Department
7 of Housing and Urban Development as an assistant to a cabinet
8 officer to make all these terrible things happen.
9 And I submit to you that at the end of this trial,
10 we'll have proven to you that what Mr. O'Neill said in his
11 opening statement did not happen.

CO

12 There's one thing I agree with what Mr. O'Neill said,
13 and that's that you should keep his opening statement fresh in
14 your mind, because at the end of this trial, I want you to
15 compare the evidence you've heard from the witness stand and from
16 the pieces of paper, and you see, you just see if what the United
17 States government says Deborah Gore Dean has done is true,
18 because we're going to prove, we, Ms. Dean and myself are going
19 to prove in this trial that she didn't lie, she didn't cheat, she
20 didn't steal, and that she's innocent.
21 Now the Court was correct, in my judgment, when Judge
22 Hogan pointed out to you that it's a relatively complex set of
23 facts. You'll hear a lot of numbers, you're going to see a lot
24 of names, and you're going to get a lot of information. But even
25 though they are complex facts, they're simple concepts.

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1 By concepts, I mean she didn't lie, she didn't cheat,
2 and she didn't steal. And after you find that she didn't lie,
3 she didn't cheat, and she didn't steal, you will have no choice
4 but to return a verdict of not guilty, because Ms. Dean is
5 innocent, innocent, innocent.
6 There is a reason that a jury is selected in a case
7 such as this. It doesn't come from any institution. You Ladies
8 and Gentlemen are members of the public. You're not part of the
9 government that Deborah Gore Dean worked for at HUD. You're not
10 judging her on some personnel matter. You're not the Senate or
11 the House of Representatives. You're not the body to whom they
12 say that she lied. You're not the Court, who's in charge of the
13 law in this case, but you're drawn from the community at large
14 for one reason, and that's to give Ms. Dean a fair shot, a level
15 playing field.
16 For the first time since the FBI, Ms. Sweeney,
17 Mr. O'Neill, and all the lawyers at the Office of Independent
18 Counsel has been investigating her and for the first time in ten
19 years since she took on that job as the assistant to Mr. Pierce,
20 she's counting on you to give her the chance to explain to you
21 for the first time what she did, what she knew, who she did it
22 with, and how she did it.

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2 I don't intend to spend nearly as much time as the
2 Independent Counsel did talking about names and dates and places,
2 but I do want to get a little more specific, but bear with me for

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a second while I use the same chart the government used to show
2 you how outrageous the charges are.
3 Now this is their chart. Nobody's messed with it since
4 the time they put it up there. It's the exact chart they used.
5 Counts 1, 2, and 3 charge a conspiracy. That's an
6 agreement to do something illegal. Count 4 charges an illegal
7 payment, and the rest of the counts basically charge lying. I
8 think the Independent Counsel agree that those are lying counts,
9 that she lied.
10 Now these first three counts, if you look at the
11 individuals that are charged in the indictment with Ms. Dean,
12 John Mitchell is dead. He passed away in 1988. Mr. Nunn the
13 government says will be a witness. Mr. Brennan the government
14 says will be a witness, and Mr. Shelby the government says will
15 be a witness.
16 Do you know what those three people are going to
17 testify to? They're going to testify that there was never any
18 agreement with Deborah Gore Dean, that they didn't agree to do
19 anything illegal with her, and yet the government, the government
20 says, well, we want Ms. Dean so badly that we are going to give
21 you what's called immunity. Even though you didn't think you did
22 anything wrong, this cloud will not pass over your house,
23 Mr. Nunn, Mr. Brennan, and Mr. Shelby. This cloud will rest
24 here, on a 28-year-old young woman who's an assistant to a
25 cabinet secretary.

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1 Let me tell you something about Mr. Sankin. Mr. Sankin
2 is considerably younger than Ms. Dean, and he had just gotten out
3 of law school when he allegedly was furnishing these legal
4 services to her family in return for helping him.
5 And I'll tell you something else about Mr. Sankin.
6 Deborah Dean's not the one that helped him. We'll prove to
7 you -- and it may be painstaking at times -- that the people at
8 HUD, of the thousands of people at HUD, we will show you exactly
9 who helped Andy Sankin, who did what for whom, and to show you
10 how honest, how honest Ms. Dean's defense will be, we're going to
11 tell you what she did and who she did it for and why she did it.
12 And based upon those honest, true facts, we'll ask you to find
13 that in everything she did, she didn't lie, she didn't cheat, and
14 she didn't steal.
15 Let's take Counts 3 and 4 for a second. Mr. Kitchin
16 supposedly ran presidential campaigns. I don't know whether
17 Mr. Kitchin's willing to admit to that or not, but I find it hard
18 to believe that someone who ran presidential campaigns actually
19 is going to testify that he entered into a conspiracy with the
20 administrative assistant and then gave her \$4,000 as part of that
2 conspiracy. It didn't happen.
2 He did give Ms. Dean \$4,000. Keep that fresh in your
2 mind, because he did. But it didn't have anything to do with
2 HUD. Nothing to do with HUD. And the testimony that you will
2 hear from Mr. Kitchin will confirm it didn't have anything to do

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i with HUD. He's going to say, "She didn't do anything for me."
2 I don't know where these witnesses are going to come from.
3 Counts 5 through 12, perjury and concealment, Deborah

4 Gore Dean was nominated to take a position that was a big
5 promotion from her position as administrative assistant. As a
6 part of that promotion, she had to go up on Capitol Hill and
7 testify in front of the Senate committee. She went up there, and
8 she was asked some questions. She was put under oath, and she
9 gave answers.

10 The answers she gave, many years later, the Independent
11 Counsel claims were lies. They're wrong, wrong, wrong. They're
12 wrong because when Ms. Dean says, "No mod rehab units that I know
13 of, unless they were sent by the secretary, the secretary being
14 Samuel Pierce, none have ever gone to Maryland unless they were
15 sent by the secretary," that's true. That's true. That's not
16 false.

17 When she says, "I've never heard of Baltimore Uplift
18 One," she had never heard of Baltimore Uplift One. That's not to
19 say Baltimore Uplift One didn't exist or it wasn't a program or
20 it wasn't around, but she'd never heard of it.

21 And when you see the questions about, that go before
22 this and after that, you'll realize that even the senator that
23 was asking her the question didn't know what Baltimore Uplift One
24 was. They had a discussion about what kind of program it was,
25 and she said, "I don't know. I don't remember. I don't know.

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I've never heard of it."

2 Counts 5 through 8, there's a basic and clear
3 disagreement and, frankly, a misunderstanding by the part of the
4 Independent Counsel as to how this process worked. In the
5 mid-'80s approximately, there was a system in place at HUD where
6 what Mr. O'Neill calls units were sent around the country on
7 something called a fair share basis, and what that means
8 essentially is you plug all the data into the computer, and the
9 computer spits out what states and what cities get what. Very
10 simple: You plug it in. It comes out. That's where the money
11 goes.

12 In the mid-'80s, the United States Congress said,
13 "We're not going to do that anymore. We're not going to do it
14 fair share. We're going to let HUD decide where the money goes."
15 Now that was a Congressional change for which Ms. Dean
16 had not one whit to do, not one whit. She didn't create the
17 system. She didn't tell them that's what to do. All she did was
18 walk into the system as it was created and went to work with
19 that.

20 The public housing authorities in this country, there
21 are over 4,000 of them across the country, they are the
22 recipients -I

want you to remember this, because it's directly
23 contrary to what Mr. O'Neill says -- those public housing
24 authorities are the recipients of the federal money. The checks
25 go to them. The public housing authorities pass it out to the

1 developers.

2 No checks went directly from HUD from Ms. Dean to
3 anybody, and if the public housing authorities didn't want these
4 projects, all they had to do is say, "We don't want to do it."

5 Now I'm not going to defend and I'm not here to defend
6 how government works in this country. Everybody knows
7 government's fouled up in this country. This trial is not about
8 the government. It's not about the bureaucracy.

9 It's about what Ms. Dean did when she talked and when
10 she worked and how she operated as an administrative assistant.
11 And notwithstanding the fact that she has been charged by her

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12 government with all of these felony counts and that she has been
13 accused of lying to cover up her actions, when this trial is
14 over, I expect, because I expect the evidence to support a
15 finding of not guilty on behalf of Deborah Gore Dean.
16 Thank you.
17 THE COURT: All right, Ladies and Gentlemen, let me
18 touch base with counsel for a minute, and then we'll see about
19 our timing for tomorrow morning.
20 Mr. Wehner, could I get you back for a minute? Thank
2 you.
2 MR. WEHNER: Yes, sir.
2 (Bench conference on the record.)
2 THE COURT: Can you get your people ready at 9:30?
2 MR. O'NEILL: Yes.

>.. BAYONNE. NJ 07002

1 THE COURT: Who's your first witness?
2 MS. SWEENEY: Your Honor, the first witness will be
3 John Greer.
4 MR. O'NEILL: John Greer.
5 THE COURT: Is he going to take all day, or can you get
6 other witnesses?
7 MR. O'NEILL: Oh, Judge, we're going to try to set the
8 table with the HUD witnesses, so it will be Greer, Maddie
9 Hastings, then a person from personnel to put in her personnel

10 records, things like that. So I think they'll take most of the
11 day. If they don't, then we're hoping to start right into Arama.
12 We should have plenty of witnesses for tomorrow.
13 MR. WEHNER: Can I ask you who the first witness on
14 Arama is?
15 MR. O'NEILL: Martinez.
16 MR. WEHNER: Martinez?

3 17 THE COURT: Okay.
18 MR. WEHNER: My big concern is when are you going to
19 have Barksdale as a witness?
20 MR. O'NEILL: Judge, we've been speaking about this,
2 and we can put it on the record. The reason is I told Steve I

2 can't be sure. We have him lined up. Maybe he'll be at the end
2 of the week, but I really believe that will fall right on the

• 2 cusp, you know. We might get at the end of the week or we might
2 not.

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1 MR. WEHNER: The reason I ask that, Judge, is that's
2 one of the hefty ones.
3 THE COURT: And we will not be sitting in this Friday
4 afternoon. I've got the FBI case and the coal industry I've got
5 to hear. I will not be sitting Friday afternoon in this case, as
6 it turns out.
7 MS. SWEENEY: On Friday afternoon?
8 THE COURT: Yes. Friday morning I'll sit, but not
9 Friday after lunch.
10 MS. SWEENEY: When will we break then, Judge?
11 THE COURT: Depending on what we're doing, 12:15,
12 12:30, somewhere in that range.
13 MR. O'NEILL: Judge, the other thing, so Mr. Wehner is

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14 aware, one of the problems is what Ms. Sweeney told you earlier
15 about Louie Nunn, so if we don't get him, we may have to take him
16 out of order. But if Louie Nunn is here this week, then probably
17 Barksdale next week would be my next guess.

18 THE COURT: We'll see as time goes on. 9:30.

19 MS. SWEENEY: On another matter, Your Honor, if we can
20 use your intervention, we may contact you this afternoon and see
2 if something can be worked out.

2 MR. WEHNER: You'll inform me?

2 MS. SWEENEY: Oh, yes. Of course, Steve.

2 THE COURT: If you need to file something, file
2 something, and we'll take a look at it and see what needs to be

done.

2 MS. SWEENEY: Thank you, Your Honor.

3 (End of bench conference.)

4 THE COURT: All right, Ladies and Gentlemen, we talked
5 over the schedule with counsel on the witnesses. We'll be ready
6 to go tomorrow morning at 9:30. So we're going to recess early
7 today for you. The opening statements on both sides didn't take
8 quite as long as I anticipated, so you're going to get a little
9 extra time off today.

10 We'll be back tomorrow morning at 9:30 a.m. We'll have
11 a full day tomorrow, so you should plan on that.

CO

g 12 Again, with the overnight admonition, again, because of
13 the opening statements, there may be something carried in the
14 press or the television or radio or media. Remember, you don't
15 watch, listen, or read anything about this case, talk to anybody
16 about it, or let anybody talk about it to you or in your
17 presence.

18 Have a pleasant afternoon and evening. Be back here,
19 please, at 9:30 a.m., ready to go in the morning. If you want to
20 come a little early and have coffee in the room behind here,
21 that's fine. You're welcome to do that. But I'd like you all
22 here and ready to go at 9:30, all right?

23 Okay, you're excused for the day then.

24 (Jury out.)

25 THE COURT: All right, 9:30 in the morning, be back in

this case.

2

(Recess from 1:30 p.m. to 9:30 a.m., September 14, 1993.)

3

4

CERTIFICATE OF THE REPORTER

5 I certify that the foregoing is a correct transcript of the
6 record of proceedings in the above-entitled matter.

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Anneliese J\ Thomson

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
- VERSUS DOCKET
NO.
CRIMINAL NO. 92181
DEBORAH GORE DEAN,
DEFENDANT

•
WASHINGTON, D.C.
SEPTEMBER 14, 19
9:55 A.M.
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VOLUME II

TRANSCRIPT OF TRIAL BEFORE
THE HONORABLE THOMAS F. HOGAN,
UNITED STATES DISTRICT JUDGE,
AND A JURY.

APPEARANCES:

FOR THE GOVERNMENT: ROBERT O'NEILL, ESQ
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COURT REPORTER: SANTA THERESA ZIZZO

U.S. DISTRICT COURT, ROOM 4800C
3RD & CONSTITUTION AVE., N.W.
WASHINGTON, D.C. 2 0 001
PAGES 88-265
(COMPUTER-AID TRANSCRIPT OF STENOTYPE NOTES)

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2

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1 PROCEEDINGS.

2 THE DEPUTY CLERK: Criminal number 92-181,

3 United States of America versus Deborah Gore Dean. We

4 have Paula Sweeney and Robert O'Neill for the

5 Government, Stephen Wehner for Miss Dean.

6 THE COURT: All right. We're ready to

7 proceed?

8 MR. O'NEILL: Yes, Your Honor.

9 THE COURT: Bring the jury in then.

10 MR. WEHNER: One thing I'd like to bring to

11 the Court's attention. It will take ten seconds, Your
12 Honor. I've given to the Court what's been marked as
13 Dean Exhibit One and it's more a preliminary matter that
14 I want to notify the Court as to what's happening in
15 terms of timing.

16 We had subpoenaed Senator Proxmire as a
17 witness in this trial and the Senate Legal Office has
18 told us that they're going to be filing a motion to
19 quash. I don't know when they're going to be filing
20 the motion to quash. They say in their letter to me it
2 would be sometime towards the close of the Government's
2 case, but I am informing the Court that issue will
2 likely come before the Court and if Mr. O'Neill or Your
2 Honor wants me to suggest to the Senate legal counsel a
2 particular time it would be more convenient to hear

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1 that, I would suggest a briefing schedule to them.

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2 THE COURT: well, I take it the
3 Government -- this won't be at issue of Senator Proxmire
4 coming for some time because the Government's case will
5 go on for another three or four weeks.
6 MR. WEHNER: I don't know if the Government
7 intends to call him or not. At one time I was under the
8 impression they were but he wasn't on the witness list
9 and I don't know exactly what they're -10
MR. O'NEILL: No, Your Honor.
11 THE COURT: You're not calling him.
12 I think what you'll have to do is just talk to
13 them and tell them -have
you served a subpoena on
14 them?
15 MR. WEHNER: Yes, sir.
16 THE COURT: And then if he decides not to
17 come, for whatever reason, you go ahead and file a
18 motion and I'll hear it whenever it's ready rather than
19 wait a month or two months.
20 MR. WEHNER: Yes, sir.
21 MR. O'NEILL: Your Honor, is there a
22 possibility of moving the tv a little closer?
23 THE COURT: Sure, sure, if you're strong
24 enough to do that. Anybody with a strong back can move
25 that up closer, that's fine.

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1 MR. O'NEILL: And, Judge, we checked with
2 Gloria yesterday, but Mr. Batts might be a witness in
3 this case but he's also the case agent. We know you had
4 invoked a rule.
5 THE COURT: Yes, I have a rule on witnesses,
6 on all witnesses in the case. He's a case agent in the
7 case?
8 MR. O'NEILL: Yes, Your Honor.
9 THE COURT: The witness would be as to
10 documentary type things.
11 MR. O'NEILL: Yes, summary documents,
12 introduction of documents.
13 THE COURT: All right, I'll allow him to stay
14 in as case agent.
15 All right, you can bring in the jury.
16 THE DEPUTY MARSHAL: Yes, Your Honor.
17 (Jury present)
18 THE COURT: All right.
19 Good morning, ladies and gentlemen.
20 THE JURORS: Good morning.
2 THE COURT: Thank you for getting here
2 promptly. We've taken care of some preliminary matters
2 and we're ready to proceed with the first witness in
2 this case on behalf of the Government.
2 MR. O'NEILL: Your Honor, at this time the

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1 Government would call John Greer.
2 THE COURT: All right.

3 (JOHN GREER, WITNESS FOR GOVERNMENT, SWORN)

4 DIRECT EXAMINATION

5 BY MR. O'NEILL:

6 Q Sir, will you state your name for the record,

7 spelling your last name for the Court reporter?

8 A John Huffington Greer, G-r-e-e-r.

9 Q Mr. Greer, I will be asking you a series of

10 questions. I'd ask you to speak in a loud and clear
11 voice so that all the members of the jury can hear you.

12 Where are you currently employed, sir?

13 A Department of Housing and Urban Development, Office
14 of Inspector General.

15 Q And how long have you been employed at the
16 Department of Housing and Urban Development?

17 A Just over 27 years.

18 Q Approximately when did you start at what I will
19 call HUD rather than going through the whole Department
20 of Housing and Urban Development?

2 A 1966, August of 1966.

2 Q Can you briefly give a description to the ladies
2 and gentlemen of the grand jury -

2 THE COURT: Of the jury. You said grand jury.

2 MR. O'NEILL: Excuse me, Your Honor, sorry.

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1 of the jury.

2 Can you briefly describe your job titles over

3 the last 27 years.

4 A When I graduated from college I worked at a bank in

5 Albany, New York, and in 1966, as I said earlier, I

6 applied for and got a job at what was then called the

7 Public Housing Administration. That was in 1966. I was

8 hired as a staff auditor and I remained a staff auditor

9 in upstate New York, that is between Albany, New York
10 and Syracuse, New York for about ten years, and did
11 various audits of Public Housing Agencies, Urban Renewal
12 Agencies. Any program that the Department of Housing
13 and Urban Development administered we were required to
14 do the audits of those agencies, and I worked in that
15 specific geographic area in upstate New York for ten
16 years.

17 Q What do you mean by audits?

18 A We go in and review anything that HUD administers
19 and determine that the grantee, the people that are
20 administering our money, are doing it in compliance with
2 the rules and regulations. That's our basic job.

2 Q Please continue after those ten years. What if
2 anything did you do within HUD?

2 A Well, I started as a grade seven and in 1976 there
2 was an opening in Washington, D. C. in an office, in the

1 Office of Inspector General. I applied for it and

2 ultimately got a job in November of 1976 in Washington

3 as an audit manager in one of the divisions in

4 Washington. As a grade 14.

5 Q And what have you been doing since then?

6 A I was in that position for about three years. In

7 1979 right after the 1.6. Act of '78 was passed the

8 office designed a new office within the Office of

9 Inspector General. I was selected to head up one of

10 those divisions and got a promotion to grade 15. I was
11 in that position for about four years and in 1983 an
12 advertisement came out for a Senior Executive Service
13 job in the Office of Audit. I applied for and was
14 selected for that job and I've been in the Office of
15 Audit in headquarters since 1983, in a couple of
16 different positions.

17 I was a deputy to the Assistant Inspector
18 General, and in 1989 that gentleman got promoted and I
19 took his place in the summer of 1989, and I've been in
20 that position ever since.

2 Q Now, Mr. Greer, what are your present duties and

2 responsibilities at the Department of Housing and Urban
2 Development?

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2 A Well, as the Assistant Inspector General for Audit
2 I'm in charge of about 350 employees that are scattered

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1 throughout the country. Our basic mission, as I stated
2 earlier, is to audit anything that HUD administers, any
3 program funds that are distributed either inside the
4 Department or outside the Department. We're responsible
5 for doing audits of those program funds, those
6 operations.

7 Q Mr. Greer, you mentioned you're responsible for
8 employees scattered around the country. Can you tell
9 the ladies and gentlemen of the grand jury how HUD is
10 set up around this country?

11 A - The basic structure of HUD is what is called the
12 regional structure. In other words, we have ten
13 regional offices in most of the major cities, New York,
14 Boston, San Francisco, et cetera, and underneath those
15 regional offices we have what is called field offices,
16 and those are in the smaller cities. For example,
17 Washington, D. C. is a field office under the
18 jurisdiction of the Philadelphia Regional Office,
19 Parkerton, Connecticut is an office underneath the
20 Boston Regional Office, and it's like that throughout
2 the country. I think there's about 80 field offices in

2 the ten regions.

2 Q At present --

2 MR. WEHNER: Excuse me, Your Honor, I would
2 appreciate Mr. O'Neill referring to the jury as the jury

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1 as opposed to the grand jury.

2 MR. O'NEILL: I apologize if I said that

3 again.

4 THE COURT: Good.

5 BY MR. O'NEILL:

6 Q At present, Mr. Greer, approximately how many

7 employees are employed at HUD?

8 A Roughly 13,500.

9 Q What type of jobs do they perform?

10 A The basic job is to provide technical assistance,
11 assisting the program administrators, whether it's a
12 PHA, a city, a mortgagor, a mortgagee, people that
13 distribute the HUD funds, they provide technical
14 assistance in helping them get that job done. Then, on
15 the other hand, they also monitor and make sure that
16 those monies are spent properly and in accordance with
17 the policies and procedures.

18 Q Now, Mr. Greer, are you familiar with the structure
19 at HUD, particularly at HUD headquarters?

20 A You mean the organizational structure?

2 Q The organizational structure.

2 A Yes, I am

2 Q At this time, with the Court's permission, I would
2 show you a chart previously designated as Government's
2 One for identification.

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1 THE DEPUTY CLERK: Government's Exhibit Number

2 One marked for identification.

3 (Government's Exhibit One marked

4 for Identification)

5 BY MR. O'NEILL:

6 Q And I ask you if you recognize this?

7 A Yes, I do.

8 Q Have you seen it before?

9 A Yes.

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10 Q What do you recognize it to be?
11 A It's pretty much an organizational chart of HUD and
12 primarily of the Assistant Secretary for Housing, FHA
13 Commissioner. I see you have over there all the other
14 Assistant Secretaries.
15 Q Does Government's One for Identification fairly and
16 accurately depict the structure at HUD as it relates to
17 housing, keeping in mind that it doesn't have every job
18 title and every position in the whole HUD framework?
19 A It's a little different today than that chart
20 shows, but that is a chart that depicts how the
2 organization was in the mid-eighties.

2 Q Let me rephrase the question then. Does this chart
2 accurately depict the framework of the organization of
2 HUD as it relates to housing during the years 1984 to
2 1987?

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1 A Yes.
2 MR. O'NEILL: At this time I'd move it into
3 evidence, Your Honor.
4 MR. WEHNER: Can I have a short voir dire,
5 Your Honor?
6 THE COURT: Certainly.
7 VOIR DIRE EXAMINATION
8 BY MR . WEHNER:
9 Q Mr. Greer, with regard to the chart, how many -

10 you mentioned 15,000 employees at HUD?
11 A Yes, sir.
12 Q And approximately how many of those are at
13 headquarters?
14 A About 3000, 3200.
15 Q And out of those 3200, how many are represented on
16 this chart?
17 A Well, they all would be because you have the chart
18 that says others than Assistant Secretary. So that
19 covers the whole organization, but if you're talking
20 about the Office of Housing -
2 Q No, no, I'm talking about HUD.
2 A 3200.
2 Q Now, this shows the Secretary of HUD, is that
2 correct?
2 A Yes.

1 Q And Undersecretary, correct?
2 A Yes.
3 Q Does it show legislative and Congressional
4 relations?
5 A No, sir, that would be under the other Assistant
6 Secretaries.
7 Q Does it show Public and Indian housing?
8 A That's under other.
9 Q Does it show Deputy Admin -Undersecretaries?
10 A I'm not familiar with that term. Deputy
11 Undersecretary?

12 Q Yes.

13 A There's such things called Deputy Assistant
14 Secretaries. There's currently a Deputy Secretary, but
15 at the time that title is Undersecretary.

16 Q Where are you on the chart?

17 A We would be under other Assistant Secretaries.

18 Q You report directly to the Secretary?

19 A I don't, but my boss does, the Inspector General.

20 I'm an assistant to that individual.

2 Q Where is the General Counsel?

2 A Under other Assistant Secretaries.

2 Q Where is -- you said this deals with housing, is
2 that correct?

2 A The middle box is the Assistant Secretary to

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1 Housing, FHA Commissioner/ and then those lines down

2 below that all refer to the Office of Housing.

3 Q Where is the office that deals with the project at

4 issue in this case?

5 A You have to go from the Assistant Secretary through

6 the General Deputy.

7 Q Take it easy, because I want to make sure I

8 understand.

9 A Right below, you go down one box.

10 Q Here?

11 A Yes, and then down another.

12 Q Down to General Deputy Assistant Secretary.

13 A Right, this is the flow of stuff. The Deputy
14 Assistant Secretary for Multi-family Housing is
15 responsible for the Mod Rehab Program, and if you go
16 down further to the Office of Elderly and Assistant
17 Housing, that's the spot where the people that work on
18 Mod Rehab actually work.

19 Q These are where the -- about how many people work
20 on Mod Rehab?

21 A There's about ten or 12 in the headquarters office.

22 Q Okay, in headquarters. Where is Miss Dean on this
23 chart?

24 A She's -- at the time we're talking about she was
25 the Executive Assistant off to the right under the

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1 Secretary of HUD.

2 Q So she was the Executive Assistant off to the

3 right , correct?
4 A Yes.
5 Q Here?
6 A No, up.
7 Q Your right?
8 A That's right. My right, your left.
9 Q Here?
10 A Yes.
11 Q And Mod Rehab was down here?
12 A That's correct.
13 MR. WEHNER: Thank you, Your Honor.
14 THE COURT: All right. The chart will be
15 admitted as Government •s Exhibit One, an organizational
16 chart •
17 MR. O'NEILL: Thank you, Your Honor.
18 (Government's Exhibit One
19 received in Evidence)
20 MR. O'NEILL: If I may get the easel. Your
2 Honor ?
2 THE COURT: Yes, that would be easier.
2 BY MR . O'NEILL:
2 Q Are you able to see it from there?
2 A Yes, sir, I think so.

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1 Q Mr. Greer, I'd like to run you briefly through
2 these positions, and what is the highest ranking
3 position at the Department of Housing and Development
4 Urban?
5 A The Secretary of HUD is nominated by the President
6 and confirmed by the Senate.
7 Q Okay. And during the years 1984 to 1987 who was
8 the Secretary of HUD?
9 A A gentleman named Samuel R. Pierce.
10 Q I direct your attention to the box on the right,
11 Mr. Wehner briefly alluded to that, entitled Executive
12 Assistant?
13 A Yes, sir.
14 Q Just once again, who was in that position during
15 the years 1984 to 1987?
16 A Deborah Gore Dean.
17 Q And what are the responsibilities and duties of an
18 Executive Assistant?
19 A The Executive Assistant really is for lack of a
20 better term Chief of Staff, a righthand person, involved
2 in several --

2 MR. WEHNER: Judge, I don't mind the question,
2 but a characterization as a righthand person is an
2 unfair, inaccurate summary by the witness.
2 THE COURT: All right. well, let's make

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1 objections at the bench after this. I'll grant the
2 objection to the reference to righthand person. The
3 question is the duties of the Executive Assistant and I
4 think that should be spoken in terms of the normal
5 personnel terms.

6 A The written duties according to the position
7 description was to provide policy advice to the
8 Secretary, to make sure that things were operating as
9 the Secretary intended them to operate, and those
10 general type of things.

11 Q Now, Mr. Greer, directly below Executive Assistant
12 is a box for Special Assistants.

13 A Yes, sir.

14 Q And is that plural?

15 A There are several Special Assistants at various
16 times.

17 Q And what about the years 1984 to 1987?

18 A Yes, sir, there were many individuals that held
19 that job.

20 Q And what would be their duties and
2 responsibilities?

2 A Generally they do case work for the Office of the
2 Secretary is the best way I could describe it. In other
2 words, when matters come up that need attention they're
2 asked to do those duties.

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1 Q And when you say case work, what are you referring

2 to?

3 A A specific problem might arise or perhaps the

4 Secretary would ask them to do special work. That type

5 of a duty.

6 Q Now, the next box directly in line below the

7 Secretary is the Undersecretary.

8 A Yes, sir.

9 Q During the years 1984 through 1987 who occupied
10 that position?

11 A There were several years in which that position was
12 vacant. I think at the beginning of '84 a gentleman by
13 the name of Phil Abrams had the position. When he left
14 until late -- perhaps when Carl Fogle came in early
15 1988, that position was pretty much vacant. The General
16 Counsel for a while acted as the Undersecretary. His
17 name was John Knapp.

18 Q What are the duties of the Undersecretary?

19 A The Undersecretary is really the alter ego of the
20 Secretary. Whenever the Secretary is absent from work
2 that individual is supposed to act in the Secretary's

2 stead. Oftentimes he also operates as the day-to-day
2 Chief Executive, for lack of a better term.

2 Q Mr. Greer, directly below the Undersecretary is a
2 box marked Assistant Secretary for Housing-FHA

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1 Commissioner.

2 A Yes, sir.

3 Q Are you familiar with that position?

4 A Yes, sir.

5 Q What are the duties and responsibilities of the
6 person that occupies that position?

7 A That individual is responsible for approximately 50
8 different HUD programs that deal primarily with
9 providing affordable housing to low and moderate income
10 people, either through direct subsidies of the
11 individuals or the projects or through what's called
12 mortgage insurance, either single family or multi-family
13 mortgage insurance.

14 Q During the years 1984 to 1987, who occupied that
15 position?

16 A Again, we had several individuals that were either
17 in the position confirmed by the Senate or acting during

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18 certain time periods and not confirmed by the Senate.
19 Shirley Wiseman, Maurice Barksdale, Silvio DeBartolomeis
20 and Tom Demery are the names that I can remember.
2 Q Now, you mentioned this box, Assistant – other
2 Assistant Secretaries, and what does that refer to?
2 A There are four or five additional Program Assistant
2 Secretaries and then, as Mr. Wehner was talking about,
2 the General Counsel, FHEO, legislative, and

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1 regulations. The Program Assistant Secretaries are the
2 ones who are Public and Indian housing, Community
3 Planning and Development, and that type of operation.
4 Q Mr. Greer, there's also a box to the right of the
5 Assistant Secretary for Housing, FHA Commissioner,
6 entitled Executive Special Assistants. What are the
7 duties and responsibilities of the Executive Special
8 Assistants?

9 A It's very similar to what I described as the
10 Special Assistants to the Secretary. The Assistant
11 Secretary also calls upon individuals to do case work
12 and special projects at work.
13 Q And, Mr. Greer, there are a number of boxes coming
14 down from the Assistant Secretary for Housing, FHA
15 Commissioner. Can you describe what these individuals
16 do?
17 A In the chain of command you have a General Deputy
18 Assistant Secretary. That individual, like the
19 Undersecretary to the Secretary, acts when the Assistant
20 Secretary is absent, and then below them you have three
2 Deputy Assistant Secretaries, and those individuals are
2 responsible for specific programs.
2 You can see on my right there's Deputy
2 Assistant Secretary for single family housing and on the
2 left there's a Deputy Assistant Secretary for policy,

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1 management administration. HUD has a whole range of
2 single family programs, so the Deputy Assistant

3 Secretary for single family is responsible for those.

4 The other individual is responsible primarily for the

5 budget, the financial and administrative accounting

6 aspects of the Office of Housing. The Deputy Assistant

7 Secretary for multi-family is responsible for all

8 multi-family type programs. Multi-family is anything

9 with more than four units.

10 Q Now, Mr. Greer, are you familiar with the various
11 programs administered at HUD?

12 A I'm pretty familiar with most of them, yes.

13 Q And how are you familiar with them?

14 A Through my 27 years of audit experience.

15 Q Can you name some of the programs that HUD

16 administers?

17 A Some of the more -- the ones with the most funding,
18 the Section Eight, we have a community development block
19 grant program. We have a whole bunch of mortgage
20 insurance programs that have various sections for
2 various purposes, and it just goes on and on. There's

2 somewhere in the neighborhood today of about 150 to 170
2 programs. At this point in time there are perhaps 80 to
2 90 programs.

2 Q Are you familiar with the program known as the

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1 Moderate Rehabilitation Program?

2 A Yes, sir.

3 Q What is that program?

4 A That is a separate section of the Section Eight

5 program. It began somewhere in the late 1970's, '78 or

6 '79. It was authorized by Congress. It was designed,

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7 I believe, to fill the gap between a couple of other

8 programs that were in existence at the time and to serve

9 some special needs.

10 One of the biggest programs at HUD is
11 something called Section Eight Existing Housing, and in
12 the late seventies we also had a program called Section
13 Eight Substantial Rehabilitation. The Section Eight
14 Existing is for individuals to obtain housing in
15 individual units. The Substantial Rehabilitation is a
16 subsidized program for multi-family units, projects of
17 50, 100, 200 units. And there seemed to be a gap
18 between that Existing Program and the Substantial
19 Rehabilitation Program, and in various cities there were
20 some housing that was available but it was not always in
2 good condition. So the program designers started this

2 program with the specific purpose in mind of filling the
2 gap between the Existing Program and the Substantial
2 Rehab Program.

2 Q How was the Mod Rehab Program designed to work?

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1 A It operates through an organization called the
2 Public Housing Agency. The Public Housing Agency acts
3 as HUD agents. We provide the money to the Housing
4 Agency and that agency has contracts with owners and
5 developers who, first, rehab the building and then,
6 secondly, to manage that building, and on a monthly
7 basis, we, HUD, provide money to PHA's who in turn pay
8 the owner, the developer the subsidy.

9 That subsidy represents a subsidy to the

10 tenants. The tenants are required to pay 30 percent of
11 their income and HUD pays the rest, and it's designed
12 primarily for low and moderate income.

13 Q Pursuant to the Moderate Rehabilitation Program,
14 how are these projects selected?

15 A The projects are selected by the Public Housing
16 Agency. As part of the approval process to participate
17 in the program they provide to HUD what is called an
18 administrative plan. That administrative plan contains

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19 a description of how that PHA will manage the program.
20 One of the aspects of that is how they will
2 select the units to participate in the program. Various

2 localities operate the program a little differently
2 which is fine with HUD because we always believe that
2 the localities knew best and knew best how to run the
2 program, but they had to come to HUD with some kind of a

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1 plan to make sure or at least so HUD can make sure that

2 the funds were going to be spent properly.

3 Q Are there any rules and regulations that govern the

4 Moderate Rehab Program?

5 A Yes, there's quite a few regulations that govern

6 the Mod Rehab Program.

7 Q Are there any rules and regulations governing how

8 projects are selected?

9 A Yes, there are.

10 Q What are they they?

11 A I think we need to step back and talk about how the
12 funds get from HUD to the PHA.

13 In the early years of the program there was a
14 system called fair share which is really a formula
15 designed by Congress which says that basically based on
16 the housing stock and the locality they're to get a fair
17 share allocation of those funds every year. I think it
18 was in 1983 Congress did what they call -- they waived
19 that formula basis, and when they did that, the
20 Department of Housing and Urban Development was pretty
2 much free to do whatever they wanted as far as

2 allocating money from headquarters out to the regions
2 and from the regions to the field offices and then from
2 the field offices to the PHA's. Those are the folks I
2 was talking about that actually administered the

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1 program, the PHA's.

2 Q After fair share how did HUD headquarters select

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3 the local PHA's for funding purposes?
4 A They basically used a discretionary method to
5 select the PHA's that would receive funding. When I say
6 discretion, I mean that they picked and chose who would
7 get the funds.
8 Q Were there any rules or regulations governing that
9 discretionary method?

10 A Yes, there's a regulation, I think it's 882.502 or
11 something very close to that, that describes a method in
12 which whenever the funds available are not sufficient to
13 meet the demands, that is the needs, the Department is
14 supposed to go through a rating and ranking process to
15 decide where the monies would be allocated, and there's
16 five different criteria for making those decisions.
17 Q Were there any rules and regulations prohibiting
18 project specific allocations?
19 A Yes. The process I just described was how HUD got
20 the money out to the PHA's. The PHA's in fact were to
2 select where the money was used and which units within a
2 city would receive the funding actually. So HUD
2 headquarters had nothing to say about who ultimately got
2 the money out of the locality.
2 Q How did that go about?

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1 A I'm not sure I understand the question.
2 Q Excuse me. I'll rephrase it. Were there any rules
3 and regulations prescribing how the local PHA would
4 award these units?
5 A Yes, there's also regulations that describe that,
6 and part of what I just described to you, the
7 administrative plan, was supposed to describe to HUD how
8 that locality would in fact make the selections.
9 what HUD requires is that a public notice be
10 given, that is, that the local Housing Authority
11 describe to the people in the locality that funds are
12 available. This is what you must do to apply for those
13 funds. This is when the applications are due and things
14 like that. That's what the administrative plan would
15 lay out for the locality.
16 Q At this time, Mr. Greer, with the Court's
17 indulgence once again, I'll show you a chart previously
18 marked for identification purposes as Government's
19 Exhibit Two?
20 THE DEPUTY CLERK: Government's Exhibit Number
2 Two marked for identification.
2 (Government's Exhibit
2 Two marked for
2 Identification)
2 BY MR. O'NEILL:

1 Q And I'd ask you, have you seen this before?

2 A Yes, sir.

3 Q And you recognize it?

4 A Yes.

5 Q What do you recognize it to be?

6 A It's pretty much a flow chart of what I just

7 described to you, that the funding from headquarters to

8 the regional office to the field offices and ultimately

9 down to the Public Housing Agencies and the Public
10 Housing Agencies select -- you have the box there
11 developer and developer-owners that will in fact
12 participate in the program and provide the units to the
13 low and moderate income people.

14 Q Mr. Greer, does Government's Exhibit Two for
15 Identification fairly and accurately depict the process
16 of how the Mod Rehab system was designed to operate?

17 A The flow of the funds.

18 Q The flow of the funds.

19 A Yes.

20 MR. O'NEILL: At this time I would move into
2 evidence two, Your Honor.

2 MR. WEHNER: Could I have a voir dire, Your
2 Honor?

2 THE COURT: Briefly.

2 (VOIR DIRE EXAMINATION)

MR. WEHNER:

2 Q Don't the funds go from the Public Housing

Authorities to the developer?

4 A Excuse me? They go to the owner. Ultimately,
5 yes. On a monthly basis a voucher is prepared -6

Q Excuse me, I'll ask the questions.

7 A Okay, I'm sorry.

8 Q You give the answers.

9 A Certainly.

10 Q Do not the funds, the dollars go from the Public
11 Housing Authorities to the developers?

12 A Once they get to the Public Housing Authority,
13 that is correct.

14 Q They don't go from the developer to the Public
15 Housing Authorities?

16 A Right.

17 Q Because the developer is not paying any money, the
18 developer is receiving money?

19 A Right.

20 MR. WEHNER: I don't think the chart
2 accurately described what he testified to, Your Honor,
2 it's backwards.

2 THE COURT: I'll allow further voir dire.

2 BY MR. O'NEILL:

2 Q Mr. Greer, the monies that are awarded from HUD

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1 headquarters, where do they go?

2 A They go from HUD headquarters to the regional
3 offices, from the regional offices to the field offices
4 and from the field offices to the Public Housing
5 agencies.

6 Q What do the Public Housing Authorities do in terms
7 of once they get the money?

8 A They put out what I described earlier, a public
9 notice. That public notice says we have some money

10 available. If you, Mr. Owner, if you, Mr. Developer,
11 would like to apply for them, here are the requirements
12 and this is how you do it. At that point in time they
13 review all of those developer proposals and select which
14 units should be in the Mod Rehab Program.

15 Q So do the developers go to the PHA's?

16 A Yes, they make application to the PHA for funding?

17 Q What happens if they're awarded the funding?

18 A Then the Public Housing Agency and that owner enter
19 into a contract, an annual contributions contract,
20 excuse me, a housing assistance payment contract.

2 MR. O'NEILL: At this time, Your Honor, I

2 would renew my application but if counsel would like
2 that to be a two-way arrow that would be fine with the
2 Government. We can make that change right now.

2 THE COURT: All right, I'll admit it.

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1 MR. O'NEILL: Your Honor, would you like me to
2 make that change?

3 THE COURT: Yes, one reflecting the
4 application process and the other the money flow.

5 MR. O'NEILL: I promise to fill it in later,

6 Your Honor.

7 THE COURT: All right.

8 (Government's Exhibit Two

9 received in Evidence)

10 BY MR. O'NEILL:

11 Q Mr. Greer, what is the purpose for the Mod Rehab

12 Program -- excuse me, let me withdraw that and rephrase
13 it. What does HUD require so that the projects be
14 selected at the PHA level?

15 A The whole design of the program is that the
16 localities, that is the Public Housing Authorities which
17 are in most cities, there's about 3300 of them, they
18 know best how to administer the low income housing

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19 programs within their jurisdictions. They are required
20 to select who participates in the program. Under the
2 process I just described, the administrative plan
2 process.
2 Q And why do the rules and regulations prohibit
2 project specific awards?
2 A It's to accomplish what I just described, that the

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1 localities should in fact decide who should participate
2 in the program.
3 Q Now, Mr. Greer, are you familiar with the standards
4 of conduct that would regulate the actions of HUD
5 employees?
6 A Yes, I am.
7 Q And how are you familiar with those standards?
8 A As a HUD employee I'm bound by those standards, and
9 annually we receive a letter generally from the General

10 Counsel reminding us of the standards and the things
11 that we should and should not do as a HUD employee.
12 Q what were the standards of conduct and I'm
13 directing you to the years 1984 to 1987 that were
14 applicable to HUD employees at that time?
15 A well, there's a whole handbook of requirements.
16 That list is quite long. There are some that are very
17 important to me and to most HUD employees. Some of the
18 more important ones -
19 MR. WEHNER: Your Honor, we can introduce the
20 handbook, I think, or -- but to have this witness
2 testify as to which are more important than others is
2 inappropriate and I object. He just testified there are
2 a whole bunch of them. If you want to introduce the
2 handbook, that's fine, but his characterization is not
2 important for our purposes.

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1 THE COURT: Do you have a response?

2 MR. O'NEILL: May I try a different question,

3 Your Honor?

4 THE COURT: All right.

5 BY MR. O'NEILL:

6 Q Mr. Greer, can you list without commenting on them

7 the standards of conduct that were applicable to HUD

8 employees during the years 1984 through 1987?

9 A There's I cannot accept anything of value, gifts,

10 gratuities, from persons or firms doing business with
11 HUD. I cannot give preferential treatment to anyone
12 doing business with HUD. I cannot disclose information
13 that I learned as a HUD employee that is not generally
14 known to the public for the benefit of any individual
15 doing business with HUD or any of my friends, my
16 family. I cannot use that inside information for my own
17 personal gain. I'm not allow to accept lunches or
18 dinners or anything of substantial value from anybody
19 doing business with the Department. I'm not allowed to
20 make decisions that are outside the normal channels. In
2 other words, outside of the rules and regulations that

2 govern decision making. And there's some other, other
2 items. Again, it's very numerous.

2 MR. O'NEILL: I have no further questions of
2 this witness at this time.

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1 Thank you, Your Honor.

2 THE COURT: You may cross.

3 MR. WEHNER: Thank you, Your Honor.

4 CROSS EXAMINATION

5 BY MR. WEHNER:

6 Q Mr. Greer, we haven't had the opportunity to meet

7 or talk before today, have we?

8 A No, sir, I don't believe so.

9 Q You have worked for HUD for an extremely long time

10 in many different auditing capacities, is that correct?

11 A Yes, sir.

12 Q On your direct examination you testified that
13 sometime in 1984 or '83 the Mod Rehab Program was
14 changed in order to allow HUD, the central office of
15 HUD, to make decisions on a discretionary basis, is that
16 correct?

17 A No, sir, I don't think I said that. I said --

18 Q would you repeat what you just said?

19 A what I said was the fair share was waived by
20 Congress in 1983.

2 Q Fair share, and what did that mean? In your own

2 words, what did that mean? If I mischaracterized it I
2 apologize.

2 A The fair share meant that they did not have to
2 provide the funding out to the area offices, the field

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1 offices/ in the formula basis that was designed by
2 Congress.

3 Q And how then did Congress mandate with the change
4 that they be distributed?

5 A Congress did not mandate. HUD chose, I believe, to
6 distribute the assisted housing in accordance with the
7 fair share except for the Mod Rehab Program.

8 Q HUD -- will you repeat that, please?

9 A Yes, HUD chose to distribute the assisted housing

10 funding just as the fair share was still in effect
11 except for the Mod Rehab Program.

12 Q Except for the -

13 A I get your point now, yes.

14 Q Except for the Mod Rehab Program. Is that your
15 answer?

16 A Yes, sir.

17 Q Congress decided that HUD did not have to
18 distribute those funds on a fair share basis.

19 A They waived fair share, that's right.

20 Q You didn't have to plug the data into the computer,
2 get out what the fair share was, and do it on that

2 basis?

2 A That's right.

2 Q Now, that wasn't true for all the other programs,
2 as you just said, all the other programs with the

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1 exception of Mod Rehab.

2 A No, sir, I'm sorry. I must have misspoke.

3 Q would you say it again?

4 A I said what HUD decided the fair share - or to do
5 it in accordance with the fair share process for all
6 programs except the Mod Rehab Program which they decided
7 to do it in a different manner.

8 Q This trial is about an individual and not about
9 HUD. So who at HUD decided that the Mod Rehab funds
10 would not be fair share? who?

11 A The specific individual I don't know.

12 Q Was it Deborah Gore Dean?

13 A I don't know.

14 Q Was it Samuel Pierce?

15 A I don't know.

16 Q So you don't know who made the decision to change
17 the way Mod Rehab was funded.

18 A Ho, I don't have any personal knowledge.

19 Q Do you know when that decision was made?

20 A Not specifically, no.

2 Q Generally.

2 A It was in 1983.

2 Q What was Miss Dean's position at HUD in 1983?

2 A In 1983 I believe she was the head of a unit called
2 the Executive Secretariat.

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1 Q And what was her responsibility in that position?

2 A The Executive Secretariat is a correspondence unit,

3 for lack of a better term, and she was the head of that

4 correspondence unit.

5 Q Answering the mail.

6 A Yes.

7 Q Do you know of any evidence that she participated

8 in making the decision as to how Mod Rehab funds were

9 going to be distributed by HUD prior to 1983?

10 A Prior to 1983? No, sir.

11 Q When she was in the Executive Secretariat running
12 the mail procedures?

13 A I'm sorry, I missed the question.

14 Q When she was running the Executive Secretariat
15 which basically was a correspondence unit, do you have
16 any evidence based on all of your odds that she had any
17 involvement in making the decision as to how the Mod
18 Rehab units were going to be funded?

19 A Not at that time, no, sir.

20 Q Not at that time. Who was when that decision was
2 made to change that process -- if I may, Your Honor, I'm

2 going back to Exhibit One.

2 THE COURT: All right.

2 BY MR. WEHNER:

2 Q Who was the Secretary at HUD?

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1 A Samuel Pierce.

2 Q And as Secretary of HUD Samuel Pierce had a

3 committee at the Congress that oversaw the operations of

4 HUD, is that correct?

5 A Yes, sir.

6 Q And what was the name of that committee?

7 A It's called the Subcommittee on Housing and Urban

8 Affairs or very close to that title. It's a

9 Subcommittee of the Housing and Banking.

10 Q Do you recall who the chairman of the committee was
11 at that time?

12 A In 1983 I believe it was Henry Gonzalez.

13 Q And at that time do you recall whether that
14 committee knew of the legislation that was passed
15 changing the way Mod Rehab was distributed or allowing
16 HUD to determine it? Do you know if that committee was
17 aware of that?

18 A Yes, sir, both the House and the Senate passed that
19 bill or passed the waiver process.

20 Q They both passed it.

2 A Yes, sir.

2 Q Do you know what subcommittee dealt with that
2 waiver process on either the House or the Senate?

2 A Yes, I do.

2 Q Which ones?

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1 A The Subcommittee on Housing and Urban Affairs in
2 both the House and the Senate.

3 Q Who were the chairmen of those two committees?

4 A Today?

5 Q No, let's talk about the relevant time period.

6 This was ten years ago and I know it might be difficult,

but let's talk about '83 and '87 because those are the

8 dates in which Miss Dean was charged. So let's talk
9 about those time periods.

10 A I believe in the Senate a gentleman by the name of
11 William Proxmire, Senator Proxmire.

12 Q Senator Proxmire?

13 A I believe so, yes.

14 Q And what about on the House side?

15 A I believe it was Henry Gonzalez.

16 Q Still '83, '87?

17 A Yes.

18 MR. WEHNER: with the Court's permission, I
19 would like to show to the witness on the video screen
20 Dean Exhibit Two which I previously have given to the
2 Court and to Mr. O'Neill.

2 MR. O'NEILL: We can't put it on the screen

2 yet, Judge.
2 MR. WEHNER: Why not?
2 MR. O'NEILL: Because it's not in evidence.

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1 Can we approach for one second?
2 THE COURT: Sure.
3 (Bench conference)
4 THE COURT: what do you want to do with it?
5 MR. WEHNER: I want to have the witness
6 authenticate it exactly the way Mr. O'Neill did.
7 MR. O'NEILL: When I did the first one I
8 didn't show it to the jury.
9 THE COURT: Have him look at it and say what

10 it is and then put it on the screen, all right?
11 MR. WEHNER: Okay.
12 (Bench conference concluded)
13 THE DEPUTY CLERK: Defendant's Exhibit Two
14 marked for identification.
15 (Defendant's Exhibit
16 Two marked for
17 Identification)
18 BY MR. WEHNER:
19 Q Let me show what you I've marked as Dean Exhibit
20 Two and ask you to take a quick look at it. I recognize
2 you haven't seen it before today. Just take a quick
2 look at it.
2 A Yes, sir.
2 Q what does it appear to be?
2 A It appears to be a more expansive organizational

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1 chart of the department.
2 Q During what time period?
3 A It appears to be during the time period we're
4 talking about, '84 -5
Q 83 to '87, thereabouts?
6 A Yes, sir.
7 MR. WEHNER: with the Court's permission I'd
8 like to show that to the jury.
9 THE COURT: All right.
10 MR. WEHNER: You may keep that. I've got some
11 questions.
12 BY MR . WEHNER:
13 Q Directing your attention to Dean Exhibit Two in the
14 time period 1983 through 1987, you testified that Samuel
15 Pierce was the Secretary, is that correct?
16 A Yes, sir.
17 Q Miss Dean was the Executive Assistant at that time,
18 is that correct?
19 A 84 to '87?
20 Q '84 to '87.
2 A Yes, sir.
2 Q During that time period who was in the
2 Undersecretary's post, '84 to '87?
2 A For a short period in '84 I believe Phil Abrams was
2 there and then after that it was vacant for all intents

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1 and purposes, and John Knapp was acting for a while.
2 Q And who else in that time period was in that slot
3 from '84 to '87?
4 A I don't think anybody else was.
5 Q Prior to '84 was there a gentleman by the name of
6 Archdale?
7 A In the Undersecretary's spot?
8 Q Yes.
9 A No.

10 Q Go on with -- let me ask the question this way, was
11 anyone in that position from '83 to '87 when the
12 decision was made to change the way that Mod Rehab units
13 were funded, i.e., from fair share to the new system?
14 A Phil Abrams might have been there for a part of
15 that period.
16 Q Okay. Do you know generally who Phil Abrams is?
17 A Yes, sir.
18 Q who is Phil Abrams?
19 A He came to the Department in the first term of the
20 Reagan Administration. He was a developer in the New
2 England area. was at the department for about four
2 years and left.
2 Q what did he do after that?
2 A He went to Colorado and became a developer of
2 several different things, including HUD programs.

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1 Q Mod Rehab?
2 A Yes.
3 Q He was a developer before he went in, after he got
4 there, and then he went to this position and then he
5 left , the same business?
6 A He didn't go to that position, but he came in as
7 the iAssistant Secretary of Housing, then was promoted to
8 Undersecretary and then left.
9 Q So he was actually the Assistant Secretary for

10 Housing?

11 A For a period of time.
12 Q On an off chance, did that happen to be the same
13 time the regs were changed?
14 A The regs were never changed, sir.
15 Q Okay. Does that happen to be the time the
16 procedure changed?
17 A The procedure for -
18 Q Sir, the procedure when it went from fair share
19 to -•
20 A He was the Assistant Secretary in 1983, I believe,
2 yes .
2 Q And that is when that change was made, is that
2 correct?
2 A Yes.
2 Q So Congress -- let's make sure we get this

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1 straight. Congress passed legislation saying you don't
2 have to fair share Mod Rehab. And Phil Abrams was in

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3 this spot when that change was made?
4 A I believe that's correct, yes.
5 Q Phil Abrams was a developer of Mod Rehab units
6 before he came to this position?
7 A I'm not sure if he did Mod Rehab before he came to
8 HUD. I know he did it after.
9 Q Okay. Before that was he a developer?

10 A Yes.
11 Q Did he do business with HUD?
12 A Yes.
13 Q Then he came to this position?
14 A Yes.
15 Q And he left that position and what did he do?
16 A He was a developer.
17 Q And did he do Section Eight Mod Rehab programs?
18 A Yes, he did.
19 Q When that change was made on Capitol Hill by the
20 Senate and the Congress, did Phil Abrams support that or
2 was he against it?
2 A I don't know, sir.
2 Q Do you know if the Department of HUD supported it
2 or was against it?
2 A I believe if you look back at the record, HUD was

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1 attempting to terminate the Mod Rehab Program for
2 several years so I would presume based on that, that
3 they were for the waiver of fair share.
4 Q And that's a pretty fair assumption, they were for
5 the waiver if they were trying to terminate it,
6 correct?
7 A Yes.
8 Q Did Deborah Dean testify on the Hill in support of
9 the waiver of fair share?

10 A Not to my knowledge.
11 Q Phil Abrams?
12 A Not to my knowledge.
13 Q Samuel Pierce?
14 A Not to my knowledge.
15 Q Did anyone?
16 A Not to my knowledge.
17 Q I want to go back a little bit before 1983 for a
18 few minutes and talk about discretionary funding, and I
19 understand discretionary means, within fairly wide
20 parameters, that discretionary funding means HUD can
2 generally do what they wish to with the money, within

2 their own rules and regulations, is that accurate?
2 A As a general description I think that's fairly
2 accurate, yes.
2 Q If you want to give me a more specific description,

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1 that would be fine, of discretionary funding and your
2 understanding?
3 A Well, my understanding is that, and you say given
4 the wide parameters, there are certain things that need

5 to -and

indeed dependent on the program.

6 Q Let's limit it to Mod Rehab. Okay? Let's limit to
7 it Mod Rehab.

8 A If you want to get real specific, there was no
9 discretionary funding for Mod Rehab. There was
10 something called the headquarters reserve which was the
11 term used, the term of art, headquarters reserve.

12 Q What's the difference between headquarters reserve
13 and discretionary funding?

14 A Oh, it's perhaps a semantic difference. The
15 headquarters reserve was reserved for headquarters and
16 discretionary funding is reserved for headquarters
17 basically at the Secretary's discretion.

18 Q So there's really no difference between reserve and
19 discretionary?

20 A Not a great deal, no.

2 Q Well -

2 A For all practical purposes there's not much
2 difference.

2 Q Thank you. Now, prior to 1983, was there a
2 Secretary's reserve fund for Mod Rehab?

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1 A Yes.

2 Q And that meant that the Secretary prior to 1983
3 could give these units out within his discretion,
4 correct?

5 A He could assign them to a PHA, yes, sir.

6 Q Within his discretion.

7 A Yes, sir •

8 Q After 19 83, was there any Secretary's discretionary
9 funds for Mod Rehab units?

10 A Yes sir.

11 Q Could he give them out to the PHA at his
12 discretion?

13 A Yes.

14 Q Prior to 1983 how many units nationwide
15 approximately were there of Mod Rehab units available
16 for funding?

17 A Prior to 1983 in total?

18 Q Right.

19 A Somewhere in the neighborhood of 80 to 90,000
20 units •

2 Q And per year how many were there?

2 A That would average out to be 25 to 33.

2 Q 25 to 30 ,000 per year prior to 1983?

2 A Yes, sir •

2 Q After 19 83 approximately how many were available

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1 for funding nationwide?

2 A Between '84 and '88 I believe there's 32,000 units

3 in total.

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4 Q Per year, would that be 8000 per year?

5 A Yes, sir. Some years are a little higher than

6 others but it averages out to eight.

7 Q Of those 8000 a year how many were the Secretary's

8 discretionary units?

9 A They were all. All those units were done under
10 headquarters reserve. '84 to '88?

11 Q Yes. Would you repeat that answer, please?

12 A All of them.

13 Q Who writes the regulations or approves the
14 regulations for HUD?

15 A Generally the program people in concert with the
16 Office of General Counsel write the regulations.

17 Q What happens to them after they're drafted or
18 written, generally?

19 A They go through what's called the Departmental
20 clearance process within the Department which means that
2 most everyone, most every unit within the Department

2 reviews those and either agrees or disagrees with them.

2 Q And what happens after that review?

2 A They're provided to OMB and to Congress -

2 Q Within HUD.

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1 A Well, within HUD if everything passes through they

2 become final and become the rules and the regulations of

3 that program or that activity, that activity.

4 Q Do they ever go to the Secretary of HUD?

5 A I'm not sure I understand the question.

6 Q Do the rules and regulations that are proposed

7 within HUD ever go to the Secretary? Does he ever see

8 them, does he ever sign off on them, does he approve

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9 them, does he have a chance to disapprove them?
10 A I think he's treated like most everyone else in the
11 Department. He might review them, he might not.
12 Chances are he very seldom reviewed the regs personally.
13 Q who would he have review the regs for him?
14 A The Office of General Counsel and the program
15 official responsible for the regs being written.
16 Q Could he review the regs if he wanted to?
17 A Sure.
18 Q Sir, in all the audits that you did of Section
19 Eight Mod Rehab programs, did you ever speak to
20 Deborah Gore Dean?
2 A No, sir, I don't believe I did.

2 Q I believe your testimony on direct was that
2 specific projects were directed by HUD to be funded to
2 the PHA's, is that what your audit showed?
2 A Yes, sir.

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1 Q Name one, please?
2 A Sierra Point.
3 Q Where is Sierra Point. Give us a little
4 description?
5 A Las Vegas, Nevada.
6 Q What Housing Authority?
7 A Clarke County Housing Authority, which -
Clarke
8 County -
I mean Las Vegas, Nevada is within the
9 boundaries of Clarke County.
10 Q who at HUD told the Clarke County Housing Authority
11 to fund that project?
12 A who at HUD?
13 Q Pardon me?
14 A I was just repeating the question to myself, I'm
15 sorry.
16 Q No, who, who, what individual at HUD told the
17 Clarke County Housing Authority to fund the project?
18 A There were funding documents that were signed by
19 Silvio DeBartolomeis.
20 Q Name another.
2 A Foxglenn Apartments.
2 Q And where were Foxglenn Apartments located?
2 A Prince Georges County, Maryland.
2 Q who at HUD headquarters told whatever Public
2 Housing Authority was involved to fund that?

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1 A The funding document I believe was signed by Thomas
2 Demery.
3 Q Name another one.
4 A Sierra Vista Apartments.
5 Q where?
6 A Denver, Colorado.
7 Q Look at HUD told the Public Housing Authority to
8 fund that project?
9 A The funding document I believe was signed by Thomas

10 Demery.

11 Q Name another one.

12 A I believe it's Crystal Park or Crystal Square
13 Apartments in Worcester, Massachusetts.

14 Q And who told that Housing Authority to fund the
15 program?

16 A I believe the funding document was signed by Silvio
17 DeBartolomeis.

18 Q Name another one.

19 A There are many more. I just can't think of any
20 others.

2 Q Take a minute and think of as many as you can,
2 because that was your broad testimony on direct, that
2 HUD directed the Public Housing Authorities to fund
2 these projects. Now, think for a minute and name
2 everyone that you can and who gave the direction that

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1 they be funded?

2 A Apple Creek Apartments which was in -- a suburb of
3 Dallas, Texas, it was funded by -- I believe Thomas
4 Demery signed the documents. I'm a little hazy on the
5 documents.

6 Q Is there anything I can show you to refresh your
7 recollection? Independent counsel has 600,000 pieces of
8 paper.

9 MR. O'NEILL: Objection, Your Honor.

10 THE COURT: All right. I'll sustain that.

11 The jury can disregard that. That's not relevant how
12 many pieces of paper there are.

13 BY MR. WEHNER:

14 Q Is there anything that can refresh your
15 recollection?

16 A Yes, sir, the audit report that was issued.

17 MR. WEHNER: Very well.

18 If you give me a minute, Your Honor, I think I
19 can find the audit.

20 Your Honor, this is not marked but I will mark
2 it for identification. And it's Dean Exhibit 11.

2 THE DEPUTY CLERK: Defendant's Exhibit 11
2 marked for identification.

2 (Defendant's Exhibit 11 marked for
2 Identification)

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1 MR. WEHNER: It is dated April 26, 1989. It's
2 a 69-page document with Independent Counsel numbers 1062
3 through 1137 on their Bates stamps.

4 THE COURT: All right.

5 BY MR. WEHNER:

6 Q I'm not sure, but I think this might be the audit
7 you're referring to. Will you look at it and let me
8 know if it is?

9 A Yes, sir, this is it.

10 Q Using that document to refresh your recollection,
11 will you please tell this jury what Public Housing
12 Authorities were directed to fund projects on a project
13 specific basis and who directed them to do it?

14 A Could I try to answer the question this way, sir?

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15 Q Please answer it however you feel comfortable.

16 A In the audit report itself, appendix H of this
17 audit reports describes situations in which we believe
18 the documents and all the evidence showed that there
19 were project specific decisions made.

20 Q Using that list to refresh your recollection will
2 you go through the projects that your audit showed were
2 specifically funded and who directed that they be
2 funded?

2 A I can go through each one. I'm not sure I can
2 recall exactly who signed the funding documents for each

1 one.

2 Q That doesn't refresh your recollection as to who
3 signed the funding documents?

4 A Not really.

5 Q Okay. Does it refresh your recollection as to
6 whether Deborah Gore Dean ever signed the funding
7 documents?

8 A I don't believe we ever saw Deborah Gore Dean's
9 name on a funding document. She had no authority to do
10 so.

11 Q Well, did she ever do it?

12 A No, sir, not that I know of. It's certainly not
13 part of this audit.

14 Q Any other audit, any other program.

15 A No, sir, not that I'm aware of.

16 Q What time period does that audit cover?

17 A 1984 to 1988.

18 Q And what position did Miss Dean hold at that time?

19 A For most of that time she was the Executive
20 Assistant.

2 Q And that's the time period we're discussing.

2 A Yes, sir.

2 Q Would you please read the projects that are
2 included on that attachment or -just
so the jury is

2 clear as to which projects were funded during that

period that your audit concludes were directed to be

2 funded by HUD headquarters?

3 A There's about 49 or 50 of them, so -4

THE COURT: Can't we just have that copied or

5 something to show them to the jury -6

MR. WEHNER: If the Independent Counsel

7 doesn't object, I'll introduce it as an exhibit.

8 THE COURT: - rather than read 40 or 50?

9 MR. O'NEILL: That's fine.

10 THE COURT: All right.

11 BY MR. WEHNER •

12 Q Would that be appendix H?

13 A Yes, sir, I think that's the one that describes the
14 conditions under which we believe the - it became a
15 project specific allocation.

16 MR. WEHNER: with Your Honor's permission I'll

17 mark that as Dean Exhibit 12.

18 THE COURT: All right.

19 THE DEPUTY CLERK: Defendant's exhibit number

20 12 marked for identification.

2 (Defendant's Exhibit 12 marked

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2 for Identification)
2 MR. WEHNER: Do I give that to you,
2 Miss Whyte?
2 THE DEPUTY CLERK: Yes.

1 MR. WEHNER: Excuse me. I don't have copies
2 of this one.
3 BY MR. WEHNER:
4 Q Mr. Greer, I want to ask you a few questions based
5 upon your audits, about how the Public Housing
6 Authorities work. My recollection from your direct
7 testimony is that you said I think 3300 Public Housing
8 Authorities in the country approximately?
9 A Yes, sir.

10 Q Is it true that there are sometimes more than one
11 Public Housing Authority responsible for a city?
12 A Very seldom.
13 Q Do you sometimes have State Public Housing
14 Authorities and local Public Housing Authorities?
15 A Yes.
16 Q And are they responsible for the same geographic
17 area?
18 A Generally not.
19 Q Does it ever happen?
20 A I think on occasion it has, yes.
2 Q Why are there 3000 Public Housing Authorities as
2 opposed to, say, 50 Public Housing Authorities, one for
2 each State?
2 A Well, I believe that's because of something I said
2 earlier, that the Government wanted to get the funds

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1 down to the lowest possible level. PHA's are usually
2 incorporated through the State, State laws.
3 Q Some of them are very large?
4 A Yes, sir.
5 Q In terms of the number of people they employ?
6 A Yes, sir.
7 Q What's the maximum number of people they employ?
8 A I believe the New York City Housing Authority is
9 the largest PHA. It employs somewhere in the

10 neighborhood of 17,000 individuals.
11 Q And some of them are very small?
12 A Yes, sir.
13 Q Do you know of any of them that have one employee?
14 A Yes, sir.
15 Q And they are all across the country.
16 A Yes.
17 Q Now, they operate in different fashions, of course?
18 A Yes.
19 Q And has Congress or HUD said this is how -- set out
20 rules and regulations as to how they should operate
2 generally?
2 A Yes.
2 Q So there are some federal rules they have to
2 follow.
2 A Yes.

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1 Q Specifically related to the Mod Rehab Program,
2 Section Eight Mod Rehab, did there come a time when the
3 local housing authorities were requested to be project
4 specific in their requests to HUD for Mod Rehab units?

5 A Not that I'm aware of.

6 Q You're not aware of it.

7 A No, sir.

8 Q Are you aware that there was a time in HUD when the

9 Public Housing Authorities were told that they should
10 apply for particular numbers of units?

11 A No, sir.

12 Q Are you aware of any instruction from HUD
13 headquarters to the Public Housing Authorities regarding
14 whether or not they should have units in something
15 called a pipeline?

16 A There's a process that I'm aware of where the
17 localities could have projects in a pipeline, depending
18 on their own administrative plan.

19 Q Would you describe, please, what a pipeline is
20 within the Section Eight Mod Rehab Program with regard
2 to the Public Housing Authorities?

2 A Yes, sir, if a locality decided to in their
2 administrative plan to say to the public we will
2 entertain applications for Mod Rehab or any other kind
2 of funding over a given period of time, that those

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1 applications will remain in what is called a pipeline or
2 forever, I guess, or forever, whatever time period the
3 PHA might describe in their administrative plan. That
4 is a process that is acceptable I believe to the
5 Department.

6 Q I don't understand. Let me try to break it down a
7 little bit. The PHA's can keep a project in their hands
8 forever, and keep applying to HUD for the money for that
9 particular project?

10 A I don't believe they would apply for that project.
11 They'd apply for funding for a certain number of units.

12 Q A certain number of units.

13 A It's possible, I believe, that a PHA could have a
14 pipeline project and request funding for that project,
15 yes.

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16 Q A specific project.

17 A Yes, if the PHA decided to do that, they might.

18 Q As specific as 2020 Fish Stret, for example?

19 A I don't believe it's that specific. I believe it's
20 the numbers of units.

2 Q Oh, is this the code? I've heard something about a
2 code for numbers of units. Is that a code?

2 A No, sir.

2 Q And there's nothing -2

A I'm not familiar with an application for a specific

1 street address.

2 Q No, no, numbers of units, is that a code for
3 something?

4 A I'm not following you.

5 Q Is it a code? Does it mean something other than
6 numbers of units?

7 A Not to me.

8 Q Well, you audited HUD's programs for 27 years. It
9 doesn't mean it's a code to you?

10 A HUD funds in numbers of units, if that's what you
11 mean, yes.

12 Q And does HUD know -- well, thank you.

13 THE COURT: Anything else?

14 MR. WEHNER: No, Your Honor. Thank you very
15 much.

16 THE COURT: Redirect, Mr. O'Neill?

17 MR. O'NEILL: Yes, Your Honor.

18 THE COURT: All right. Go ahead.

19 You're going to be long?

20 MR. O'NEILL: I believe so, Your Honor.

2 THE COURT: All right. Then we'll take a
2 break.

2 All right, ladies and gentlemen, we'll take

2 our first morning recess. I want you to remember the

2 admonition of the Court as always, you don't talk about

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1 the case among yourselves or allow anyone else to talk
2 to you about it. We'll come back in 15 minutes by that
3 clock, 22 minutes past 11. You're free to enjoy
4 yourselves in the jury room or take a walk down the
5 hall, but don't talk to or get involved with any of the
6 parties in this case. You can be excused.

7 Fifteen minutes.

8 (Jury dismissed)

9 MR. WEHNER: Your Honor, can I see you briefly

10 at the side bar?

11 THE COURT: Yes.

12 (Bench conference)

13 MR. WEHNER: Your Honor, I would request that

14 the witness not be permitted to consult with Government
15 counsel during the recess.

16 THE COURT: During the redirect?

17 MR. WEHNER: During the interim between now
18 and redirect.

19 MR. O'NEILL: No problem with that, Judge, I
20 don't think it's permissible.

21 THE COURT: All right.

22 MR. WEHNER: I always thought it was

23 permissible unless the Judge said it wasn't.

24 MR. O'NEILL: I don't think so.

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25 MR. WEHNER: All right. I didn't have to

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1 ask.
2 (Bench conference concluded)
3 (Recess, 11:10 a.m. To 11:22 a.m.)
4 THE COURT: All right, we're ready to go.
5 Bring in the jury.
6 (Jury present)
7 THE COURT: All right, we're ready to resume
8 the redirect examination of Mr. Greer.
9 MR. O'NEILL: Thank you, Your Honor.

10 REDIRECT EXAMINATION
11 BY MR. O'NEILL:
12 Q Mr. Greer, did your audit report that Mr. Wehner
13 referred to during cross-examination make findings that
14 projects were particularly or specifically funded,
15 specific projects were funded?
16 A Yes, sir. We noted in the report that HUD and the
17 PHA's did not follow the requirements.
18 Q What requirements are you talking about?
19 A The need to do competitive selection of projects.
20 Q And why is competition necessary?
2 A To assure that the best projects are done or the
2 best units are rehabbed.
2 Q Your findings in the audit reports as to projects
2 being specifically funded, that particular projects were
2 funded, was that contrary to the way the Mod Rehab

1 Program was designed to operate?

2 A Yes.

3 Q Was it contrary to the regulations governing Mod

4 Rehab?

5 A Yes.

6 Q Now, I would direct your attention to Defendant's

7 Exhibit Two which gives a list of a number of projects.

8 I'll give it to you so you can look at it while I ask

9 you specific questions.

10 You were asked about who was involved in the
11 funding of particular projects. Can you remember at
12 this time, for instance, as to the Park Towers Project
13 which is listed in the applicable region, do you

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14 remember who signed off on the funding document?

15 A To be honest, I don't.

16 Q Now, when you were asked questions about who is
17 involved in the funding as an auditor how do you
18 determine who is involved in the funding when you look
19 at a project?

20 A There's a form that is signed by the -- usually
2 Assistant Secretary or his designee transmitting the

2 funds out to the regional office. It's a form called
2 185.

2 Q Would you know who else is involved in the funding
2 other than the person whose name is on that form?

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1 A Not generally, no.

2 Q Now, in some specific instances on your audits were

3 you able to determine who was involved?

4 A Involved in the decision making?

5 Q Yes.

6 A It generally was the Assistant Secretary or his

7 designee.

8 Q Now, Mr. Greer, directing your attention again to

9 your audit --

10 MR. WEHNER: Sorry, Your Honor, could I hear
11 the last question and answer?

12 (The last two questions and answers were
13 read back)

14 MR. WEHNER: The Assistant Secretary or
15 designee?

16 THE COURT: Generally the Assistant Secretary
17 or designee.

18 MR. WEHNER: Thank you, Your Honor.

19 BY MR. WEHNER:

20 Q Now, Mr. Greer, again referring to your audit
2 report, what role did you find that consultants played

2 in the funding of these units?

2 A We determined in our audit that oftentimes
2 consultants were paid a flat fee for interceding on
2 behalf of the developer and/or the PHA to obtain Mod

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1 Rehab funding.

2 Q You say a flat fee. Were you able to determine

3 generally what the cost of that funding was?

4 A Generally in our audits on the contracts we found
5 that generally the fees ranged from \$500 to \$1500 per
6 unit.

7 Q And were you able to determine why these
8 consultants were being paid these amounts of money per
9 unit?

10 A Generally speaking, it was interceding with the
11 Department to obtain those fundings.

12 Q What do you mean by interceding with the
13 Department?

14 A The contract was what is called a contingent fee
15 contract. In other words, if the funding arrived at
16 that particular PHA, then the contractor, the
17 consultant, got his fee.

18 Q Now, I'd like to direct your attention to the
19 developers, and did you during the course of your audit
20 have the occasion to find out about the developer's role
21 in this system, in the Mod funding process?

22 A Oftentimes the developers would request funding
23 directly from headquarters. Is that what you're
24 referring to?

25 Q Well, let me ask, what did you find out in terms of

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1 how developers received funding?

2 A Oftentimes the developer, not the PEA, would write

3 to the Department and request funding.

4 Q Was that contrary to the rules governing the

5 Moderate Rehabilitation Project?

6 A That's not the way funding was supposed to happen,

7 that's correct.

8 Q And do you recall any examples of specific

9 instances in which developers wrote to specific people

10 at HUD headquarters?

11 A Yes, in our audit report we cite one specific

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12 project, as I mentioned, Sierra Point in Las Vegas,

13 Nevada.

14 Q And who is the developer on Sierra Point that was
15 brought out by Mr. Wehner?

16 A Phillip Abrams, the former Assistant Secretary and
17 the Undersecretary.

18 Q And who did the developer contact at headquarters?

19 A There was a note in one of the files, there was a
20 note from Mr. Abrams to Miss Dean, Debbie Dean.

2 Q How was it addressed?

2 A Dear Debbie, and it described something to the
2 effect, this is the project that -- this is the PHA that
2 needs 160 units. I believe it might have described the
2 bedroom configuration for those units.

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1 Q Was that type of communication contrary to the

2 rules and regulations governing the Mod Rehab projects?

3 A I believe so, yes.

4 Q Are you familiar with a developer by the name of

5 Phil Winn?

6 A Phil Winn was also a former Assistant Secretary and

7 when he left the Department he became a developer.

8 Mr. Winn and Mr. Abrams were associated with each other.

9 Q Was Mr. Winn involved in any of the projects that
10 was the subject of any of your audits?

11 A Yes, sir.

12 Q Did you see any indication that Mr. Winn contacted
13 anybody at HUD headquarters concerning specific projects
14 and specific allocations?

15 A Not to the best of my knowledge.

16 Q Now, I would like to direct your attention to some
17 of the projects that are in front of you and I begin
18 with Park Towers. Do you see that listed there?

19 A Yes, sir.

20 Q Are you familiar with that project, sir?

2 A Vaguely familiar as part of the audit, yes.

2 Q Do you recall where is that located?

2 A In Dade County, Florida.

2 Q And do you recall whether a consultant was used in
2 that?

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1 A Yes , there was a consultant paid.
2 Q Do you recall who that consultant was?
3 A I believe it was -- I can't really recall at this
4 time •
5 Q Can you recall at this time who the developer was?
6 A Mr. Martinez, I believe.
7 Q Now , there's also a project listed there called
8 Arama, A-r-a-m-a. Do you see that project?
9 A Yes , sir.

10 Q And was a consultant used in that project?
11 A Yes , sir.
12 Q And at this time to the best of your recollection,
13 do you recall who that consultant is?
14 A I believe that one was Mr. Martinez.
15 Q Was he the consultant or the developer?
16 A The developer.
17 Q And do you recall who the consultant was?
18 A I think it might have been Joseph Strauss.
19 Q And that is based on your recollection at this
20 tinier >
2 A Yes *
2 Q Now , Mr. Greer, there's another project listed,
2 Foxglenn , am I correct?
2 A Yes , sir.
2 Q And do you see whether a consultant was utilized in

1 the funding of that project?

2 A Yes, sir.

3 Q Now, Mr. Greer, you testified about discretionary

4 funding. Are there limits on that discretion?

5 A I'm not sure I understand the question.

6 Q well, when Mr. wehner asked you a question about

7 discretionary funding, you said the funding at the fair

8 share could be discretionary subject to the rules and

9 regulations of HUD.

10 A Right.

11 Q Are there limits on what funding could take place?

12 A The numbers of units.

13 Q Now, the way it took place?

14 A Yes, even if it's discretionary you still need to
15 follow the rules and regulations of the program.

16 Q And would the standards of conduct that apply to

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17 HUD employees apply to the awarding and funding of
18 programs within HUD as well?
19 A Absolutely.
20 Q And that would apply to the Mod Rehab Program?
2 A Yes.

2 MR. O'NEILL: I have no further questions.
2 THE COURT: Thank you.
2 You can be excused, sir. Thank you.
2 MR. WEHNER: Your Honor, I have a brief

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1 recross.
2 . THE COURT: On a new area that he went into on
3 redirect?
4 MR. WEHNER: It's an area that Mr. O'Neill
5 developed.
6 THE COURT: That's what I'm saying. I'll let
7 you ask a couple of questions.
8 MR. WEHNER: Yes, sir.
9 RE-CROSS EXAMINATION
10 BY MR. WEHNER:
11 Q Sir, Mr. O'Neill asked you briefly about the use of
12 consultants on these projects.
13 A Yes, sir.
14 Q To your knowledge did HUD ever make a decision as
15 to whether the use of consultants was permissible or not
16 permissible on these projects?
17 A I'm not aware of any ruling one way or the other.
18 Q I'm going to show you what was marked as OIC
19 Exhibit Number 2114 which purports to be a memorandum
20 from David White, Assistant General Counsel,
2 Administrative Law to Betty Park, Acting Assistant
2 General Counsel, and ask you if this refreshes your
2 recollection as to whether there was ever any decision
2 made by HUD that the use of consultants was permissible
2 by HUD in the Mod Rehab program or impermissible?

157

1 A I've read this memorandum.

2 Q Does it refresh your recollection as to whether the

3 use of consultants was permissible or impermissible or

4 whether HUD ever issued any rule?

5 A I don't believe there was any rule. This is a

6 memorandum.

7 Q Does this refresh your recollection as to whether

8 or not HUD said anything about the use of consultants is

9 permitted?

10 A The use of consultants is permitted as long as the
11 cost is not charged to the project.

12 Q And this refreshed your recollection, is that
13 right?

14 A Yes.

15 MR. WEHNER: Nothing further, Your Honor.

16 THE COURT: All right.

17 Thank you, Mr. Greer. You can step down.

18 THE WITNESS: Excuse me, who gets this?

19 THE COURT: Why don't you just leave it there

20 and we'll pick it up. Thanks.

2 MR. O'NEILL: Your Honor, at this time the

2 Government would call Madeline Hastings.

2 THE COURT: All right.

2 (MADELINE HASTINGS, WITNESS FOR GOVERNMENT, SWORN)

2 DIRECT EXAMINATION

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1 BY MR. O'NEILL:

2 Q Miss Hastings, please state your name for the

3 record, spelling your last name?

4 A Madeline Hastings, H-a-s-t-i-n-g-s.

5 Q Miss Hastings, I'll be asking you a series of

6 questions and I'd ask you to speak in a loud voice so

7 everyone can hear.

8 Ma'am, by whom are you employed?

9 A The Department of Housing and Urban Development.

10 Q And how long have you been employed at HUD?

11 A With HUD and its predecessor agency, since 1963.

12 Q Approximately 30 years?

13 A Yes.

14 Q Now, Miss Hastings, can you describe for the jury
15 overall your experiences in those 30 years at HUD?

16 A Well, yes. Briefly. I started out of college as

17 an intern which was the word for a trainee in the Urban

18 Renewal Administration. After my training period of

19 about six months I worked in the Urban Renewal Program

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20 for, oh, I think until probably 1967 as an urban renewal
2 rep. I -- with the Urban Renewal Administration I also

2 became a supervisor, running other staff people.
2 In 1968, the Department sent me to Harvard for
2 a year where I got a degree in public administration. I
2 returned to the Chicago region -- that's where I had

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1 been in the first days, and worked as a Special
2 Assistant to the Regional Administrator. I worked in
3 the model cities program and I was something called a
4 HUD representative which is a sort of broad term,
5 representing the Department with several cities in
6 Wisconsin.

7 In 1971 the Department created field offices,
8 basically one per state, and I was named as Deputy
9 Director of the Minnesota Field Office. I was in that
10 job until 1977 when I came to Washington.

11 Q Now, you came to Washington in 1977. What was your
12 job at that time?

13 A I was Director of Assistant Housing Development.

14 Q What did that entail?

15 A I had responsibility for the development aspects
16 and by that I mean the construction, physical
17 construction, and rehabilitation of projects in the
18 Section Eight Program and in the Public Housing Program.

19 Q You mentioned the Section Eight Program. What do
20 you mean when you say Section Eight?

2 A Section Eight is a subsidiary program where the

2 Department provides rental assistance to lower income
2 families.

2 Q Why is it called Section Eight, Miss Hastings?

2 A That's a reference to the section in the 1937

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1 Housing Act that authorized the program.

2 Q Please proceed with your background.

3 A In -- I've been in headquarters here in Washington

4 in various titles and capacities but generally I've had

5 responsibility for the Section Eight Mod Rehab Program,

6 Certificate Program and Voucher Program.

7 Q How about in the years 1984 through 1987, what was

8 your job at that time?

9 A At that time, as I said, I had responsibility

10 for -- during that period, for the Mod Rehab Program,

11 the Certificate Program and I think for most of the time
12 the Voucher Program.

13 Q And how many people worked for you at that time?

14 A Oh, probably eight to ten, something like that.

15 Q Miss Hastings, what is the mission of HUD?

16 A Well, the mission -- there are several missions.

17 It depends on what part of HUD you're in, but in the
18 last few years I've been in housing and dealing with
19 programs that house low income families.

20 Q And how does HUD provide housing to low income
2 families?

2 A There are a number of different programs. One is
2 the Section Eight Program. One is the Public Housing
2 Program.

2 Q Are you familiar with the Moderate Rehabilitation

161

1 Program?

2 A Yes, I am.

3 Q Is that program, by the way, still in existence?

4 A No, it isn't.

5 Q How are you familiar no that program?

6 A I was responsible for designing it, doing
7 conceptual papers leading up to a decision in the
8 Department to propose this program to Congress, involved
9 in writing the legislative proposal, authorizing it.

10 Q when did you develop the program?

11 A In 1978.

12 Q And how did that come about?

13 A We knew there was about three million units, rental
14 units that needed a moderate amount of rehabilitation.

15 That's throughout the country. By moderate we meant

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16 something like three to \$8000 in rehabilitation per
17 unit. 85 percent of those units were in buildings of
18 fewer than 20 units, small projects, what we – owned by
19 small property owners, what we sometimes refer to as ma
20 and pa owners, owners that didn't have a lot of
21 sophistication in terms of development and working with
22 HUD. So we designed a program that would allow that
23 stock to be rehabilitated and then the units made
24 available to low income families.
25 Q How did you and your staff design the Mod Rehab

162

1 Program to work?

2 A We designed it to work through local housing

3 agencies.

4 Q And why that?

5 A For several reasons. One is, as I said, we were

6 dealing with a stock of small properties with

7 unsophisticated owners generally. We didn't want them

8 to have to deal directly with the HUD bureaucracy. It

9 would have been very time consuming on the part of the

10 HUD office. So we thought PHA's could be responsible

11 for giving technical assistance to these owners, for

12 selecting the projects that were going to be

13 rehabilitated, deciding what the local objectives were

14 in terms of where – what neighborhoods in the city, for

15 instance, the projects should be in.

16 Q when you say setting local objectives, what are you

17 referring to?

18 A well, at the time, we wanted housing agencies –

19 the local Government in effect to be able to decide

20 whether to target to certain neighborhoods that were

21 regentrifying or if they had objectives for economic

22 dispersal or racial dispersal, if they had certain areas

23 of town they wanted to target the funds to.

24 Q were those goals deemed important in the operation

25 and design of this program?

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1 A Oh, yes.

2 Q Why was it felt that the Public Housing Authority

3 would be in the best position to make sure these goals

4 were implemented?

5 A Housing agencies are created basically by State law

6 and their charter is to provide low income housing.

7 Q Were there any prohibitions on what the local PHA's

8 could do in order to make these goals work?

9 A Yes. We required them to -- if they were funded by
10 HUD, if the housing agency received HUD's funds they
11 were required to publish a notice, a public notice in a
12 newspaper advising property owners that the funds were
13 were available and applicants would apply, owners would
14 apply and submit proposals.

15 The housing agency was then to select among
16 those project proposals using a rating and ranking
17 system that they had established and that had HUD
18 approval.

19 Q You say the local PHA's would select a project on a
20 ranking and rating system. Can you describe in our
2 ordinary terms what are you talking about?

2 A The community would decide what local objectives
2 were important to it. It might define certain
2 neighborhoods or certain -- any number of requirements.
2 The only one we imposed on them in terms of a selection

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1 factor was the most rehab per unit.

2 Q What are you referring to, what do you mean by

3 that?

4 A A project that proposed \$5000 of renovation would

5 be rated higher than a project -- on that one factor,

6 would be rated higher than a project that was only

7 proposing \$1500 in rehab. We were trying to get the

8 biggest bang for the federal dollar.

9 Q And in terms of that were there requirements that

10 the local Public Housing Authorities engage in some sort
11 of competition to select projects?

12 A Yes, both the requirements for public notice and
13 then a rating and ranking of those projects in
14 accordance with the housing agency's selection criteria.

15 Q Why was that deemed important by you and the other
16 designers of the program?

17 A We wanted the localities to be able to pick the
18 best projects consistent with the localities' objectives
19 and we also wanted to prevent favoritism.

20 Q Now, Miss Hastings, did this requirement that the
2 local PHA's engage in competition ever change throughout

2 the course of the program?

2 A No.

2 Q At this time I would show you, if I may - tell me
2 if you can see it from here. It was easier for the

165

1 jury that we moved the television set. Can you see it
2 from here?

3 A Yes.

4 Q Miss Hastings, does Government's Exhibit Two in
5 Evidence fairly and accurately depict the way - the
6 flow chart basically for the Mod Rehab Program?

7 A I'm sorry?

8 Q Okay. Let me withdraw that. Take a look at
9 Government's Exhibit Two. What does that mean to you?

10 A It -it

shows the organizational elements in the
11 Mod Rehab Program and could depict the way funds were
12 made available.

13 Q How were funds made available in the Mod Rehab
14 Program?

15 A At what period of time?

16 Q I'm going to keep all my questions in the period of
17 time 1984 to 1987 and let me withdraw that for a
18 second. Let's go back to the local PHA's for one

19 moment. You talked about a ranking and rating system.

20 A Yes.

2 Q And again what was the purpose of that?

2 A Well, when the housing agency was funded by HUD we
2 required that the local housing agency rate and rank
2 competitively project proposals after local owners were
2 notified that the funds were available.

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1 Q Once that was done, what would be the next step?

2 A The owner proposals that were selected would be -3
go through, in effect, a rehabilitation process with the
4 owners of the properties showing the PHA the kind of
5 rehab work they were going to do, plans and

6 specifications, their financing. If the project was
7 feasible a PHA would then authorize the owner to start

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8 the rehabilitational work on the property, inspect that
9 work during the process and at completion. And when the
10 property was completely renovated and met our physical
11 standards for health and safety, low income tenants
12 would be made available -- will be referred to those t 13 properties and HUD
would subsidize some of their rent.
14 Q what did the developer get then at that point? How
15 does it work?
16 A Once the property was completely renovated there
17 was a contract between the owner and the Housing
18 Authority that the housing agency, the Authority would
19 provide this guaranteed rent stream on behalf of the low
20 income families for 15 years.
2 Q Now, Miss Hastings, are you familiar with the term
2 project specific award?
2 A Yes.
2 Q Was Mod Rehab designed to make project specific
2 awards?

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1 A HUD was not to make the project specific awards,

2 no.

3 Q why not?

4 A It wasn't designed that way. The regs precluded

5 it.

6 Q When you say HUD, what are you referring to in this

7 chart?

8 A HUD headquarters, HUD regional offices and HUD

9 field offices, all three elements of HUD.

10 Q So HUD could not make project specific awards?

11 A No.

12 Q What about the local Public Housing Authorities?

13 A Only through this public notice of fund
14 availability and rating and ranking and selection
15 process. They would then pick through this competitive
16 process the projects they would fund.

17 Q And did that ever change throughout the course of
18 the Mod Rehab programs?

19 A The regulations?

20 Q Yes.

2 A No.

2 Q Now, Miss Hastings, are you familiar with the
2 standards of conduct applicable to employees of HUD?

2 A Yes, I am.

2 Q Again I'll be referring to the time period 1984 to

168

1 1987. How are you familiar with those standards of
2 conduct?

3 A There was generally, I don't know if it was every
4 year, some kind of annual briefing of employees or paper
5 reminders of what we could and couldn't do, often around
6 Christmas, in terms of what the rules were for accepting
7 any -anything
8 from any outsiders, or insiders for that
9 matter.

9 Q And what are some of the rules applicable to HUD
10 employees?

11 A Well, there are a number of specific ones. Not
12 being able to take -- take anything of value from
13 anybody. The general framework of them was to avoid any
14 kind of conflict of interest. To avoid favoritism.

15 To -in
16 both those cases it's not only avoiding those
17 behaviors but avoiding the appearance of those
18 behaviors.

18 Q And do those standards of conduct apply to all HUD
19 employees?

20 A Yes, they do.

2 Q Now, Miss Hastings, just to shift focus a little,
2 the term exception rents, are you familiar with that
2 term?

2 A Yes, it can be used in a couple of different
2 contexts though.

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1 Q If a developer is seeking exception rents on a
2 project, would that help you in terms of the context?

3 A It could.

4 Q What would you be referring to when you talk about
5 exception rents within HUD?

6 A I'm speaking within the context of the Mod Rehab
7 Program?

8 Q Yes.

9 A We had two types of exception rents. One in high

10 cost areas. Let me back up. Our rents in the Mod Rehab
11 Program have a cap. After the project is renovated the

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12 Department won't pay a rent higher than what we call the
13 fair market rent. That's an amount that is determined
14 for any Metropolitan area. It's published. It sets an
15 upper limit. It's about the median rent level in the
16 community. The exceptions were to increase that
17 amount.
18 In the first exception you get another ten
19 percent higher rent in certain high cost marketing
20 areas. That would be done at sort of the front end of
2 the project. And generally surrounds communities that

2 already had the exception rents for their other Section
2 Eight programs.
2 Q Now, let's go back to what I started to say earlier
2 and that is the awarding of funds. In terms of the Mod

170
1

Rehab Program where are the funds generated from? Where
2

do the funds initially begin?

3 A They're appropriated by Congress.

4 Q And to whom do they go?

5 A They come to the Department.

6 Q And in terms of the Mod Rehab Program, who has line

7 authority to sign off on funding documents allowing Mod

8 Rehab units to be sent out?

9 A The Assistant Secretary for Housing at that point.

10 Q Now, once he signs or she signs a funding document,
11 what happens to that? Do actual monies go?

12 A As I understand the process, it's paper authority.

13 The money itself isn't sent out. It is authority to use
14 and commit the money.

15 Q Now, prior to -- excuse me, once the paper
16 authority goes out, to where does it go?

17 A Generally from the HUD headquarters to our ten
18 regional offices, they then sub-assign it to the HUDY
19 field offices.

20 Q Now, what do the HUD field offices do with them?

2 A At the time the regulations required them to invite

2

housing agencies to apply for the funds and then select

2

those -- among those who apply, select those that are

2

going to be funded.

t 2 Q Now, at the beginning of the program, how did HUD

171

1 headquarters send out these monies around the country
2 for Mod Rehab?

3 A In the early years of the program we used what we
4 called the fair share.

5 Q And could you briefly just describe what fair share
6 means?

7 A Yes, it was a mathematical formula that measured
8 need, in effect. I don't remember all the factors, but
9 population, poverty, extent of substandard housing
10 conditions. I think the extent of overcrowding. There
11 may be two more, two or three more. I don't recall.

t 1213

Q During the fair share -- well, withdrawn. When did
fair share end?

14 A Excuse me. I think it was the summer of 1982.

15 Q And from the inception of the program until the
16 time the fair share ended did you have any involvement
17 in the Mod Rehab Program?

18 A Oh, yes.

19 Q And what was that?

20 A I was director of the office of the division
21 responsible for the Mod Rehab Program.

22 Q Now, you mentioned in the summer of '82 you believe
23 the fair share program or the fair share method of
24 allocation ended.

25 A That's correct.

t 172

1 Q And what took its place?

2 A That's a little harder to try to describe. Funding
3 decisions after that were basically made in
4 headquarters. Funding decisions in relation to what
5 PHA's would be funded.

6 Q We talked earlier about project specific awards.

7 After fair share, was it permissible for HUD
8 headquarters to make project specific awards?

9 A No, it wasn't.

10 Q Did that ever change throughout the course of the
11 Mod Rehab Program?

12 A No.

13 Q After fair share, were the local PHA's required to
14 engage in competition before selecting a project?

15 A Yes.

16 Q And did that ever change during the course of the
17 program?

18 A No, it didn't.

19 MR. O'NEILL: I have no further questions at
20 this time, Your Honor.

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2 THE COURT: How long do you think you're going
2 to be?
2 MR. WEHNER: I think I'll be longer than 20
2 minutes.
2 THE COURT: All right. we'll take our

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1 luncheon break at this time and get back early from
2 lunch.
3 Ladies and gentlemen, we'll take a luncheon
4 recess rather than hold you up for another 30 minutes or
5 so. So we'll take our luncheon recess now and be back
6 at 1:30. would you remember the admonition of the Court
7 during the break, please, do not talk about the case
8 among yourselves or anyone else. Don't let anyone speak
9 to you about it in your presence. Don't talk to anybody
10 associated with this case in any way during lunch. See
11 you back here then at 1:30, please.
12 (Jury dismissed)
13 THE COURT: All right.
14 (Lunch recess, 12:10 to 1:30 p.m.)

15 AFTERNOON SESSION 1:45 P.M.
16 THE COURT: All right. We're ready to

17 resume.
18 I just want to indicate for the record juror
19 number seven, Miss Proctor, is concerned about her
20 employment. Her employer doesn't want to give her the
2 time off and wants her to work at nights. So I've
2 written to him a letter informing him that he's
2 obligated to let her serve without penalty as to her
2 position, at least, under the law.
2 All right. We may proceed.

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1 THE DEPUTY MARSHAL: Yes, Your Honor.
2 (Jury present)
3 THE COURT: Is the witness here?
4 MR. O'NEILL: Yes, Your Honor.
5 THE COURT: All right, ladies and gentlemen,
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6 we're ready to resume this afternoon's session. As you
7 recall, we took a break. Miss Hastings, who has
8 finished her direct testimony, is now going to be
9 subject to cross.
10 Mr. Wehner.
11 MR. WEHNER: Thank you, Your Honor.
12 Good afternoon, ladies and gentlemen.
13 THE JURORS: Good afternoon.
14 CROSS-EXAMINATION
15 BY MR. WEHNER:
16 Q Do you prefer Miss or Mrs.?
17 A Mrs., Ms., either one. It doesn't matter.
18 Q Miss Hastings, I believe you testified on direct
19 examination that you had at least participated in the
20 initiation of the Mod Rehab Program?
2 A That's correct.
2 Q And that you have had responsibility for that
2 program since its beginning?
2 A Yes.
2 Q And you've been involved in the day-to-day

175

t 1 decisions in that program since it began?

2 A In many of them, yes.
3 Q In many of them?
4 A Yes.
5 Q And are you still involved in that today?
6 A Yes.
7 Q Are there any other employees that -- of which
8 you 're aware of, that know more about the Mod Rehab
9 Program than you?
10 A Current employees?
11 Q Current, past.
t 12
13
A
Q
Probably not.
Okay. So you're probably the one person that knows
14 the most about the Mod Rehab Program at HUD out of all
15 15, 000 employees, is that a fair statement?
16 A Certainly probably one of them, yes.
17 Q And you are in a position over that period of time
18 that we're talking about here, '83 to '87, to observe
19 what was happening in terms of the way the units were
20 being awarded?
2 A No, not always.
2 Q Not always?
2 A Correct.
2 Q Okay. When aren't you in such a position?
2 A I always had the job but there were periods of time

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1 when I was not involved in what was going on.

2 Q why don't you -- would you please tell us from 1985

3 to 1987 -- 1983 to 1987 when you first became not

4 involved in the decisions?

5 A I can't tell you precisely.

6 Q Generally. I mean no one expects after ten years

7 to have a precise memory.

8 A Well, I'm not sure there was any one specific date

9 and even at some points I would be more involved than
10 others and then it would change and go back again. But
11 I would say sometime in '83, '84 I started getting cut

12 out of some of the decisions.

13 Q Was there an event that occurred that took you out
14 of making some of the decisions?

15 A There may have been, but not that I recall.

16 Q When -- who did you work for in '87? Who was your
17 immediate supervisor?

18 A In '87? That would be -- I think would have been
19 Hunter Cushing.

20 Q Who was your immediate supervisor in '86?

2 A Excuse me, my immediate supervisor during some of

2 that period was Larry Goldberger.

2 Q Okay. Back to '86?

2 A I think so, yes.

2 Q '85?

t 177

1 A Probably.

2 Q '84?

3 A Somewhere around '83, '84 I think that changed.

4 Q Who was it prior to '84 or who was it before it
5 changed to Mr. Goldberger?

6 A I can't remember his name.

7 Q Do you recall the title of the position you held in
8 '83?

9 A No, I don't.

10 Q '84?

11 A I know the position I held. I can't -- I
can't

12 always tell you the title.

13 Q What was it?

14 A The position was having responsibility for Mod
15 Rehab, Certificate and -- and those two programs.

16 Q Did that continue in '84?

17 A I believe so.

18 Q '85?

19 A I believe so.

20 Q And '86?

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2 A Yes.

2 Q And '87?

2 A At some point around that point I also had

2

responsibility for the third program, the Housing

2

Voucher Program.

1 Q And did you continue with Mod Rehab into '87?

2 A Yes.

3 Q So you did have responsibility for the Mod Rehab

4 Program during that period of time although you may not

5 have always been involved in the decision making

6 process, is that fair?

7 A That's fair.

8 Q When you were not involved in the decision making

9 process, would you tell me who was?

10 A I don't know that I always knew who it was.

11 Q Okay. To the extent you have personal knowledge

12 from '83 to '87, who was making the decisions?

13 A I think there were a number of people involved.

14 Those people changed overtime.

15 Q And to the extent you personally know who was

16 making the decisions from '83 to '87, who were they?

17 You don't need to tell us anything you don't know or

18 what your suspicions or guesses are. Just who you

19 personally know was involved in making the decisions?

20 A well, the Assistant Secretary at the time would

2 have to be involved because they have to sign off, but

2 who all they were consulting with I can't tell you.

2 Sometimes I can.

2 Q Absolutely. what I want to know is what you

2 personally know. Let's start with the Assistant

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1 Secretary.
2 There is a chart that's previously been
3 introduced by the Government, Your Honor, I'm not sure
4 of the number.
5 MR. O'NEILL: Number one.
6 MR. WEHNER: Number one, thank you.
7 THE COURT: All right.
8 BY MR. WEHNER:
9 Q When you say the Assistant Secretary, is this the
10 person you're referring to, the Assistant Secretary for
11 Housing-FHA Commissioner?
12 A Yes.
13 Q So from 1983 until 1987 the person who held this
14 slot was involved in the decision making process
15 regarding Mod Rehab units, is that correct?
16 A Yes.
17 Q In 1983, who was that person?
18 A If memory serves, it was -- may have been
19 Maurice Barksdale.
20 Q And when did Maurice Barksdale no longer act as --
2 in this position? Approximately? Or another way to put
2 it is who came after him?
2 A I -- there was a lot of turnover of a number of
2 people there, and I don't know if I know the order of
2 all of them, when each one of them was there. We had

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1 several that were acting for periods of time.
2 Q Do you recall without putting them in any order who
3 they were from '83 to '87?
4 A I may miss some, but it would include Shirley
5 Wiseman, Tom Demery, Silvio DeBartolomeis. I
6 think -- there may have been someone else in there
7 acting at some point.
8 Q Shirley Wiseman, Silvio DeBartolomeis?
9 A Yes.
10 Q And who was the third one you named?
11 A Tom Demery.
12 Q Tom Demery? So those are three people that were
13 involved in the decision making process.
14 A They had the signature authority.
15 Q From '83 to '87?
16 A Yes.
17 Q For my information, where was your position in
18 relationship to this block?
19 A I think the blue box down at the bottom.
20 Q Okay. So you would have been in the -2
A Is that the office of Elderly and Assistant
2 Housing?
2 Q Yes, ma'am, I'm sorry. Yes, ma'am, that's exactly
2 what it is. Is there an office beneath that?
t 2 A There are divisions within it.

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1 Q And one of the divisions is Section Eight?
2 A It changed its name, but, yes.
3 Q And that's where you would run the division, down
4 here?

5 A Right.

6 Q So that's three people we've identified as having
7 been involved in the funding decisions and they would
8 have had signature authority, correct?

9 A Yes.

10 Q They would have had to sign off on all the
11 decisions that were made?

I 1213

A Yes.

THE COURT: I think there are four names.

14 MR. WEHNER: Did I misspeak?

15 THE COURT: Barksdale, Wiseman, Demery,

16 DeBartolomeis.

17 MR. WEHNER: Yes, I did misspeak. I apologize

18 to the Court. It's four.

19 BY MR. WEHNER:

20 Q In addition to those four, who else to your
21 personal knowledge during that time period was involved
22 in the decision making process as to who -- to whom
23 Moderate Rehab units would be awarded?

f 24 A I saw some notes during the time that Miss Dean had
25 approved some projects being funded. I suspect I -- I'm

t 182

1

sure I got some notes in my files that at least suggest

2

that other people were involved in the funding

3

decisions. There are some memos that refer to decisions

4

that were made by, I believe, a committee that was
5 involved in funding, that was in the later years.

6 Q You mentioned one specific name, and that was

7 Miss Dean?

8 A Yes.

9 Q Now, which specific projects do you recall

10 Miss Dean having been involved in being funded from 1983

11 to 1987?

12 A There was a project in California. Let me be

13 accurate. I know it had to do with funding specific.

14 It may have been a specific project in California.

15 Q Do you know the name of the project?

16 A No, I don't.

17 Q Do you recall the name of the project in

18 California?

19 A As I said, I don't remember now.

20 Q What other projects do you recall Deborah Gore Dean

2

being involved in funding from '83 to '87?

2 A I don't know that I can recall any other specific

2

ones. At the time, as I said, I didn't know who all was
t 2 involved in making the funding decisions.

2 Q I'm talking about your personal knowledge. That's

t 183

1

all I want is your personal knowledge who was involved,

2 because you were involved in the process during that
3 entire period of time.

4 A I was not involved in the process. I was cut out
5 of the process in terms of funding projects or funding
6 PHA's, either one.

7 Q Do you recall again when you were cut out of the
8 process?

9 A As I say, I think it probably was somewhere in '83,
10 '84 .

11 Q And do you recall who cut you out of the process?

12 A Specifically no. What I recall is that at one
13 point in time the papers sending funding out to the
14 field came through me for my concurrence and then had
15 suddenly stopped coming to me for my concurrence. I
16 would usually find out about it only after the fact.

17 Q The papers sending funding out to the field, is
18 that called a 185? Is that something like that or is
19 that some other form?

20 A That's the official document that transmitted the
2 funds. There was usually an accompanying document
2 requesting that the money be sent out to the field.

2 Q And where did that requesting document originate or
2 come from?

2 A It usually originated, the actual paperwork

t 184

originated in the division we called, and I think it's

2 still called, at the time the Fund Control Division.

3 Q Within Washington HUD?

4 A Yes, under the Assistant Secretary for Housing.

5 Q And is it the 185 that you are referring to when
6 you say that document that you had been responsible for
7 concurring on you were no longer given the
8 responsibility to concur on, or is it something else?

9 A It wasn't on the 185 per se because that's the
10 document that once all the approvals were made was used
11 to convey that approval to our field offices. There
t 1213

were internal pieces of paper recommending for the
Assistant Secretary's signature the approval of funding

14 Q And of those -- did those pieces of paper have a
15 name?

16 A Some of them - I
think they were called rapid

17 reply letters, at least during one period of time. It
18 may have had other names.

19 Q Do you recall who was the Assistant Secretary at
20 the time you were relieved of the duties of concurring
2 in those rapid reply letters or similar documents?

2 A It may have been Maurice Barksdale. I don't
2 recall. It may have been later.

2 Q When you were relieved of that responsibility did
2 you complain to any person about that?

185

1 A Yeah, I think so. I think I would have. I would
2 have been concerned to realize only after the fact that
3 we were -- the funding decisions had been made and we
4 weren't sure that the rules had been followed.

5 Q And who did you complain to?

6 A I don't recall, probably to Silvio DeBartolomeis at
7 the time. I knew I did to Hunter Cushing.

8 Q And at that time was Silvio DeBartolomeis in the
9 Assistant Secretary for Housing position?

10 A No, he would have been in the box labeled Deputy
11 Assistant Secretary for multi-family housing.

12 Q And he later became Assistant Secretary for
13 Housing?

14 A Yes, or maybe acting. I don't know. I think he
15 was only acting Assistant Secretary.

16 Q And you complained to Mr. DeBartolomeis?

17 A I'm sure I probably expressed concern about not,
18 not being involved in the funding process.

19 Q And did Mr. DeBartolomeis have any response to
20 that?

2 A I don't recall a specific response.

2 Q Do you recall any response, general or specific?

2 A No.

t 2 Q Isn't it true that Mr. DeBartolomeis did not want
2

you involved?

186

1 A It could be true.
2 Q No, isn't it true.
3 A I don't know.
4 Q Based on the response you received from
5 Mr. DeBartolomeis, isn't it true that he did not want
6 you involved in concurring on those documents?
7 A I can't say. That I had a -- several occasions
8 where I expressed concern to Mr. DeBartolomeis about
9 something and his response was sort of a stonewall. He

10 was not able to understand what the issues or problems
11 were.

t 12 Q Did you ever succeed in changing his mind?
13 A I may have on certain occasions.
14 Q No, on this specific instance we're talking about,
15 that being your role on concurring in the funding, were
16 you able to change his mind?
17 A I don't recall. I did through the years
18 occasionally concur on something and I know we may have
19 generated some recommendations for approval. I'm not
20 sure I was cut out 100 percent of the time.
2 Q I want to talk to you a little bit about the
2

process by which the PHA's, the local authorities,
2

choose developers, and I'd like specifically to direct

f 2 your attention to '83 to '87, and ask if you recall that
2

was there ever a time during that time period that HUD

t 187

1

washington directed the PHA's to what was called

2 pre-qualify projects?
3 A I don't remember using that kind of a term. There
4 were some years when we asked housing authorities to
5 identify that they had a pipeline of owner proposals.
6 Q I'm going to have you look at what I've marked as
7 Dean Exhibit 15 for identification?
8 THE DEPUTY CLERK: Defendant's Exhibit 15
9 marked for identification.

allbinders as word for experiment.txt
10 (Defendant's Exhibit 15 marked for
11 Identification)
12 BY MR. WEHNER:
13 Q This is an interview report dated June 13th, 1990
14 of an interview of Madeline Hastings and I'll ask you to
15 look at the second full paragraph, the tenth line from
16 the bottom, and ask if that refreshes your recollection
17 as to whether there ever came a time that HUD Washington
18 requested the PHA's to pre-qualify units?
19 A Well, again, I don't -I
20 don't recall the word
21 pre-qualify, but, as I said, there was a period where we
22 asked PHA's to identify a pipeline.
23 Q Does that refresh your recollection as to whether
24 you ever used the term pre-qualify?
25 A I don't know that this is a direct quote. I can't
be sure that I've never used the word pre-qualify, but

t 188

1

it's not one I typically used to use.

2 Q Do you recall an interview on June 13th, 1990?
3 A Specifically, no.
4 Q Do you recall being interviewed by Government
5 agents?
6 A On that date?
7 Q No, do you recall being interviewed by Government
8 agents?
9 A Yes, yes.
10 Q And you've been interviewed several times over the
11 last what, four or five years?
t 1213
A Yes.
Q And they've taken notes?
14 A Probably.
15 Q Well, have you watched them?
16 A I didn't pay that much attention to whether they're
17 taking notes or not.
18 Q Have you looked at anything that they have written
19 such as notes of interviews in preparation for your
20 testimony?
2 A No.
2 Q Have you ever seen the documents I've just shown
2 you before?
t 2 A I don't believe so.
2 Q You said that you don't recall using the word

1 pre-qualify, correct?

2 A Correct.
3 Q But you do recall using the word pipeline.
4 A Yes.
5 Q Can you explain what a pipeline is, please?

allbinders as word for experiment.txt
6 A We intended it to be a showing from PHA's that they
7 had projects that had responded to a public notice and
8 had been rated and ranked by the PHA so that if funds
9 were made available the projects could move quickly and
10 housing assistance could be made available quickly.

11 Q So that the local authority had projects before the
t 1213
funds were made available?

A In some cases, yes.

14 Q And how were these projects identified by the
15 Public Housing Authority?

16 A I can only respond to that in terms of how they
17 were supposed to be identified, and that would -

18 Q To the best of your knowledge how were they
19 identified because -- and you were running the program
20 or involved in the program for a lengthy period of
2 time.

2 A The regulations required that the PHA's publish a
2 notice of fundability, invite owners to submit

t 2 applications, and then rate and rank those applications
2

on the set of criteria that the PHA had adopted earlier

t 190

1

and had approved by HUD.

2 Q And those -- that was commonly called the rating
3 and ranking process?

4 A I think we typically called it the PHA competitive
5 selection process.

6 Q Would these units be selected for funding before
7 money was available from HUD headquarters?

8 A In some cases, yes. I understand -9

Q In terms of the pipeline.

10 A Right.

11 Q Now, would these be identified with a specific
t 1213

street address?

A There were one or two years, as I recall, that we
14 asked PHA's to identify the pipeline and I believe by
15 project name or street address, probably street address.

16 Q And were they also identified by numbers of units?

17 A Sometimes.

18 Q So it wasn't really unusual or rare for the Public
19 Housing Authority to know numbers of units or street
20 addresses even before Washington HUD sent them money.

2 A It certainly happened that PHA's had identified
2 projects before they knew Washington was sending them
2 money, that's correct. I think that was probably still
I 22

generally the unusual case and I think we probably only
acknowledged that that was a proper procedure sometime

191

1 in the mid-eighties.
2 Q Sometime in the mid-eighties.
3 A Yes.
4 Q Would that be inclusive of '83 to '87?
5 A I believe it would have been maybe '84, '85.
6 Q So that does fall within '83 to '87, does it?
7 A Yes, but not covering all that time.
8 Q Absolutely. When HUD would make a funding decision
9 to send units, and when I say HUD I mean Washington HUD,
10 to the PHA's, did the PHA have to ask for the money
11 first?
t 1213
A Yes.
Q And how would the PHA ask for the money?
14 A In those years it was usually just a letter request
15 was required.
16 Q And the letter would come from the local housing
17 authority to whom?
18 A They came to headquarters, they came addressed to a
19 number of different people, as I recall.
20 Q Who do you recall them coming to?
21 A I think some were addressed to me. Some were
22 addressed to whomever was the Assistant Secretary. Some
23 were probably addressed to the Secretary's office. I
24 believe I've seen some that were addressed to Miss Dean.
25 Q And who else?

t 1192
A Mr. Demery, Mr. DeBartolomeis.
2 Q So these letters -3
A Mr. Goldberger.
4 Q Innumerable people?
5 A Innumerable people.
6 Q The letters came from Public Housing Authorities
7 and they would say we want what, generally?
8 A Generally they were asking for X-number of units.
9 Q And they were asking for X-number of units and then
10 sometime during the process HUD might send down certain
11 money or might not send down certain money, isn't that
12 correct?
13 A Yes.
14 Q Now, was there ever an occasion of which you're
15 aware in which the money was sent from HUD to the Public
16 Housing Authority without a request from the Housing
17 Authority?
18 A I believe there was, although frankly I can't
19 remember -I
can't remember the specifics, but I had
20 serious concerns on a couple of occasions when we were
21 providing money to a housing authority that hadn't
22 asked.
2 Q Absolutely. And what two specific instances were
2 those? t 2 A I'm sorry, I don't recall.

t 193

1 Q You don't recall.

2 A No, I don't.

3 Q Do you recall who was the Assistant Secretary for
4 Housing when those occurred?

5 A No, I don't.

6 Q Do you recall whether Miss Dean had anything to do
7 with those?

8 A No, I don't.

9 Q I show you again what's been marked for
10 identification as Dean Exhibit 15 which purports to be
11 an interview report taken of you June 13th of 1990 and
12 ask you if you recall if this refreshes your
13 recollection as to whether or not you saw one or more
14 PHA's receiving funding before the request came?

15 A This just supports what I've already told you, that
16 I remember it happening but it doesn't identify
17 specifically where or when.

18 Q Did you ever check with your staff to see if that
19 happened?

20 A I may have and we may have records that show where
21 and when it happened.

22 Q And you don't remember -23

A But I don't recall it right now.

I 24 Q Was it significant, and I use that in the broadest
25 possible sense, to you in your role with Mod Rehab as to

194

1 how good the PHA's did their job?

2 A Yes, most of the criteria that we used to decide --

3 that the rules required us to use to decide which PHA's

4 to fund were related to PHA capabilities.

5 Q And what was important about the PHA capabilities?

6 A They were, in effect, running this program for the

7 Department. We had given them the responsibility for

8 administering the program. So their abilities were the

9 key criteria for our decisions on who to fund, that and
10 a need criteria.

11 Q Sure, but given that -- and then following up on
12 that thought, how did you know which PHA's were good and
13 which ones were bad or which ones were indifferent?

14 A Headquarters didn't know.

15 Q Who did know?

16 A Our field offices would be the only HUD staff in
17 the position to know.

18 Q And how did you or how did HUD Washington find out
19 how good or bad or indifferent the local housing
20 authorities were?

allbinders as word for experiment.txt

2 A There was maybe one of those years, maybe two

2 during the period you're talking about, where we asked
2 our field offices to give us a brief description on PHA
2 performance. They were also used when that wasn't an
2 articulated criteria.

t 195

1 Q Were you ever prohibited from checking to see if a

2 PHA was qualified to handle these units?

3 A I don't recall that I was prohibited. I may have
4 been. When the memos describing a funding procedure for
5 any one year were sent out, some years it had criteria
6 related to PHA capability, other years those memos
7 didn't have that kind of criteria. My faint
8 recollection is that we, my staff and I, tried to put it
9 in and it was deleted somewhere along the way before
10 they were sent out.

11 Q Do you recall telling agents of the Office of
I 1213

Independent Counsel that Demery, Thomas Demery, had
prohibited your staff from checking the qualifications
14 of Public Housing Authorities?

15 A I don't recall that I - I may have done that.

16 Q Would it have been true at the time you said it?

17 A I'm sure it was, yes.

18 Q Okay. So you do now recall that Thomas Demery told
19 you not to check out the qualifications of Public
20 Housing Authorities?

2 A I don't recall specifically now. I'm not saying I
2 didn't. And if I said that to the Independent Counsel's
2 Office I'm sure I believed it to be true.

I 2 Q I'll show you page four of the same Dean Exhibit
and ask you to read these three lines and ask if that

1 refreshes your recollection as to what you told them at

2

the time?

3 A Oh, yes, I'm sorry, this does refresh my

4

recollection. I think this was for the '88 funding

5 round.

6 Q And, in fact, Mr. Demery did tell you that, did he

7 not?

8 A Yes.

9 Q And who was Mr. Demery at that time?

10 A Assistant Secretary for Housing.

11 Q In this position.

12 A Yes.

13 Q Do you recall having a conversation with Mr. Demery
14 in which you objected to that?

15 A As I recall, I wrote him a note because the
16 instructions being written at that time were for the PHA
17 to address the issue of their capacity and
18 qualifications and I think my note to him suggested that
19 that was fairly self-serving, that most PHA's would of
20 course say that they did a good job in whatever they
2

were supposed to do and that we needed an independent
2

check, basically, by our field offices. I'm not sure if
2

all those words were in there but that was the

I 2 implication of it.

2 Q Sure. What was Mr. Demery's response?

197

1 A Something like if you can't trust housing agencies,
2

who can you trust, or what is this world coming to, or
3

some sort of throw away phrase like that.

4 Q Do you recall that during your tenure, '83 to f87

5 more specifically we're referring to, there were

6 consultants dealing with the Mod Rehab project, is that

7 correct?

8 A At some point I knew that. I didn't know it that

9 early, as early as '83. I found out later.

10 Q How early do you think you knew?

allbinders as word for experiment.txt
11 A Maybe '85, somewhere in there.
12 Q Did you know whether there was anything unlawful or
13 illegal about consultants being involved in the
14 projects?
15 A I don't think I ever thought there was anything
16 unlawful or illegal. I did think that it wasn't
17 appropriate, given the way funding decisions were
18 supposed to be made.
19 Q Did you ever become aware of a legal opinion which
20 stated affirmatively that the use of consultants wasn't
2

illegal and there was nothing you had to do about the
2

use of consultants?
2 A I recall that.

I 2 Q And you recall becoming aware of that?
2 A I don't think I was aware of it at the time it was

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12/13/2005 10:20:44 AM
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(Rectangle comment Administrator
12/13/2005 10:20:48 AM
blank)
I 198

written but I saw it sometime afterwards.

2 Q But you don't approve of these consultants using
3 the criteria that were supposed to be applied for HUD to
4 make funding decisions of PHA's?
5 A I could see no role for consultants.
6 Q I want to direct your attention to a new subject
7 for a second which was something called Baltimore Uplift
8 One. Do you recall what Baltimore Uplift One was, or
9 is?
10 A I have a vague recollection that it was a project
11 in Baltimore that involved a request for Mod Rehab
12 money.
13 Q Do you recall approximately when that project was
14 around within HUD?
15 A I would guess it was in the early eighties, '82,
16 '83, somewhere in there. It's just a guess. So -17
18 Q Do you have any recollection as to who ordered that
19 program to be funded?
19 A No, I don't.
20 Q I'm going to show you what have been marked for
2 identification as Government's Exhibits seven, eight -
(Rectangle comment Administrator
12/13/2005 10:20:54 AM
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2 I'm sorry, Dean Exhibits seven, eight, nine and ten?
2 THE DEPUTY CLERK: Defendant's Exhibits Seven,
I 22
(Rectangle comment Administrator
12/13/2005 10:20:58 AM
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allbinders as word for experiment.txt
Eight, Nine and Ten marked for identification.
(Defendant's Exhibits Seven,

(Rectangle comment Administrator
12/13/2005 10:21:05 AM
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I 199

1 Eight, Nine and Ten marked for

2 Identification)
3 BY MR. WEHNER:
4 Q I ask you to take a look at these to see if it
5 refreshes your recollection as to how or when or who
6 asked that projects be funded, as well as Dean
7 Exhibit Four.

8 THE DEPUTY CLERK: Defendant's Exhibit Four
9 marked for identification.

10 (Defendant's Exhibit Four marked
11 for Identification)

12 BY MR. WEHNER:

13 Q Have you looked at those?

14 A I haven't read every word, but -15

Q I'm also going to show you Dean Exhibit Three and
16 ask you to look at that one as well.

17 A Yes.

18 Q Do those refresh your recollection as to the
19 funding of Baltimore Uplift One?

20 A The only one that seems to relate to Baltimore is
2 the one -- the one piece.

2 Q Does that refresh your recollection as to when or
2 by whom Baltimore Uplift One was funded?

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12/13/2005 10:21:09 AM

blank)

2 A I can't determine the date on this. It appears to
2

(Rectangle comment Administrator

12/13/2005 10:21:12 AM

blank)

be a note from Stew who would have been, I believe,

200

1 Stew Davis, to Silvio, directing him to prepare the
2 funding papers. Oh, I'm sorry, it does say for Project
3 Uplift.

4 Q It does say that, doesn't it?

5 A Yes.

6 THE COURT: what exhibit is that, please,
7 precisely?

8 THE WITNESS: Dean Exhibit four.

9 THE COURT: Thank you.

10 BY MR. WEHNER:

11 Q Now, does that refresh your recollection as to who
12 was responsible for funding Baltimore Uplift One?

13 A No, I'm sorry, it doesn't. This paper doesn't tell
14 you who made the decision. It is a Special Assistant,
15 Stew Davis, telling Silvio to do so. It doesn't say who
16 decided that this project should be funded.

17 Q It's whom telling who?

18 A Stew Davis.

19 Q On which -- here?

allbinders as word for experiment.txt

20 A No.

2 Q No? Tell me where he would be?

2 A I don't know the dates of this. I can't tell from
2 this paper. I think Stew was at various points a

t Special Assistant to the Deputy Assistant Secretary for

2
2

multi-family housing and -- that's correct, but also at

(Rectangle comment Administrator

12/13/2005 10:21:19 AM

blank)

201

1 some point I believe he was the Special Assistant to the
2 Assistant Secretary.

3 A Yes.

4 Q One of these two places.

5 A Yes.

6 Q And who is the memo going to?

7 A It says to Silvio.

8 Q That's DeBartolomeis?

9 A Yes.

10 Q And where was he?

11 A At this point in time I don't know and I don't see
12 a date. I can't decipher a date on there.

13 Q I'll ask you to look again regarding the date at

14 Dean Exhibit Number Three.

15 A Yes.

16 Q Does that reflect when that document was received?

17 A Are you presuming that the two were attached?

18 Q I'm not presuming anything. I'm asking you if the
19 Exhibit Three shows a date on which it was received?

20 A Yes, it was --

21 MR. O'NEILL: I would have to object to this.

22 THE COURT: Why don't you come up to the bench

(Rectangle comment Administrator

12/13/2005 10:21:22 AM

blank)

23 so we see where we're going.

24 (Bench conference)

25 THE COURT: Is this to refresh her

t 202

1

recollection or are you trying to introduce this

2 document through her?

3 MR. WEHNER: I'm trying to refresh her

4 recollection and cross-examine her. We've got a

5 document that was sent to her out of the Government's

6 Exhibits.

7 THE COURT: Sent to her?

8 MR. WEHNER: Yes, sir, to Hastings with a

9 date, and there's attached to that who funded Baltimore

10 uplift One. Now -- and she's claiming she doesn't have

11 any knowledge of it and I've got a document that went to

I 1213

her. Now, it may be -it
is relevant to Baltimore
Uplift One to the perjury count but it's also relevant
14 to her credibility.
15 THE COURT: I think because you refreshed her
16 recollection you can ask her to look at it and see if
17 dates are on there or not and ask her if she recalls
18 receiving this document. To try to put it in evidence,
19 that's another matter. Show her there's a date and
20 refresh her recollection.
2 MR. O'NEILL: I have no problem to him using
2 those documents, but he can't refer to them because
2 they're not in evidence.

t 2 THE COURT: I just think you've got to ask her
2

if it refreshes her recollection and if she says no, and

I 1 look at the date and if there's a date on here, yes, I

2 see the date but it doesn't doesn't refresh my
3 recollection, or not. I think that's where we are at
4 this point. It doesn't relate to the perjury count, i
5 have no idea, but show her the date and ask her -6

MR. WEHNER: Yes, sir.

7 THE COURT: what it says.

8 (Bench conference concluded)

9 THE COURT: All right.

10 BY MR. WEHNER:

11 Q Miss Hastings, I'm going to show you Dean Exhibit
t 1213

Three and Dean Exhibit Four. What is the date on Dean
Exhibit Three?

14 A There's a date of May 1st, 1984 and another date of
15 received, May 2nd, 1984.

16 Q What position did Silvio DeBartolomeis hold in May
17 of 1984?

18 A I believe he was Deputy Assistant Secretary for
19 Multi-family Housing then.

20 Q Here?

2 A Yes.

2 Q Do you recall now receiving any information from
2 him with regard to Baltimore Uplift One?

t 2 A From Silvio?

2 Q Yes.

t 204

1 A Not specifically, no.

2 Q Generally.

3 A No.

4 Q And this memo doesn't refresh your recollection?

5 A No. I mean I know there was a proposal for

allbinders as word for experiment.txt
6 Baltimore Uplift One. I recall that.
7 Q Did on occasion Miss Dean discuss projects with
8 you, specific Mod Rehab projects?
9 A I recall being in at least one meeting with

10 Miss Dean in -- with some people from outside the
11 Department. They may have been from Connecticut. I
I 12 think she probably on a rare occasion called and asked
13 me a question about the program.

14 Q To the best of your recollection on each time
15 Miss Dean talked to you about Mod Rehab funding, what
16 did she say to you and what did you say to her?

17 A My recollection doesn't cover the specifics. I
18 know we had some conversations but I don't remember what
19 about.

20 Q Generally what did you say to her and what did she
say to you?

2 A I'm sorry, I don't recall.
2 Q Would you on occasion send letters out of HUD that

t 2 dealt with the Mod Rehab Program?
2 A Yes.

t 205

1 Q And did you on occasion write letters for various

2 other people in the Department?

3 A Yes.

4 Q And did that include Miss Dean?

5 A It could have.

6 Q Okay. I'm going to show you what we've marked as

7 Dean Exhibit Six.

8 THE DEPUTY CLERK: Defendant's Exhibit Number

9 Six marked for identification.

10 (Defendant's Exhibit Six marked for

11 Identification)

t 1213

BY MR. WEHNER:

allbinders as word for experiment.txt
Q I'll show you what is page two of that Exhibit and
14 ask you if that page refreshes your recollection as to
15 whether you ever did get correspondence from Miss Dean?
16 A This appears to have been authored by someone who
17 worked for me. At least initially authored by Mary
18 Maher who worked for me at the time.
19 Q And after it was initially authored by Mary Maher,
20 did anybody else see it?
2 A I can't tell from this copy. Typically there would
2 be a concurrence line that would have people initialling
2 up and down the chain. This appears to have also been
I 2 revised by Hunter Cushing or at least retyped.

2 Q what's this name, Hastings, what does it mean?

t 206

1 A That's my name, of course, and it's on the

2 concurrence -- excuse me, the carbon copy list. So that
3 after the letter was dispatched I would get a copy.

4 Q Do you remember seeing copies of letters that
5 Miss Dean would write?

6 A Yes.

7 Q And do you recall that on occasion she would sign
8 off on letters that were prepared by members of your
9 staff and you would see the letters after they went out?

10 A I think that's possible. I don't remember specific
11 occasions.

I 12 Q Okay. I'm going to show you this letter again and

13 ask if this refreshes your recollection as to whether
14 there was ever an occasion where a member of your staff

15 wrote a letter for Miss Dean and that you received a

16 copy of it after it went out?

17 A Yes, there is --

18 Q There was such an occasion?

19 A Yes.

20 Q Do you ever remember telling any members of your

2 staff that what they had written for Miss Dean was

2 inaccurate?

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2 A I don't recall. I often would -- if I were in the

t 2 concurrence chain and there were corrections to be made
2 or inaccuracies to be done I probably would have done

t 207

1 so.

2 Q The question was when a member of your staff wrote
3 a letter for Miss Dean and you saw a carbon copy after
4 it had been made did you ever tell a member of your
5 staff that the letter was inaccurate?

6 A There were occasions when I would see something
7 that had been sent after the fact and I would be
8 surprised that its contents were inaccurate, yes. That
9 doesn't mean that my staff had drafted it that way.
10 Someone else may have altered it.

11 Q In circumstances where your staff drafted the
t 1213

letter and you saw it after it had been made, was there
any instance where you said the letter was inaccurate?

14 A I think I just said, yes, there probably were those
15 cases, that may be though where someone else altered it.

16 Q Not where someone else altered it, where your staff
17 wrote the letter.

18 A And it was never altered.

19 Q The same letter that was mailed out was the letter
20 that your staff made.

2 A I don't recall any occasions.

2 Q Thank you.

2 MR. WEHNER: with the Court's indulgence,

t 2 could I consult for a few seconds?

2

THE COURT: All right.

t 208

1

BY MR. WEHNER:

2 Q Miss Hastings, was there ever a time when you were
3 transferred from your position up to the Office of the
4 Secretary?

5 A I was detailed.

6 Q who was responsible for that detail?

7 A I believe that Silvio was the person I held
8 responsible. I don't know who else was involved in that
9 decision.

10 Q Mr. DeBartolomeis was your boss or the Deputy
11 Assistant Secretary for Multi-family Housing?

t 1213

A Yes.

Q And what did he want to do? Did he want to fire

14 you or keep you or transfer you?

15 A He detailed me out of my job for, I'd say, for a

16 four to six week period.

17 Q And then you were sent back down to your job?

18 A Yes.

19 Q Did Miss Dean have any role in that decision to

20 send you back to your job?

2 A I don't know.

2 MR. WEHNER: Nothing further, Your Honor.

2 MR. O'NEILL: Thank you, Your Honor.

t 2

REDIRECT EXAMINATION

2

BY MR. O'NEILL:

t 209

1 Q Miss Hastings, you mentioned on cross-examination

2 that you were being cut out of Mod Rehab decisions. How

3 do you know you were cut out of Mod Rehab decisions?

4 A Initially I would be asked to concur on the funding
5 recommendations that went -- that preceded in sending
6 money out to any PHA. For -- there was a period of time
7 in which I would write a comment saying I wasn't going
8 to concur because there was no apparent basis for
9 selection of this PHA for funding.

10 Q What are you referring to?

11 A The criteria to decide among PHA's, which ones

t 1213

should be funded. Essentially a capacity criteria.

Q To your knowledge, why were you cut out?

14 A I think because they didn't want me writing these
15 notes saying that there was no basis for selecting the
16 PHA's.

17 Q Now, you mentioned earlier during cross-examination
18 that certain funding decisions were being made by, as
19 you said, several people, you believed. And you
20 mentioned that the defendant was involved in these
2 funding decisions. What is that statement based on?

2 MR. WEHNER: Objection, Your Honor, the
2 statement was one funding decision in California. It

t 2 was singular and not plural.

2

THE COURT: All right.

t 210

1

BY MR. O'NEILL:

2 Q Let me rephrase it then. As to the one funding
3

decision in California, you mentioned you saw certain
4

notes. Can you describe what you were talking about?
5 A As I recall, there was a note from Susan Zagame who
6 was a Deputy Assistant Secretary for, I think, Policy
7 and Budget, something like that, to Miss Dean, asking if
8 this particular proposal was okay for funding and that
9 there was a note back from Miss Dean saying yes. This

10 isn't a quote, but it was something like, yes, this is
11 okay for funding.

t 12 Q And you mentioned during cross-examination that you
13 were concerned that you would not be involved any longer

14 in the funding process. Why were you concerned?
15 A Because I didn't think decisions were being made in
16 any rational and impartial way in terms of what PHA's
17 were being funded. I was also concerned that some of
18 the funding appeared to be specifically directed to
19 particular projects.

20 Q The last topic would be you asked questions about
2 consultants being involved, and when did you learn about
2 that? How did you find out that consultants were being
2 involved in the Mod Rehab process?

8 2 A How did I find out?

2 Q Yes.

t 211

1 A This is my best recollection, but I think I may

2 have heard from some PHA's who were concerned about how
3 funding decisions were being made.

4 Q Did you ever hear any specific names of consultants
5 who were involved?

6 A I probably did, but right now I can't recall.

7 Q You stated during cross-examination that you could
8 see no role for consultants in the Mod Rehab process?

9 A That's correct.

10 Q Why not?

11 A Because HUD was supposed to fund PHA's on the basis
t 1213

of their performance, performance in terms of being able
to provide financing, how they had administered other

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14 Section Eight programs and I didn't -I
didn't see how
15 a consultant would be useful to that kind of a decision
16 making process.
17 Q And you stated during cross-examination that there
18 was once a meeting that you attended with the defendant
19 in this case and several other people. Do you recall
20 what that meeting was about?
21 A I recall it was about the use of the Mod Rehab
22 Program. I think it was in Connecticut. There were
23 representatives probably from the city or housing
24 authorities there. I don't recall specifically what all
25 was involved in the meeting.

t 212

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MR. O'NEILL: Thank you, Miss Hastings.

2 No further questions, Your Honor.
3 THE COURT: All right.
4 MR. WEHNER: One recross, Judge.
5 THE COURT: what area are you going to,
6 Mr. wehner?
7 MR. WEHNER: The 19 units in Santa Clara,
8 California.
9 THE COURT: All right. Ask your questions.
10 RECROSS EXAMINATION
11 BY MR. WEHNER:
t 1213
Q Are you aware that the 19 units in Santa Clara were
for a battered women's shelter which was funded by the
14 Director, by the Secretary of HUD?
15 A I think that's one more than one question.
16 Q Were you aware of that?
17 A You're refreshing my memory that it was for a
18 battered women's shelter, the 19 units, I don't recall
19 specifically and I don't know that it was the
20 Secretary's orders.
21 MR. WEHNER: Thank you.
22 THE COURT: All right.
23 Thank you, Miss Hastings.

t 24 Step down, please.

25

MS. SWEENEY: Your Honor, the next witness the

t 213

Government calls is Sandra webb.

2 (SANDRA WEBB, WITNESS FOR GOVERNMENT, SWORN)
3 DIRECT EXAMINATION
4 BY MS. SWEENEY:
5 Q Good afternoon.
6 A Good afternoon.
7 Q Would you please state your entire name for the
8 jury, spelling your last name for the Court Reporter?
9 A Sandra J. Webb, w-e-b-b.
10 Q Miss Webb, are you presently employed?
11 A Yes, I am.
I 1213
Q where are you employed?
A At the Department of Housing and Urban Development
14 Q And what is your job at HUD?
15 A My job is Deputy Director, Office of Personnel.
16 Q How long have you been at HUD?
17 A Twenty-four years.
18 Q And could you describe briefly your educational
19 background to the jury?
20 A I have a Bachelor's of Science degree from Albany
2 State College in Georgia.
2 Q You said that you were at HUD for about 24 years.
2 Have you worked in the Office of Personnel during that
t 2 entire 24-year period?

2 A Yes, I have.

t 214

1 Q And could you describe briefly for the members of
2 the jury, and keep your voice up so that everyone can
3 hear, the jobs that you've held within the Office of
4 Personnel?
5 A I have held the jobs of Employee Development
6 Specialist, Personnel Management Specialist, Supervisory
7 Personnel Management Specialist, Director of the -I'm
8 sorry, Branch Chief of the Performance and Incentive
9 Awards Branch, Deputy Director of the Executive
10 Resources Division, Chief of the Executive Staffing
11 Branch, Director of the Executive Personnel Management
t 1213
Division and my current position of Deputy Director,
Office of Personnel.
14 Q Can you tell us what your present duties and
15 responsibilities are?
16 A Currently I'm detailed to the reinventing HUD Task
17 Force. For the last three months I've been involved in
18 that project, but as Deputy Director of Personnel, my
19 permanent position of record, I have a responsibility
20 along with the Director of Personnel for the day-to-day
2 management of the office with a staff of about 150
2 employees and we have responsibility for carrying out
2 HUD's personnel program, including the areas of
t 2 recruitment and staffing, employee classification and
2

compensation, benefits and records, training and

t 215

1

employee development, executive resources, labor

2 employee relations, training, I think I mentioned
3 already, performance management and awards and also for
4 the development of policies and procedures for use by
5 our field offices that have responsibilities for
6 carrying out the personnel program out in the field.
7 And finally, we have responsibility or I have
8 responsibility for advising and assisting managers in
9 carrying out their personnel management
10 responsibilities.

11 Q Miss Webb, I'm going to show you a document that's
t 1213

previously been marked Government's Exhibit 256 for
identification.

14 THE DEPUTY CLERK: Government's Exhibit 256
15 marked for identification.

16 (Government's Exhibit 256 marked for
17 Identification)

18 BY MS. SWEENEY:

19 Q It's actually a very thick document. Do you
20 recognize this document, Miss Webb?

2 A Yes, I do.

2 Q And can you tell us what it is?

2 A It's the official personnel folder of
t 22

Deborah Gore Dean.

Q Miss Webb, can you tell the jurors what an official

216

1 personnel folder is?

2 A An official personnel folder is a document which
3 contains the records of the employment history of an
4 employee who works in the federal service. It traces
5 the employee from the initial appointment through
6 separation from the federal service, and the documents
7 include the appointment papers, promotions,
8 reassignments, separation, as well as any awards and
9 commendations, benefits forms.

10 Q Are official personnel folders prepared and
11 maintained in the course of the regular business of your
I 1213

Office of Personnel at HUD?

A Yes, they are.

14 Q And are the documents included in the official
15 personnel file prepared at or about the time of the
16 events reflected in those documents?

17 A That is correct.

18 Q Is it part of the regular business of your
19 personnel office at HUD to prepare official personnel

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20 files?

2 A Yes, it is.

2 MS. SWEENEY: Your Honor, at this time I offer
2 Government's Exhibit 256 into evidence.

t THE COURT: Any objection?

2

2

MR. WEHNER: No objection, Your Honor.

t 217

1

THE COURT: All right, 256 will be admitted.

2 (Government's Exhibit 256 received
3 into Evidence)

4 BY MS. SWEENEY:

5 Q Now, Miss Webb, you've just told us that among the
6 information that's included in the personnel file is the
7 first appointment or the appointment of an individual.

8 And I was wondering if you could refer to Government's
9 Exhibit 256 and tell us when Miss Dean, the defendant,
10 was first appointed at HUD and what her particular
11 position was at that time?

I 1213

A Miss Dean's first appointment at HUD was Special
Assistant to the Secretary for Executive Secretariat.

14 It looks like on 11-14-82 -let
me confirm that on the

15 appointment documents. 11-14-82.

16 Q Does the official personnel file for the defendant
17 reflect that she ever changed jobs within HUD?

18 A Yes.

19 Q And what does it reflect about the change in her
20 position at HUD?

2 A It shows that she converted to a Senior Executive
2 Service non-career appointment as Executive Assistant to
2 the Secretary.

I 2 Q And do those documents also reflect the date that
that change occurred?

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1 A Yes, this is 6-24-84.

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2 Q Does the official personnel file of the defendant
3 indicate when she resigned from that position as
4 Executive Assistant to the Secretary?
5 A Her file is out of order. You'll have to give me a
6 minute to find it.
7 Yes, it shows a resignation from the Executive
8 Assistant position on 7-3-87.
9 Q Does the official personnel file reflect any

10 additional connection between the defendant and HUD
11 after that resignation?

I 12 A I see an extension of an appointment and I'm
13 looking for the initial appointment. This is in '88.

14 Q Returning to the extension of the appointment, does
15 it show what particular position Miss Dean would have
16 occupied?

17 A Yes, it does.

18 Q And what is that?

19 A Expert.

20 Q Now, near the top of the stack of this multi-paged
2 document there's a form SF-86. Do you see where that's

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2 located? You had mentioned that this file contained
2 something about the employment history of an

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t 2 individual.
2 A Yes.

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t 219

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1 Q Turning to that SF-86, does that particular portion

2

of the official personnel file show any prior federal

3

service for Miss Dean?

4

MR. WEHNER: I'm sorry, Miss Sweeney, does it
5 show what?

6 MS. SWEENEY: Prior federal service.

7 MR. WEHNER: Prior federal service.

8 A Yes, it does.

9 Q And what is that, Miss webb?

10 A From the period of 7-81 to 11-82, employment at the
11 U.S. Department of Energy in a type of work identified
12 as liaison.

t 13 Q And looking at that same form, does it reflect how
14 Miss Dean was employed prior to going to the Department
15 of Energy?

16 A Yes, it does.

17 Q And what does it reflect about her employment
18 history prior to being employed at the Department of
19 Energy?

20 A Immediately before the Department of Energy from
21 11-79 to 7-81 she was employed with City Life Magazine,
22 self-employed, and was the publisher of that magazine.

23 Q Following down along on that same form, does it

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t 24 reflect additional employment from May of '81 to July of
25 '81?

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t 220

1 A Yes.

2 Q what does it reflect about that employment during

3

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that particular point in time?

4 A The place of employment is Global Research which
5 involved public relations work under the supervision of
6 Colonel Brennan, located on Pennsylvania Avenue in
7 Washington.

8 MS. SWEENEY: Thank you, Miss Webb.

9 I have no further questions at this time, Your

10 Honor.

11 CROSS-EXAMINATION

t 12 BY MR. WEHNER:

13 Q Miss Webb, I'm Steve Wehner and I represent
14 Miss Dean. I have just a few questions for you. If you
15 will turn to page 208-FL. Are yours numbered?

16 A I don't recall seeing the numbers here.

17 Q Mine is numbered. With the permission of the Court
18 I'll just use the ones that I have.

19 THE COURT: All right, why don't you do that?

20 BY MR. WEHNER:

2 Q I direct your attention to a page of the personnel

2

file which is numbered 208-FL in my form. Does it

2

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reflect the status of Miss Dean's parents?

t 2 A Yes, it does.

2 Q What does it reflect concerning her mother and

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t 221

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father?

2 A Father deceased and his name, Gordon Evans Dean.

3 This looks like it would be date of birth unknown and

4 the address of Fifth Avenue in New York. I think this

5 is citizenship, USA.

6 Q It reflects he was deceased at the date this form

7 was filled out?

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8 A I think so.

9 Q Which was what, approximately '84?

10 A There's a place for signature on this form.

11 Yes.

t 1213

Q '84?

A Yes.

14 Q I'm going to direct your attention to what is
15 marked in my copy as 21 -- it's 2116, maybe, or -it's
16 2116. 2117 to 2123. Without making you look at all
17 those pages, those are what are generally referred to as
18 reviews, performance reviews or evaluations of the
19 employee?

20 A That's correct, a performance appraisal of the
21 employee's work.

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22 Q And it wouldn't surprise you to know that all of
23 Miss Dean's performance appraisals were outstanding?

t 2425

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A well -

Q If you want to look, go ahead. Don't take my word

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t 222

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for it, please.

2 THE COURT: I don't know if she can answer it
3 surprises her or not.

4 MR. WEHNER: I'm just trying to move it along,
5 Judge.

6 THE COURT: I understand.

7 BY MR. WEHNER:

8 Q Would you agree with me that they're all
9 outstanding?

10 A Yes, by getting outstanding on each of the job
11 elements the overall rating would be outstanding.

t 1213

MR. WEHNER: Thank you very much.

I have nothing further.

14 RE-CROSS EXAMINATION

15 BY MS. SWEENEY:

16 Q Miss Webb, turning to the SF-86 once again, and
17 turning to the section that reflects information about
18 the defendant's parents, the local listing for father,
19 what is the next listing?

20 A Mother.

2 Q And does it give a name and an address?

2 A Yes, Mary Gore Dean, 1300 30th Street, Northwest,

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2 Washington, D. C.

2 Q And continuing on in that form to the next section,

2

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what's the title of the next section?

t 223

1 A The title is references.

2 Q And could you read the first entry under

references, the name as well as the address?

4 A The name is John N. Mitchell, address 1300 30th

5 Street, Northwest, D. C.

6 MS. SWEENEY: Your Honor, we have no further

7 questions.

8 THE COURT: All right.

9 Thank you, Miss Webb. You can step down.

I

10 Ladies and gentlemen, we'll take our afternoon

11 recess at this time and I'll give you 15 minutes, it's

12 until 20 after three approximately. There are

13 refreshments ready in the jury room for you. You may be

14 back at 20 after three. Remember the admonition about

15 not talking about the case among yourselves or with

16 anyone else, please.

17 (Jury dismissed)

18 THE COURT: Have you got another witness

19 today?

20 MR. O'NEILL: Yes, Your Honor we will. We're

21 going to take Mr. Martinez out of order, Your Honor.

22 Depending how we go we might be able to get him

23 finished.

24 MR. WEHNER: I would appreciate the

25 opportunity of cross-examining Mr. Martinez in the

t 224

1

morning.

2 THE COURT: We'll see how we're doing with the

3 questions. If it's 4:15, 4:30, five o'clock, we'll

4 quit.

5 MR. O'NEILL: Judge, are you definitely

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6 breaking Friday afternoon?

7 THE COURT: Yes, the clerk has told me things

8 they've put in on me. We'll be back in 15 minutes.

9 (Recess, 3:05 p.m. to 3:35 p.m.)

10 THE COURT: All right. You can ask the jury

11 if they're ready to come in, please.

t 1213

THE DEPUTY MARSHAL: All right.

(Jury present)

14 THE COURT: All right, we're ready to resume

15 with the next witness on behalf of the Government at

16 this time.

17 MR. O'NEILL: Your Honor, the Government calls

18 Aristides Martinez.

19 THE COURT: All right.

20 (ARISTIDES MARTINEZ, WITNESS FOR GOVERNMENT, SWORN)

21 DIRECT EXAMINATION

22 BY MR. O'NEILL:

23 Q Mr. Martinez, would you please state your name for

24 the record, spelling your name for the Court Reporter,

25 please?

t 225

1 A My name is Aristides, that's A-r-i-s-t-i-d-e-s,

2 Martinez, M-a-r-t-i-n-e-z.

3 Q Mr. Martinez, are you presently employed?

4 A Yes.

5 Q And how are you employed?

6 A I am employed by Art Martinez Interests, Inc.

7 Q And that is your company?

8 A Yes.

9 Q What type of work does your company do?

10 A Primarily real estate development and management.

11 Q What area of the country do you work in?

t 1213

A Dade County, Florida.

Q Do you work anywhere else or are you primarily

14 located in Dade County?

15 A Nowhere else.

16 Q Mr. Martinez, are you familiar with an individual

17 by the name of Louie B. Nunn?

18 A Yes.

19 Q And how do you know Mr. Nunn?

20 A I came to know Mr. Nunn, I believe, in -somewhere

2 around 1980, '81, something like that, '82.

2 Q Did there come a point in time when you agreed to

2 hire Mr. Nunn to represent you in a matter concerning a

t project named Marbilt?

2

2 A Marbilt was my company. There were a number of

t 226

1

projects involved.

2 Q And did there come a point in time where you
3 requested Mr. Nunn to represent you in relation to
4 Marbilt?

5 A Yes.

6 Q Can you describe to the ladies and gentlemen of the
7 jury what that was about?

8 A Yes, my company was a general contracting company
9 and we were doing work in some public housing for the
10 Archdiocese of Miami and in our working with the federal
11 HUD we almost broke our company because they would not
12 timely pay us, and as a consequence of those projects
13 our company went out of business.

14 Q And what if anything was Louie Nunn hired to do?

15 A Well, he was - I felt that I was - had - that
16 this had -- the demise of my company had occurred
17 because of some people at the area office of HUD and he
18 was trying to help me to get a hearing to see -19
administratively, that is, to see if I could -- my
20 company could be paid for all of the additional costs
2 incurred as a consequence of the non-timely payment of
2 HUD.

2 Q And did there come a point in time when you paid

2

Mr. Nunn for his services?

t 2 A I paid -- my recollection, this is many many years

t 227

1

ago, is that my company paid him a very limited amount

2 of dollars, since we were broke.

3 Q Do you recall approximately how much you paid him?

4 A I do not recall.

5 Q At this time, Mr. Martinez, let me show you what's
6 previously been marked as Government's Exhibit 26 for
7 identification?

8 THE DEPUTY CLERK: Government's Exhibit 26

9 marked for identification.

10 (Government's Exhibit 26 marked

11 for Identification)

t 1213

BY MR. O'NEILL:

Q And I'd ask you to look at this and do not mention
14 anything about the document.

15 A Yes.

16 Q Does that refresh your recollection, sir, as to how
17 much you paid Mr. Nunn in relation to the problems you
18 experienced with Marbilt?

19 A Well, I frankly do not recall the letter. It's a
20 1984 letter. I recall the signature of the letter but I
2 do not recall, you know, that specific letter.

2 Q Other than recalling the letter, does that refresh
2 your recollection how much you paid him?

2 A Yes, it would appear that that was the amount that

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2 the -- I didn't pay him. I mean that the bonding

228

t 1 company paid him.

2 Q And how much was it?

3 A \$42, 000.

4 Q Now, Mr. Martinez, did there come a point in time
5 where you had a discussion with Mr. Nunn about acquiring
6 moderate rehabilitation units for projects in Miami

7 A Yes.

8 Q And when did that occur, do you recall?

9 A I don't recall.

10 Q How did that discussion come about?

11 A Well , it came about because I had - was - I had
12 gotten involved in the development of a moderate
13 rehabilitation project in the Liberty City area of Miami
14 and it had taken me two and a half to three years to put
15 that project together and I quickly realized that if I
16 was going to do that I could not take three years for
17 each project. So that's why I sought his help.

18 Q And why did you seek Mr. Nunn's help?

19 A Because he was my friend.

20 Q And what was he going to do for you on that
2 project?

2 MR. WEHNER: Your Honor, could we have a side
2 bar?

I 2 THE COURT: I'm sorry, I didn't hear you •

2 MR. WEHNER: Objection. Could we have a side

t 229

1 bar?

2 THE COURT: Sure.

3 (Bench conference)

4 MR. WEHNER: Your Honor, I think Mr. O'Neill
5 is about to inquire as to conversations between
6 Mr. Martinez and Mr. Nunn. I do not think that there's
7 been any showing, any showing upon which Your Honor
8 could find that these statements relate to the
9 conspiracy, for the reason that no conspiracy has been
10 established and, two, there's no evidence that this
11 statement is confirming a conspiracy and, three, there
t 1213

isn't any evidence that these statements were part of a
conspiracy. So I would object to any conversations
14 between Mr. Nunn and Mr. Martinez.

15 MR. O'NEILL: As you know, Your Honor, it
16 would be impossible for us at this time, absent proffer,
17 to show you how we intend to show that there is a
18 conspiracy here. We intend to link it up and the
19 evidence will show it. If the evidence does not prove a
20 conspiracy against Miss Dean, counts one, two and three
2 will be thrown out by this Court.

2 THE COURT: What's the time frame you're

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2 talking about this discussion with Mr. Nunn?

I 2 MR. O'NEILL: He says he does not recall, Your
2 Honor. I think through documents we can show it's

t 230

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through approximately 1984.

2

THE COURT: It's within the time frame that's
3

charged in the indictment for conspiracy, I take it.
4

MR. O'NEILL: Yes, Your Honor.

5 THE COURT: Is this the time frame that
6 Miss Dean moved up to Assistant Secretary in June of
7 ' 84?

8 MR. O'NEILL: It's right on the hub, Judge,
9 and since he did say I don't recall, when he doesn't

10 recall the exact time frame I don't think, Mr. Wehner's
11 statements to the contrary, that we can say exactly when
12 that would be.

t 13 THE COURT: What is the proffer that this is

14 in furtherance of the course of the conspiracy? What

15 conspiracy exists at the time and she knew as a result

16 of whatever the conspiracy was to be.

17 MR. O'NEILL: What the Government's proffer

18 would be, Judge, is that Mr. Nunn was hired by

19 Mr. Martinez to operate as a consultant on the Arama

20 project. Mr. Martinez requests of Mr. Nunn 293 units.

2

Mr. Nunn goes and hires John Mitchell. He -- they sign
2 an agreement between Mr. Nunn and Mr. Mitchell -- excuse

me, Mr. Martinez and Mr. Nunn, for several hundred
2

thousand dollars, two separate agreements. One is an
2 attorney contract and one is a consultant contract. So

t 231

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they keep them separate.

2 On the consultant contract Mr. Nunn writes at
3 the bottom one-half of this in the event of my death and
4 disability to go to John Mitchell, \$75,000.
5 Mr. Nunn who will testify, hopefully at some
6 point in this trial, will testify that he went to
7 John Mitchell. They had been working together on a
8 different matter, a cellular phone deal at Global
9 Research. He went to John Mitchell. John Mitchell then
10 had access to Deborah Dean and he relied on John
11 Mitchell to get the funding. He did nothing on the
t 1213

project. John Mitchell obviously is dead.
we will be introducing a document,
14 self-authenticating, from the Department of Housing and
15 Urban Development which will show the defendant writing
16 a letter to Louie Nunn at Global Research, July 5th,
17 1984, in which he states I've just spoken with
18 Mr. Mitchell about the Arama. Congratulations on your
19 partnership. Something to that effect. And this will
20 assure you that we will get 293 units. 293 units are
21 signed and put in by Maurice Barksdale, who is then the
22 acting Assistant Secretary for Housing, the relevant
23 title.

I 2425

Right after that Mr. Martinez again goes to
Mr. Nunn and applies for more Moderate Rehab funding.

t 232

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Excuse me, during the period of time Mr. Nunn asks

2 Mr. Martinez and his partner Mario Jimnez to come up to
3 Washington and they will meet with John Mitchell.
4 He will testify he doesn't know why they met
5 with John Mitchell. They were brought up to meet with
6 John Mitchell, during this time, and this is the only
7 conversation that I think will be conspiratorial, John
8 Mitchell or Louie Nunn, he cannot identify which one,
9 but one of the two stated that John Mitchell has some
10 sort of relationship to Dean and she's at HUD and
11 important to know.

t 1213

After the Arama project Mr. Martinez again seeks Mod Rehab funding. At this time he asks for 219 units. He goes to Mr. Nunn. Mr. Nunn agrees and enters into a contract once again to procure those units for him. Mr. Nunn will say that he then once again went to John Mitchell.
There is a letter in which Mr. Martinez writes a letter to Louie Nunn saying they need the 219 units. He carbon copies Colonel Jack Brennan, John Mitchell's partner at Global Research.
The evidence will show that Louie Nunn calls Jack Brennan and says I would like you to go and talk to John about getting the units at HUD through Debbie. Brennan states he -- he will state, he'll testify

233

tomorrow, that he went to see John Mitchell.
John Mitchell said I could not do it. I could not get involved with Debbie. Debbie's too close to me. I will not get involved with this.
So Brennan then goes to the Housing Authority, sets up a meeting, meets with the defendant, asks for her help. She did not commit anything. Yet they get 219 units.
THE COURT: well, this original conversation that Mr. Martinez would have with Mr. Nunn is prior to Miss Dean's involvement, right? And you're saying it shows a conspiracy and then she signed on later. I don't see how you can use it against her as part of the conspiracy before it's really been formed.
MR. O'NEILL: The conversation? Which one?
THE COURT: You just asked Mr. Martinez about what he talked to Mr. Nunn about in this Arama project. That was the purpose of the objection. It seems to me a little early to start putting in conversations in furtherance of the conspiracy on the hearsay exception before there's any evidence that it was -- there's no evidence that it was illegal at this point to talk to Mr. Nunn about helping him out. He helped him out
I previously on this bankruptcy issue with HUD.
So, I'll sustain the objection. I won't

t 234

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require the Government to put its case on first before I

let these conversations come in evidence, but I will require a proffer of what constitutes the conspiracy and the time frames and why these conversations or documents should be considered as happening during the course of the conspiracy and there will have to be a proffer made

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7 and if it's valid, they'll be accepted. If it's not,
8 they'll be stricken.

9 MR. O'NEILL: Thank you, Your Honor.

10 MR. WEHNER: Is Your Honor's understanding of
11 the law that a proffer can satisfy Your Honor as to the
12 finding of the preponderance of the evidence that a
13 conspiracy exists?

14 THE COURT: I don't think I have to have all
15 the evidence in. There's two trains of thought on
16 that. There's two different approaches that were made,
17 and some Circuits insist upon some kind of pretrial
18 hearing disclosing the conspiracy. I think the case is
19 James. Not this Circuit.

20 MR. WEHNER: The Fifth Circuit.

2 THE COURT: I think this Court has accepted
2 the approach by having a proffer made. We've had
2 several cases that have been affirmed in the Court of

t 2 Appeals, we have a proffer made, and accepting the basis
2

of the proffer and we can strike it later on if they

t 235

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fail to produce the evidence.

2 MR. WEHNER: Your Honor, I just state
3 basically for the record that I'm not requesting a James
4 type hearing in the trial but I do think under the
5 circumstances that there's a significant question as to
6 whether that proffer can satisfy the Court as a matter
7 of law by the preponderance of the evidence. Taking
8 this tack that a conspiracy exists, that it's
9 inappropriate to accept a conspirator's statement in
10 advance of the Government submitting evidence that the
11 conspiracy existed.

t 1213

I don't know that what Mr. O'Neill said
constitutes an illegal conspiracy at its best. He has
14 said -- he has given no evidence of anything with
15 respect to Miss Dean, no evidence that she does any
16 misconduct. In fact, the only thing she's alleged to
17 have said as a part of this conspiracy is to make no
18 commitment. That's not enough, Your Honor, to satisfy
19 Your Honor that a conspiracy exists.

20 THE COURT: we'll see as we go ahead.

2 All right.

2 MR. WEHNER: Yes.

2 THE COURT: All right, re-ask the question.

t 2 (Bench conference concluded)

2

BY MR. O'NEILL:

t 236

1 Q Mr. Martinez, let's go back to where we were a few

2 minutes ago. Did there come a point in time when you
3 retained or hired Mr. Nunn to represent you in relation
4 to Arama?

5 A Yes.

6 Q And why did you hire Mr. Nunn?

7 A Because he's my friend.

8 Q What did you hire him to do, what was your
9 understanding as to what he would do?

10 A My understanding is that he would help get some
11 allocation of Mod Rehab funds to Dade County, Florida.

12 Q Let me ask you, was he acting as a consultant for
13 you?

14 A I don't know what -I

mean I don't know what

15 capacity he was acting. We had an agreement, a written
16 agreement.

17 Q And what did your agreement say, do you recall?

18 A I don't recall specifically. I do know that the
19 gist of the situation was that if the Mod Rehab funds
20 were obtained for Dade County, Florida, that then we
21 would pay Mr. Nunn a certain amount of dollars.

22 Q Now, Mr. Martinez, why did you hire a consultant at
23 all?

I 2 A Because it had taken me three years to do a project
2 without a consultant, as I previously stated, and I

237

1 could not live on, you know, one project over three
2 years.

3 Q Mr. Martinez, if I may, let me show you a document
4 previously marked as Government's Exhibit 19 for
5 identification.

6 THE DEPUTY CLERK: Government's Exhibit 19

7 marked for identification.

8 (Government's Exhibit 19 marked for

9 Identification)

10 BY MR. O'NEILL:

11 Q And ask you to look at that. Do you recognize
12 that, sir?

13 A Yes, sir, that's my handwriting.

14 Q And is this a document that you keep in the normal
15 course of your business?

16 A Yes.

17 Q And is it the normal course of your business to
18 keep such documents and make such documents?

19 A Well, I do not know what the normal course is. I
20 keep -21

Q You keep documents such as this in your business?

22 A Sometimes, yes, most of the times.

23 Q And is it a document made at or about the time of
24 the date depicted thereon?

25 A I don't recall. I would assume that it was.

238

1 Q When you make documents like this, when do you make
2 them?

3 A When I do make a letter? The date I make the
4 letter.

5 Q You usually make it at or about the time that the
6 date is on that document?

7 A Yes, sir.

8 Q And do you recall writing this document?

9 A No, I do not.

10 MR. O'NEILL: Your Honor, at this time I'd
11 move it into evidence, Government's Exhibit 19, with its
12 attachments.

13 MR. WEHNER: Objection, Your Honor. He
14 hasn't authenticated it. He stated that he doesn't know
15 if he wrote it.

16 THE COURT: I'll overrule the objection. It's
17 in his handwriting. It's a business record. And he
18 dates it along the same time that he writes it.

19 All right. It's admitted.

20 (Government's Exhibit 19 received into
21 Evidence)

22 BY MR. O'NEILL:

23 Q Mr. Martinez, if I might take back the original and
24 show you a copy to refer to. To whom is this letter
25 addressed?

1 A To Governor L. B. Nunn.

2 Q And is that the same Louie Nunn that we've been
3 speaking about?

4 A Yes, sir.

5 Q And to where did you address that letter? Where
6 did you send it?

7 A Global Research, 2828 Pennsylvania Avenue,
8 Washington, D. C.

9 Q Why did you send it to Global Research?

10 A Because he asked me to send it.

11 Q He being?

12 A Mr. Nunn.

13 Q At that time were you familiar with Global
14 Research?

15 A No, sir.

16 Q What is the date on that letter, sir?

17 A January 5th, 1984.

18 Q Mr. Martinez, I'd ask you to look at Government's
19 Exhibit 21 for identification?

20 THE DEPUTY CLERK: Government's Exhibit 21
21 marked for identification.

22 (Government's Exhibit 21 marked
23 for Identification)

24 BY MR. O'NEILL:

25 Q And I'd ask you if you recognize that?

240

1 A Yes, I recognize my initials and my signature, yes.

2 Q And is this type of agreement something that you
3 keep in the normal course of your business?

4 A Yes.

5 Q And is it the normal course of your business to
6 make this type of agreement?

7 A Yes.

8 Q And is it made at or about the time that's dated on
9 the agreement?

10 A Yes, sir.

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11 MR. O'NEILL: At this time, Your Honor, I'd
12 move it into evidence as Government's Exhibit 21.
13 MR. WEHNER: No objection, Your Honor.
14 THE COURT: No objection?
15 MR. WEHNER: No objection.
16 THE COURT: All right. Thank you. All
17 right. It's admitted. 21.
18 (Government's Exhibit 21
19 received into Evidence)
20 BY MR. O'NEILL:
21 Q Now, Mr. Martinez, what is this document,
22 Government's Exhibit 21?
23 A It was the agreement between my partner and myself
24 to engage Mr. Louie B. Nunn for -- as our attorney, it
25 says there in regard to efforts to complete and manage

241

1 300 Moderate Rehabilitation units.
2 Q what were you going to pay him if he was successful
3 in obtaining the 300 units?
4 A well, it says here \$225,000.
5 Q And what was he going to do on your behalf in order
6 to obtain those 300 units?
7 A As I stated before, he had to obtain that funds for
8 these many units were made available for Dade County.
9 Q And what was your understanding as to how he was
10 going to accomplish this?
11 A I had no understanding as to how he was going to
12 accomplish this.
13 Q Now, is this the only contract that you entered
14 into with Mr. Nunn?
15 A No, sir.
16 Q Was there also a consulting agreement on Arama?
17 A I don't recall.
18 Q Let me show you what's previously been marked as
19 Government's Exhibit 20 for identification and again
20 since it's not in evidence unlike the other documents I
21 ask you not to refer to it.
22 THE DEPUTY CLERK: Government's Exhibit 20
23 marked for identification.
24 (Government's Exhibit 20 marked
25 for Identification)

242

1 BY MR. O'NEILL:
2 Q Does that document refresh your recollection as to
3 whether there was a separate consulting agreement on
4 Arama with Mr. Nunn?
5 A Yes.
6 Q And does it refresh your recollection as to how
7 much Mr. Nunn was to be paid as a consultant on Arama?
8 A Yes, it says it right there, \$150,000.
9 Q So, Mr. Martinez, approximately how much was
10 Mr. Nunn going to be paid to act as a consultant on
11 Arama?
12 A well, the aggregate amount for both contracts would
13 be \$375,000.
14 Q Mr. Martinez, did there come a point in time that
15 that agreement was increased?

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16 A I did not understand you.
17 Q Did there come a point in time when you agreed to
18 pay Mr. Nunn even more money to accomplish his goal of
19 obtaining the Mod Rehab units?
20 A Yes.
2 Q At this time I'd show you what's previously marked
2 as Government's Exhibit 22?
2 THE DEPUTY CLERK: Government's Exhibit 22
2 marked for identification.
2 (Government's Exhibit 22 marked

243

1 for Identification)
2 BY MR. O' NEILL:
3 Q And I'd ask you, sir, if you recognize this?
4 A Yes, sir.
5 Q What do you recognize it to be?
6 A Well , I see my signature underneath a handwritten
7 note by, I believe, by Mr. Nunn.
8 Q Okay And did you keep this kind of document in
9 the regular course of your business?
10 A Yes.
11 Q And is it the regular course of your business to
12 keep such a document?
13 A Yes.
14 Q And is it made at or about the time of the date
15 that is on top of the agreement?
16 A The modification is made at the date on the bottom.
17 Q The modification is dated, is that right?
18 A Yes, sir.
19 MR. O'NEILL: At this time I move it into
20 evidence, Your Honor.
2 MR. WEHNER: No objection, Your Honor.
2 THE COURT: All right, it will be admitted.
2 What s the date on that? It's 22.

2 MR. O'NEILL: Your Honor, the date of the
2 addendum is April 11, '84.

244

1 THE COURT: Did you move 20 in?
2 THE DEPUTY CLERK: No, he did not.
3 THE COURT: I don't think so.
4 MR. O'NEILL: No, Your Honor.
5 (Government's Exhibit 22
6 received into Evidence)
7 BY MR. O'NEILL:
8 Q Mr. Martinez, how much was the contract increased
9 for?
10 A \$50,000.
11 Q So what does that bring the total fee that Mr. Nunn
12 would receive if he was successful in obtaining Mod
13 Rehab units for Arama?
14 A \$425,000.
15 Q And what was your understanding as to what he would
16 do for that money?
17 A Again, bring the -- to Dade County, Florida the
18 contract authority for 300 Mod Rehab units.
19 Q And to your knowledge, how was he going to
20 accomplish that?
2 A I have no idea.

2 Q Now, Mr. Martinez, did there come a point in time
2 when you met with Mr. Nunn concerning the Arama projects
2 and his efforts to obtain Moderate Rehabilitation units
2 for Arama?

1 A Yes.

2 Q And when did that occur?

3 A Well, we had a number of meetings. One of them was
4 on or about when this increase to the contract was
5 executed.

6 Q Did you have any meetings in Washington, D.C.?

7 A Yes.

8 Q And where did the meeting take place in Washington,
9 D.C. ?

10 A Well, we met at the airport and subsequent to that
11 we met at Mr. Mitchell's office. t 1213

Q And when you say Mr. Mitchell, are you referring to
John Mitchell?

14 A Yes.

15 Q And how do you know it was John Mitchell who you
16 met?

17 A Well, I had seen his photograph many many times and
18 he was introduced to me as such.

19 Q And where was this located, do you recall?

20 A No, I do not recall the street address.

2 Q Do you recall whether there was any business name
2 on the door or in the building?

2 A No, I was later told that those were the offices of

t 2 Global Research.

2 Q Now, Mr. Martinez, when you were at this meeting

246

1 what if anything did you discuss?

2 A well, we talked very small talk. We didn't talk

3 about any specific matter of the contracts at hand.

4 There was a mention of how my partner who had had polio,

5 that he could not walk very well, and former Attorney

6 General Mitchell said that when people are drunk they

7 also could not walk very well.

8 Q Now, aside from --

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9 MR. WEHNER: Your Honor, side bar conference?

10 THE COURT: All right.

11 (Bench conference)

12 MR. WEHNER: Your Honor, I renew my objection

13 to the statements of Mitchell based on the proffer of

14 Mr. O'Neill. We have not only the statements of Nunn

15 but now we have the statements of John Mitchell who is

16 dead and is not available to be called as a witness and,

17 again, there is no showing that Mitchell was a member of

18 the conspiracy. Therefore, his statement should not

19 come in as co-conspirator statements and, more

20 importantly, that Miss Dean was a member of any

2 agreement involving this.

2 MR. O'NEILL: Your Honor, I will be intending

2 to elicit at this time the statement by either Mitchell

2 or Nunn and I believe it goes to weight, that's the

2 Government's position, since we cannot tell which one it

I 247

is who says that John Mitchell is related to Deborah

1

Dean and that she is an important person at HUD.

3

2

THE COURT: How did this come in as part of

4

the conspiracy? I have the conspiracy in mind. You're

5 alleging at this point there's an illegal agreement, an

6 agreement to commit illegal acts by Nunn and Martinez

7 and Mitchell, is that right?

8 MR. O'NEILL: That's correct, Your Honor.

9 THE COURT: what evidence is there going to

f

10 come in that they've agreed that they're going to do

11 some improper activities with Deborah Dean or others at

12 HUD in this project, if having a consultant is illegal?

13 MR. O'NEILL: Judge, it's going to be

14 circumstantial. The Government has no proof, direct

15 proof of a conspiracy. We have no person on the inside,

16 nor do we need that. The circumstances, the Government

17 contends, will show that there's a conspiracy and that's

18 what we're basing our entire proof on. There is no

19 direct evidence. We do not have somebody on the inside

20 who is going to say we did that. We have some HUD

2

employees who will say they did that and later on that

2

will come in, but as to these individuals right now it
2

is entirely circumstantial.
2

THE COURT: well, my concern about letting
2

statements like that in when one has identified a

I 1 person, that has to be stricken later, and to try to get

2 it out of the jury's mind. At least at this stage I
3 don't see the proffer. I'll have to hear from some of
4 these witnesses eventually as to the status of the
5 conspiracy at this time. There's no evidence that Miss
6 Dean is in on this at this point, that she's agreed to
7 become a member of the conspiracy or does later, that
8 would tie this conversation against her. There's no
9 inference of impropriety by the fact that somebody said
10 -I

don't know if Mr. Nunn said this or not to
11 Mitchell, but that Deborah Gore Dean is an important
12 person, she's at HUD. I don't know what connotation you
13 want to take from that that there's some kind of illegal
14 arrangement. I don't know how -if

I let it in based
15 upon a proffer that there would be circumstantial
16 evidence as to create a conspiracy -
17

MR. O'NEILL: If there is not, Your Honor,
18 won't you have to dismiss the entire first three
19 counts?

20 THE COURT: Yes, but the evidence is in there,
2 at any event, in front of the jury. They've heard that,
2 whatever this conversation is supposed to purport to be.

2 MR. O'NEILL: we'll try to do it without the s 22
conversation, Judge.

THE COURT: And where it goes. I don't know

I 1 where it goes. To try to get it out of their minds with

2 respect to the other counts once it's in there -I'd
be
3 more sanguine about it if there are some more witnesses
4 that would testify as to what operations happened with
5 Mr. Nunn and maybe Mr. Nunn gets up there and says he
6 went over there and talked to her, whatever he's going
7 to say. That they didn't go through proper channels to
8 get the award and the award was done improperly, not
9 according to HUD regulations, and then inferences can be
10 made from that. I think you may have to bring him back.

11 MR. O'NEILL: Right. The only thing I can't
mention is what I mentioned previously about the July
5th letter in which he mentions a conversation with John

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14 Mitchell and assures that 293 units will be funded.
15 THE COURT: what is Mr. Nunn going to say as
16 to this conversation about Dean sort of on the inside
17 here?
18 MR. O'NEILL: As to this particular
19 conversation?
20 THE COURT: Yes, what he heard of this
2 conversation,. Does he recall it?
2 MR. O'NEILL: Your Honor, I don't know.
2 THE COURT: All right. I'm going to sustain

s 2

the objection at this time, pending further evidence.

2

If you want to bring Mr. Martinez back to go through the

c 1 conversation with Mr. Nunn if he recalls it, that's

2 fine. But right now it's very skimpy, the proffer and
3 the evidence that I've seen so far of Miss Dean's
4 involvement. I don't know what the evidence is going to
5 be. Maybe you can inform me where her job was and the
6 position that she had, and this took place in April of
7 '84 and she was not yet a Special Assistant to the
8 Secretary unless she was acting Special Assistant or
9 something. That's not reflected in the record. Was she
10 already working for the Secretary directly?
11 MR. O'NEILL: I don't know the exact date. e
1213

THE COURT: You have to tie it in with that.
I'll sustain it at this time.

14 (Bench conference concluded)

15 THE COURT: All right. It's sustained. Go to
16 another question

17 MR. O'NEILL: Thank you, Your Honor.

18 BY MR. O'NEILL:

19 Q Mr. Martinez, you mentioned your meeting with
20 John Mitchell at Global Research. Was that the only
2 time that you met with John Mitchell in relation to
2 Arama?

2 A Yes.

t 2 Q Now, when you hired Mr. Nunn to represent you as a
2

consultant and attorney in order to get Moderate

1 Rehabilitation units for Arama, to your knowledge, were

you hiring anyone else?

3 A No.

4 Q Did you know whether Mr. Nunn was hiring anyone
5 else?

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6 A No.

7 Q Did there come a point in time, Mr. Martinez, that
8 you received a notice that Arama was indeed funded?

9 A I remember being told by Governor Nunn that that

10 was the case.

11 Q And that was the first time you recall being told

t 12 that Arama would be funded?

13 A Yes.

14 Q Mr. Martinez, I will now show you what's
15 previously been marked as Government's Exhibit 29 for
16 identification.

17 THE DEPUTY CLERK: Government's Exhibit 29

18 marked for identification.

19 (Government's Exhibit 29 marked for

20 Identification)

21 BY MR. O'NEILL:

22 Q I'd ask you not to refer to it at this time. I put
23 the cart before the horse. Do you recall when you - do
24 you recall when you were informed by Mr. Nunn that Arama
25 had been funded?

1 A No.

2 Q Does Government's Exhibit 29 for identification
3 refresh your recollection?

4 A Yes, there's a date on that letter.

5 Q And when were you informed that Arama would be
6 funded?

7 A On or about the date of the letter.

8 Q Well, does that refresh your recollection as to
9 when it was funded, that you learned of the funding?

10 A Yes.

11 Q And what was that date? c

1213

A July, 1984.

Q what if anything did you do after receiving a
14 notice that Arama was going to receive the funds? In
15 other words, did you go to the local PHA?

16 A I may have done that, yes.

17 Q And what if anything did you do at the local PHA?

18 A I may have advised them that the funding would be
19 forthcoming.

20 Q Now, based on your experience, wouldn't the PHA
2 notify you of the funding?

2 A Not necessarily.

2 Q why is that?

c 2 A Because most, if not all, of the funding that the
PHA was receiving at that time came from developers like

1 me.

2 Q And how did developers like you obtain funding for

the local PHA?

4 A well, I don't know how anybody else did it but I

5 know I hired -

6 Q How did you do it?

7 A I hired a lobbyist-consultant.

8 Q And why did you hire a lobbyist-consultant?

9 A Because I had no other way of getting a -- the

I

10 subsidy to Dade County.

11 Q Were you able to get it by yourself?

12 A No.

13 Q Now, are you a rather large developer at that time

14 down in Florida?

15 A Well, I don't know what constitutes large

16 developer.

17 Q Did you do a lot of housing work with the local

18 PHA.

19 A Yes, I did.

20 Q And you were not able to get Mod Rehab units from
2 them?

2 A They were not able to get them, period. They
2 couldn't give out whatever they couldn't get.

s 2 Q Now, as to Arama, Mr. Martinez, do you know what
2

Louie Nunn did in order to obtain those units that were

254

1 funded?

2 A No, sir, I do not.

3 Q And how many units did you ultimately get?

4 A Well, the project ultimately consisted of 293
5 apartment units.

6 Q And did you in fact get funding for that?

7 A Yes, sir.

8 Q Now, Mr. Martinez, did there come a point in time

9 when you paid Mr. Nunn his fee for getting you these Mod
10 Rehab units?

11 A Yes.

t 1213

Q And subsequent to that did there come a point in
time where you again sought his services in order to
14 gain Mod Rehab units for a project known as South
15 Florida One?

16 A Yes.

17 Q And do you recall approximately when that
18 occurred? Do you know the year?

19 A 1986, I believe.

20 Q And why did you go to Louie Nunn to help you get
2 these Mod Rehab units on South Florida One?

2 A A, because he was my friend, B, because we had
2 already been successful.

s 2 Q And did you enter into an agreement again with
2

Mr. Nunn?

t 255

1 A Yes.

2 Q And what did that agreement call for you to pay
3 Mr. Nunn if he was successful in getting you Mod Rehab
4

units?

5 A I believe it was \$219,000.

6 Q And what was your understanding as to what he was
7 going to do in order to earn this fee?

8 A He was going to obtain or help to obtain funding of
9 Mod Rehab units for Dade County, Florida.

10 Q what was your understanding as to how he was going
11 to accomplish that task?

t 12 A How?

13 Q Yes.

14 A I don't know how.

15 Q Now, did there come a point in time when you
16 actually received an award for South Florida One?

17 A Yes.

18 Q And how did you learn that South Florida One was
19 funded?

20 A Probably Governor Nunn told me.

2 Q Did there come a point in time where you paid

2

Mr. Nunn his fee on South Florida?

2 A Yes.

t 2 Q Now, as to either Arama or South Florida , other
2

than the one trip you told us about previously going to

256

1 Washington to see Mr. Mitchell, did you ever go to
2 Washington to meet with anybody at HUD headquarters?

3 A No.

4 Q Now, Mr. Martinez, I would like to show you a
5 couple of documents.

6 Mr. Martinez, at this time I will show you
7 what's previously been marked Government's Exhibit 24
8 for identification purposes.

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9 THE DEPUTY CLERK: Government's Exhibit 24
10 marked for identification.
11 (Government's Exhibit 24 marked for
12 Identification)
13 BY MR. O'NEILL:
14 Q And I'd ask you if you recognize that?
15 A Yes, that's my signature.
16 Q And did you write this letter?
17 A Yes.
18 MR. O'NEILL: Your Honor, at this time I'd
19 move it into evidence as Government's Exhibit 24.
20 MR. WEHNER: No objection, Your Honor.
2 THE COURT: All right, 24, no objection. Then
2 it's admitted.
2 (Government's Exhibit 24 received
2 into Evidence)
2 BY MR. O'NEILL:

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12/13/2005 10:27:10 AM
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12/13/2005 10:27:14 AM
blank)
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1 Q Mr. Nunn, what is the date of this letter?
2 A I beg your pardon?
3 THE COURT: Mr. Martinez.
4 Q Excuse me, Mr. Martinez. What is the date of this
5 letter to Mr. Nunn?
6 A March 20, 1986.
7 Q And to where is it addressed?
8 A To Global Research.
9 MR. WEHNER: With the Court's permission, I
10 believe that the letter is dated March 20, 1984.
11 A I'm sorry, yes, you're right.
12 THE COURT: All right. Thank you.
13 BY MR. O'NEILL:
14 Q At this time, Mr. Martinez, I would show you what
15 has previously been marked Government's Exhibit 25 for
16 identification.
17 THE DEPUTY CLERK: Government's Exhibit 25
18 marked for identification.
19 (Government's Exhibit 25 marked
20 for Identification)
2 BY MR. O'NEILL:
(Rectangle comment Administrator
12/13/2005 10:27:18 AM
blank)
2 Q And I'd ask you if you recognize this?
2 A That is my signature.
2 Q Did you write this letter?
2
(Rectangle comment Administrator
12/13/2005 10:27:22 AM
blank)
A It is my signature, yes, I -

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1 Q And I note there are two attachments to this letter
2 that are referenced in the body of the letter.

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3 A Yes, r sir.

4 Q Did you attach these attachments to that letter?

5 A Yes, , sir.

6 MR. O'NEILL

7 move Government's 25

8 MR. WEHNER:

9 Honor?

10 THE COURT:

11 MR. WEHNER:

12 Excuse me,

13 for a second?

14 THE COURT:

15 MR. WEHNER:

16 THE COURT:

17

18

19 BY MR . O NEILL:

: Your Honor, at this time I'd
into evidence.

Could I have one second, Your

Yes, sure.

Thank you.

if I may consult with Mr. O'Neill

Yes.

No objection, Your Honor.

All right, 25 will be admitted.

(Government's Exhibit 25

received into Evidence)

20 Q Mr. Martinez, again, who is this letter addressed
2 to?

2 A Governor -it

says Nuss but it's Nunn.

2 Q It's misspelled?

2 A Yes.

2 Q And where is it located? where is he located in

1 this letter?

2 A The letter is addressed to Global Research.

3 Q Mr. Martinez, at this time I'd show you what has

4 previously been marked Government's Exhibit 32 for

5 identification.

6 THE DEPUTY CLERK: Government's Exhibit 32

7 marked for identification.

8 (Government's Exhibit 32 received

9 into Evidence)

10 BY MR. O'NEILL:

11 Q And I ask you if you recognize this?

12 A Yes.

13 Q And is that your signature that appears on this

14 document on the last page?

15 A Yes, sir.

16 MR. O'NEILL: I move it into evidence, Your

17 Honor, as Government's Exhibit 32.

18 MR. WEHNER: No objection, Your Honor.

19 THE COURT: All right, 32 will be admitted.

20 (Government's Exhibit 32 received

2 into Evidence)

2 BY MR. O'NEILL:

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2 Q Mr. Martinez, what is this?

2 A It's an escrow agreement for the payment of a
2 portion of a fee to Governor Nunn.

260

1 Q And on what project was -- were those payments to
2 be made?

3 A From my understanding is that it's in connection
4 with Arama, Limited.

5 Q At this time then, Mr. Martinez, I'll show what you
6 has previously been marked as Government's Exhibit 39
7 for identification.

8 THE DEPUTY CLERK: Government's Exhibit 39
9 marked for identification.

10 (Government's Exhibit 39 marked
11 for Identification)

12 BY MR. O'NEILL:

13 Q And I ask you if you recognize it?

14 A Yes, that's my signature.

15 MR. O'NEILL: I move this into evidence, Your
16 Honor, as Government's Exhibit 39.

17 MR. WEHNER: No objection.

18 THE COURT: All right, 39 will be admitted.

19 (Government's Exhibit 39 received
20 into Evidence)

2 BY MR. O'NEILL:

2 Q To whom was this letter addressed, Mr . Martinez?

2 A To Governor Nunn.

2 Q And what is the date of the letter?

2 A May 21, 1986.

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1 Q I would direct your attention to the second page of
2 the letter, below your signature?

3 A Yes.

4 Q And it says C.C. or carbon copy, Colonel Jack
5 Brennan, with enclosure?

6 A Yes.

7 Q who is Colonel Jack Brennan?

8 A I do not know.

9 Q why is that on this letter?

10 A Governor Nunn asked me to send him a copy.

11 Q Mr. Martinez, I will now show you what's previously
12 been marked Government's Exhibit 46 for identification?

13 THE DEPUTY CLERK: Government's Exhibit 46
14 marked for identification.

15 (Government's Exhibit 46 marked for
16 Identification)

17 BY MR. O'NEILL:

18 Q And I ask you if you recognize it?

19 A Yes, sir, that's my signature.

20 Q Okay.

21 And at this time, Your Honor, I'd move it into
22 evidence as Government's Exhibit 46.

23 MR. WEHNER: No objection, Your Honor.

24 THE COURT: All right, 46 will be admitted

25 (Government's Exhibit 46 received into

1 Evidence)

2 BY MR. O'NEILL:

3 Q And, Mr. Martinez, what is this document?

4 A It's the agreement to pay Governor Nunn a certain

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5 amount of dollars in connection with services that I
6 described.
7 Q Was that on South Florida One?
8 A Yes.
9 Q At this time, Mr. Martinez, I show you what has
10 previously been marked Government's Exhibit 48 for
11 identification.
12 THE DEPUTY CLERK: Government's Exhibit 4 8
13 marked for identification.
14 (Government's Exhibit 48 marked for
15 Identification)
16 BY MR. O'NEILL:
17 Q And I'd ask you to look at that and ask you if you
18 recognize it?
19 A Yes. That's my signature.
20 Q Is that your signature?
2 A Yes.
2 MR. O'NEILL: I move that into evidence, Your
2 Honor, as Government's Exhibit 48.
2 MR. WEHNER: No objection, Your Honor.
2 THE COURT: All right, with no objection, 48

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1 is admitted.
2 (Government's Exhibit 48 received
3 into Evidence)
4 BY MR. O'NEILL:
5 Q Again, Mr. Martinez, I show you a document
6 previously identified as Government's Exhibit 50.
7 THE DEPUTY CLERK: Government's Exhibit 50
8 marked for identification.
9 (Government's Exhibit 50 marked for
10 Identification)
11 BY MR. O'NEILL:
12 Q And I ask you to look at that and ask you if you
13 recognize it?
14 A Yes.
15 Q And what do you recognize?
16 A That is my signature.
17 MR. O'NEILL: I move it into evidence, Your
18 Honor, as Government's Exhibit 50.
19 MR. WEHNER: No objection, Your Honor.
20 THE COURT: All right. 50 is admitted.
2 (Government's Exhibit 50 received
2 into Evidence)
2 BY MR. O'NEILL:
2 Q And finally, Mr. Martinez, I show you a document
2 previously marked as Government's Exhibit 61A.

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1 THE DEPUTY CLERK: Government's Exhibit 61A
2 marked for identification.
3 (Government's Exhibit 61A marked for
4 Identification)
5 BY MR. O'NEILL:
6 Q I ask you if you recognize it?
7 A Again, that is my signature, yes.
8 MR. O'NEILL: I move this into evidence, Your
9 Honor, as Government's Exhibit 61A.
10 THE COURT: All right.
11 MR. WEHNER: Your Honor, may I consult with
12 Mr. O'Neill for a second, please?

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13 THE COURT: Yes.
14 MR. O'NEILL: Your Honor, with one revision
15 there should be no problem. We're taking out the third
16 page.
17 THE COURT: All right, with the third page
18 taken out it will be received.
19 MR. WEHNER: No objection, Your Honor.
20 (Government's Exhibit 61A received
2 into Evidence)
2 MR. O'NEILL: I have no further questions at
2 this time, Your Honor. Thank you.
2 THE COURT: All right, ladies and gentlemen,
2 what we're going to do at this time is to take the

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1 evening recess rather than go through
2 cross-examination. We'll be back tomorrow morning and
3 we'll proceed. We'll come in at 9:30 in the morning and
4 be ready to go shortly after 9:30.
5 Remember my admonition tonight again, please.
6 Do not talk about this case among yourselves or with
7 anybody else. Don't read or see anything about this
8 case. Have a pleasant evening. See you tomorrow at
9 9:30.
10 (Jury dismissed)
11 THE COURT: Mr. Martinez, tomorrow morning you
12 will be back.
13 THE WITNESS: Yes, sir.
14 THE COURT: Thank you. 9:30. All right.
15 We'll resume then at 9:30 in the morning.
16 (Proceedings recessed at 4:45 p.m. to resume
17 September 15, 1993 at 9:30 a.m.)
18 CERTIFICATE OF OFFICIAL REPORTER
19 It is certified by the undersigned Official Court
20 Reporter of the United States District Court for the
2 District of Columbia that the foregoing is the official
2 record of the proceedings indicated.
2
2

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IGAO CO.. BAVONNE,

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1 UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
2
UNITED STATES OF AMERICA, Criminal No. 92-181-01
3
vs. Washington, D.C.
4 September 15, 1993
DEBORAH GORE DEAN, 10:00 a.m.
5
Defendant.
6

7
TRANSCRIPT OF JURY TRIAL
8 BEFORE THE HONORABLE THOMAS F. HOGAN

UNITED STATES DISTRICT JUDGE

9

VOLUME III

10

APPEARANCES:

11

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14

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3 17

ALSO PRESENT: MARK BATTS

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5

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PROCEEDING S

2 (In chambers, Defendant present.)
3 THE COURT: All right, this is, I guess, Wednesday,
4 September 15, and counsel for defendant requested a chambers
5 status call on the record. Ms. Dean is here, as well as the
6 government attorneys.
7 MR. WEHNER: Your Honor, if Your Honor recalls the
8 proceedings over the past month or so, we've had several
9 arguments and heated debates about the production of Jencks and
10 Brady material, and if Your Honor will recall, approximately
11 ten days or so ago, we agreed to a confidentiality order which
12 prohibited us basically from disclosing this evidence anywhere
13 except for proper use in the courtroom.
14 Yesterday afternoon, the Independent Counsel handed to
15 me what they called a Gialio production for Jack Brennan, and
16 in it was included a number of transcripts, including one of

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17 Ms. Dean's mother that has significant redactions in it. I would
18 like the Court to review all of the redacted material to
19 determine whether it is properly producible.
20 And I am sorry I have to make that request to the
21 Court, but I am not able to know whether that material is good
22 for cross examination or is not good for cross examination or is
23 totally irrelevant or is related. I'm just in the dark and have
24 no way of knowing. And I apologize for having the Court go
25 through this.

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1 THE COURT:
2 testimony or what?
3 MR. WEHNER:
4 THE COURT:
5 MR. WEHNER:
6 THE COURT:

This is a transcript of an interview or

Grand jury testimony.
Grand jury testimony of Ms. Dean's mother?
Yes, sir.
Okay. Wait a second, why was that produced

7 now, as opposed to if she's going to be a witness? What does it
8 have to do with Jack Brennan?
9 MR. O'NEILL: Any part that might have possibly had any
10 bearing on the credibility of Jack Brennan.
11 THE COURT: I see.
12 MS. SWEENEY: This was what we had explained, Your
13 Honor, that we tried to go through and identify any reference -
14 THE COURT: I see, all relationships.
15 MS. SWEENEY: --to the individual who would be
16 testifying.
17 THE COURT: All right.
18 MS. SWEENEY: And even if it wasn't, we believed, true
19 Giglio. because of Mr. Wehner's concerns and the difficulties
20 we've had, we were going to be producing them.
2 THE COURT: So Ms. Dean's mother went before the grand
2 jury and testified in this case?
2 MS. SWEENEY: Yes, Your Honor.
2 MR. WEHNER: Yes, sir. I represented her at that
2 point. She did testify for about half an hour or so.

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1 But I give Your Honor another example. Here is a
2 Jerris Leonard interview that is basically 85 percent blacked
3 out.
4 THE COURT: All right. And the redactions are because
5 it doesn't deal with anything related to this testimony by
6 Mr. Brennan?
7 MS. SWEENEY: Yes, sir.
8 MR. O'NEILL: If we're talking about Mr. Brennan, for
9 instance, his Jencks material has been turned over unredacted.
10 THE COURT: Right.
11 MR. O'NEILL: Giglio is any impeachment material,
12 even any possible impeachment material about the person. It does
13 not mean you have to get the entire report, just the reference to
14 the person.

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15 MR. WEHNER: Judge, I agree, it doesn't mean you have
16 to get the entire report, but it also doesn't mean that the
17 Independent Counsel at its own 100 percent discretion determines
18 what is produced and what isn't.
19 THE COURT: well, I don't, except for this one thing -
20 well, it looks like the only reference I see here is that
2 Mr. Leonard -- I might know his lawyer here in town -- says he
2 hadn't heard anything about the rehab process. But I'm not sure
2 that's Giglio material for Mr. Brennan.
2 MR. WEHNER: I don't know whether it is or not, Judge.
2 THE COURT: All right.

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MR. WEHNER: We can't tell.
2 THE COURT: Let's get back in the trial. I'll have the
3 government give me the -
what documents are you looking for?
4 Are you looking for Ms. Dean's mother's testimony and the Leonard
5 testimony?
6 THE DEFENDANT: And Tully.
7 THE COURT: I'll go through those and just see if there
8 is any pattern that can be established that the government is not
9 being productive. I'm not sure what the government had to be or
10 not.
11 MR. WEHNER: James Tully would then be a third, because
12 90 percent of whatever he said in front of the grand jury is
13 blacked out. Now I think we have the right to have the Court
14 review all redactions.
15 THE COURT: well, I'll review a few now to see what the
16 pattern is and compare it to what's been produced and then see
17 whether or not I think it's necessary to review all other
18 redactions under Giglio. Certainly under Jencks, I have to
19 review all the Jencks. This is not Jencks material. All right,
20 I'll review those again.
21 Today we hear from whom?
22 MS. SWEENEY: Your Honor, may we address a related
23 matter?
24 THE COURT: Sure.
25 MS. SWEENEY: Your Honor, late yesterday afternoon,

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three different members of our staff observed that one of the
2 older individuals who's been accompanying Ms. Dean, an older
3 gentleman who's been accompanying Ms. Dean to court was in the
4 audience section of the courtroom and was reading a grand jury
5 transcript, what we recognized to be one of our grand jury
6 transcripts, and during one of the side bars, the individual went
7 into the well, handed it back to Ms. Dean.
8 That was precisely the reason, Your Honor, that we
9 asked for the confidentiality order, and we're quite concerned.
10 MR. WEHNER: Quite concerned. Do you know who that is?
11 That is a lawyer, Judge.
12 THE COURT: I know who it is.
13 MR. WEHNER: Ms. Dean, who is that person on the
14 record?
15 THE DEFENDANT: It's my Uncle Jimmy, and he has -
16 members of my family have been trying to help Steve and I
17 organize the vast amount of paper, and so they've been putting
18 things in files, and one of the files that he had been working on
19 was Mr. Martinez, and he had misunderstood something. He only
20 had one page, and he handed it to me. And he completely
21 misunderstood what it was.

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22 And it was not about anything to do with Mr. Martinez.
23 It was about a HUD form, and it said something about revised 185,
24 and he thought revised meant that someone had changed something.
25 It was just inconsequential. They're just trying to

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1 help.
2 MR. WEHNER: we're using it for preparation of our
3 defense, and we're entitled to do it.
4 THE COURT: wait a second. what does the confidential
5 order -- didn't it just say you and Ms. Dean?
6 MR. WEHNER: No.
7 THE COURT: It didn't restrict it to -
8 MR. WEHNER: No, sir. It said we could use it in the
9 preparation of our defense.
10 THE COURT: well, I think you'd better tie it down a
11 little bit. I'm not sure that people who are not lawyers
12 actually in the case should be reading sealed materials.
13 MR. WEHNER: I don't think it's sealed, Judge. It's
14 not a seal anymore.
15 THE COURT: well, grand jury.
16 MR. WEHNER: No, sir, not when it's made producible
17 under Jencks.
18 THE COURT: Under the confidential agreement, it's
19 supposed to not be shown around. I have some concern about you
20 showing it around to whoever may be assisting in the case, may be
2 a lawyer or cousin. I have no idea who those people are, if they
2 understand the terms of the confidential order or not, what we're
2 supposed to tell other people.
2 THE DEFENDANT: we did talk to them about the
2 confidential order.

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1 THE COURT: I'm not going to spend some time about it
2 this morning. I'm going to pull the confidential order this
3 afternoon and perhaps get a chance at lunch to look at it, and
4 we're going to get some guidelines established exactly who's
5 going to be looking at what.
6 MR. WEHNER: You know, Judge, the confidentiality order
7 provides not for disclosures except for the proper presentation
8 of the defense. Now there has been no indication that that has
9 been used in any other way.
10 THE COURT: well, I think we'd best be sure who's
11 looking at what.
12 MR. WEHNER: Just for Your Honor's information, we
13 don't -- and I told Mr. O'Neill this yesterday evening --we
14 don't have any questions for Mr. Martinez. I informed
15 Mr. O'Neill of that yesterday evening that we might not.
16 THE COURT: You've got no redirect?
17 MR. O'NEILL: No, Judge.
18 THE COURT: Unless you come up with something else on
19 part of your direct.
20 who's your next witness?
2 MS. SWEENEY: Our next witness is David White.
2 And we have one other matter, Your Honor, related to
2 the -2
THE COURT: who else is coming today, just so I know
2 what you're reading in the redacted documents?

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1 MS. SWEENEY: We have a HUD custodian that we may have
2 to call if a document cannot be admitted otherwise, and then we
3 have Mr. Brennan.
4 THE COURT: So he will be coming today?
5 MS. SWEENEY: He will be coming today.
6 We anticipate reaching Frank Gauvry and Mel Adams,
7 Martha Mitchell, and Chuck Foley.
8 THE COURT: All right. Can I see those redacted
9 materials then of Tully?
10 MR. WEHNER: I'm providing an interview report dated
11 July 29, 1992, for Jerris Leonard; grand jury transcript dated
12 March 1992 for James N. Tully.
13 THE COURT: This is Tully. And the mother, Ms. -- the
14 other one was Ms. Dean's mother, you said?
15 MR. WEHNER: Yes, sir. And a grand jury transcript for
16 June 2, 1992, of Mary Gore Dean.
17 MR. O'NEILL: Judge, if I may, what I'll do, if you're
18 going to do more, Ms. Sweeney can stay. I'll go check to see if
19 we have the unredacted copies.
20 MS. SWEENEY: I believe we did not bring the unredacted
2 of Giglio. Your Honor.
2 And, Your Honor, I had one additional matter. I'd like
2 to hand to Mr. Wehner a Gialio matter on Frank Gauvry and to
2 Your Honor as well. On this matter, Your Honor, it pertains to a
2 1972 investigation that never went anywhere, and we would ask

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1 Your Honor that Your Honor limit and preclude Mr. Wehner from
2 going into this particular matter with this witness.
3 THE COURT: All right. This is a, just for the record,
4 what this is is -- and I'll put this under seal at this time to
5 protect Mr. Gauvry from any unfair accusations -
but the FBI
6 have, according to the government, investigated hearsay
7 allegations Mr. Gauvry may or may not have unsuccessfully
8 attempted to solicit kickbacks for himself and several others
9 from the construction manager for a retirement home being built
10 in Cape May and that he may have taken other improper or illegal
11 actions in connection with that project. No federal funds were
12 involved, and prosecution was declined back in 1972.
13 I don't think that's appropriate to get into.
14 MR. WEHNER: Your Honor, it may not be fair to get
15 into, but I don't know whether it is or not, because I just
16 received the piece of paper, and the rules under Brady and
17 Giglio provide that I need to have the information soon enough
18 to investigate it and make a decision as to whether I want to use
19 it and then intelligently argue it, and I request a continuance
20 until tomorrow morning to determine whether we want to use this
2 information.
2 THE COURT: I'm going to deny that request. I don't
2 think the report that's there is a basis that even further
2 investigation would allow you to get into something that 21 years
2 ago was never prosecuted as to his credibility vis-a-vis anything

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1 that happens in this case. I don't see any -- if it was closer
2 in time to this case and had something to do with it, quite
3 obviously, if there were accusations, I just don't see how
4 Giglio material, that that's going to produce any relevant
5 information to be used in this case against the witness.
6 All right, I'm going to read through the materials as
7 soon as I get a chance at the recess over lunch hour of
8 Mr. Tully, Ms. Mary Gore Dean, and Mr. Leonard's interview to see
9 if the government has properly redacted portions that are not

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10 relevant to Giglio issues. All right?
11 MR. WEHNER: Two other matters, Your Honor: I make an
12 oral motion to the Court at this time to require the Independent
13 Counsel to produce any further Giglio material 36 hours in
14 advance of the witness testifying.
15 THE COURT: Okay. What else do you have?
16 MR. WEHNER: And secondly, this afternoon, based upon
17 what the Independent Counsel has just said about their witnesses,
18 I believe that they are going to attempt to introduce documents
19 that were found from John Mitchell's files, and I wanted to alert
20 the Court to the fact that we have strenuous objections to those
21 being admitted, because we do not believe that they are properly
22 admissible as business documents or under any other exception to
23 the hearsay rule.
24 THE COURT: These will be documents obtained from his
25 records in Global Research?

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1 MR. WEHNER: Yes, sir.
2 THE COURT: And you're going to bring some custodian in
3 or somebody from Global Research?
4 MS. SWEENEY: Yes, Your Honor. Several witnesses will
5 be testifying about the preparation of those and maintenance of
6 those documents.
7 THE COURT: Will that be this morning or this afternoon
8 or you don't know?
9 MS. SWEENEY: It's conceivable, Your Honor, that we
10 could reach Mr. Brennan this morning. His testimony will cover
11 that matter, among others, but it's not directed at that
12 particular issue exclusively.
13 THE COURT: And the objection you're going to lodge,
14 Mr. Wehner, is what, if they're going to pull these in as
15 business records?
16 MR. WEHNER: It's twofold, Your Honor. One, I do not
17 believe that any witness can satisfy the requirements of the
18 business records exception to the hearsay rule. Secondly, I do
19 not believe they are reliable enough to fall within the general
20 exception to the hearsay rule; and thirdly, even if the records
21 are properly admissible as business records, the information
22 contained on those records includes notes, I believe the evidence
23 will be, by John Mitchell, and those notes on the business
24 records are hearsay as to Ms. Dean, in addition to the over and
25 above the records being admissible.

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1 THE COURT: All right.
2 MR. WEHNER: So even if the records are admissible, the
3 statements of Mitchell, I submit, are not in furtherance of the
4 conspiracy or properly admissible under the exception to the
5 hearsay rule.
6 THE COURT: There is a case in the Court of Appeals a
7 few months ago on a business record taken. That was a receipt
8 for a television discovered in a suspect's home that was used to
9 show that that was his home and residence where they found the
10 drugs, and the Court of Appeals reversed, saying it was hearsay
11 what was written on the receipt, even though it was probably a
12 business record.
13 There was a strong dissent, but they said it's hearsay
14 what's written on that. The fact that there was a receipt could
15 be admitted, a receipt from XYZ TV repair shop, but the person

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16 that's identified on the receipt as bringing the TV in was
17 hearsay.
18 MS. SWEENEY: Your Honor, in that case, though, the
19 individual against whom it was offered did not live at that
20 address. The attempt was made to use a receipt to establish -
2 THE COURT: Right, to establish it was his place.
2 MS. SWEENEY: Residence, yes. And the place was
2 actually leased by someone else.
2 I'm familiar with the case. I can't recall the name of
2 it just at the moment.

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THE COURT: Yes.
2 MS. SWEENEY: We're preparing a brief on this issue,
3 Your Honor, and we expect to have that available before we
4 actually, or at the time that we move these into evidence.
5 THE COURT: I'll take some time to look at it then.
6 MR. WEHNER: Judge, could we have a chance to respond
7 to their brief since it's not being filed in advance of the
8 testimony apparently?
9 THE COURT: I think you'll have to go on whatever is
10 ready to be done.
11 MR. WEHNER: Yes, sir.
12 THE COURT: I think we'll probably need whoever is
13 supposed to identify these documents on the stand to talk about
14 these documents. If it has to be done outside of the presence of
15 the jury, we'll do that, but we need to lay a foundation.
16 MR. WEHNER: Your Honor said outside of the presence of
17 the jury initially?
18 THE COURT: If necessary. I'll see when he comes out
19 what he's got to say. Maybe he can just be shown the documents
20 without saying what they are in the presence of the jury. But
21 there's got to be a foundation so I have some basis on which to
22 rule on how these documents are introduced.
23 MR. WEHNER: Does Your Honor wish to rule on my oral
24 motion for a Giglio production schedule?
25 THE COURT: Talk about it with the government. I'm not

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1 going to rule upon it at this time.
2 MR. WEHNER: Thank you, Your Honor.
3 (Open court, Defendant present, Jury out.)
4 THE CLERK: Criminal No. 92-181, United States of
5 America v. Deborah Gore Dean. We have Robert O'Neill and Paula
6 Sweeney for the government, Stephen Wehner for Ms. Dean.
7 THE COURT: All right, we're ready to proceed. You can
8 bring the jury in, please.
9 THE DEPUTY MARSHAL: Yes, Your Honor.
10 (Jury in.)
11 THE COURT: All right, Ladies and Gentlemen, good
12 morning. Thank you for your patience. We had a couple matters
13 to take up with counsel. We have finished that now, and counsel
14 for Ms. Dean has announced he has no cross examination of
15 Mr. Martinez, the witness we finished with last evening, and the
16 government had no more questions, so he's been released as a
17 witness.
18 So we can now go ahead with our next witness.
19 MS. SWEENEY: United States called David White.
20 DAVID DOWNING WHITE, GOVERNMENT'S WITNESS, SWORN
2 DIRECT EXAMINATION

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2 BY MS. SWEENEY:

2 Q. Good morning, Mr. White.

2 A. Good morning.

2 Q. Mr. White, would you please state your entire name for the

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1 record, spelling your last name? And try to keep your voice up

2 so the Ladies and Gentlemen of the Jury can hear.

3 A. My name is David Downing White, w-h-i-t-e.

4 Q. Mr. White, are you presently employed?

5 A. Yes, I am.

6 Q. And what do you do for your job?

7 A. I'm an administrative appeals judge with the Social Security

8 Administration.

9 Q. Did you ever in the past work at HUD?

10 A. Yes, I did.

11 Q. And when was that?

12 A. I worked there from October of 1977 through March of 1989.

13 Q. Can you describe for us what your particular job was at HUD?

14 A. I was the assistant general counsel for administrative law,

15 and I was basically responsible for the legal matters having to

16 do with management of the department, such as the Freedom of

17 Information and Privacy Acts, the procurement system, and the

18 standards of conduct and conflict of interest program of the

19 department.

20 Q. You've just mentioned the standards of interest and --

2 standards of conduct and conflict of interest program of the

2 department. Could you give a brief description of that for the

2 members of the jury?

2 A. Every government agency has a standards of conduct

2 regulation, and it requires, it applies to all employees of the

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1 department, and the departments and agencies all have counsel on

2 standards of conduct who are responsible for advising employees

3 of the agency of the duties and responsibilities under the

4 standards of conduct regulations, and basically that was the --

5 my position was a deputy counsel in the department on standards

6 of conduct, and I was responsible for advising employees of their

7 responsibilities under the standards of conduct and supervising

8 other attorneys and other employees who worked in that area.

9 Q. Do you know the defendant in this case, Deborah Gore Dean?

10 A. Yes, I do.

11 Q. And did you meet her during the time of your service at HUD?

12 A. Yes.

13 Q. Do you recall when you first met the defendant?

14 A. No, I don't precisely recall that.

15 Q. Did there ever come an occasion when the defendant asked you

16 for a formal opinion regarding her conduct?

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17 A. Yes, there was one occasion when she asked for a formal
18 opinion.

i

19 Q. Do you recall when that was?

i

i

20 A. In February of 1984.

2 Q. And did you respond to the defendant?

2 A. Yes, I did.

2 MS. SWEENEY: Your Honor, I'm showing the witness the
2 document that's been previously marked for identification
2 Government's Exhibit 258.

3

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1 THE COURT:
2 THE CLERK:
identification.

BY MS. SWEENEY:

All right.
Government's Exhibit 258 marked for

(Government's Exhibit No. 258 was
marked for identification.)

7 Q. Mr. white, could you look at Government's Exhibit 258 and
8 tell us if you recognize that document?

9 A. Yes, I do.

10 Q. Do you recognize the signature on the document?

11 A. Yes. That's my signature.

12 Q. What is the document?

13 A. This is a memorandum to Ms. Dean from, from me concerning,
14 the subject was standards of conduct, private dealings with
15 person doing business with HUD.

16 MS. SWEENEY: Your Honor, we have a certification of
17 authenticity for Government's Exhibit 258, and based on that
18 certification from the Department of Housing and Urban
19 Development and Mr. white's identification of the document, I now
20 move Government's Exhibit 258 into evidence.

2 MR. WEHNER:

2 THE COURT:

2

2

2 BY MS. SWEENEY:

No objection, Your Honor.
All right. 258 is admitted.
(Government's Exhibit No. 258 was
received in evidence.)

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1 Q. Mr. White, I'd ask you to take a look at Government's
2 Exhibit 258 in evidence, and is this the formal opinion that you
3 provided to Ms. Dean?
4 A. Yes, it is.
5 Q. And what was the subject of this opinion?
6 A. Well, the subject was private dealings with person doing
7 business with HUD. It had to do with a question Ms. Dean raised
8 about whether it was permissible for her to share the rental of a
9 summer beach house with a former HUD employee who was continuing
10 to do business with HUD.
11 Q. In the course of providing advice on this matter, did you
12 call, did you direct Ms. Dean's attention to certain standards of
13 conduct?
14 A. Yes. That memorandum does that.
15 Q. And can you tell us where precisely the memorandum discusses
16 the standards of conduct?
17 A. Well, it covers two, it covers two points. It covers the
18 question of whether the, the sharing arrangement constituted a
19 gratuity to Ms. Dean and concludes that it did not, because each
20 of the persons renting the house was contributing equally.
2 And then it also goes on to cover the matter of whether
2 owing to the relationship with this individual, the friendship
2 and the summer beach house sharing arrangement, Ms. Dean should
2 refrain from, from handling matters coming before her in the
2 department in which this individual was involved, and it, it

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states that because the individual is a close personal friend, it
could create the appearance of favoritism or of loss of
impartiality for you to take or recommend actions which would
benefit him. You need not avoid any particular type or extent of
social conduct with him, but if you are in a position to take or
recommend actions which could benefit him or to expedite the
consideration of such matters, I would advise you to refrain from
doing so. If you are not in a position to assist him or any
other of your friends who may deal with HUD, your outside social

10 activities will raise no standards of conduct issue.
11 Q. Does this memorandum accurately reflect the standards of
12 conduct in 1984?
13 A. Yes, it does.
14 Q. Did those standards change at all during the period 1984
15 through July of 1987?
16 A. No, they did not to my knowledge.
17 Q. Now, Mr. White, this memorandum discusses close personal
18 friends. Would these same standards of conduct have any
19 application in the case of a family member as well as a friend?

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20 A. well, yes, I think that the general, the general standards
21 that this, the general standards that this memorandum relies on,
22 that is, that government employees should avoid actions which
23 might appear to amount to a loss of complete impartiality or
24 which might demonstrate favoritism, would also apply to a family
25 member as well as to a close friend.

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1 That is, they would, they would counsel that an
2 employee should not, should refrain from acting in a matter in
3 which a family member had an interest.
4 Q. Does this memorandum reflect Ms. Dean's position at the time
5 she requested this formal opinion?
6 A. You mean her government position?
7 Q. Yes, her particular job at HUD.
8 A. Yes, I believe it does.
9 Q. And what position was that, Mr. White?

10 A. Special assistant to the secretary.

11 Q. Do you know, do you happen to recall if at that time

12 Ms. Dean was serving in more than one capacity within the
13 department?

14 A. I'm not -- I don't recall.

15 Q. Did there come a time when Ms. Dean sought a different
16 position at HUD?

17 A. I believe she was, I believe she was nominated to be the
18 assistant secretary for Community Planning and Development.

19 Q. And in the course of your duties and responsibilities in the
20 general counsel's office, did you have any duties and

2 responsibilities that involved individuals who were applying for
2 positions such as assistant secretary?

2 A. Yes. My duties included the review of financial disclosure
2 statements that were, that were submitted by nominees to, to

2 positions, presidential nominees, as well as the financial

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1 statement submitted by all political appointees in the
2 department, and in that capacity, I reviewed her financial
3 disclosure statement.
4 Q. What did you do after you reviewed her financial disclosure
5 statement?
6 A. If -I
think that the, what was required in the case of a
7 presidential appointee was that after the agency, after the
8 agency official reviewed and approved the, the financial
9 disclosure statement, then it was sent to the Office of
10 Government Ethics, and from there it would be sent to the, to the
11 Senate if the nomination went forward, and I'm sure that I
12 approved it.
13 I think in, it would actually have been the general
14 counsel who made the final approval of the form and who signed
15 the letter to the Office of Government Ethics certifying that the
16 financial disclosure statement revealed no problems with respect
17 to the nomination.
18 Q. And what was your particular role in, in that approval
19 process?
20 A. I was, let us say, the first line reviewing.
2 Q. Did you ever have an occasion to talk with defendant about
2 her financial disclosure form?
2 A. Well, subsequent to, subsequent to the approval of the form,
2 I was, I attended a social event in the department, a Christmas
2 party, I believe, and I was told at that time during the course

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1 of that party -
2 MR. WEHNER: Objection.
3 THE COURT: All right. I'll sustain it, unless you can
4 show it's the defendant saying it.
5 BY MS. SWEENEY:
6 Q. Mr. White, did, did you have a conversation, just answer the
7 question yes or no, with Ms. Dean about the financial disclosure
8 form?
9 A. Yes, I did.
10 Q. And what did Ms. Dean say to you?
11 A. She said that, she said that she -- I had called her to make
12 sure that she understood that the form had been approved by our
13 office, and she said she, she knew that the General Counsel's
14 Office had approved the form but that, that she was, she had said
15 that our failure to approve it was the reason her nomination
16 hadn't gone forward.
17 Q. Did she say anything else at that time?
18 A. I don't recall. As I say, I called her to straighten out
19 what I thought was a misunderstanding, and she assured me she
20 knew what the facts were, and I think that was the end of the
2 conversation.
2 MR. WEHNER: Excuse me, Your Honor, I didn't understand
2 the, not the last answer, but the answer prior to that. Could I
2 have that read back?
2 THE COURT: All right.

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(Answer read.)
2 MR. WEHNER: Thank you, Your Honor.

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3 MS. SWEENEY: We have no further questions at this
4 time, Your Honor.
5 THE COURT: All right.
6 MR. WEHNER: Briefly, Your Honor, on that?
7 THE COURT: Yes.
8 MR. WEHNER: Good morning, Ladies and Gentlemen.
9 THE JURORS: Good morning.
10 CROSS EXAMINATION
11 BY MR. WEHNER:
12 Q. Mr. White, the government's exhibit which is on the chart
13 and has been introduced into evidence reflects in the first
14 paragraph, "Your letter of February 7 requests my opinion whether
15 you may do certain things," does it not?
16 A. Yes.
17 Q. And that is a reference, is it not, to the fact that
18 Ms. Dean disclosed this to you in order to get an opinion from
19 you; is that correct?
20 A. That's correct.
21 MR. WEHNER: Nothing further.
22 THE COURT: Any redirect, Ms. Sweeney?
23 MS. SWEENEY: No, Your Honor.
24 THE COURT: All right, thank you. Mr. White, you can
25 be excused, sir. Thank you.

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(Witness excused.)

MS. SWEENEY: Your Honor, at this time, I would offer
into evidence Government's Exhibit previously marked for
identification 27.

THE CLERK: Government's Exhibit 27 marked for
identification

(Government's Exhibit No. 27 was
8 marked for identification.)

9 THE COURT: All right. No objection? Was that a
10 stipulated exhibit?

11 MR. WEHNER: No, sir, it is not.

12 May we see Your Honor at side bar?

13 THE COURT: Let me see it.

14 (Bench conference on the record.)

15 THE COURT: May I see it, please?

16 MS. SWEENEY: We're offering it, Your Honor, based on
17 the certificate of authenticity.

18 THE COURT: Okay. What's the objection?

19 MR. WEHNER: I don't know, Judge. I haven't seen the
20 certificate of authenticity.

21 THE COURT: Oh, I'm sorry.

22 MR. WEHNER: Thank you.

23 THE COURT: We're talking about attached to the
24 certificate of authenticity is a July 5, '84 letter marked
25 Government's Exhibit 27. It's part of the, the document attached

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1 to the certificate of authenticity, which is a letter indicating
2 from Deborah Gore Dean, executive assistant secretary, to
3 Governor Nunn at Global Research, saying that she's talked with
4 General Mitchell concerning the request for additional Armana
5 rehab units and that she expects the units will be received from
6 HUD in the near future, with a red signed indication above the
7 name Deborah Gore Dean.

8 MR. WEHNER: No objection.

9 THE COURT: No? No objection?

10 MR. WEHNER: No objection.

11 THE COURT: All right.

12 This is your copy.

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13 (End of bench conference.)

14 THE COURT: All right. For the record, you indicated
15 that certificate of authenticity attached thereto, what does that
16 say?

17 MS. SWEENEY: Yes, Your Honor. There's a certificate
18 of authenticity by James R. Walker, dated the 26th of July, 1993.
19 Would Your Honor like us to have this marked as a separate
20 exhibit?

2 THE COURT: No, that's all right. It's part of Exhibit
2 27, right?

2 MS. SWEENEY: May we now publish this exhibit to the
2 jury?

2 THE COURT: All right. I'll admit Exhibit 27, that is,

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1 the certificate of authenticity, as well as the attachment being
2 admitted. The attachment is a letter which the certificate said
3 is from the records of HUD, kept in the normal course of
4 business. There being no objection, it's admitted.

5 MR. WEHNER: That's correct, Your Honor. No objection.

6 THE COURT:

7

8

9 THE COURT:

All right, thank you.
(Government's Exhibit No. 27 was
received in evidence.)
All right. The jury has had a chance to

10 read that on the big screen? Then you can go ahead, unless
11 you're going to ask a witness some questions about it.

12 MS. SWEENEY: Not at this time, Your Honor.

13 THE COURT: All right, let's go ahead.

14 MR. O'NEILL: Your Honor, before we call the next
15 witness, may we approach for one second?

16 THE COURT: All right, sure.

17 (Bench conference on the record.)

18 MR. O'NEILL: Your Honor, the next witness, you had
19 mentioned before trial anybody with immunity problems. This
20 witness did not have immunity, broached the subject last night,
2 and has, in fact, asked for it in an abundance of caution.

2 We have it drafted. It was supposed to be here this
2 morning. Apparently, it's not. So what I can do is take a
2 witness out of turn, and maybe I'll just do that, and I assume
2 after that witness, we'll probably have a break, and then we

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1 could bring it to the Court's attention we do have an immunity
2 order to be signed.

3 MR. WEHNER: Can I inquire as to which witness it is?

4 MR. O'NEILL: Oh, yes, sure. Jack Brennan.

5 MR. WEHNER: Okay. And I would like, there's no
6 indication that either I or Ms. Dean have talked to Mr. Brennan
7 for several months; is that correct?

8 MR. O'NEILL: I wouldn't have any reason to believe you
9 did, but I don't know.

10 MR. WEHNER: Thank you.

11 MR. O'NEILL: Oh, you mean whether there's an inference
12 that you were -

13 MR. WEHNER: Yeah. I just wanted to make sure that
14 wasn't in your head, Bob.

15 THE COURT: So we're going to do an immunity review
16 with this witness outside the presence of the jury? He's going
17 to come in here? Are you just going to present me an order to
18 sign?
19 MR. O'NEILL: I was just going to present you an order
20 to sign, Your Honor, and I figure if we could do that over the
2 break, it might be simpler.
2 THE COURT: who can you call?
2 MR. O'NEILL: Then we can call Martha Jeffcock.
2 THE COURT: Do you know who she is?
2 MR. O'NEILL: Martha Mitchell Jeffcock.

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1 THE COURT: She's a daughter?
2 MR. O'NEILL: She's a daughter.
3 MR. WEHNER: No objection, Judge.
4 THE COURT: All right.
5 MR. WEHNER: But I would ask for the fact that this
6 witness has asked for immunity unexpectedly raises Brady
7 questions in my mind, and I would like to know if there is any
8 Brady information that is available now that was not previously
9 available or -
10 THE COURT: This is as to Mr. Brennan?
11 MR. WEHNER: Yes.
12 MR. O'NEILL: Everything that we know about Mr. Brennan
13 was turned over in his Jencks and Giglio. There is nothing
14 other than that.
15 MR. WEHNER: So nothing has precipitated is the
16 question.
17 MR. O'NEILL: No.
18 THE COURT: The Giglio I've been given. You've given
19 me the redacted copies of it.
20 MR. WEHNER: Yes, sir. But there's nothing that's
2 precipitated his last-minute request for immunity?
2 MR. O'NEILL: When he asked for it last night, I got
2 the impression, although it's just an impression, that it might
2 have been based on conversations with other people, that other
2 people might have said something like, "well, do you have

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1 immunity?" But that's my impression.
2 THE COURT: All right.
3 MR. O'NEILL: And I did tell him that my intention was
4 not to prosecute him; however, I cannot guarantee that that
5 applies to everyone.
6 THE COURT: All right.
7 MR. WEHNER: Okay.
8 MR. O'NEILL: Okay.
9 THE COURT: well, let's take this witness out of turn.
10 MR. O'NEILL: Okay.
11 (End of bench conference.)
12 MR. O'NEILL: Your Honor, at this time, the government
13 would call Martha Jeffcock.
14 THE COURT: All right. Ladies and Gentlemen, the
15 conferences will not only be legal issues but also be scheduling
16 issues. we've got a lot of people coming from various parts of
17 the country, and we're trying to organize people here and get
18 them going a little bit. So there will be of necessity some
19 delays in getting some things accomplished here.
20 MR. O'NEILL: She's upstairs, Your Honor. One minute.

2 THE COURT: Ladies and Gentlemen, some of the witnesses
2 are located in rooms not here on the fourth floor, and if they
2 aren't expected to be called right away, sometimes it takes a
2 while to go get them. And we are switching the order of
2 witnesses a little bit, so they have to go and get this witness

1 Q. And what was that?

2 A. Friends.

3 Q. Okay. And did they live together?

4 A. Correct.

5 Q. Okay. And do you know the address at which they lived,

6 ma' am?

7 A. Which one?

8 Q. Okay. During the mid-1980s, approximately 1984 to 1987.

9 A. It's a house called Marwood, in Maryland. If you want more

10 specifics, I can't give them to you.

11 Q. Did they also have an address in Washington, D.C.?

12 A. Yes.

13 Q. And where was that?

14 A. I don't know the name of the street.

15 Q. Do you remember the part of town?

16 A. It's in Georgetown.

17 Q. Now did you ever have a business relationship with the

18 defendant, Deborah Gore Dean? Did you ever work together?

19 A. I was in the offices of my father, and Deborah was in the

20 same offices.

2 Q. Okay. And was that after the defendant left the Department
2 of Housing and Urban Development?

2 A. One year.

2 Q. Okay. And what was the defendant Deborah Gore Dean's

2 business address called --or her company called; do you recall?

1 and bring her down.

2 MARTHA JEFFCOCK, GOVERNMENT'S WITNESS, SWORN
3 DIRECT EXAMINATION
4 BY MR. O'NEILL:
5 Q. Ms. Jeffcock, I will be asking you a series of questions.
6 I'd ask you to speak in a loud voice so everyone can hear you,
7 and I'd ask you to state your name and spell it for the court
8 reporter, please.
9 A. Martha Jeffcock, M-a-r-t-h-a J-e-f-f-c-o-c-k.

10 Q. Ms. Jeffcock, in what state do you presently reside?
11 A. California.
12 Q. And how long have you lived in California?
13 A. Two-and-a-half years.
14 Q. And what was your maiden name, ma'am?
15 A. Mitchell.
16 Q. And what was your father's name?
17 A. John Mitchell.
18 Q. Now do you know the defendant in this case, Deborah Gore
19 Dean?
20 A. I do.
2 Q. And how do you know the defendant?

2 A. Family friend.
2 Q. Okay. Was there a relationship between your father and her
2 mother?
2 A. Yes.

A. NO.
2 Q. Okay. Now are you familiar with a company called Global
3 Research International?
4 A. Yes. That's my father's company.
5 Q. Okay. Now are you familiar with an individual by the name
6 of Jack Brennan, or John V. Brennan?
7 A. My father's business partner.
8 Q. Okay. Now, ma'am, did there come a point in time when your
9 father passed away?
10 A. Yes, he did.
11 Q. And what year did he pass away?
12 A. In 1988.
13 Q. After his death, did there come a point in time when you
14 took possession of certain of his papers?
15 A. Yes. Because my other family did not want them, I had to.
16 Q. Okay. And how did you go about taking his papers?
17 A. I cleaned out his office.
18 Q. Okay. And did you take any other papers from any other
19 place, such as his home?
20 A. I don't recall.
21 Q. Okay. Now after you took possession of his papers, ma'am,
22 what did you do with them?
23 A. I threw them in boxes and kept them with me, because the
24 estate was uncertain at the time.
25 Q. Now when you moved to California, did you take those

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1 documents and keep them with you?
2 A. Yes, because I had no other choice.
3 Q. Now did there come a point in time when special agents of
4 the Federal Bureau of Investigation came to California and asked

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5 you about the papers?
6 A. That's correct, they did.
7 Q. Okay. And did you give them permission to take certain
8 documents?
9 A. I told them they could look through the boxes.

10 Q. Okay. And did they take certain things?
11 A. At the time, they interviewed me, and then they left to look
12 through the papers. They never came back to tell me what they
13 took or not.
14 Q. Now, Ms. Jeffcock, are you familiar with an individual by
15 the name of Andrew Sankin?
16 A. I think he's a friend of Debbie's.
17 Q. Okay. And how about an individual by the name of Richard
18 Shelby?
19 A. I don't recall the name.
20 Q. Okay. How about Louie Nunn? Do you remember that name?
2 A. All I know is he was a business partner of my father's.

2 Q. Okay. Now what I'd like to do at this time, Ms. Jeffcock,
2 is first show you, with the Court's permission --
2 THE COURT: All right.
2 BY MR. O'NEILL:

1 Q. --a document that's previously been marked as Government's
2 Exhibit 9A.
THE CLERK: Government's Exhibit 9A marked for
identification.

(Government's Exhibit No. 9A was
6 marked for identification.)
7 BY MR. O'NEILL:
8 Q. And I'd ask you, do you recognize the handwriting on this?
9 A. No.

10 Q. I'll show you another document, Exhibit 9B.

).. BAYONNE. NJ 07002- LASER !iONO

11 A. No.
12 THE CLERK:

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13

identification.

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15
16

THE COURT:

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BY MR. O'NEILL:

18

Government's Exhibit 9B marked for

(Government's Exhibit No. 9B was
marked for identification.)
wait until he asks the question.

Q. You have to wait until I'm finished.

19

Do you recognize the handwriting on that?

B

20

PEh

A. No.

2

MR. WEHNER: Judge, I don't know what -

2

THE COURT: 9A and 9B, she's testified she does not

2

recognize the handwriting on any document.

2

MR. WEHNER: Thank you.

2

BY MR. O'NEILL:

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1 Q. Now we direct your attention to Government's Exhibit 9C for

2 identification.

3 THE CLERK:

4 identification.

5

6

7 BY MR. O'NEILL:

Government's Exhibit 9C marked for

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(Government's Exhibit No. 9C was marked for identification.)

8 Q. I'd ask you if you recognize the handwriting on that?

9 A. No.

10 Q. I would now ask you, Ms. Jeffcock, to look at Government's

11 Exhibit 9D, as in David, for identification.

12 THE CLERK: Government's Exhibit 9D marked for

13 identification.

14 (Government's Exhibit No. 9D was

15 marked for identification.)

16 BY MR. O'NEILL:

17 Q. And ask you if you recognize the handwriting?

18 A. No.

19 Q. Now I would show you Government's Exhibit 9E.

20 THE CLERK: Government's Exhibit 9E marked for

2 identification.

2 (Government's Exhibit No. 9E was

2 marked for identification.)

2 BY MR. O'NEILL:

2 Q. Do you recognize the handwriting?

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A. No.

2 Q. Now I would show you Government's Exhibit 9F for
3 identification.

4 (Government's Exhibit No. 9F was

5 marked for identification.)

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6 MR. WEHNER: Objection. May we approach the bench?
7 THE COURT: All right, sure. How many, have you got a
8 whole bunch of these?
9 MR. O'NEILL: Two more, Judge.
10 (Bench conference on the record.)
11 THE COURT: What's the purpose of having her not
12 identifying documents?
13 MR. O'NEILL: Okay.
14 THE COURT: I mean, showing her documents she doesn't
15 recognize handwriting, is it to impeach her later on or
16 something? What are you laying grounds for?
17 MR. O'NEILL: No, not really, Judge. I thought maybe
18 faced with the Court, she would identify her own father's
19 handwriting.
20 THE COURT: Oh, I see.
21 MR. O'NEILL: But apparently she doesn't.
22 THE COURT: Okay. All right. Well, I think you've got
23 enough identified for the record.
24 MR. O'NEILL: All right.
25 THE COURT: Enough unidentified for the record.

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1 MR. O'NEILL: So there are several other documents not
2 in this set. There's a diary and other matters.
3 THE COURT: Again, that you purport to be her father's
4 handwriting? It's your position it's her father's handwriting in
5 those documents?
6 MR. O'NEILL: Right. Other witnesses will say it is.
7 THE COURT: Did she work at the office of Global
8 Research for a long time, or did you just have her there after
9 Ms. Dean left? I just want to try to understand what she said
10 she did.
11 MR. O'NEILL: I'll flesh that out, Judge.
12 THE COURT: I'll let you show her a couple other
13 documents in a different group.
14 MR. O'NEILL: I won't go through the whole thing.
15 THE COURT: Just to establish whatever, but she can
16 look at it and see if she says yes, she recognizes it's his diary
17 or something. We won't go into it further.
18 MR. WEHNER: Thank you.
19 (End of bench conference.)
20 THE COURT: All right, we'll move ahead, please.
2 BY MR. O'NEILL:
2 Q. Ms. Jeffcock, at this time, I would show you what's
2 previously been marked as Government's Exhibit 10 for
2 identification.
2 THE CLERK: Government's Exhibit 10 marked for

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identification.

(Government's Exhibit No. 10 was
marked for identification.)

BY MR. O'NEILL:

5 Q. And I ask you to look at that. Ma'am, I'd ask you to look
6 through the document, please.
7 A. I'm looking through it. What would you like me to look at
8 in particular? Is there anything?
9 Q. Just look through it. Don't refer to it. It's not in

10 evidence.

11 Do you recognize that document?

12 A. No, I've never seen it in my life.

13 Q. Do you recognize the handwriting inside of it?

14 A. No.

15 Q. Would you recognize your father's handwriting if you saw it?

3 16 A. No.

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5 17 Q. Ma'am, did you ever work at Global Research International

3 18 while your father was alive?

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1 19 A. I did not. I was there in the offices.

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20 Q. You were there in the offices?

21 A. Um-hum.

22 Q. What were you doing there?

• 23 A. Basically I was trying to find a job. I was using the phone
24 and the facilities to find a job.

25 MR. O'NEILL: I have no further questions at this time,

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Your Honor.

2 THE COURT: All right. Go ahead.

3 MR. WEHNER: I have no questions, Your Honor.

4 THE COURT: All right. If that's all the questions
5 then, Ms. Jeffcock, you're free to go.

6 (Witness excused.)

7 THE COURT: Is this when you need a break?

8 MR. O'NEILL: Yes, Your Honor.

9 THE COURT: All right. I also want to ask counsel
10 about another witness in a minute.

11 All right, Ladies and Gentlemen, you haven't been here
12 too long this morning, but we're going to take our morning
13 recess, because we have to talk about availability of witnesses
14 with counsel for a moment. So we'll take a recess at this time
15 for 15 minutes. Be back at 11:15.

16 Remember the admonitions about not talking about the
17 case during the break. So you're free to go for 15 minutes.
18 (Jury out.)

19 THE COURT: Did she testify before the grand jury?

20 MR. O'NEILL: No, Your Honor.

21 THE COURT: All right. Mr. Nunn's situation?

22 MR. O'NEILL: Oh, Your Honor, Mr. Nunn's situation is
23 such that he will see his doctor on Tuesday. I have spoken with
24 his doctor. His doctor said he did have a carotid
25 endarterectomy, e-n-d-a-r-t-e-r-e-c-t -

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well, I'll give you the

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rest when I write it out.

2 MR. WEHNER: That's your medical malpractice background
3 coming through.

4 MR. O'NEILL: Committing it, I think.

5 That he can have that. The doctor as a precautionary
6 measure always advises his clients not to travel for
7 approximately three to four weeks. The 22nd is three weeks,
8 Judge.

9 I've spoken with Mr. Nunn's attorney, who has stated
10 that Mr. Nunn is feeling fine. Based on that, Dr. Mitchell said
11 if he's feeling as good on Tuesday, he will clear him for travel.
12 Mr. Manley does expect and he couldn't assure me, but unless
13 anything changes, he said he would feel relatively strong in
14 stating Mr. Nunn would be here next week.

15 THE COURT: All right, that's good.

16 All right, you're going to talk to Mr. Brennan about
17 this immunity order then?

18 MR. O'NEILL: Yes, Your Honor. We should have that in
19 two seconds.

20 THE COURT: All right. You can bring it in chambers.

21 All right, we'll take a break now.

22 (Recess from 11:00 a.m., to 11:32 a.m.)

23 THE COURT: All right. I've had submitted to me a
24 motion to compel testimony, motion to compel testimony under 18
25 U.S. Code 6002 to 6003 for John V. Brennan to give testimony on

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1 the basis that he would refuse to testify without such immunity
2 order because of his privilege against compulsory
3 self-incrimination.

4 Is Mr. Brennan here?

5 MR. O'NEILL: Not in the courtroom, Your Honor.

6 THE COURT: I think he should tell me that he's not
7 going to testify without an immunity order before I'll sign it.
8 Good morning.

9 MR. BRENNAN: Good morning, sir.

10 THE COURT: For the record, I take it you're John V.
11 Brennan?

12 MR. BRENNAN: Yes, sir.

13 THE COURT: All right. Mr. Brennan, I've had submitted
14 to me a motion to compel testimony from the Independent Counsel,
15 compelling you to give testimony and provide other information if
16 you refuse to give and provide any information on the basis of
17 your privilege against compulsory self-incrimination as to any
18 matters about which you may be interrogated in the
19 above-captioned case -- this is the Deborah Gore Dean case -
and

20 these proceedings relating thereto.

2 I'm going to sign that order, and that means that you
2 would be compelled to give testimony in this matter if you refuse
2 to do so on the basis of your privilege against self-
incrimination. Is that your desire, that you wish to have an
2 immunity order signed to compel you to testify, because otherwise

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1 you would assert your privilege in this case?

2 MR. BRENNAN: I accept that offer, Your Honor.

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3 THE COURT: well, not accept the offer, but as I
4 understand it, the representation is that you wanted this
5 immunity offer or you could invoke your privilege and not testify
6 without, unless you get immunity. Do you understand that? Is
7 that correct?
8 MR. BRENNAN: I accept the immunity -
9 THE COURT: All right.
10 MR. BRENNAN: -
or I want immunity.
11 THE COURT: All right, I'm going to find that the
12 immunity order is appropriate and necessary in this instance and
13 that you'll have to testify but do so under immunity from
14 whatever information you give as to being used against you, or
15 anything that can be obtained from that information cannot be
16 used against you. I'll sign this order here.
17 Does counsel for the defendant have a copy of this
18 motion and order?
19 MR. WEHNER: No, sir.
20 THE COURT: No? All right, here's a copy for counsel.
2 Do I have the originals?
2 MR. O'NEILL: You have the original, Your Honor.
2 THE COURT: All right. This can be filed.
2 MR. WEHNER: Yes, Your Honor.
2 THE COURT: All right, thank you, Mr. Brennan. Just

wait in the audience for one minute. We'll call you as a
witness.

3 Is this your copy?

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5 copies?

MR. O'NEILL: Yes. Would you like us to make several

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7 clerk.

THE COURT: No, that's fine. I'll get a copy from the

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I had reviewed Mr. Brennan's Jencks material submission, package that was
produced earlier, that is, at least

10 the grand jury testimony and the redactions thereto, materials
11 from interviews of Mr. Brennan, May 30, 1992, and two documents
12 which are interviews regarding recommendations for, about
13 persons, the type you do in a routine check of people's
14 background, and I don't see anything at least that I can
15 determine in the Jencks that has been redacted improperly that
16 should be produced at this time, at least from what I understand
17 his testimony.

18 Once we have his testimony, I can re-review it. If
19 there's a reason why the redactions should not stay in place and
20 the government should be required to turn over the redactions,
21 redacted portions of the Jencks materials, I can require that
22 once he testifies, but I've reviewed it, and to date, I see
23 nothing.

24 All right, if we're ready, then we can have the jury
25 brought in. We'll go ahead with the questions.

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1 (Jury in.)

2 THE COURT: All right, Ladies and Gentlemen, we're
3 ready to go after that lengthy break, and the government is ready
4 to call their next witness at this time.

5 MR. O'NEILL: Your Honor, the government calls John V.
6 Brennan.

7 THE COURT: All right.
8 JOHN V. BRENNAN, GOVERNMENT'S WITNESS, SWORN
9 DIRECT EXAMINATION

10 BY MR. O'NEILL:
11 Q. Mr. Brennan, I'd ask you to state your name for the record,
12 spelling your last name for the court reporter.
13 A. I'm John V. Brennan, B-r-e-n-n-a-n.
14 Q. Okay. Now, Mr. Brennan, for the record, are you testifying
15 today pursuant to a grant of immunity?
16 A. Yes, I am.
17 Q. Are you presently employed, sir?
18 A. No, I'm not.
19 Q. And how long have you been unemployed?
20 A. Two-and-a-half months.
2 Q. Okay. Prior to those two-and-a-half months, where were you

2 employed?
2 A. Executive Office of the President.
2 Q. Okay. And is that the President of the United States?
2 A. Yes, sir.

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1 Q. And what were you doing there?
2 A. Director of the administrative operations for the Executive
3 Office of the President.
4 Q. How long were you employed in that office?
5 A. Twenty-two months.
6 Q. Now can you briefly describe your employment prior to that
7 time?
8 A. Immediately prior, I was, I had an international business
9 consulting company called simply Brennan International for about

10 three years. From 1980 to early 1989, I was involved with a
11 corporation called Global Research International, and for --go
12 all the way back? Prior to that, I, let's see, prior to that, I
13 was, misnomer, chief of staff to the Office of former President
14 Nixon for six years.
15 Prior to that, I was military, Marine Corps aide to the
16 President, then President Nixon for five-and-a-half years. Prior
17 to that, for 16 years, I was an officer in the Marine Corps,
18 wound up being a colonel. That's about it.
19 Q. All right. Mr. Brennan, you mentioned a company called
20 Global Research International.
2 A. Yes, sir.

2 Q. During the period 1980 to 1988, can you describe the
2 company, what type of business it did?
2 A. The company was a consulting company. A lot of the business
2 was international, which was kind of my forte. I did a lot of

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the overseas travel. The company was kind of divided For most
of the first half of the decade, I was in California, and the

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company really was headquartered here in Washington, D.C. I would come back and forth. But I finally, I came back kind of permanently, I think, late '85, early '86.
Q. How many people were involved in Global Research International in approximately 1985?
A. Well, there were three principals and others on an ad hoc basis.
10 Q. Okay. When you say three principals, who were the three
11 principals?
12 A. President was, I think, still in 1985 James Tully,
13 T-u-l-l-y, myself and John Mitchell.
14 Q. Now as to Mr. Tully, by 1985, what was his involvement in
15 Global Research?
16 A. I can't remember. I think it was November of '84 or
17 November of '85 he resigned as president and remained a one-third
18 stockholder.
19 Q. Now Global Research, was it a corporation? partnership? How
20 was it set up?
21 A. It was set up as a corporation, but in fact, we operated as
22 a partnership, operating independently. I had projects, each of
23 us had projects, and we really weren't required to report to one
24 or the other. We did informally.
25 But we did, all of the monies that each of us might

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1 have made and expenses we may have incurred all were handled in
2 one checking account and distributed that way.
3 Q. And if you made monies, how were the monies divided?
4 A. Well, after paying the pills, pretty much a contingency and
5 then divided equally.
6 Q. Now you mentioned that Global Research, or GRI, did a lot of
7 international consulting work. What type of consulting work
8 would that be?
9 A. A lot of brokering. For example, I put the French
10 government with the government of the People's Republic of China
11 to sell fertilizer. Chinese wanted to buy fertilizer; the French
12 had it. They came to me and said, "How do you do this?"
13 I should have given you a different example, shouldn't
14 I? That sort of thing.
15 Q. Did you do any domestic work?
16 A. Domestic work was done, yes.
17 Q. How much of a percentage of your business would that have
18 been?
19 A. Well, I don't know. I personally did very little. The
20 company, the corporation -- the Washington -- there wasn't a lot
2 of domestic work in California. In Washington, there was some.
2 Q. How about housing-related consulting work?
2 A. We certainly didn't advertise housing-related consulting
2 work, seek it.
2 Q. Now, Mr. Brennan, are you familiar with a person by the name

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1 of Mary Gore Dean?
2 A. Yes, I am.
3 Q. And how are you familiar with her, sir?
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4 A. She's a lovely lady. She was the lady friend of John

5 Mitchell. That's mostly how I know her.

6 Q. When you say lady friend, can you describe it, what you mean

7 by that?

8 A. Well, they were frequent companions.

9 Q. Did they live together?

10 A. I'd never seen them live together. I know that he often

11 would go weekends to Maryland, where the home was, but during the

12 week was in Georgetown and always talked about cooking alone,

13 so --

14 Q. What was his address in Georgetown, Mr. Brennan?

15 A. I don't know. It was on the corner of 30th and N, as in

16 November. 30th or 31st.

17 Q. Do you know who owned that house?

18 A. Secondhand I know that. I think Mary Dean owned it.

19 Q. Okay. Now do you know Louie Nunn, the ex-governor of

20 Kentucky?

2 A. Yes, I do.

2 Q. And how do you know him, sir?

2 A. Well, I guess he was a governor when I was aide to the

2 President, and we first met that way. I think we first met when

2 he was governor of Kentucky, and I was among the guests at the

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Kentucky Derby, and we stayed in touch.

Q. Did there come a point in time when he became associated with Global Research?

A. Yes. Associated, I guess, is a certain word. When I was in California, as I mentioned, I would frequently, not frequently, but once in a while come back every four months or so. In the early '80s, I knew that he and John Mitchell were working together on projects. These involved telecommunications, and it was in the days when cellular phones were just coming into being, and they were looking for a niche in that market, and they spent an awful lot of time working on that. It did not come to a successful financial conclusion as far as GRI was concerned, but they did work for a number of years on that.

Q. And did they work out of the GRI offices in Washington?

A. No. Oh, when he came to town?

Q. Yes.

A. I don't know. He wasn't there. The days I came in, I'd go to lunch, and they'd say, "Hey, generally this is what's happening."

Q. Did there come a point in time when you personally sought to obtain mod rehab units for a particular project?

A. I guess you phrased it fairly. I was, I was involved in it, yeah.

Q. Okay. At that time, did you know what mod rehab units were?

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A. No.

2 Q. And when did that occur?

3 A. Not specifically I didn't.

4 well, I guess it had to be about '85 or '86.

5 Q. And do you recall the name of the project?

6 A. No. It was Florida, and it had Roman numerals after it,

7 Florida, some Florida I or II, something.

8 Q. Now do you recall who the developer on the project was?

9 A. I remember the name. His name was Martinez, Mr. Martinez.

10 Q. And was he out of Miami?

11 A. Near Miami.

12 Q. Okay. And where was the project itself located?

13 A. South Florida.

14 Q. Now who contacted you about obtaining mod rehab units for

15 South Florida?

16 A. Not about obtaining, but Governor Nunn called and said that

17 this project was in the works and he really couldn't get any

18 answers and didn't know where it stood and this Mr. Martinez had

19 a big investment, was getting in kind of dire financial straits

20 because of the bureaucracy in Washington, and could we speed it

21 up and let him know that it would happen or wouldn't happen so he

22 could get on with his life.

23 Q. Did you have any substantive conversations with anyone about

24 the mod rehab program?

25 A. Substantive to the degree that Governor Nunn simply asked

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1 me, Governor -- actually I'll tell you the whole story -- said

2 that he had asked John Mitchell to check into it and see what he

3 could find out for Mr. Martinez, but he, in fact, represented

4 Mr. Martinez, Governor Nunn did, and that he was frustrated

5 because he didn't find out anything. John Mitchell didn't,

6 wouldn't do anything.

7 So do you want me to continue?

8 Q. Well, let me ask you --

9 A. Go ahead, sure.

10 Q. Did you have a conversation with John Mitchell?

11 A. Pardon me?

12 Q. Did you have a conversation with John Mitchell?

13 A. I know I did. I don't remember the content. In general, I

14 said, "Hey, Governor Nunn called and would like to find out about

15 this," and John Mitchell was very disinterested, not interested

16 in discussing it at all, did not want to.

17 MR. WEHNER: May we see Your Honor at side bar?

18 THE COURT: Sure.

19 (Bench conference on the record.)

20 MR. WEHNER: We're getting back into the hearsay

2 statements of John Mitchell vis-a-vis the conspiracy issue to the

2 same one we discussed yesterday. I don't know what additional

2 conversations there are.

2 THE COURT: This is the '85-'86 time frame?

2 MR. O'NEILL: Yes, Judge.

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1 THE COURT: All right. I think it's a little different
2 aspect than yesterday.
3 MR. O'NEILL: Judge, I can even go one step further.
4 THE COURT: We have evidence from Mr. Martinez, we have
5 the letter in evidence from Ms. Dean saying she's talked to
6 Mr. Mitchell about the situation for another project related to
7 Martinez's project, related to Martinez, one of his projects.
8 You wanted to say something else?
9 MR. O'NEILL: No. Go ahead, Your Honor. I -
10 THE COURT: After I reviewed some of the other
11 materials, this part of the Jencks materials that have been
12 submitted, I think the government at least has a plausible
13 proffer at this point of the conspiracy that may have existed to
14 allow them to continue with this evidence that comes in, and I
15 think it should be later in the case or if the case is dismissed,
16 this particular charge is dismissed, I'll have to instruct the
17 jury, but it's a different status than it was yesterday when we
18 considered it, the evidence of Ms. Dean's letter regarding
19 involvement with Mr. Martinez and Mr. Mitchell and the other
20 materials as well as what materials were reviewed about
21 Mr. Brennan and the others in this Jencks area.
22 So I'm going to allow it in. I think the government
23 has made a sufficient proffer at least at this time.
24 MR. WEHNER: Thank you, Your Honor.
25 MR. O'NEILL: Thank you.

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1 THE COURT: we'll see where it goes, that is, the
2 hearsay statements of Mr. Mitchell. I'm letting in the hearsay-
3 statement of Mr. Mitchell that's just been proposed.
4 MR. WEHNER: Yes, sir.
5 THE COURT: All right. As being a co-conspirator
6 statement.
7 (End of bench conference.)
8 THE COURT: All right, go ahead.
9 MR. O'NEILL: Thank you, Your Honor.
10 Q. Mr. Brennan, when we left off, you were describing a
11 conversation with Mr. Mitchell. What did you say to
12 Mr. Mitchell, if you recall?
13 A. Well, I can tell you in general terms, it being, you know,
14 six, seven years ago, that Governor Nunn called me and expressed
15 frustration that the project, he didn't know what was happening
16 with the project and told me that he had asked General Mitchell
17 if he would look into it for him, and I mentioned that to General
18 Mitchell, that, you know, Governor Nunn had asked you and
19 nothing's happening, and the reaction was, in effect, "I'm not
20 going to do anything about it."
21 He didn't say that, but it was just from his
22 expressions, "Don't bother me."
23 Q. Did he give you any indication why he wouldn't do anything
24 about it?
25 A. At that time, he didn't. Later he said, "Yeah, Debbie works

1 there. I can't get involved in it."
2 Q. Did you tell him what you were going to do?
3 A. No.
4 Q. Did he ask you what you were going to do?
5 A. Well, wait a minute, wait a minute. At that time, he
6 didn't. I think later I told him that I would just do it.
7 Q. Okay. What did you tell him later on, Mr. Brennan?
8 A. Either that I did or I was going to contact Debbie Dean and
9 ask her if she could get the bureaucracy rolling to save this

10 man's situation.

11 Q. Okay. why were you going to contact Debbie Dean?

12 A. why would I go contact Debbie Dean?

13 Q. Yes.

14 A. She's probably the highest person I knew at HUD.

15 Q. Now, Mr. Brennan, what was your understanding as to her

16 position at HUD at that time?

17 A. I understood that she was, like, the secretary to the

18 secretary, kind of like the administrative assistant to the

19 secretary of HUD.

20 Q. what was your understanding as to what her position was in

2 relation to the Mod Rehab Program at that time?

2 A. I had no idea if she knew anything about it.

2 Q. And did you know anything about the Mod Rehab Program?

2 A. well, I knew in general, you know, that funding for

2 low-income housing, but specifics, I didn't.

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1 Q. Did there come a point in time when you contacted the
2 defendant, Deborah Gore Dean?

3 A. Yes, I did.

4 Q. How did you contact her, sir?

5 A. I called and asked if I could see her.

6 Q. Did you, in fact, set up a meeting?

7 A. Yes.

8 Q. Where did the meeting take place?

9 A. In her office at the Department of Housing.

10 Q. And who was present at that meeting?

11 A. I think just she and --no one. It wasn't a meeting. It
12 was just a short, few minutes.

13 Q. Okay. How long did it last, approximately?

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14 A. Four or five minutes.

15 Q. Now prior to that time, had you seen the South Florida I
16 project?

17 A. No.

18 Q. What, if anything, did you say to her at this short meeting?

19 A. Well, once again in very general terms, I said that Louie

20 Nunn is representing whatever, Mr. Martinez in a project in South
2 Florida, and they are frustrated by the bureaucratic holdups and

2 not being answered as to whether it would happen or whether it
2 wouldn't happen, and it would be great if she could look into it
2 and try to get, try to do whatever she could.

2 Q. And did she respond to you?

1 A. Yes. She said, "Gosh, we've given --or there's been a lot
2 issued to South Florida" or "to Dade County," I can't remember,
3 but to that area, "They've already gotten a lot."

4 Q. Did she say what, if anything, she would do in relation to
5 the project?

6 A. No.

7 Q. Okay.

8 MR. WEHNER: I'm sorry, Judge, I didn't hear that

9 answer.

10 THE WITNESS: No, she did not

11 BY MR. O'NEILL:

12 Q. Did you bring any documents with you to that meeting?

13 A. No.

14 Q. Okay. Let me show you what has been previously placed in
15 evidence as Government's Exhibit 39.

16 Mr. Brennan, with the Court's permission, I would show

17 you a document already put into evidence as Government's Exhibit

18 39. It's a letter from Art Martinez to Governor -- excuse me,

19 ex-Governor Louie Nunn, and you'll note on page 2, there's a

20 carbon copy to Colonel Jack Brennam, with an "m." It's

2 misspelled.

2 A. Urn-hum.

2 Q. Have you ever seen that document?

2 A. Pardon me?

2 Q. Have you ever seen that document?

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A. Oh, yeah.

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Q. Did you bring that document to you with Ms. Dean's office?

A. I saw this when you showed it to me.

Q. All right. Did you ever see it before then?

A. Yes, I'm sure I got it in 1986.

Q. Okay. And when you say when I showed it to you, that was in going over your testimony for today?

A. Yes, sir.

Q. Okay. Do you recall whether you brought this document with you to Ms. Dean's office?

A. My recollection is I did not. I don't remember bringing anything to her office.

Q. And just so the record is clear, did you bring in any charts or photographs or anything like that to the project?

A. No.

Q. Now was that the first time you ever spoke with the

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17 defendant about the Mod Rehab Program or any HUD matters?

18 A. As far as I can recall, it is the only time.

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19 Q. All right. Now I just ask you in a general sense, prior to

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20 this meeting, did you know the defendant, Deborah Gore Dean?

21 A. Yes.

22 Q. And how did you know her?

23 A. Well, I'm not sure. I think I was introduced by John

24 Mitchell when he started dating her mom.

25 Q. And approximately what would be the time frame?

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A. That would have been about 1980.

2 Q. Okay. Now to your knowledge, was she aware that you were
3 John Mitchell's business partner?

4 A. Yes.

5 Q. Now did there come a point in time when you learned that the
6 South Florida I project had been funded?

7 A. Yes.

Q. And how did you learn that?

A. I think, I think Governor Nunn called me.

10 Q. And do you recall what he said?

11 A. No.

12 Q. Okay. Upon learning that information, what, if anything,
13 did you do?

14 A. Well, not immediately, but a day or two later, I called

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15 Debbie and said, "I'm told that this project which Governor Nunn
16 is sponsoring has been approved, and any effort you may have
17 made, I appreciate it. He's a good man."
18 Q. Okay. Now did there come a point in time when you received
19 payment as to South Florida I?
20 A. Yes.
21 Q. And how much money did you receive?
22 A. About \$100,000.
23 Q. Okay.
24 A. That number seems very high, but I think it was -- anyway, I
25 won't comment. I won't editorialize.

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1 Q. Did you receive that payment directly, or was it in the name
2 of Global Research?
3 A. Oh, it had to be Global Research.
4 Q. And do you recall the exact amount that was paid,
5 Mr. Brennan?
6 A. You refreshed my memory, and you told me it was \$109,000. I
7 didn't remember that before you showed me that.
8 Q. Okay. And was that by a document that I showed it to you?
9 A. Yes, sir.

10 Q. Okay. Now do you recall how that \$109,000 was split up?
11 A. It wasn't split. I'm sure I just deposited it. At that
12 time, I was handling the checking account. I'm sure I deposited
13 it. I'm sure I paid bills, you know.
14 Q. Now, Mr. Brennan, are you familiar with a project known as
15 Arama, A-r-a-m-a?
16 A. No, sir.
17 Q. Okay. And are you aware of any involvement by Mr. Mitchell
18 in a project known as Arama?
19 A. No, sir.
20 Q. To your knowledge, did Mr. Mitchell receive any fees as a
2 consultant on mod rehab prior to South Florida?

2 A. Yes, I have a vague recollection, and I think you reminded
2 me or you explained to me that he had received -- oh, for South
2 Florida?
2 Q. No, no, no, prior to South Florida.

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1 A. Yeah, that he had, that he had received or the corporation
2 had received or he had received monies for helping someone else,
3 some other company. I don't remember Arama, whoever it is.
4 Q. Okay. Do you recall how much money that was?
5 A. I think you told me \$15,000.
6 Q. 15? Okay.
7 Mr. Brennan, did there come a point in time --
8 withdrawn.
9 As to the South Florida project, you mentioned before

10 it seems like a lot of money. was that money simply for your

11 involvement in the South Florida project, to your knowledge?

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12 A. Well, you showed me a letter from Governor Nunn saying,

13 "Here's money for the South Florida project," but I remind you

14 that John Mitchell had been helping Governor Nunn for six or

15 seven years, and I'm sure -- I mean, I assume that he was

16 generous because of that.

17 Q. I would show you Government's Exhibit 53 for identification,

18 and is that the letter you're referring to?

19 A. Yes.

20 THE CLERK: Government's Exhibit 53 marked for
2 identification.

2 (Government's Exhibit No. 53 was
2 marked for identification.)

2 BY MR. O'NEILL:

2 Q. Now, Mr. Brennan, is it your testimony then that it's your

1 understanding \$109,000 was for perhaps more than what you did on
2 South Florida?

3 A. Oh, I don't know.

4 Q. Okay.

5 A. When you say perhaps --

6 Q. Mr. Brennan, did there come a point in time when you learned
7 that the defendant, Deborah Gore Dean, had been nominated for a
8 higher position at HUD?

9 A. Yes.

10 Q. And from whom did you learn that?

11 A. I don't know. I don't know. It could have been the
12 newspapers; it could have been friends. I don't know for sure.
13 It could have been John Mitchell, of course.

14 MR. O'NEILL: Okay. If you would bear with me one
15 second, Your Honor and Mr. Brennan and Members of the Jury?

3 16 Q. Mr. Brennan, did there come a point in time when you sought

z

17 to help the defendant, Deborah Gore Dean, in terms of her

5 18 nomination?

19 A. Yes.

20 Q. And what, if anything, did you do?

2 A. I placed a call to the office of chief of staff at the White

2 House, who at that time was Ken Duberstein. It was an old friend
2 of mine.
2 Q. And what, if anything, did you ask him?
2 A. You know, I don't remember talking with, speaking with Ken.

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1 I spoke with his secretary and said that it sounded to me that
2 there were incredible rumors going around that were preventing
3 her from getting this job and that I wanted him to know that I
4 knew her and she was a competent, fine young lady, and I think I
5 just passed that message to Mr. Duberstein. I don't remember
6 speaking to him at all.
7 Q. Now, Mr. Brennan, do you know an individual by the name of
8 Richard Shelby?
9 A. Yes.

10 Q. How do you know Mr. Shelby?
11 A. I knew, I don't remember, I think Rick Shelby, I can't
12 remember, I think it was the 1980 campaign. I wasn't in the
13 campaign, but I had been in politics for a long time, in the
14 periphery, and he was a committeeman from Oklahoma. And I met
15 him in Oklahoma, and we had a beer and talked about it.
16 Q. To your knowledge, did John Mitchell know Mr. Shelby?
17 A. John Mitchell met Shelby. I know he did.
18 Q. Okay.
19 A. I don't know when.
20 Q. And to your knowledge, did Mr. Shelby know the defendant,
2 Deborah Gore Dean?

2 A. Well, eventually he did. Yeah, I think John Mitchell
2 introduced them. I'm not sure.
2 Q. Now, Mr. Brennan, I would show you a number of documents, if
2 I may, beginning with --

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A. I remember, excuse me, I remember seeing them or meeting
them or they were going to lunch together.
Q. "Them" meaning who?
A. Oh, I'm sorry, Debbie, General Mitchell, and Rick Shelby. I
either was in the restaurant -- I might even have been with them,
I don't know.
7 Q. Mr. Brennan, I'll show you a number of documents numbered
8 Government's Exhibit 9A through 9H, and I'd ask you to look at
9 the handwriting on those documents.

10 THE CLERK: Government's Exhibit 9A through 9H marked
11 for identification.
12 (Government's Exhibit Nos. 9G and 9H
13 were marked for identification.)
14 BY MR. O'NEILL:
15 Q. Do you recognize the handwriting, sir?
16 A. Yeah, it's John Mitchell's handwriting.
17 Q. Mr. Brennan, I'll now show you Government's Exhibit 10, and
18 I'd ask you if you could to look at this document and peruse it,
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19 please?

20 First of all, do you recognize the document?

21 A. No.

22 Q. Okay. Do you recognize the handwriting inside of it?

23 A. That which I saw is John Mitchell's.

24 Q. I will now show you, Mr. Brennan, with the Court's

25 permission --

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1 THE COURT: All right.

2 BY MR. O'NEILL:

3 Q. -- Government's Exhibit 14, and I'd ask you if you recognize
4 the handwriting on that?

5 A. That's John Mitchell.

THE CLERK: Government's Exhibit 14 marked for
identification.

(Government's Exhibit No. 14 was
marked for identification.)

10 BY MR. O'NEILL:

11 Q. Again, I would show you Government's Exhibit 15 and ask you
12 if you recognize the handwriting?

13 A. Not quite as clear.

14 say it's John Mitchell.

15

16

17 BY MR. O'NEILL:

Most of them are numbers, but I would

(Government's Exhibit No. 15 was
marked for identification.)

18 Q. Finally, Mr. Brennan -19

MR. WEHNER: I'm sorry, Judge, I didn't catch that
20 answer.

2 THE WITNESS: I said most of that page is numbers,
2 which I don't recognize, but the writing looks like John
2 Mitchell.

2 MR. WEHNER: Thank you.

2 BY MR. O'NEILL:

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1 Q. And finally, Government's Exhibit 36A for identification, do
2 you recognize that?

3 A. This is John Mitchell's handwriting.

4 THE CLERK: Government's Exhibit 36A marked for

identification.

(Government's Exhibit No. 36A was

marked for identification.)

8 BY MR. O'NEILL:

9 Q. Now, Mr. Brennan, are you familiar with the time frame in

10 which Mr. Mitchell passed away?

11 A. Oh, yes.

12 Q. And what year was that?

13 A. 1988, November.

14 Q. Okay. Mr. Brennan, did there come a point in time after his
15 death that you did something with his personal papers at the
16 offices of Global Research?

17 A. Yes. Within a day of his, or two, probably one, of his
18 death, I -- we had a mutual friend who is a top insurance agent.
19 I asked him to go through John Mitchell's desk to see if there
20 are insurance policies or any other way in which his benefactors
2 might file claim.

2 I also asked other people who worked with us, a guy
2 named Charlie Reagan, to go through his desk and see if there are
2 any, to kind of sort out papers as to what were important, seemed
2 to be important, and what were junk.

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1 They did that, and I took what everyone thought was
2 junk and put it in a hall and remember remarking how terrible it
3 was for a life like this to be left for a trash man to pick up
4 everything.

5 The rest of the papers remaining, I invited his
6 daughter --or daughters to go through and do with what they
7 will.

8 Q. And did his daughter or daughters go through the documents?

9 A. I'm sure they did. I didn't watch them, but they kind of

10 went in behind closed doors.

11 Q. Did someone come to his office?

12 A. (Nodding head.)

13 Q. And who was that?

14 A. Well, I remembered his daughter, Marti Mitchell. I don't
15 remember if his other daughters were or not.

16 Q. Now, Mr. Brennan, you mentioned a mutual friend of yours and
17 Mr. Mitchell who was in the insurance business. What's his name?

18 A. Frank Gauvry, G-a-u-v-r-y.

19 MR. O'NEILL: Thank you.

20 No further questions. Thank you.

2 THE COURT: Are you going to be a few minutes?

2 MR. WEHNER: Yes, sir. It's going to be a while.

2 THE COURT: It will be a while?

2 MR. WEHNER: Yes, sir.

2 THE COURT: All right. Then we'll have lunch instead.

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1 We'll take lunch until, Ladies and Gentlemen, until

2 1:30. Be back at that time.

3 During the recess, remember, please, do not talk about
4 the case among yourselves or with anyone else or let anyone talk
5 to you about it, and be ready to go at 1:30, please. You're
6 excused.

7 (Jury out.)

8 THE COURT: All right, you can be excused. Thank you.

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9 Be back at 1:30, please.

10 Let me ask the government on these documents -

11 MR. O'NEILL: Yes, Your Honor.

12 THE COURT: -

are you going to have other witnesses

13 identify them as well, or what's your thought about it otherwise?

14 MR. O'NEILL: An FBI agent.

15 THE COURT: We can take it up in a few minutes?

16 MR. O'NEILL: Yes, Judge. An FBI agent will come in

17 and testify that he went out to Marti Mitchell's residence, was

18 given permission to go through documents, took the documents, and

19 the documents we have are documents that he took back from her

20 files.

2 THE COURT: Okay. And are there other people who are

2 going to identify them that's his handwriting, et cetera?

2 MR. O'NEILL: There's the insurance salesman who he

2 spoke about as a mutual friend, Mr. Gauvry.

2 THE COURT: Okay. And then your proffer will be that

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1 they're business records to get them in? I mean, how are we

2 getting them in here, into evidence?

3 MR. O'NEILL: That was one position. The other is

4 co-conspirator's statements as to money made in Arama and South

5 Florida and Marbilt.

6 THE COURT: All right. what do the documents consist

7 of that you want to offer? I haven't read them all. He hasn't

8 identified them as business records yet. That's a concern I had.

9 MR. WEHNER: Your Honor, while Mr. O'Neill is getting

10 that, I'll renew my objection to the admissibility of

11 Mr. Mitchell's statements, because I do not believe that the

12 proffer is sufficient to show a conspiracy or that Ms. Dean was a

13 member of a conspiracy, and now that I've heard the testimony, I

14 don't think it was in furtherance of a conspiracy, either.

15 As to Mr. Mitchell's grunts and non-comments,

16 noncommittal references, I don't think it can be inferred to be in

17 furtherance of the conspiracy.

18 THE COURT: All right.

19 MR. O'NEILL: Your Honor, the government's proof will

20 be there are two categories of documents. The first is -

would

2 the Court want me to pass them up? Because I know what I have in

2 front of me.

2 THE COURT: All right.

2 MR. O'NEILL: It might help. Government's Exhibit,

2 Government's Exhibit 9 is several sheets. It's loose-leaf sheets

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1 from a calendar of Mr. Mitchell's, and the government would -

2 quite frankly, we're not really interested in offering them as

3 business records, Your Honor.

4 THE COURT: All right.

5 MR. O'NEILL: Our theory will be co-conspirator

6 statements.

7 THE COURT: Okay.

8 MR. O'NEILL: They show lunch dates and plans and

9 meetings between Mr. Mitchell, Mr. Nunn, and Mr. Shelby.

10 There is also -- that's out of order, Your Honor.

11 No. 10 would go next. That is Mr. Mitchell's 1986 calendar, and

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12 again, the tabbing on the side will show specific entries again

13 in which Mr. Mitchell had lunches and meetings with people like

14 Rick Shelby and Louie Nunn, which corroborates the government's

15 claim and sets forth overt acts in furtherance of the conspiracy.

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16 Government's Exhibit 14 is a handwritten note from
17 Mr. Mitchell talking about payments made by Mr. Martinez and
18 Mr. Nunn in relation to Marbilt.
19 No. 15 is a listing of monies made by Mr. Mitchell, and
20 if I may direct the Court's attention to the bottom, it shows how
2 much he made through Louie Nunn and, in parentheses,
2 Mr. Martinez.
2 Then there are -- there is one more handwriting talking
2 about the Arama Partnership again, Exhibit 3 6A. Those are the
2 ones that we've shown to Mr. Brennan and Ms. Mitchell Jeffcock.

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1 There are several additional documents, Your Honor,
2 which do not bear the handwriting of Mr. Mitchell. They are HUD
3 correspondence primarily from the defendant to Mr. Mitchell,
4 which we obtained through an FBI agent from Ms. Mitchell, and the
5 government's proof would be that those are co-conspirator
6 statements made in furtherance of conspiracy, and that will be
7 how we will get them into evidence, or attempt to do so.
8 MR. WEHNER: Do you have numbers?
9 MR. O'NEILL: Oh, there are several numbers.
10 THE COURT: Government's 17, which was Ms. Dean's
11 letter to Mr. Mitchell, you're saying her statements, there's
12 writing on the attached memorandum, handwritten comments?
13 MR. O'NEILL: Yes, there is, Your Honor.
14 THE COURT: Are those represented to be Ms. Dean's or
15 not? Does anyone know who they are?
16 MR. O'NEILL: No, Your Honor. I neglected to bring out
17 through Mr. Brennan whose handwriting that is. With the Court's
18 permission, I will re-call Mr. Brennan for that point.
19 THE COURT: All right. What else do you have?
20 MR. O'NEILL: Your Honor, Government's Exhibit 16 is a
2 handwritten note on the stationery of Silvio DeBartolomeis.
2 There's a note from Mr. DeBartolomeis to Deborah Dean concerning
2 Marbilt, and below that is a handwriting in blue ink, JNM FYI, a
2 heart, and a date, and there's been a handwriting stipulation
2 that that is Ms. Dean's handwriting.

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1 THE COURT: What does 17 relate to, that letter? Is
2 Mr. Martinez one of his projects?
3 MR. O'NEILL: Your Honor might recall Mr. Martinez
4 mentioned how he first dealt with Mr. Nunn, it was over at his
5 original company, Marbilt.
6 THE COURT: Right.
7 MR. O'NEILL: He had had problems with HUD. He had
8 hired Louie Nunn to intercede on his behalf, and Mr. Mitchell,
9 the evidence will show from Mr. Nunn if he, in fact, testifies,
10 Mr. Mitchell was paid approximately 8,000-plus for his
11 involvement in Marbilt. Mr. Nunn was paid \$42,000.
12 THE COURT: So this relates to Marbilt, these documents
13 attached, 17 and 16? All right.
14 Is Marbilt charged as one of the matters in the first
15 conspiracy at all?
16 MR. O'NEILL: As overt acts, Your Honor, yes.
17 THE COURT: It's charged as an overt act? All right.
18 I've heard of the other two projects. I heard him testify about
19 Marbilt, but I didn't recognize it as being charged. So it's an
20 overt act.
2 MR. O'NEILL: Government's Exhibit 18, Your Honor, is a
2 handwritten note to "Daddy" on Dean's stationery. There's an
2 attached memo concerning housing business. That, too, is
2 mentioned in the indictment.
2 THE COURT: This is a memo involving Philip Abrams, the

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1 regional administrator, regarding three projects?
2 MR. O'NEILL: Those are all Martinez projects.
3 THE COURT: All right.
4 MR. O'NEILL: Finally, Your Honor, there's Government's
5 Exhibit 30, which is a rapid reply, which is a funding document,
6 and there will be evidence to show what a rapid reply does, and
7 in taking that from Ms. Mitchell's files, there were several
8 attachments to that document, Your Honor. If I may pull it out
9 for you?
10 THE COURT: All right. All these materials you've
11 reviewed with me came from the documents that you said
12 Ms. Mitchell said that she took from the office and took back to
13 her residence eventually?
14 MR. O'NEILL: That's correct, Your Honor.
15 THE COURT: And you'll have the FBI to come in and
16 identify all of these, what he found in her boxes?
17 MR. O'NEILL: And the attachments on this rapid reply
18 show a special delivery from Ms. Dean to Global Research.
19 THE COURT: Armana Partnership, care of Global
20 Research.
2 MR. O'NEILL: And the government's contention is that's
2 direct evidence of a conspiracy.
2 THE COURT: There's no cover note with this or
2 anything?
2 MR. O'NEILL: No, there is not, Your Honor.

1 THE COURT: This is just Exhibit 30.
2 Mr. Barksdale is going to testify he signed off on
3 this?
4 MR. O'NEILL: Excuse me, Your Honor?
5 THE COURT: Mr. Barksdale is going to testify?
6 MR. O'NEILL: Yes, he will testify.
7 THE COURT: Do you have any other post office records
8 or anything to go with this?
9 MR. O'NEILL: No, Your Honor. Those -10
THE COURT: Let's see, this is a document from the
11 Housing of Urban Development called a request for special
12 services, item to be picked up, letter. This is a messenger-type
13 delivery?
14 MR. O'NEILL: Correct, Your Honor.
15 THE COURT: I see. I thought it was -
it's courier.
16 I thought it was the mail, but it's courier.
17 MR. O'NEILL: No, it's courier.
18 THE COURT: I see.
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19 MR. O'NEILL: In fact, a HUD courier. Just a courier,
20 for the record.
21 THE COURT: Pardon me?
22 MR. O'NEILL: For the record, a HUD courier.
23 THE COURT: HUD courier.
24 Did you confirm this with a pink or yellow copy they
25 say is supposed to be at HUD?

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1 MR. O'NEILL: No, Your Honor. It's too dated.
2 THE COURT: Yes. All right.
3 All right, Mr. Wehner, there's two separate groups of
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4 documents basically here before the Court. Let me return these.
5 One set is what's been identified by Mr. Brennan as
6 Mr. Mitchell's handwriting, and there will be someone else
7 allegedly who will come along and identify that as Mr. Mitchell's
8 handwriting. Ms. Mitchell Jeffcock insisted she didn't recognize
9 it. I assume there's someone else who will come in and say it's
10 his handwriting on those forms.
11 And they're being offered as co-conspirator statements,
12 in other words, made in furtherance and during the course of the
13 conspiracy, that is, his diary, any appointments and lunches with
14 some people mentioned in the case as well as Ms. Dean, and then
15 pages from a large appointment-type book, a standard type
16 Daytimer, 8-by-10 or so, 8-1/2-by-10 page, showing at various
17 times meetings with people apparently or lunches with people
18 alleged in this case, like Mr. Nunn, and then finally a couple of
19 exhibits indicating his handwriting, it's been identified as his
20 handwriting regarding certain projects or monies from certain
2 projects, all offered as co-conspirator statements, in essence,
2 admissions that can be used against Ms. Dean.
2 where do you go on those?
2 MR. WEHNER: with respect to the first set of
2 documents, Your Honor, I think they're totally separate from the

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letters to Ms. Dean.
2 THE COURT: Right. That's Ms. Dean's documents you're
3 talking about.
4 MR. WEHNER: Yes. The reason that we believe that the
5 Mitchell documents are inadmissible primarily is because I don't
6 believe that the evidence that has been proffered to you by the
7 Independent Counsel and the evidence you have heard to date from
8 the stand is sufficient for you to find that John Mitchell was a
9 member of a conspiracy with Deborah Dean.
10 From our perspective, the focus of this case is the
11 conspiracy as charged in the indictment, which is a conspiracy
12 with Ms. Dean, not a conspiracy between Louie Nunn, John
13 Mitchell, and Jack Brennan to do anything. There is little,
14 if -
there is actually no direct evidence of a conspiracy
15 involving Ms. Dean.
16 And I hesitated for a minute, because I wanted to be
17 sure, but I have not heard one witness testify as to anything
18 Ms. Dean did, said, or undertook that could lead the Court to the
19 inference that she was a knowledgeable participant in a criminal
20 conspiracy to defraud the United States.
21 I think looking at the case from the other perspective,
22 there are hundreds of thousands of dollars floating around.
23 There clearly was something afoot between Brennan, I could argue
24 that something was afoot between Brennan, Mitchell, and Nunn, but
25 that evidence does not directly or indirectly inculcate Ms. Dean

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1 unless she is shown to be a participant in the conspiracy, and
2 one of the standards that Your Honor has to apply in determining
3 the admissibility of the evidence is exactly that.
4 And I point that out specifically to Your Honor,
5 because there is a lack of evidence today from HUD officials,
6 inside HUD people or HUD representatives that Ms. Dean took any
7 act while at HUD in furtherance of the conspiracy that has been
8 charged.
9 Now I'm not stupid enough to predict to Your Honor
10 whether that evidence will come in or not. It may. I don't know

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11 that it exists, but maybe it will come from the witness stand.
12 But I think there is insufficient evidence today to show that she
13 was a member of a criminal conspiracy and thus these statements
14 of John Mitchell should be admitted against her.
15 It's probably a different equation, Your Honor, if you
16 considered them as admissible against the other unindicted
17 co-conspirators, and I admit that to Your Honor, but for our
18 purposes, the focus here is on whether Ms. Dean has been shown to
19 be a participant in a conspiracy.
20 Now I recognize that Your Honor is entitled to consider
2 properly the letters that are in the second group of papers Your
2 Honor is considering now, and frankly, I think those letters are
2 properly admitted as relevant evidence as to a conspiracy
2 involving Ms. Dean. They are letters to Global Research, in
2 essence, to John Mitchell, to Mr. Nunn.

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1 But innocent inference upon innocent inference does not
2 equal knowing participation in a criminal conspiracy, and there's
3 been no showing by the Independent Counsel that any of these
4 letters contained any information that was not part of the public
5 record.
6 And more importantly, Judge, the inference you get from
7 looking at the documents themselves is that at best, this was a
8 report of what HUD had accomplished or done, but that there was
9 no input into the decision-making process by Ms. Dean. Maybe
10 Maurice Barksdale will testify that Ms. Dean called me and said,
11 "You've got to do this project for John Mitchell." I don't know
12 that. I don't think he will. If he did, I would be on a far
13 less firm ground, I believe, with regards to the evidence of
14 Ms. Dean's participation in the conspiracy.
15 But even if you look at the evidence that's proffered,
16 it is at best neutral in terms of Ms. Dean's knowing involvement
17 in a criminal conspiracy.
18 And the government may have, in fact, provided
19 sufficient evidence to Your Honor to prove by a preponderance
20 that a conspiracy existed, but I do not believe the government
2 has given Your Honor enough evidence that the conspiracy included
2 knowing involvement by Ms. Dean.
2 THE COURT: All right. The government is going to
2 proffer or not going to proffer they have a witness who will
2 testify to Ms. Dean's actions at HUD in getting some of these

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1 projects approved, inquiries, suggestions, requests, demands,
2 whatever she may or may not have?
3 MR. O'NEILL: Your Honor, a number of assistant
4 secretaries from multi-family housing will testify and will
5 testify that Ms. Dean was directly involved in the funding
6 decisions on, on the projects contained in the indictment.
7 whether I can say as to each and every single one, no, but they
8 will say she was involved in the awarding of these, that she
9 played a pivotal role in the mod rehab process, that she was, as
10 the government stated in opening statement, behind the scenes on
11 all of these.
12 There will be notes admitted into evidence or attempted
13 to be admitted into evidence by the government indicating
14 Ms. Dean having handwritten notes as to units going to particular
15 geographic localities, including ones directly charged in this
16 indictment. So the government does expect to prove that.
17 MR. WEHNER: Your Honor, may I respond briefly?
18 THE COURT: All right.
19 MR. WEHNER: with respect to this specific conspiracy,
20 there is no such evidence. Now I -- and I would like to call

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2 Mr. O'Neill to give us what his specific proffer is as to the
2 conspiracy which involves John Mitchell with regard to Ms. Dean's
2 actions at HUD, because I haven't seen that evidence, and I think
2 the Court should require a more specific proffer.
2 THE COURT: Mr. Mitchell, is he named in Count 2 as

well?

2 MR. O'NEILL: No, Your Honor. He is strictly Count 1.
3 THE COURT: He's only in Count 1?
4 MR. O'NEILL: That's correct, Your Honor. The only
5 carry-over, so you know, is Richard Shelby.
6 THE COURT: Shelby is the one.
7 MR. O'NEILL: He's in both Counts 1 and 2.
8 THE COURT: All right. Are you actually offering these
9 at this time, or are you waiting for the insurance agent to
10 identify them, or what's your position now?
11 MR. O'NEILL: Yes. I'm not offering them yet, Your
12 Honor.
13 THE COURT: All right. I'm going to hold off, see
14 about the insurance agent when he comes in. I'll take a look at
15 it, only as to the Mitchell statements contained in his calendars
16 and diary and notes.
17 All right, we'll take a quick lunch break. Be back at
2
18 1:30.
1 19 (Recess from 12:34 p.m. to 1:30 p.m.)
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21
22
23
24
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AFTERNOON SESSION
2 (1:42 p.m.)
3 (Defendant present, Jury out.)
4 THE COURT: All right, we're ready to go?
5 MR. O'NEILL: Yes, Your Honor. As I noted before the
6 break, I would ask a couple questions of Mr. Brennan.
7 THE COURT: Oh, you have a couple more? All right.
8 Bring the jury in.
9 Mr. Brennan, you can take the stand again, please.
10 (Jury in.)
11 THE COURT: All right, Ladies and Gentlemen, we're
12 ready with this afternoon's session. We're going to continue
13 with the testimony of Colonel Brennan. All right.
14 MR. O'NEILL: Thank you, Your Honor.
15 JOHN V. BRENNAN, GOVERNMENT'S WITNESS, RESUMED
16 DIRECT EXAMINATION (Cont'd.)
17 BY MR. O'NEILL:
s 18 Q. Mr. Brennan, I neglected to ask you a question about a
i 19 specific exhibit before lunch, and I'd ask you, with the Court's
CO.

1 20 permission, to take a look at Government's Exhibit 17 for
2 1 identification.
22 THE CLERK: Government's Exhibit 17 marked for
23 identification.
24 (Government's Exhibit No. 17 was
25 marked for identification.)

BY MR. O'NEILL:

2 Q. And I'd note that there is a note that you have in your
3 right hand, and then there is a memo directly beneath that.
4 would you look at the memo, please? And look through the memo.
5 There's handwriting in the margins in blue ink.

6 Do you recognize that handwriting?

7 A. That's John Mitchell's.

8 Q. Now I direct your attention to a separate piece of paper,
9 it's sort of a light-brown or cream color, and there's some
10 handwriting on that. Do you recognize that handwriting?

11 A. It still looks like John Mitchell, yeah.

12 MR. O'NEILL: Thank you, Mr. Brennan. I have nothing
13 further.

14 THE COURT: All right. Ready for cross examination?

15 MR. WEHNER: Yes, Your Honor.

16 THE COURT: Thank you, sir.

17 MR. WEHNER: Good afternoon, Ladies and Gentlemen.

18 THE JURORS: Good afternoon.

19 CROSS EXAMINATION

20 BY MR. WEHNER:

21 Q. Mr. Brennan or Colonel Brennan -I
think you prefer

22 Colonel?

23 A. It doesn't matter.

24 Q. We've had the opportunity to meet on occasion in the past
25 couple years, have we not?

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1 A. Yes, sir.

2 Q. Talked from time to time?

3 A. Yes, sir.

4 Q. Okay. I'd like to direct your testimony right now to what
5 you've basically said on direct about Deborah Gore Dean. If I
6 can summarize your testimony -- and please interrupt me if it's
7 not fair -- you testified that you went to John Mitchell as a
8 result of a telephone call from Louie Nunn. John Mitchell, in
9 response to you saying, "Governor Nunn wants me to go find out

10 something about this program," John Mitchell said nothing.

11 A. Governor Nunn wanted me to prod John Mitchell to find out
12 something about this program.

13 Q. And John Mitchell said what to you?

14 A. I don't remember any words. It was just almost gestures,
15 like, "Don't bother. I don't want to deal with it."

16 Q. "Don't bother me"?

17 A. Yeah.

18 Q. Okay. You then took it upon yourself, with no direction
19 from anyone, to call Ms. Dean; is that correct?

20 A. That's correct.

2 Q. You called her. Did you talk to her on the telephone?

2 A. I really don't remember. I may have asked her secretary for
2 an appointment. I don't remember.

2 Q. You ended up in her office with her alone.

2 A. Right.

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1 Q. And you said to her what?

2 A. Well, in general words -- this is, you know, once again,
3 seven years later. I remember the gist of the statement being,
4 "There is a project being sponsored by Louie Nunn --or Governor
5 Nunn, however I said it -- in South Florida." I'm sure I
6 identified it better than I remember it now, but I said something
7 about Florida and Roman numeral numbers after it and that the
8 builder or developer was not a wealthy man and was, you know, had
9 invested a lot of his time and effort in this project and was

10 being kind of stymied by government bureaucracy, and Louie Nunn
11 was helping him or representing him, I don't remember which, and
12 Louie was hoping that we could help him move the bureaucracy
13 along.

14 Q. And she said what?

15 A. "We have -- oh, in Florida. Oh, in South Florida. They've
16 gotten an awful lot," "they" being South Florida or Dade County,
17 wherever it was.

18 Q. And that's as precise as you can recall what she said?

19 A. Yep.

20 Q. You have no better recollection of that at all?

2 A. Sorry.

2 Q. Okay. Do you recall anything else that was said during the
2 conversat ion?

2 A. No. I said Howls-your-mother? kind of thing, but no.

2 Q. I'm going to have to go back a few more years to put some

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1 background for this for the jury, if that's okay, so I'm going to
2 direct your attention back to 1982, and do you remember something
3 called the Man of War Project?

4 A. No.

5 Q. Does that mean anything to you at all?

6 A. No, sir.

7 Q. Do you recall Mr. Nunn talking to you or you talking to John
8 Mitchell about a Mod Rehab Program in Louisville called Man of
9 war? Does that ring any bells at all?

10 A. No, but remember, 1982, I was in California.

11 Q. Right, I understand that you were going back and forth. You
12 might not have known everything that was going on in Washington
13 at that time.

14 A. I knew very little of what was going on in Washington at
15 that time.

16 Q. Okay. What did you know -- when did you come back full time
17 to Washington?

18 A. I don't -- I think, I think '85, but it could have been end
19 of '85.

20 Q. Directing your attention then to the end of '85 or whenever
2 you came back to Washington, did you know that John Mitchell and
2 Louie Nunn had been working together at that point?

2 A. Yes.

2 Q. Okay. And you were aware that they had been working on the
2 cellular telephone business?

1 A. Right.

2 Q. And that that had not come to fruition?

3 A. Yes.

4 Q. Were you aware at that time that they were working on
5 HUD-related projects?

6 A. No, sir.

7 Q. You had no awareness at the end of 1985 that they were
8 working on HUD-related projects?

9 A. When I came back from California, if it was the end of '85,

10 I did not.

11 Q. If you can recall generally, when did you first learn that

12 Mr. Mitchell and Mr. Nunn were working on a HUD-related project?

13 A. Well, I really don't know. I think it was when Governor

14 Nunn called me about this incident we just talked about -- not

15 incident, but this situation we just talked about, which I think

16 was '86 anyway. I'll stop trying to remember things I can't

17 remember.

18 Q. Let me show you what's previously been introduced into
19 evidence as Government's Exhibit 22. I'm just going to ask you
20 to take a look at the two pages of this and see if it refreshes
2 your recollection as to when you became aware as to whether

2 Mr. Nunn was working with John Mitchell --

2 A. I've never seen this.

2 Q. -- in 1984.

2 Now I didn't suggest you'd seen it.

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1 A. Oh, okay.

2 Q. Only if it refreshed your recollection.

3 A. It does not.

4 Q. Okay.

5 A. Obviously, I didn't know until after this. This is January
6 1984.

7 Q. That does not refresh your recollection?

8 I'll show you what I've marked for identification as
9 Dean Exhibit 27 and 28.

10 THE CLERK: Defendant's Exhibits 27 and 28 marked for
11 identification.

I 12 (Defendant's Exhibit Nos. 27 and 28

13 were marked for identification.

14 BY MR. WEHNER:

15 Q. And ask if these refresh your recollection as to when you
16 became aware that Mr. Nunn was working with Mr. Mitchell?

17 A. Well, I became aware after these, obviously. These are
18 dated in mid-1984.

19 Q. Okay.

20 A. So it was much later. I didn't know anything about this.

2 These are -I

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remember Moore's name. I think Moore was the guy
2 who was working on a cellular telephone that was a friend of
2 Governor Nunn, but I had no idea -- there's a letter to him from
2 John Mitchell, but I have no idea they were dealing in anything
2 other than cellular telephones with William Moore, or Bill Moore.

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Q. So you didn't know prior to the end of 1985 that they were dealing in HUD-related projects?

A. You know, if you'll want to refresh my memory, if you'll tell me when Jim Tully resigned as president of Global, okay, that might have been November of '84. After that, John Mitchell started encouraging me subtly, he would never demand, to spend more time in Washington, and I started spending more time in Washington, and so sometime in '85, I mean, in 1985, assuming he resigned in '84, and I think that's true, that sometime in '85, I started spending more time in Washington.

Eventually he said, you know, I just ought to stay here, and so after I remained on a permanent basis in Washington, which probably was the end of '85, I know I was here in '86, that's when I probably started hearing about things.

Q. I'm sorry, I didn't quite follow all of that.

A. Okay. My guess is --

Q. No guesses, no guesses.

A. Well, I can't help you.

Q. Do you remember being in Washington at the end of 1985?

A. I remember being in Washington in '86, because I met a lovely lady, and if it were my birthday, I would remember. You

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know, those kinds of things remind me, but --
Q. When's your birthday?
A. I just had it in August. Don't ask me how old I am.
Q. Okay. Let's move forward from '82 and from '85 for a few

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1 minutes and talk about the project known as Arama. Are you
2 familiar with that project?
3 A. I'm not.
4 Q. You know absolutely nothing about Arama?
5 A. I've never heard of Arama before.
6 Q. Okay. Did you ever know that Mr. Mitchell was working with
7 Governor Nunn on a project called Arama?
8 A. No, sir.
9 Q. Did you ever know that that dealt with 300 units in Florida?

10 A. No, sir, until you just showed me a piece of paper that
11 those numbers were on there.
12 Q. And you had no knowledge of that whatsoever?
13 A. I don't remember any, ever hearing of Arama.
14 Q. So am I correct in summarizing your testimony fairly that
15 the only project that you knew of that John Mitchell was working
16 on with regard to Governor Nunn was the one you have testified
17 to?
18 A. Yes, sir.
19 Q. And that the sole information you have about your
20 involvement in that project is what you testified to previously?
2 By that, I mean your conversations with Ms. Dean and your

2 conversation with Governor Mitchell -- I'm sorry?

2 A. Governor Nunn.
2 Q. Governor Nunn. And your conversations with former Attorney
2 General Mitchell.

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1 A. I understand your question, and to that specific question,
2 the answer is yes. That's all I know.
3 Q. Did John Mitchell ever say to you or infer to you or suggest
4 to you that Deborah Gore Dean had done anything for him?
5 A. No, sir, on the contrary.
6 Q. Are you aware of any evidence that Deborah Gore Dean ever
7 did anything for him? Are you aware of any?
8 A. No.
9 Q. And you were associated with John Mitchell for how long?

10 A. Nine years in business.
11 Q. What years? What years?
12 A. Well, in 1979, even though I was in California, and I knew
13 him and I was, really in 1980, I should say, '80 until he died in
14 '88, November of '88.
15 Q. And those years encompass 1983 to 1987, do they not?
16 A. Yes, sir.
17 Q. Those happen to be the time periods that Ms. Dean is accused
18 in this case.
19 A. I see.

20 Q. Changing subjects for a second, do you recall the name Lance
2 Wilson?

2 A. Yes, sir.

2 Q. And do you recall that he was employed at a law firm in New
2 York City?

2 A. I didn't know him when he was -- I didn't know it when he

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was, but --

2 Q. Are you aware that he was employed at a law firm by the name
3 of Mudge, Rose, Guthrie & Alexander?

4 A. Yes, sir.

5 Q. Are you aware that John Mitchell was one of the founding
6 partners in that law firm?

7 A. No. I knew he was a senior partner in that law firm, but I
8 didn't know he was a founder.

9 Q. Are you aware that Lance Wilson worked at HUD?

10 A. Yes.

11 Q. And are you aware that Lance Wilson left the law firm of
12 Mudge Rose to go to work for HUD? Do you know that?

13 A. I didn't know, no.

14 Q. Okay. Are you aware that Mr. Wilson was the executive
15 assistant to Sam Pierce?

16 A. I knew he had a very high job. I didn't know his title.

17 Q. Now do you know if John Mitchell knew Lance Wilson?

18 A. Yes, he did.

19 Q. How do you know that he knew Lance Wilson?

20 A. I think I remember -- well, I shouldn't think. I know he
21 offhandedly commented that he had talked to him, and I'm quite
22 certain I met Lance Wilson in John Mitchell's office.

23 Q. You've previously testified that you recognize John
24 Mitchell's handwriting, did you not?

25 A. Oh, yes.

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1 Q. I'm going to show you what's been previously marked for
2 identification as Dean Exhibit No. 23, and it purports to be a
3 telephone message for Mr. Mitchell from Lance Wilson, with
4 handwriting down in the corner. Do you recognize that
5 handwriting?

6 A. The handwriting in the corner is John Mitchell's.

7 Q. What does it say?

8 MR. O'NEILL: Objection, Your Honor.

9 THE COURT: Yes, all right. I'll sustain it.

10 MR. WEHNER: Very well, Your Honor.

11 Q. Were you aware that Lance Wilson discussed 300 units with
12 John Mitchell?

13 A. No, sir.

14 Q. Were you aware that John Mitchell talked to Mr. Wilson about
15 talking to Maurice Barksdale about 300 units?

16 A. Afraid not.

17 Q. Does the name Maurice Barksdale mean anything to you?

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18 A. Very vague. It doesn't mean anything to me.
19 Q. Do you know he was, at one time he was a very high official
20 at HUD?
2 A. Aha. No, I don't. I didn't know that, and I don't know
2 him, and I don't associate that name.
2 Q. Let me show you what I've marked for identification as Dean
2 Exhibit 24. Let me ask you if this, if you recognize that?
2 A. Hmm.

1 Q. What does that appear to be?
2 A. It's a phone message from his secretary It says -3
MR. O'NEILL: Objection again.
4 THE WITNESS: Oh, I shouldn't read it. But it's a
5 steno pad.
6 BY MR. WEHNER:
7 Q. It's a telephone message?
8 A. Phone message, yeah.
9 Q. Do you recognize that telephone message as having come from
10 the office of Global Research?
11 A. No.
12 Q. No, you don't?
13 A. Well, it must have, but there's nothing on it that says
14 Global Research.
15 Q. Do you recognize it as having come from the office of Global
16 Research?
17 A. I do not.
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2 18 Q. Okay. Are you aware that John Mitchell was talking to Lance

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19 Wilson at the same time that he entered into an agreement with
20 Louie Nunn to help Mr. Nunn with units in South Florida?
21 A. No. No.
22 Q. You had no information regarding that at all?
23 A. No, sir.
24 Q. Okay. There's been a lot of testimony about Ms. Dean's
25 closeness to John Mitchell. Would you call them good friends?

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A. Yes.
Q. Close friends?
A. Yes.
4 Q. Yes.
5 A. Yes, close friends. It was more, almost paternal, his
6 relationship with her.
7 Q. I'm sorry, repeat that, please?
8 A. His relationship with her was almost paternal. It was
9 almost like he adopted her.
10 Q. Very, very close?
11 A. Recognize, you know, I didn't see them all the time, but in
12 my opinion, it was very close, yes.
13 Q. Okay. Did Mr. Mitchell leave any money to Ms. Dean when he
14 died?
15 A. No. Oh, well, I don't know about it. None that I know of.
16 Q. To your knowledge.
17 You know a lot about John Mitchell?
18 A. To my knowledge, he did not leave money to her. To my
19 knowledge, he did not have a will.

20 Q. Do you know if anyone else in Ms. Dean's family received any
21 inheritance from John Mitchell's estate?
22 A. Oh, no. I know that they did not.
23 Q. You know that they did not?
24 A. I know that they did not, because the lawyer who handled the
25 estate was also, we kind of made a deal he would handle the

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1 estate free if I would give him the business for the corporation,
2 so I kind of knew what was going on with the estate, and that's
3 pretty good knowledge, and it did not happen. There was no money
4 left.

5 Q. Did Ms. Dean receive any money, to your knowledge, from John
6 Mitchell?

7 A. No, sir.

8 Q. You testified, I believe, that your relationship with
9 Mr. Mitchell began approximately in 1979.

10 A. Business.

11 Q. Business?

12 A. Business relationship.

13 Q. You knew him prior to that -14

A. Yes, sir.

15 Q. Political?

16 A. He was attorney general, and I was in the White House, and
17 we saw each other, you know, on those occasions, and we just kind
18 of hit it off early on so -19

Q. Now John Mitchell's wife died, first wife died at some
20 point; is that correct?

2 A. Yes, sir.

2 Q. When approximately was that?

2 A. I can't remember. Probably -

I can't remember. Probably

2 late '70s, mid-'70s.

2 Q. Do you recall when you first became aware that Mr. Mitchell

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and Deborah Gore Dean's mother became close?

2 A. Yes. I knew that beginning in about 19-, maybe late '78 or
3 •79.

Q. Late '78 or '79?

A. Yes, sir.

Q. And of course, Mr. Mitchell died in when, October 1988?

A. November, first week in November, 1988.

Q. 1988?

A. I believe it was the 9th.

10 MR. WEHNER: Nothing further, Your Honor.

11 THE COURT: All right. Thank you, sir.

12 Some redirect, Mr. O'Neill?

13 MR. O'NEILL: Yes, Your Honor.

14 THE COURT: All right.

15 REDIRECT EXAMINATION

16 BY MR. O'NEILL:

3 17 Q. Mr. Brennan, you stated when you were called by ex-Governor

0 18 Nunn and you spoke to Mr. Mitchell, that he said something to the

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19 effect, his gestures were, "Don't bother me." At that time, did
20 he appear to be familiar with the South Florida I project?
2 1 MR. WEHNER: Objection. "Appear"? I don't think it's
2 2 fair to ask a witness how another witness appeared, Judge.
2 3 THE COURT: I can have him amend the question to the
• 2 4 sense that he was familiar with it.
25 MR. O'NEILL: I'll amend it.

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1 Q. To your understanding, was he aware of the project when you
2 approached him?
3 A. I really don't know. I can only guess.
4 Q. Well, I don't want you to guess. Let me show you a document
5 that has not yet been marked for identification but will be as
6 Government's Exhibit 500, and I'd ask you to, I would direct your
7 attention to the top paragraph.
8 MR. WEHNER: Can I see the exhibit?
9 MR. O'NEILL: Sure. I'm sorry, Steve.

10 THE CLERK: Government's Exhibit -- 500?
11 MR. O'NEILL: Yes.
12 THE CLERK: Marked for identification.
13 (Government's Exhibit No. 500 was
14 marked for identification.
15 BY MR. O'NEILL:
16 Q. Mr. Brennan, have you had a chance to look at that first
17 paragraph?
18 A. No, I misplaced it.
19 Oh, I'm sorry, top paragraph. I had the wrong page.
20 Q. And you cannot read it; it is not in evidence. I mean, you
2 can read it, but you can't read it out loud.
2 A. Okay. I'll read it to myself, obviously.
2 Okay.
2 Q. And does reading that refresh your memory as to whether
2 Mitchell was aware at that time of the South Florida I project?

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1 A. It refreshed my memory that he probably was. I mean, all I
2 recall of his reaction, his reaction wasn't, like, "What are you
3 talking about?" It was more, you know, "Don't bother me. I
4 don't want to be involved."
5 Q. You mentioned during cross examination that it was on your
6 own that you contacted the defendant, Deborah Gore Dean.
7 A. That's correct.
8 Q. At that time, had you agreed with Mr. Nunn about a fee as,
9 for what you were going to do?

10 A. Way before that.
11 Q. Okay. And what was the agreement as to the fee?
12 A. Well, you've refreshed my memory that it was, so much money
13 is paid per unit and that we were to share it equally.
14 Q. And who made the agreement as to the amount of money to be
15 paid?
16 A. Well, that's, I'm sure Mr. Nunn did, and I think that's why
17 I was saying it seemed very generous. That's why I thought it

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18 was kind of guilt, all the work we did in the past and never got
19 anything, that he made it very generous.
20 Q. Now, Mr. Brennan, you stated during cross examination that
2 Mr. Mitchell had no money left at the time of his death.
2 A. I didn't --
2 Q. Is that what you said?
2 A. Well, I shouldn't be making it that definitive. He did --
2 he had some money. I thought I said he did not leave a will. To

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1 my knowledge, he did not leave a will.
2 The second point I was making was that I knew a lot
3 about the estate, because the same lawyer who handled the estate
4 was handling the closing up of our business activities, and he
5 would kind of, you know, casually tell me, "God, John's in bad
6 shape."
7 Q. Did he have any money left at the time of his death?
8 A. Net?
9 Q. Yes.
10 A. Net money? I don't think so.
11 MR. O'NEILL: No further questions, Your Honor. Thank
12 you.
13 THE COURT: All right.
14 MR. WEHNER: A few questions, Your Honor?
15 THE COURT: well, if it goes into the area of redirect
16 only.
17 MR. WEHNER: It does.
18 RE-CROSS EXAMINATION
19 BY MR. WEHNER:
20 Q. Have you ever had a subsequent conversation with Deborah
2 Gore Dean involving her knowledge of John Mitchell's involvement
2 in HUD?
2 A. Yes, sir.
2 Q. What did you say to her, and what did she say to you?
2 MR. O'NEILL: Objection, Your Honor.

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THE COURT: I'll sustain the objection.

MR. WEHNER: What's basis, Your Honor?

THE COURT: Self-serving, what she says. You can't do
It's sustained.

5 BY MR. WEHNER:

6 Q. When did you have that conversation?

7 A. Shortly after he died, maybe a couple months or so after he
8 died.

9 Q. And he died in October of 1988?

10 A. He died in early November, November 9, 1988. I remember
11 that, because the Marine Corps birthday is the next day.

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12 Q. I'll ask you again if you had a conversation with her at or
13 about that time regarding his involvement in HUD?

14 A. Yes, I did.

15 Q. And what did she say to him -- what did she say to you, and
16 what did you say to her?

17 THE COURT:

18 MR. WEHNER:

19 THE COURT:

20 MR. WEHNER:

2 THE COURT:

I sustain the objection.

Same basis?

Yes.

Could we approach the bench, Your Honor?

Sure.

2 (Bench conference on the record.)

2 THE COURT: How do you get in what the defendant said
2 through someone else? That's a self-serving statement. She can
2 take the stand, but you can't get the defendant's testimony in

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1 through someone else.

2 MR. WEHNER: It's not someone else. It's what she said
3 to him.

4 THE COURT: I don't care who she said it to.

5 MR. O'NEILL: It's got to be by a party opponent.

6 THE COURT: Yes. I don't see it unless there's some
7 other basis for it. I don't see the proffer of admissibility.

8 MR. WEHNER: You said it was self-serving was the first
9 reason you overruled the objection.

10 THE COURT: The basis is hearsay, but it's self-serving
11 as well.

12 MR. WEHNER: And a conversation in 1988 about John
13 Mitchell's involvement in the Mod Rehab Project can hardly be
14 considered self-serving.

15 THE COURT: She'd gone through the hearings already
16 through the Hill, hadn't she?

17 MS. SWEENEY: Yes, Your Honor.

18 MR. WEHNER: This was right after, to be honest with

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19 you, Judge, it was right after the inspector general's
8 20 investigation. It wasn't up at the Hill.

2 THE COURT: well, it was evident at that time there
2 were some concerns raised, I think. I don't see any basis for
2 its admissibility. Maybe I'm missing your point.

2 MR. WEHNER: I don't think you're missing my point,
2 Judge. I think -

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THE COURT: I don't see it at all.

2 MR. WEHNER: Okay. I'll try again carefully.

3 THE COURT: You can't get that in.

4 (End of bench conference.)

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5 BY MR. WEHNER

6 Q. Did you ever have occasion to tell Ms. Dean what John
7 Mitchell's involvement was in HUD?

A. Yes.

9 Q. And what was her -- how did she appear to you when you made
10 that statement?

11 A. It was a phone conversation, so her physical appearance I
12 didn't see. Her reaction was shock and aghast.

13 MR. WEHNER: Nothing further.

14 THE COURT: Any other questions?

15 MR. O'NEILL: No, Your Honor.

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2 16 THE COURT: All right. All right, thank you,

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17 Mr. Brennan. You're excused.

18 THE WITNESS: Thank you, sir.

i 19 (Witness excused.)

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MR. O'NEILL: Your Honor, at this time, the United

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21 States would call Special Agent Chuck Fogle

22 THE COURT: All right.

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with the FBI.

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1 CHARLES JOSEPH FOGLE, GOVERNMENT'S WITNESS, SWORN

2 DIRECT EXAMINATION

3 BY MR. O'NEILL:

4 Q. Sir, I will ask you a series of questions. I'd ask you to
5 speak in a loud voice so everyone can hear you in the room. Will
6 you please state your name for the record, spelling your last
7 name for the court reporter?

8 A. My name is Charles Joseph Fogle, F-o-g-l-e.

9 Q. By whom are you employed?

10 A. I'm employed by the Federal Bureau of Investigation.

11 Q. And in what capacity are you so employed?

12 A. As a special agent.

13 Q. And how long have you been a special agent with the FBI?

14 A. For over six years.

15 Q. What was your occupation before joining the FBI?

16 A. I was an army officer for seven years.

17 Q. Where are you currently assigned, Agent Fogle?

18 A. I'm assigned to the Washington Metropolitan field office at
19 the FBI.

20 Q. Do you know an individual by the name of Martha Mitchell

2 Jeffcock?

2 A. Yes, I do.

2 Q. And how do you know her?

2 A. I had met her in May of 1992.

2 Q. And under what conditions did you meet her?

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1 A. I met her in San Jose, California, after she was served with
2 a federal grand jury subpoena to produce documents that were in
3 her possession.

4 Q. Now what did you do in California?

5 A. I flew out there with another agent, went to her residence.

6 At the time we showed up in the morning, I met her fiance/now
7 husband, and he told us that Mrs. Jeffcock was not ready to see
8 us at that time. So he led us across the street to a storage
9 room, where he showed us the documents that we had talked about

10 on the phone.

11 Q. Did you go through those documents?

12 A. Yes, I did.

13 Q. And what, if anything, did you do with the documents?

14 A. We brought back the documents that were relevant to the
15 investigation.

16 Q. What, if anything, did you do with those documents when you
17 brought them back?

18 A. We turned them in to the evidence custodian, who in turn
19 turned it over to another individual in charge of storing the
20 documents, and those documents in turn were microfiched and put
2 into our storage facility.

2 Q. Agent Fogle, at this time, I would show you a number of

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2 documents. The first ones would be marked as Government's
2 Exhibits for identification 9A through H, and I'd ask you have
2 you ever seen those before?

1 A. Yes, I have.

2 Q. And when have you seen those?

3 A. I first saw them in San Jose, California, in a storage
4 facility belonging to Mrs. Jeffcock.

5 Q. Are those documents you brought back with you?

6 A. Yes, they are.

7 Q. Agent Fogle, I would now show you what's previously been
8 marked as Government's Exhibit 10 for identification, and I ask
9 if you recognize that?

10 A. Yes, I do.

11 Q. And what do you recognize that to be?

12 A. I recognize that to be a calendar that I found in the

13 storage facility of Mrs. Jeffcock.

14 Q. And did you bring that calendar back with you as well?

15 A. Yes, I did.

16 Q. Agent Fogle, I would now show you what's previously been

17 marked Government's Exhibit No. 14 for identification.

18 A. Likewise, I found this in the storage facility of
19 Mrs. Jeffcock.

20 THE CLERK: Government's Exhibit 14 marked for
21 identification.

22 BY MR. O'NEILL:

23 Q. Again, I will show you Government's Exhibit 15 for
24 identification.

25 THE CLERK: Government's Exhibit 15 marked for

identification.

26 THE WITNESS: 15 I likewise found in the storage
27 facility of Ms. Martha Jeffcock.

28 BY MR. O'NEILL:

29 Q. I show you what has previously been marked Government's
30 Exhibit 16.

31 A. Likewise, in the storage facility of Mrs. Jeffcock.

32 THE CLERK: Government's Exhibit 16 marked for
33 identification.

34 (Government's Exhibit No. 16 was
35 marked for identification.)

36 BY MR. O'NEILL:

37 Q. At this time, I'll show you Government's Exhibit 17, Agent
38 Fogle, for identification purposes only.

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A. Likewise, I found this in the storage facility of Mrs. Jeffcock.

Q. Directing your attention to that document, is that more than

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18 one page?

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19 A. Yes. It's several pages.

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Q. Have you had an opportunity to look at it before you testified in court today?

22 A. Yes, I have. These documents I found together when I was in
23 the storage facility of Mrs. Jeffcock. It's two memorandums and
24 a cover letter.

25 Q. Are they in the same order in which you found them?

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1 A. Yes, they are.

2 Q. At this time, Agent Fogle, I show you what's previously been
3 marked for identification purposes as Government's Exhibit 18.

4 THE CLERK: Government's Exhibit 18 marked for
identification.

(Government's Exhibit No. 18 was
marked for identification.)

8 THE WITNESS: Likewise, I found these two pages
9 together in the storage facility of Mrs. Jeffcock.

10 BY MR. O'NEILL:

11 Q. At this time, Agent Fogle, I show you Government's Exhibit
12 30 for identification.

13 THE CLERK: Government's Exhibit 30 marked for
14 identification.

15 (Government's Exhibit No. 30 was
16 marked for identification.)

17 THE WITNESS: And likewise, I found these three items
18 together in the storage facility of Mrs. Jeffcock, a rapid reply
19 letter, a HUD request for special service, and a HUD envelope
20 addressed to Global Research International.

2 BY MR. O'NEILL:

2 Q. Finally, Agent Fogle, I would show you a document previously
2 identified as Government's Exhibit 36A, and I'd ask if you
2 recognize that?

2 A. Yes. These two documents were also together in the storage

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1 facility of Mrs. Jeffcock.

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2 THE CLERK: Government's Exhibit 36A marked for
3 identification.
4 MR. O'NEILL: I have no further questions at this time
5 Thank you.
6 THE COURT: Mr. wehner?
7 MR. WEHNER: Could I have the exhibits, Mr. O'Neill,
8 please?
9 MR. O'NEILL: Sure.

10 CROSS EXAMINATION

11 BY MR. WEHNER:
12 Q. what type of storage facility were all of these in when you
13 found them?
14 A. It was in a, a small room, locked, and it was opened up by
15 Mrs. Jeffcock's fiance.

{ 16 Q. In a small room, locked. was it an apartment, a storage
I 17 building, a closet?
18 A. There were about six to eight other rooms similarly locked

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i 19 in a, in a building. It was a, appeared to be a storage facility
8

20 for all the residents of the apartments where Mrs. Jeffcock was

i

2 living at.

2 Q. And it was in the, across the street or in the basement of
2 the apartment building?

2 A. It was across the street.

2 Q. Okay. How many documents were there?

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1 A. How many pages?

2 Q. Yes. How many pieces of paper?

3 A. Approximately 2,300, many of those being canceled checks,
4 counting that as a page.

5 Q. Did you go through each piece of paper to determine what
6 was, as you put it in your direct, relevant to your
7 investigation?

8 A. Yes, I did.

9 Q. And of those 2,300 pieces of paper, how many did you bring

10 back with you?

11 A. That's the amount I brought back. There were about seven or

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12 eight boxes that I, that I went through.

13 Q. And this is everything you brought back?

14 A. No. There, there are total about 2,3 00 pages that I brought

15 back.

16 Q. Okay. I'm sorry, I misunderstood your answer. 2,300 pages

17 that you brought back.

18 A. Yes.

19 Q. How did you determine what you were going to bring back?

20 A. Well, I was working, had been working on this particular

2 aspect of the investigation, and I --

2 Q. That what particular aspect?

2 A. Well, in regard to John Mitchell's and Deborah Gore Dean's

2 involvement with Mr. Martinez's projects down in Dade County.

2 Q. And you'd been working on that, and you knew generally

1 everything that was about?

2 A. Generally.

3 Q. Okay. And how many pieces of paper did you look through?

4 A. These papers were in about seven boxes in her storage

5 facility.

6 Q. And how many pieces of paper was it again? Thousands?

7 A. Thousands.

8 Q. And these are the documents that you found in the storage

9 facility that you inferred relate to this case?

10 A. Yes, they are.

11 Q. Did you find any other documents that showed that

12 Mr. Mitchell was working with anyone else, or did you look?

13 A. I looked at all, at all the documents myself, or the other

14 agent did.

15 Q. Did you see any documents that talked about Mr. Lance

16 Wilson?

17 A. Yes. There, there was either a piece of paper -- I recall

18 something with Lance Wilson's name on it, such as a message,

19 telephone message.

20 Q. And did you bring that back?

2 A. Yes, I did.

2 Q. Now that's not part of the documents that the government

2 introduced, is it? Do you want to take another look at them?

2 A. They are not part of the documents that Mr. O'Neill just

2 showed me.

1 Q. I'm going to show you what's been marked for identification

2 as Government's Exhibits --or Dean Exhibit 23 and ask you if

3 this is a copy of the document that you were referring to, a

4 telephone message?

5 A. Yes, it is.

6 Q. And you brought that document back from California the same

7 way you brought these other documents back; is that correct?

8 A. Yes, I did.

9 Q. And they were kept in the same place; is that correct?

10 A. Yes, they were.

11 Q. And generally under the same set of circumstances, is that

12 correct?

13 A. That's correct.

14 Q. Okay. Do you have any reason to doubt the authenticity of
15 the documents that the government has had you identify?

16 A. No.

17 Q. Do you have any reason to doubt the authenticity of the
18 document I've just shown you?

19 A. No.

20 Q. Do you remember any other documents that you looked at out
2 there that dealt with Mr. Lance Wilson?

2 A. Not off the top of my head.

2 Q. I really don't want you to talk about off the top of your
2 head. Let me show you what I've marked as Dean Exhibit 24.

2 A. Thank you.

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1 Q. See if that refreshes your recollection as to whether you
2 saw any other documents with regard to Mr. Mitchell.

3 A. Yes, I recall this.

4 Q. And you found that in the same place you found the documents
5 that the government is attempting to introduce; is that correct?

6 A. That's correct.

7 Q. Does the name Don Hovde mean anything to you?

8 A. I believe he was a HUD official at one time.

9 Q. And do you know what position he held?

10 A. No, I don't.

11 Q. Did you find anything in Mr. Mitchell's papers dealing with
12 John Hovde?

13 A. Not that I recall.

14 Q. Maurice Barksdale, do you recall the name Maurice Barksdale?

15 A. Yes, I do.

16 Q. Did you find anything in Mr. Mitchell's papers dealing with
17 Maurice Barksdale?

18 A. Yes, I did.

19 Q. And do you recall what Maurice Barksdale's position was?

20 A. He was an assistant secretary for housing for HUD.

2 Q. And do you recall when he was assistant secretary for

2 housing at HUD?

2 A. I'm not sure about, of the exact time frame. It was before
2 Tom Demery.

2 Q. And this was his position; is that right?

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A. Yes.

2 Q. What documents do you remember seeing dealing with Maurice
3 Barksdale?

4 A. I recall a memorandum regarding Maurice Barksdale on
5 Marbilt, which is a project that Mr. Martinez was involved in.

6 Q. And what else do you recall the memorandum saying?

7 A. I don't recall at this time. I'd have to refresh my memory.

8 Q. It was a memorandum dealing with Maurice Barksdale and

9 Mr. Martinez on Marbilt?

10 A. Yes, it was.

11 Q. And you have no further recollection of what that memo said?

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- 12 A. I know in the title it referenced the name of his project.
13 Q. Marbilt?
14 A. Marbilt as well as the particular development names.
15 Q. What other development names?
16 A. I believe they go by, they're the name of the building, such
17 as St. Joseph, might be Dominic. The one I'm referring to is in
18 Exhibit 36A, one of the two memos.
19 Q. It's a part of Exhibit 36A?
20 A. I believe so. I'm sorry, it's probably -- I think it's the
21 one before that. It's one of the exhibits that I just looked at.
22 Q. The government exhibits or the one I showed you?
23 A. One of the government exhibits.

- 24 Q. 3 6A doesn't say -- well, I'll show you 3 6A.
25 A. It may be Exhibit 30. I just don't recall what the number

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was.

- 2 Q. Well, let me show you the exhibits. That will be the easier
3 way to do it.
4 These are the ones, these are all the government
5 exhibits, I believe, that Mr. O'Neill gave me that were
6 introduced. You just look through that and tell me where you saw
7 that information you were just referring to.
8 A. Well, they're out of order, but I'll look through them all.
9 Okay, it's Exhibit 17.

- 10 Q. Okay.
11 A. Okay. I stand corrected. It's from Phil Abrams, not
12 Maurice Barksdale.
13 Q. Now do you recall, now that we've established it's not from
14 Maurice Barksdale, what do you recall about Maurice Barksdale?
15 A. Well, as I said, I recall he was a HUD official at one time.
16 Q. No, about the documents in the storage facility, what do you
17 recall about seeing documents dealing, of dealings between John
18 Mitchell and Maurice Barksdale?
19 A. Right now off the top of my head, I don't recall. I don't
20 recall him on a specific document.
21 Q. All right. Let's go back to what I've previously shown you,
22 Dean's 23.
23 A. Oh, his name was noted. I recall now that you're bringing
24 that forward that the Lance Wilson telephone calls remarks
25 Maurice Barksdale's name was on the bottom of it.

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- 1 Q. It was, wasn't it?
2 A. Right.
3 Q. As a matter of fact, it says "Talking to Barksdale," doesn't
4 it?

- A. I believe so.
6 Q. It also says "300 units," doesn't it?
7 A. Could I refresh my memory?
8 Q. Absolutely.
9 MR. O'NEILL: Judge, I have no objection to Mr. Wehner

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10 putting this into evidence at the appropriate time, but referring
11 to it when it's not in evidence is not permissible.
12 THE COURT: I'll sustain the objection the way the
13 question is asked.
14 BY MR. WEHNER:

15 Q. I'm showing you that exhibit. Does that refresh your
16 recollection as to whether you saw a document that had Maurice
17 Barksdale's name on it during your search?
18 A. Yes, I recall this document.

2
19 Q. Now do you recall seeing a document that had Maurice

5
8

20 Barksdale's name on it during your search?
2 A. It says "Talking to Barksdale" on the document. Yes, I
2 recall that.
2 Q. And "300 units"?
2 A. "300 units" above that.
2 THE COURT: I'll sustain the objection to that. That's

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1 not before the jury. I'll strike it.
2 BY MR. WEHNER:

3 Q. Do you recall any other documents dealing with Barksdale?
4 A. You'd have to refresh my memory. Off the top of my head,
5 no.

6 Q. I believe you previously testified that you didn't remember
7 any documents from Mr. Don Hovde; is that correct?
8 A. That's correct.
9 Q. I'm going to show you what's marked for identification as

10 Dean Exhibit 29.
11 THE CLERK:
12 identification.
13
14
15 BY MR. WEHNER:

Defendant's Exhibit 29 marked for

(Defendant's Exhibit No. 29 was
marked for identification.)

16 Q. Let me ask if this refreshes your recollection as to whether
17 you found any material dealing with John Hovde in all of those
18 documents?
19 A. I don't specifically recall this document.
20 Q. That does not refresh your recollection as to whether you
2 found a document dealing with Don Hovde?

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2 A. No, not specifically.

2 Q. Do you recognize the stamps at the bottom of this document?

2 A. Yes, I do.

2 Q. Whose stamps are those?

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1 A. That's a, an identifier placed on each page of documents

2 that are processed through our evidence storage room. We

3 microfiche all our documents separately, so that instead of

4 handling the, the original documents, we can call these up for

5 future reference.

6 Q. So that document came out of your microfiche; is that

7 correct?

8 A. That's correct.

9 Q. Okay. Does that refresh your recollection as to whether you

10 saw that document out in the storage facility?

11 A. I'm sure this, this is a, a document that I brought back. I

12 just can't specifically recall this individual document. I

13 brought back about 2,300 pages.

14 Q. Right. How can you specifically identify that as a document

15 you brought back?

16 A. Because it's assigned -

well, first of all, it says

17 "John N. Mitchell" at the top, and at the bottom, it says "Global

18 Research International." Additionally, the identifier at the

19 bottom, I know part of the identification refers to all documents

20 that were brought back from Martha Jeffcock's storage facility by

2 me in May of 1992.

2 Q. So in fact, it does refresh your recollection that you saw

2 that document?

2 A. The identification at the bottom refreshes my memory, but

2 this specific document out of 2,300 pages, I can't specifically

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recall right now.

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Q. Yeah, but -- fair enough.

Agent, you reviewed these documents in a storage

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facility in California, correct?

5 A. Yes, I did.

6 Q. You and a couple other agents?

7 A. One other agent.

8 Q. One other agent.

9 were the --in the condition -- you returned them in a

10 pristine fashion to Washington? In other words, you didn't

11 change them or mark them or do anything to them between the time

12 you saw them and the time you brought them back; is that correct?

13 A. That's correct.

14 Q. Okay. Do you have any idea what happened to those documents

15 between the time Marti Mitchell, as she was known then, got them

16 and their being placed in that storage facility?

17 A. No, I do not.

18 Q. Do you know how long they were in the storage facility?

19 A. No, I do not.

20 Q. Do you know what was, what may have been taken in, taken

2

out, or put into those documents while they were in the storage

2

facility?

2 A. No, I do not. Marti Mitchell indicated to me that she was

2

not aware of what were in those boxes. She just referred to the

2

boxes as what she took from her father's office after he died.

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1 Q. Okay. So she didn't know what -- she couldn't even identify
2 them for you?

3 A. That's correct. In fact, she told me that I could go ahead

4 and take all the boxes, for all she cared. She didn't really

5 want them.

6 MR. WEHNER: Nothing further, Your Honor.

7 MR. O'NEILL: I have nothing, Your Honor.

8 THE COURT: All right. Nothing else? All right.

9 Thank you, Agent. You can step down.

10 (Witness excused.)

11 THE COURT: who's your next witness, please?

12 MR. O'NEILL: The government calls Mr. Frank Gauvry.

13 THE COURT: Okay. Could I see counsel at the bench for

14 a minute?

15 Just tell him to wait a minute.

16 THE CLERK: Just one moment, please. Sir, if you'll

17 have a seat inside of the well of the court?

18 (Bench conference on the record.)

19 THE COURT: I sustained an objection to the question,

20 and then you asked it again with the statement of what was

2 contained in the document that I had sustained earlier to. We've

2 got a long trial, but I will come down on you hard in front of

2 the jury if you go around behind my rulings from now on. I give

2 you one chance, and that's it, all right?

2 MR. WEHNER: Thank you for the one chance, Your Honor.

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1 THE COURT: All right.

2 (End of bench conference.)

3 FRANK AUGUST GAUVRY, GOVERNMENT'S WITNESS, SWORN

4 DIRECT EXAMINATION

5 BY MS. SWEENEY:

6 Q. Good afternoon.

7 A. Good afternoon.

8 Q. Mr. Gauvry, would you please state your complete name for

9 the record, spelling your last name for the court reporter?

10 A. Frank August Gauvry, G-a-u-v, as in Victor, r-y.

11 Q. Mr. Gauvry, are you presently employed?

12 A. Yes, I am.

13 Q. And how are you employed?

14 A. Self-employed as an insurance broker.

15 Q. How long have you worked as an insurance broker?

16 A. Forty-three years.

17 Q. Did you happen to serve in the United States military?

18 A. Yes, I did. United States Navy and Coast Guard.

19 Q. And was that before you entered into the insurance business?

20 A. Yes, it was.

2 Q. Have you ever held any public office, Mr. Gauvry?

2 A. Yes. I was the mayor of Cape May, New Jersey, from 1964

2 until 1972.

2 Q. Did you know the late John N. Mitchell?

2 A. Very well.

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1 Q. When did you first meet Mr. Mitchell?

2 A. Approximately 1968, I believe, at the convention in Miami.

3 Q. Did you continue to see him after that first meeting?

4 A. Yes, I did.

5 Q. Focusing on the time period of the 1980s, did you see

6 Mr. Mitchell during that particular time period?

7 A. Yes, I did.

8 Q. And could you describe for the Ladies and Gentlemen of the

9 Jury your relationship with Mr. Mitchell at that time?

10 A. Well, our relationship was both social and business. I was

11 very, very fond of Mr. Mitchell, and many times I would come down

12 to see him on purely a social basis, and we did enter into some

13 business meetings upon various occasions.

14 Q. During the time period, say, 1984 through 1987, how

15 frequently were you seeing Mr. Mitchell?

16 A. Quite possibly once a month.

17 Q. You said that you would see Mr. Mitchell for business

18 purposes and also for social.

19 A. That's correct.

20 Q. Where is it that these meetings would take place?

2 A. Sometimes in his office, sometimes in various restaurants,

2 on at least two occasions in his home.

2 Q. Do you recall where his home was at that point in time?

2 A. Yes. I believe it was on 30th Street. I'm not sure of the

2 number, maybe 1300.

Q. And --

2 A. In Georgetown.

3 Q. In Georgetown.

4 Do you also know an individual named John V. Brennan?

5 A. Yes, very well.

6 Q. How did you come to know Mr. Brennan?

7 A. Through Mr. Mitchell.

8 Q. And what was the nature of your relationship with

9 Mr. Brennan?

10 A. Oh, we embarked on several endeavors to put together an

11 insurance program.

12 Q. Did any of your endeavors have a particular name?

13 A. Yes. We called it Global Brokerage.

14 Q. And when you would see Mr. Mitchell at his business, would

15 that have -- would that business have had a name?

16 A. Would Mr. Mitchell's business have had a name?

17 Q. Mr. Mitchell's business have had a name.

18 A. The name of his business, I believe, was called Global

19 Research.

20 Q. Have you ever met the defendant in this case, Deborah Gore

21 Dean?

22 A. Yes, I have.

23 Q. And how did you happen to meet Ms. Dean?

24 A. I met her through Mr. Mitchell.

25 Q. And can you tell the jury about the occasion on which you

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met her?

2 A. Well, I believe the first occasion was a luncheon that I
3 attended at the behest of Mr. Mitchell, and I met Ms. Dean,
4 Debbie.

5 I believe the second time I met her was at the viewing
6 of Mr. Mitchell and the subsequent funeral the following day, and
7 subsequent to that, I was asked to review some policies
8 Mr. Mitchell had after his demise, and I believe Debbie was
9 there. And maybe one other time I might have met her.

10 Q. Focusing now on the luncheon, the first time that you met
11 the defendant, Deborah Gore Dean, how did it come about that
12 Mr. Mitchell invited you to this luncheon?

13 A. I had come down to Washington to meet with Mr. Mitchell, and
14 he said, "we're going to have lunch with Debbie and Louie Nunn,"
15 and we went to, I believe, the Grand Hotel, and we had lunch, and
16 I -- that was the first time I met Debbie.

17 Q. Do you recall if the defendant -

18 MR. WEHNER: May it please the Court?

19 THE COURT: Yes.

20 MR. WEHNER: Could we have a time reference?

21 THE COURT: All right, sure.

22 Can you put this in some kind of a time frame as to
23 date, year, month, season?

24 THE WITNESS: The only way I could do that, well, it
25 was, I believe, 1987.

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BY MS. SWEENEY:

Q. Do you recall if Ms. Dean was working at HUD at the time of
the luncheon?

A. I believe she was.

5 Q. Was there any particular topic of conversation at the
6 luncheon that would help us put it in some sort of time
7 perspective?

8 A. As I recall, Debbie, Ms. Dean was talking to Governor Nunn
9 and encouraging Governor Nunn to come out in support of George
10 Bush, as opposed to Robert Dole, and that's the only time frame I
11 could put it in that time frame.

12 Q. Was this during the primary season?

13 A. I don't know if it was during the primary season or not as
14 such, but the conversation was concerning Mr. Dole and Mr. Bush
15 and Governor Nunn's support of Mr. Bush as opposed to Mr. Dole.

16 Q. Now you said that the individuals attending the luncheon
17 were yourself, Mr. Mitchell, and Ms. Dean and Governor Nunn; is
18 that right?

19 A. To the best of my knowledge, Mr. Brennan may have been
20 there. I truthfully can't remember whether he was there at the
21 luncheon or not, but I spoke to him immediately after the
22 luncheon, but I don't know if he was at that luncheon or not.

23 Q. What did you do after lunch?

24 A. After lunch, we went back to Mr. Mitchell's office, which
25 also happened to be Mr. Brennan's office.

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1 Q. When you say "we," to whom are you referring?

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2 A. Absolutely Mr. Mitchell and myself, but it may have been
3 Mr. Brennan as well. We, we left Debbie and Governor Nunn at the
4 hotel.
5 Q. And what happened when you got back to Mr. Mitchell's
6 office?
7 A. I went into Mr. Brennan's office.
8 Q. Did you have a conversation with Mr. Brennan at that time?
9 A. Yes. Either I said --

10 MR. WEHNER: Your Honor, may we approach?
11 THE COURT: Sure.
12 (Bench conference on the record.)
13 THE COURT: Yes, sir?
14 MR. WEHNER: Your Honor, without being certain, I
15 believe that the testimony is going to elicit the following out
16 of the Jencks material that I received.
17 (Document shown.)
18 MR. WEHNER: Is that fair? Is this where you are?
19 MS. SWEENEY: It will be similar to this particular
20 paragraph, yes, Your Honor. The statement that I'm about to
2 elicit will be similar to the statements in this particular

2 couple of paragraphs.
2 THE COURT: Okay. And the objection is?
2 MR. WEHNER: The objection is to the co-conspirator
2 hearsay. No. 2, Mr. Brennan was not asked about any such

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1 conversation. He just appeared as a witness. It seems to me
2 that if, it is not doubly hearsay but more problematic when the
3 witness who allegedly said the words is not testified to.
4 And No. 3, Judge, time-wise, this conversation does not
5 make sense in terms of the conspiracy, because if, in fact, the
6 remainder of the Jencks Act statement is that it was regarding
7 Bush and Dole, that would have been in '88, and that is after
8 Ms. Dean left HUD.
9 Now I'm not sure where he comes down on the timing on
10 it, which is why I want to raise that with Your Honor, but I
11 think it's insufficient evidence to find that it's in furtherance
12 of the conspiracy given the timing of the alleged conversation.
13 MS. SWEENEY: Your Honor, we can offer independent
14 evidence to establish that the timing of the conversation was in
15 the spring of 1987, and we believe, Your Honor, that this does
16 come in as a co-conspirator's statement, that Mr. Brennan is
17 soliciting Mr. Gauvry's business vis-a-vis HUD projects and is
18 offering to become a consultant on those HUD projects and is
19 saying that he's going to go to Deborah Gore Dean for her help on
20 those projects.
2 THE COURT: That's what you expect Mr. Gauvry, you say,
2 will testify?
2 MS. SWEENEY: Yes.
2 THE COURT: That he was involved in some HUD projects
2 and Brennan wanted his business?

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1 MS. SWEENEY: That Brennan asked him if he was aware of
2 any HUD projects, that if he was aware of HUD projects, Brennan
3 could become a consultant, and that Deborah Gore Dean was in
4 charge of choosing consultants.

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5 MR. WEHNER: Was in charge of choosing consultants
6 while she worked at HUD?
7 MS. SWEENEY: That she was dealing with consultants.
8 MR. WEHNER: Pardon me? She was in charge of choosing
9 consultants when she was at HUD?
10 MS. SWEENEY: That she was, was dealing with
11 consultants.
12 MR. O'NEILL: We don't write them, Steve; we just call
13 them as we see them.
14 MS. SWEENEY: Again, that's his statement.
15 MR. WEHNER: Judge, that just doesn't make any sense.
16 where is it in furtherance of a conspiracy involving Ms. Dean?
17 Maybe a conspiracy by Brennan.
18 MS. SWEENEY: Your Honor, that may go to the weight of
19 the statement and to cross examination of the statement itself.
20 THE COURT: It also may be ultimately considered what
2 case the government has made or not when they finish their
2 evidence in the case.
2 I'll overrule the objection. I think it can come in,
2 at least in the offer made so far as to the statements made
2 during and in course of the conspiracy and for the furtherance of

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1 the conspiracy, that is, to get business so that they could get
2 these profits from the handling as consultants the mod rehab
3 funds for their clients, to secure those funds for their clients,
4 and the government says that Ms. Dean is a part of that, even
5 though they haven't shown she got any remuneration or direct
6 benefit to her, but I think the government has shown enough at
7 least at this time that what they show eventually as to corrupt
8 activities or not, I don't know. I don't know whether we'll see
9 eventually the furtherance of the conspiracy.
10 But in this situation, whether he says, "Debbie runs
11 things at HUD, I want your business, I can get things done at
12 HUD," that kind of inference seems to be something that can be
13 fairly used against Ms. Dean.
14 I assume that Mr. Brennan was not asked these questions
15 because he had a different recollection and/or didn't recall it
16 at all, and that weakens the weight of the evidence, but I don't
17 think it goes to its admissibility.
18 MR. WEHNER: But, Judge, if I may say one final word,
19 doesn't it make it inherently unreliable as to against Ms. Dean?
20 THE COURT: As to what?
2 MR. WEHNER: As to being admitted against Ms. Dean?
2 THE COURT: I'm going to allow it in at this time.
2 MR. WEHNER: Okay.
2 THE COURT: As I said, subject to that proffer coming
2 in for it.

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1 MR. WEHNER: Thank you, Your Honor.
2 (End of bench conference.)
3 THE COURT: All right, it's overruled.
4 BY MS. SWEENEY:
5 Q. Mr. Gauvry, you were just about to relate a conversation
6 that you had with Mr. Brennan following the luncheon when you
7 returned to the offices of Global Research.
8 A. Yes. We went into Jack's office, and I made some comment
9 concerning Debbie's obvious position, and he showed me the yellow
10 book, and he said, "She's right next to the top man. She just
11 about runs that department," and I was happy to hear that.
12 And Jack said, "If you know anybody that's going into a

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13 development business or to develop any housing, let me know, and
14 I can be named a consultant," and that was the end of the story.
15 Q. What happened after that, Mr. Gauvry?
16 A. Nothing. There was no further conversation along those
17 lines.
18 Q. Did you have any further conversation with Mr. Mitchell that
19 day?
20 A. Yes, we must have, but it wasn't along those lines. He
2 mentioned how pleased he was with Debbie's progress at her
2 position, and I agreed, and that was the end of that. There was
2 no discussion about anything else.
2 Q. Mr. Gauvry, are you familiar with the handwriting of John
2 Mitchell?

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A. I think so.
2 Q. How did you become familiar with his handwriting?
3 A. I received many personal letters from Mr. Mitchell.
4 Q. Mr. Gauvry, at this time, I'm going to show you a group of
5 documents that have been previously marked Government's Exhibit
6 9A through 9H for identification. They're not in evidence yet,
7 so I'll ask you to just look at those but not comment on them.
8 A. I've looked at them.
9 Q. Do you recognize the handwriting on those documents?
10 A. Yes, I do.
11 Q. Whose handwriting is it?
12 A. I would say they belong to former Attorney General John
13 Mitchell.
14 Q. Mr. Gauvry, I've handed you a document, multi-paged document
15 previously marked for identification as Government's Exhibit 10,
16 and I'll ask you to look through that document, sir, and tell us
17 also if you recognize the handwriting in that document?
18 A. You want me to look just where the yellow markers are?
19 Q. You may glance through the entire document, but please look
20 at the pages with the yellow markers.
21 A. Yes.
22 Q. Do you recognize that handwriting?
23 A. Yes.
24 Q. And whose handwriting is that?
25 A. The late John Mitchell's.

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1 Q. Mr. Gauvry, I've handed you two documents previously marked
2 as Government's Exhibit 14 and 15 for identification, and I'd ask
3 you once again to look at the handwriting on each of those
4 documents and tell us if you recognize the handwriting on that,
5 on those documents.
6 A. Yes, I do.
7 Q. And whose handwriting is that?
8 A. The late John Mitchell's.
9 Q. Mr. Gauvry, I'm handing you an additional two documents.

10 One of them's marked Government's Exhibit 17 for identification,
11 and one is marked Government's Exhibit 36A for identification.
12 Now you'll notice Government's Exhibit 17 is a
13 multi-page document, and I'll ask you to look at the page that
14 has -- pages that have handwriting in the margins, and if you
15 could please tell us, sir, if you recognize that particular

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16 handwriting?

17 A. Well, the pages that you indicate have handwriting in the
18 margin appear to be the handwriting of the late John Mitchell.

19 Q. And, sir, there's also a sort of ivory-colored sheet that's
20 part of that exhibit.

2 A. This sheet?

2 Q. Yes. Do you recognize the handwriting on that sheet?

2 A. I'm not as sure of that as I am of the other.

2 Q. And what about Government's Exhibit 36A?

2 A. Yes, that would appear to be his handwriting.

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Q. Now, Mr. Gauvry, you've testified that you met with
Mr. Mitchell over the years on many occasions -

A. Yes.

Q. --at his business.

Were you familiar with his practice of, with whether or
not he had a practice of making notes?

A. Yes.

8 Q. What can you tell us about his practice?

9 A. Every time we were together, he took notes of what the
10 conversation was, what he was planning to do relative to our
11 meeting and what I was supposed to do, and I would say yes, he
12 took notes each time we spoke.

13 MS. SWEENEY: No further questions at this time, Your

14 Honor.

15 THE COURT: All right.

16 CROSS EXAMINATION

17 BY MR. WEHNER:

18 Q. Mr. Gauvry, have you seen any notes of your conversations
19 with John Mitchell during this time in '87 or '88 when you met
20 with him?

21 A. Only what I just saw and in some of the pages that

22 Ms. Sweeney asked, there was my name in a book, but I didn't get
23 a chance to read what was -

24 Q. I'd like you to look again at what Ms. Sweeney showed you.

25 A. No, sir, it was in that book, in that book.

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THE COURT: Exhibit 10.

2 THE WITNESS: I saw my name hurriedly. I didn't know

3 what it had reference to. It was in here someplace, and he had
4 crossed it out. Back here.

Yes, sir, I found it. It has my name here for a
meeting Thursday, September 11, 19---

BY MR. WEHNER:

8 Q. What year?

9 A. 1986. It's the only one I found.

10 Q. It's the only one you found in all of these documents was in

11 1986?

12 A. Well, I didn't go through that book entirely, sir. That one
13 jumped out. My name jumped out.

14 Q. Have you seen any for 1987?

15 A. I haven't looked at any documents for 1987, Mr. Wehner.

16 Q. Directing your attention to 1988 --

17 A. Yes, sir.

18 Q. -- was there a presidential election that year?

19 A. Yes.

20 Q. Who were the candidates?

21 A. George Bush.

22 Q. And do you remember when the nominating convention was for

23 Mr. Bush?

24 A. No, sir, I don't.

25 Q. Do you recall when Mr. Bush was elected president?

A. Yes, I do.

Q. When was that?

A. 1988. November 1988.

4 Q. Do you know when the nomination convention would have taken
5 place generally if he was elected in November 1988?

6 A. Yes. In probably April of that year, May of that year.

7 Q. April or May of 1988?

8 A. You're talking about the convention?

9 Q. Yes, nominating convention.

10 A. Okay. '88.

11 Q. Okay. April or May of 1988, correct?

12 A. Maybe May or June, yes.

13 Q. Now your recollection of this conversation with Ms. Dean was
14 that the conversation took place where she was trying to get

15 Mr. Nunn to support Mr. Bush?

16 A. Yes.

17 Q. And your recollection was that the conversation was in the
18 spring?

19 A. No, I was -- I don't know what year. I said I don't know
20 what year that took place.

21 Q. Exactly. It could have been 1988, could it not?

22 A. Well, whenever prior to George Bush having the nomination
23 and when Mr. Dole was still in the picture, that would have been
24 it. I don't know, I don't know the time frame.

25 Q. Do you know that Ms. Dean was not employed at HUD in the

spring of 1988?

A. I don't know that.

3 MR. WEHNER: I have nothing further, Your Honor.

4 THE COURT: Thank you.

5 MS. SWEENEY: Just briefly, Your Honor.

6 THE COURT: Certainly. Redirect.

7 REDIRECT EXAMINATION

8 BY MS. SWEENEY:

9 Q. Mr. Gauvry, you testified on direct that following the
10 luncheon, you had a conversation with Mr. Brennan back at the
11 offices of Global Research.

12 A. Yes.

13 Q. Was there anything in that conversation that indicated to
14 you whether or not Deborah Gore Dean was employed at HUD at that
15 particular point in time?

16 A. Jack Brennan pulled out the federal yellow book and showed
17 me Debbie's name as the No. 2 person in the department, and
18 that's the only way -- I didn't know whether she worked there or
19 not at the time, but he showed me her name in the book and said,
20 "She runs the department," and that's the only -- I assumed that

21 she was working there. I don't know.
22 Q. And you testified that subsequent to that time, you had a
23 conversation with General Mitchell about Ms. Dean's employment?
24 A. Yes, yes.
25 Q. And what was the substance of that conversation?

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1 A. what a great gal she was and what a good job she was doing.
2 I agreed. I like her very much. She reminds me of my youngest
3 daughter.
4 Q. And in terms of her job, what job were you and Mr. Mitchell
5 talking about?
6 A. Her job at HUD.
7 MS. SWEENEY: No further questions, Your Honor.
8 THE COURT: You can step down. Thank you, sir.
9 THE WITNESS: Thank you.
10 (Witness excused.)
11 THE COURT: Ladies and Gentlemen, we'll take our
12 afternoon recess for 15 minutes and be back. Take your break.
13 Refreshments are ready.
14 Remember the admonition about not talking about this
15 case among yourselves or letting anyone else talk to you about
16 the case during the break, please. Fifteen minutes.
17 (Jury out.)
18 THE COURT: All right.
19 (Recess from 3:04 p.m. to 3:40 p.m.)
20 THE COURT: Your next witness is going to be whom?
2 MS. SWEENEY: It's going to be Melvin Adams, Your
2 Honor.
2 THE COURT: Adams?
2 MS. SWEENEY: Yes.
2 THE COURT: You've got all the Jencks material?

1 MR. WEHNER: Your Honor, I'm in possession of
2 production from the Independent Counsel that has redactions in

3 it.
4 THE COURT:
5 MR. WEHNER:
6 significant -
7 THE COURT:
8 MR. WEHNER:
9 THE COURT:

All right.
The redactions, frankly, are not

All right.
--in terms of amount.
I'll make findings this evening as to the

10 redactions in the complete copies of the Jencks and Gialio
11 materials I've read before in the luncheon and afternoon recess
12 which I've completed as to Jack Brennan, which were a major
13 component of the testimony this afternoon.
14 (Jury in.)
15 THE COURT: All right, Ladies and Gentlemen, we're
16 ready after the afternoon recess to have the next witness called
17 by the government.
18 MS. SWEENEY: Your Honor, at this time, the government
19 calls Mr. Mel Adams.

20 THE COURT: All right.

2 MELVIN J. ADAMS, GOVERNMENT'S WITNESS, SWORN

2 DIRECT EXAMINATION

2 BY MS. SWEENEY:

2 Q. Sir, would you please state your entire name and spell your
2 last name for the court reporter?

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A. Melvin J. Adams, A-d-a-m-s.

2 Q. Mr. Adams, I'm going to ask you to try to keep your voice up
3 this afternoon so that the Ladies and Gentlemen of the Jury can
4 hear everything that you have to say.

5 Mr. Adams, are you presently employed?

6 A. Yes, I am.

7 Q. Where are you employed, sir?

8 A. The Montgomery County Housing Opportunities Commission.

9 Q. And what is your particular job at the Montgomery County
10 Housing Opportunities Commission?

11 A. I'm the assistant executive director and the director of
12 development.

13 Q. Have you worked previously in the public housing field,
14 Mr. Adams ?

15 A. Yes. I've been in this field since 1952. I started off in
16 1952 with the Housing and Home Finance Agency, which later became
17 the Department of Housing and Urban Development. I worked for
18 the District of Columbia Redevelopment Land Agency.

19 I spent eleven years in New Haven, Connecticut, the
20 director of the redevelopment program, and then the, in effect,
21 deputy mayor for all development activities of the city.

22 From 1971 until 1986, I was the director of Dade
23 County's Department of Housing and Urban Development.

24 Q. Mr. Adams, what is your educational background?

25 A. I got a bachelor's degree from Grinnell College, in Iowa, a

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Master's Degree in Public Administration from Syracuse, in New

York.

3 Q. Now turning to the time period when you were employed at
4 Dade County, could you tell us what your specific duties and
5 responsibilities were with the Dade County Public Housing
6 Authority?

7 A. We built and managed public housing. We administered the
8 Section 8 program of vouchers, the Section 8 Moderate
9 Rehabilitation Program. We were in charge of the redevelopment

10 program for the county.

11 We did relocation of anyone in the county displaced by
12 any government activity, and we, I was responsible for housing
13 code enforcement.

14 Q. And what was your particular title again, sir, at the Dade
15 County Housing Authority?

16 A. Director of Dade County Housing and Urban Development.

17 Q. Now, Mr. Adams, I would ask you to look at the chart that's
18 on the easel there. It's Government's Exhibit 2 in evidence.

19 And can you see where your agency would be located on that
20 particular chart?

21 A. Yes. The third box down from the top, Public Housing
22 Authorities, PHAs.
23 Q. And you've mentioned the Mod Rehab Program. Do you recall,
24 sir, when that program began?
25 A. In the -- I don't know if it was the late 1970s or the early

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1980s.

2 Q. And in the late '70s or early '80s, when the program first
3 began, can you please tell us how mod rehab funds were allocated
4 to a PHA such as the one that you worked for in Miami?
5 A. There was a formula. In the federal government, HUD
6 allocated among the jurisdictions according to that formula. We
7 would get monies for so many units. We would submit an
8 application of the type of units, but the, the funding would,
9 would be limited to, would limit the number of units.
10 Q. When you say units, Mr. Adams, what are you referring to?
11 A. Apartments. You might have an apartment building with 20
12 apartments, another one with 50. The number of apartments in a
13 particular building.
14 Q. And what did the moderate rehabilitation funds permit you to
15 do?
16 A. It permitted us to help the owners of property rehabilitate
17 the property. It provided money that would, would help to
18 subsidize the rents and make them affordable. So it made it
19 possible for an owner of property that needed to be rehabilitated
20 to rehabilitate the property.
21 Q. You said that there was a formula that was used to allocate
22 the funds. Was there a name for that formula that you might
23 recall?
24 A. I don't recall the name. It was just every year, housing
25 authorities would get monies for a certain number of units.

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1 Q. Now during that time period when housing authorities
2 received monies pursuant to a formula, what role did your local
3 priorities play in the selection of the mod rehab projects that
4 would be developed in your particular community?
5 A. When we would get the allocation, we would advertise. We
6 would invite developers to submit proposals. We would identify
7 the priorities we would have, and then based on those priorities,
8 that criteria, we would review and evaluate the proposals that
9 developers submitted and make the awards.
10 Q. When we talk about local priorities, could you please
11 describe for the Members of the Jury what type of local
12 priorities you had in mind when you were working at Metro Dade?
13 A. We would like to see a balance between apartments that could
14 house families, two-bedroom, three-bedroom apartments, as well as
15 efficiencies and one bedroom. We would want to see the housing
16 in areas that needed revitalization as part of that kind of
17 activity, and we would look at the, the magnitude of the
18 rehabilitation.
19 Q. When you say magnitude of the rehabilitation, what do you
20 have in mind?
21 A. Well, if, if monies could be used to, to generate more -
22 say if we had two, two properties, one of them might require
2 \$2,000 an apartment to rehabilitate it; another might require 42
or 5,000. If the same federal money could, could finance, make
2 it possible to spend 5,000 in rehabilitation, that would be a

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1 plus. We would have given points for that or extra credit for
2 that.

3 THE COURT: I'm not sure I understand that. I know
4 that was testified to earlier. It's not germane to everything
5 we're talking about here in the case, but just let me see if I
6 understand how that formula worked. If you spend more money per
7 unit, it's a better deal?

8 THE WITNESS: The, the total cost of buying the
9 property and rehabilitating it would be the total cost of
10 development. If somebody could buy a property cheaper and put
11 more money into rehabilitation -

12 THE COURT: I see what you're saying.

13 THE WITNESS: --we would -
but the total.

14 THE COURT: Total, I see.

15 THE WITNESS: Yeah.

16 BY MS. SWEENEY:

17 Q. Now during this time period when the formula was used to
18 allocate the mod rehab funds to local PHAs, how did you learn
19 what your allocation was in any given year?

20 A. We would be advised by the, by HUD, by the field office, the
2 area office.

2 Q. Can you refer again to chart 2 and tell us where that
2 particular office is located on that chart?

2 A. It would be in the second box, in the bottom, what says HUD
2 Field Offices. Our field office was in Jacksonville, Florida.

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Q. Okay. Are you aware, Mr. Adams, of where the funds
originated? Did they originate in Jacksonville, or did they
originate at another point?

A. They were appropriated by the Congress to HUD in Washington.

Q. And what was the process from HUD in Washington to get the
funds down to the local PHA?

7 A. I don't know what process they followed specifically, but
8 there was a formula that HUD, just as in some other federal
9 programs, they would let communities know how much they were

10 entitled to under the formula. It was very mechanical.

11 Q. Did there come a point in time when the formula was no
12 longer used as a means of allocating funds to the local PHA?

13 A. Yes, yes.

14 Q. Do you recall about when that was, Mr. Adams?

15 A. Late 1983 or early 1984.

16 Q. After the formula was no longer in use, how did you learn
17 that mod rehab funds were being sent to Metro Dade PHA?

18 A. We would receive applications from developers who, who
19 wanted to participate in the program. We would send those to the
20 HUD field office, the office in Jacksonville, and request monies
21 for them. We would usually learn from the developer that that
22 particular property had been funded.

23 Q. At this point in time, when the formula was no longer in
24 use, was the PHA actually selecting which mod rehab projects
25 would receive the mod rehab funds?

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A. I think the, the decision was basically made from Washington.

Q. What role did the local priorities play in selecting mod rehab projects at that point in time?

A. There was no, they played no role at all.

Q. Did you still have local priorities at the PHA?

A. We did not have published local priorities. We -- since the priorities would play no role, we did not have local priorities that were in effect.

10 Q. Did you have local needs in the community that would have
11 been priorities?

12 A. Yes, we did.

13 Q. And could you describe for us what those needs were?

14 A. Well, they would be the same as before. We would -- as we
15 got into the '80s, we would have wanted to have a substantial
16 number of properties being rehabilitated in the inner city.

17 Areas that needed attention would have benefited from the
18 program.

19 And the county had a policy to encourage minorities in
20 Dade County. That meant black entrepreneurship. We would have
21 encouraged black developers to get a piece of the pie.

22 Q. Mr. Adams, why did you go along with the selections that you
23 believed were being made in Washington?

24 A. We had a critical need for housing in Dade County. We had a
25 lot of refugees come in, the Muriel boat lift, terrible housing

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1 shortage, and that was the only way that I felt that we could get
2 funds for, for desperately needed housing. Even if it didn't
3 meet our local needs and priorities, it would provide housing
4 that was needed, and it was better to get that than to get
5 nothing.

6 Q. Mr. Adams, did you come to have an understanding that
7 consultants began at some point in time to be involved in the mod
8 rehab process?

9 A. One owner of property who had submitted an application for
10 funding told me that he had heard that you needed a contact in
11 Washington to get funded, the consultant would help get the
12 funding.

13 Q. Did you ever learn that consultants were being paid for
14 securing mod rehab units for the owner/developers?

15 A. He said that he heard the going rate was \$1,000 a unit. If
16 there were 50 apartments in a building, a consultant would get
17 \$50,000 from the sponsor.

18 Q. Mr. Adams, I'm going to show you a document that's
19 previously been marked Government's Exhibit 23 for

20 identification.

2 THE CLERK:

2 identification.

2

2

2 BY MS. SWEENEY:

Government's Exhibit 23 marked for

(Government's Exhibit No. 23 was
marked for identification.)

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1 Q. Do you recognize that document, Mr. Adams?

2 A. I do.

3 Q. And what is it?

4 A. When we received an application from a developer, we would
5 acknowledge its receipt, and that acknowledges receipt from Arama
6 Limited Proposal, Section 8, moderate rehab, 293 units.

7 Q. Now, Mr. Adams, that document is not yet in evidence, so

8 I'll ask you not to actually read it --

9 A. I'm sorry.

10 Q. -- but to just give a general description, if you could.

11 Is that a letter on Metro Dade letterhead?

12 A. It's a letter on Metro Dade letterhead, yes.

13 MR. WEHNER: Your Honor, in the interests of "time,
14 we'll stipulate to its admissibility.

15 THE COURT: All right, thank you. All right, 23 will
16 be admitted.

17 (Government's Exhibit No. 23 was
18 received in evidence.)

19 MS. SWEENEY: Mr. Wehner, I'm about to show the witness

20 Government's Exhibit 36 for identification and Government's
2 Exhibit 40.

2 THE CLERK: Is that 40?

2 MS. SWEENEY: 40 for identification.

2 THE CLERK: Government's Exhibit 36 and 40 marked for
2 identification.

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(Government's Exhibit Nos. 36 and 40
2 were marked for identification.)

3 MR. WEHNER: No objection, Your Honor, to either of
4 those.

5 THE COURT: All right, thank you, sir. Government 36
6 and 40 will be admitted.

7 (Government's Exhibit Nos. 36 and 40
8 were received in evidence.)

9 THE COURT: You can have him identify them if you need
10 to.

11 MS. SWEENEY: Your Honor, at this time, I have no
12 further questions.

13 THE COURT: All right. I think for the record,
14 Ms. Sweeney, I'd just like you to describe in general terms 36
15 and 40, just so we know whether they're letters or memos,
16 whatever they are, for our records here.

17 MS. SWEENEY: Yes, Your Honor. I'm sorry.

18 Government's Exhibit 36 is a letter on Metro Dade PHA letterhead,
19 and it has a multi-page attachment listing a number of projects.
20 Government's Exhibit 40 is a letter on Metro Dade PHA
21 letterhead, signed by Melvin J. Adams.

22 THE COURT: All right. What are the dates of those
23 documents?

24 MS. SWEENEY: 40 is May 21, 1986, Your Honor. 36 is
25 March 29, 1984.

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1 THE COURT: All right, thank you.
2 All right. You may examine, sir.
3 MR. WEHNER: Thank you, Your Honor.
4 Ms. Sweeney if I could have the exhibits?
5 I'd like to put Government's Exhibit 40 on the screen,
6 Your Honor, if I may.
7 THE COURT: Certainly.
8 Mr. Adams, can you see that?
9 THE WITNESS : No, I cannot.
10 MR. WEHNER: I'll try to figure, make sure everybody
11 can see.
12 THE COURT: why don't you turn that one around. Is
13 that on or not?
14 THE WITNESS : I could have a while back, but not now.
15 MR. WEHNER: I understand that problem.
16 THE COURT: Actually, the machine can blow it up if you
17 want a particular paragraph
18 MR. WEHNER: with the Court's permission, may I show
19 Mr. Adams another copy of that exhibit?
20 THE COURT: Yes.
2 THE WITNESS : I can see it on here.
2 CROSS EXAMINATION
2 BY MR. WEHNER
2 Q. Mr. Adams, paragraph 2 of that letter states in the second
2 sentence -- I'm sorry, I'll read the entire second paragraph:

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1 "As you know, we have no uncommitted Section 8 moderate
2 rehabilitation monies. When we receive additional monies, we
3 will choose applications based on our selection criteria."
4 A. Yes.
5 Q. would you elaborate on that statement? what were your
6 selection criteria at that time for moderate rehab units?
7 A. The selection criteria at that time were that we would fund
8 properties in the order of receipt. To the extent that that
9 would use up the allocation that we received from HUD, every time

10 we received an allocation from a developer, we sent it to HUD and
11 asked for funding.
12 Q. So you always requested that HUD Washington send you money
13 whenever you received an application from a developer?
14 A. Yes.
15 Q. On every occasion?
16 A. That was our practice and our policy.
17 Q. Now did you make an evaluation of the proposals as to
18 whether they were consistent with your regulations or HUD's
19 Section 8 regulations?
20 A. We made an evaluation whether they met the HUD requirements,
2 but we did not make any local evaluation as to the merits.

2 Q. But you did find that -- okay. In that regard, then I'll
2 put on the screen Government's Exhibit 23, the second paragraph
2 of which reads -- this is to Arama -- "we find the proposal to be
2 complete and acceptable as outlined in the Section 8 moderate

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1 rehabilitation regulations." Correct?

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2 A. Yes.

3 Q. "This proposal will be rated and inserted into the Section 8
4 pipeline"?

5 A. Yes.

6 Q. At this point in time, which is March 15 of 1984, what did
7 you mean or what did the Dade County Public Housing Authority
8 mean when you said, "This proposal will be rated"?

9 A. What, what I believe Mr. Calabrese, who signed it, meant is

10 that it would be rated as acceptable and inserted into the
11 pipeline in the order of receipt. That was our policy.

12 Q. Just so I understand, the pipeline then was a -- well, I'll
13 ask you: How many -- in 1984, how many projects did you have in
14 the pipeline, approximately? I'm just looking for a round
15 number.

16 A. Somewhere between five and ten, I believe.

17 Q. And were all of those acceptable under HUD regulations?

18 A. Under HUD regulations, yes.

19 Q. Now how --

20 A. In our judgment, they were acceptable, in our judgment.

2 Q. Yes, sir.

2 A. Yes.

2 Q. You made the best conscientious decision you could at the
2 time based on all your experience that these proposals were
2 acceptable?

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A. Yes.

2 Q. And if they weren't acceptable, you sent them back?

3 A. Yes.

4 Q. So all of these projects in the pipeline during this period
5 of time that were acceptable were first-come-first-served?

6 A. That was our policy, yes, our practice.

7 Q. So they would go by date?

8 A. They would go by date, but we, when we got an allocation
9 from HUD, we wanted to use all of the allocation from properties
10 within the pipeline, and if that meant that the first property in
11 the pipeline wouldn't use all, by date would not use all of that
12 allocation, we would go down to the second, the third, the
13 fourth, until with a combination of one or more projects in the
14 pipeline, we would totally commit the allocation.

15 Q. Absolutely. Because you didn't want to lose any units,
16 correct?

17 A. Yes.

18 Q. How would the units be assigned to the Dud -- Dade County
19 Housing Authority? would they be by numbers of units, by
20 address?

21 A. They would be by, by dollar amount and number of units.

22 Q. And would the number of units be specified?

23 A. Yes.

24 Q. Was the number of units a code for anything?

25 A. I don't understand the question.

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Q. A code generally means that it's a secretive method of

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concealing something. was the number of units, did it infer some kind of secret to you?
A. Let me answer the question this way: Developers who had submitted applications, our pipeline was a public document. Anyone could look at it. They would come in, and they would ask me, "If I got this project of mine in the pipeline, say it was 113 units, if that were funded, would, under your practice, would my project be funded?" and I would tell them yes or no.
10 Q. And if a project was at the top of a list, using your 113 11 units, and you received 113 units, would you fund it?
12 A. That's what we should do.
13 Q. If you received --
14 A. If the dollar amount also worked.
15 Q. Yes, sir. If you received 80 units, what happened?
16 A. If we received 80 and there was, the third property in the 17 pipeline was 80?
18 Q. Yes, sir.
19 A. We would fund -- and the first one was --
20 Q. 113.
21 A. And the second was -- yeah, we would fund the third.
22 Q. Okay. And they were all equally acceptable pursuant to HUD 23 regulations?
24 A. In our judgment.
25 Q. In your judgment.

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1 Did you always in every, on > t\$
2 occasion make the selection of a devel ^
3 of applications?
4 A. That was the practice, and I hope
5 administered the program did it that v
6 was set up to work.
7 Q. To your knowledge -- and these a:
8 trying to get information.
9 A. That's all right.

10 Q. To your knowledge, was any program ever selected at the Dade
11 County Rehabilitation -- Dade County Public Housing Authority
12 that was not on the public list?
13 A. To my knowledge, it was never done. They were all on the
14 list and all in the manner that I mentioned.
15 Q. And all of those projects met, in your judgment, HUD's
16 regulations?
17 A. They met HUD regulations, yes.
18 MR. WEHNER: Nothing further, Your Honor.
19 THE COURT: All right. Redirect?
20 REDIRECT EXAMINATION
2 BY MS. SWEENEY:

2 Q. Mr. Adams, are you familiar with the term "project-specific
2 awards" in the context of mod rehab funding?
2 A. Yes.
2 Q. And can you tell us what that means, sir?

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1 A. well, that would mean if a, if an allocation came that
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2 fitted a particular project in the pipeline, that would be
3 project specific, and it would be project specific. We never -
4 I'm sorry, I'm -
5 Q. Mr. Adams, were the awards project specific?
6 A. Once we, the formula -- once they weren't allocated by
7 formula, we never received an allocation from HUD that didn't
8 specifically fit one or more projects in the pipeline. In other
9 words, we never had from the allocation, we never had units left
10 over that did not fall into a project in the pipeline.
11 Q. Did there come a point in time, Mr. Adams, where you
12 redesigned your method of selecting projects from the pipeline?
13 A. I do not -- once the formula went out the window and there
14 was a competition for funds, I do not recall changing the
15 selection criteria from the manner in which I described it during
16 my earlier testimony.
17 Q. Mr. Adams, by that do you mean that -
well, let me ask you
18 again if you could please explain what you mean by that.
19 A. When we had a formula and we got funds -- say it was the end
20 of 1983. It changed from a fair share to a competition. When we
2 got money allocated from formula, there was never any -
the
2 units, sometimes we had units left over, because we made the
2 decision at the local level which properties to fund.
2 we -- in -
when the competitive nature came to the
2 fore, a developer came to me and said he thought he could get a

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1 project that he wanted to rehabilitate funded if I could
2 guarantee that that project would, would be selected locally. I
3 replied, "I cannot, I will not agree to that, but I will set up
4 a, a plan where we will have an open end, we will request
5 applications, we will list them in the order of receipt." We
6 will, if two are in the same day, we had a mechanism to break the
7 tie, and then when we get -- and we will request funding for
8 every application that we get. When we get a funding commitment
9 from HUD, we will select from the top of the list the projects
10 that will use up all of the allocations.
11 So sometimes it would be the project at the top,
12 sometimes it would be No. 3, sometimes it would be No. 6.
13 Sometimes a project on the list wouldn't, near the top would
14 never, never get funded.
15 Q. Mr. Adams, using the example that you discussed with
16 Mr. Wehner during cross examination, say there was Project 1 for
17 113 units, Project 2 for 113 units, and Project 3 was 80 units.
18 What would happen if you got an allocation for 80 units and
19 Project No. 1 for 113 units was a better project in terms of
20 local priorities?
2 A. Project No. 3 would get funded, the 80-unit one. That was,
2 that's what we announced. We stopped using our local priorities,
2 what we might think was a better project. If it met HUD
2 criteria, it would get funded even if we thought No. 1 was better
2 or if we thought No. 4 was better.

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1 Q. Under the system, the system that you've just described,
2 there was no -
was there competition between the projects to
3 determine which project was the best project?
4 A. There wasn't a competition in Dade County. There was
5 competition, I felt, in Washington.

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6 MS. SWEENEY: No further questions, Your Honor.
7 THE COURT: Let me ask you, sir, one question: On this
8 letter that's on the board as to the Arama proposal, it starts
9 off about that this application was accepted in response to your
10 advertisement. Would you still be advertising under this new
11 system proposals to submit applications for low-income housing
12 projects?
13 THE WITNESS: When we put the new system in effect, we
14 advertised it, invited proposals, said that first come would be
15 in the list, so we wanted the development community to know that
16 the process was going to be a little different.
17 THE COURT: Changed, okay.
18 All right, thank you.
19 Any other questions?
20 MR. WEHNER: No, Your Honor.
2 THE COURT: All right, thank you. You may be excused.
2 Thank you, sir.
2 (Witness excused.)
2 MR. O'NEILL: May we approach for a brief moment, Your
2 Honor?

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1 THE COURT: Sure.
2 (Bench conference on the record.)
3 MR. O'NEILL: We've about run our course, Judge -
4 THE COURT: Oh, really?
5 MR. O'NEILL: -- for the day.
6 THE COURT: Moving right ahead.
7 MR. O'NEILL: We're scrambling. We'll have a full day
8 tomorrow, but we're going to take people out of order.
9 THE COURT: What's our order tomorrow like?
10 MR. O'NEILL: We don't know, Judge. We do know -
11 THE COURT: In general.
12 MR. O'NEILL: Maurice Barksdale will be a witness.
13 THE COURT: Mr. Barksdale.
14 MR. O'NEILL: There will be a Norman Larsen, who is a
15 custodial-type witness out of the Georgetown Club. We had no
16 Jencks on him. He was interviewed last week, so now we have a
17 one-page Jencks statement from him. He just will put in the
18 checks.
19 THE COURT: The checks for money received?
20 MR. O'NEILL: Right. And then with the Jewish holiday,
2 we had Eli Feinberg, Martin Fine and Eli Feinberg, but we had to
2 push those back. We're trying to get local HUD people we will
2 call in to fill in, but we will have -
2 THE COURT: That's Thursday.
2 MR. WEHNER: Local Washington HUD people?

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1 MR. O'NEILL: Yeah, whoever lives here local.
2 MR. WEHNER: Can you be any more specific? Bob, I'd
3 appreciate it. If I call you later, I'd appreciate it.
4 MR. O'NEILL: Yeah.
5 THE COURT: I'm going to tell the jury Friday evening
6 is off for them, for us, for you all, but I'll let them go now
7 then. All right.
8 (End of bench conference.)
9 THE COURT: Ladies and Gentlemen, we've gone a little
10 faster than we thought today, so we've finished with the
11 witnesses that are here and available right now. So we're going
12 to let you out a little early this afternoon. We'll be back
13 tomorrow. The government says they'll have everybody to fill in

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14 the day tomorrow.

15 Friday afternoon, September 17, you will not be
16 required to be here Friday afternoon. I have a couple other
17 major cases I have to hear Friday afternoon, so this case will
18 just go through lunch and then stop after we've had lunch. So
19 Friday the 17th in the afternoon you'll be off, all right? we'll
20 have a whole day tomorrow for Thursday, but off on Friday
21 afternoon.

22 I'd like you to have a pleasant evening. Remember the
23 admonitions of the Court again. You don't talk about the case
24 among yourselves or with anyone else. Don't read or watch or
25 listen to anything that's carried in the media. We'll see you

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1 back here tomorrow morning then, I believe, all right, we'll do

2 it at 9:30 then tomorrow morning.

3 (Jury out.)

4 THE COURT: All right, I want to ask the government one

5 question at the bench on this Jencks material in Brennan just to

6 make sure I understood something, and then I'm going to make a

7 ruling on this Brennan Jencks and Giglio material. Let me just

8 ask you one question on the redaction.

9 (Pages 427 and 228, ex parte bench conference, filed

10 under seal.)

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1 THE COURT: All right, there had been raised in
2 chambers this morning a challenge to the production by the
3 government of Jencks and Giglio materials in redacted format.
4 I believe most of the Jencks materials under the confidentiality
5 order had been furnished in toto, unless the government asserts
6 it's an ongoing investigation that could be jeopardized, and I'm
7 not sure that that's still a problem.
8 The Gialio material, as to Mr. Brennan I will take as
9 an example, I've had a chance to go through and compare all the
10 originals as well as all the redactions, and these various
11 documents involve multiple witnesses, and again, there was
12 concerns raised this morning like Mr. Tully was produced with 99
13 percent of his testimony blacked out, that type of thing,
14 Giglio matters. Mr. Leonard had substantial things crossed out
15 of his materials, et cetera.
16 I have reviewed each of the unredacted either grand
17 jury testimonies or witness interviews of all those listed as
18 Giglio materials possible for Mr. Brennan, and based upon his
19 testimony as well as the materials I reviewed, I see no error by
20 the government in what they have redacted. It's simply not
2 relevant materials, many times are very minuscule matters. Other
2 things are rather completely blacked out, but they are about
2 subjects that would fall under Giglio in any fashion or Brady
2 as I can see.
2 In fact, I've found the government has produced this

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1 index system, which I've never seen them do for a defense counsel
2 before, where additional references to these individuals and
3 other Jencks files can be found, and it's a handy cross4
referenced item.
5 So I'm satisfied as to Mr. Brennan there was no error.
6 I haven't seen anything as to the other ones yet, but nothing
7 else has been raised right now as a problem with the ones that
8 have testified today. As we get further on, I could make more
9 reviews as necessary, but so far, the government has not, in the
10 Court's at least review, seen any -- I haven't seen any
11 indications they're improperly redacting these items.
12 As to the confidentiality order, the confidentiality
13 order reads that Ms. Dean and her counsel shall not disclose to
14 any other person or entities any of the information contained in
15 the Jencks and Giglio materials provided to the defendant by
16 the government except to the extent that disclosure of that
17 information is necessary during defendant's cross examination of
18 the government's witnesses at trial or during defendant's
19 preparation or examination of witnesses on defendant's witness
20 list.
2 so the only way it would be disclosed -

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also, it says

2 that Ms. Dean and her counsel shall not disclose any of the
2 information to any other persons except upon application to the
2 Court and a showing of materiality and good cause and reserves
2 relevance issues at trial.

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There was some question raised whether other people
assisting the defendant could review these materials. It says in
the order "doing defendant's preparation or examination of
witnesses." I think that modifies "of witnesses," and unless the
defendant makes a specific application to me to have some
assistance because of the voluminous nature of these materials
7 and can verify who these people are that will be reviewing any of
8 these documents and that they would also sign a separate
9 agreement to be bound by this confidentiality order, I think this
10 is limited at this point to the defendant and her counsel and any
11 other counsel in the case with him actively participating in his
12 firm, but other sort of civilian assistants, I think, are going
13 to have to be named, and they're going to have to sign the
14 agreement that's enforceable in court.

15 All right, I'll be back at 9:30 in the morning in this
16 case then.

17 MR. WEHNER: Your Honor, one last matter for the
18 record?

19 THE COURT: All right, sure.

20 MR. WEHNER: I renew my objection to the admissibility
21 of the co-conspirator statements -

22 THE COURT: All right.

23 MR. WEHNER: -

and move that they be stricken for the
24 same reasons stated previously at the bench.

25 THE COURT: All right. There have been various

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1 statements by Mr. Mitchell now allowed in as well as by
2 Mr. Brennan -- I'm not sure anyone else's statements have come
3 in -- and yesterday I kept out certain statements as being
4 testified to by Mr. Martinez, because I was not convinced upon
5 the government's showing at least at that time of a preponderance
6 of the evidence, using that standard, of the existence of the
7 conspiracy that these statements were made in furtherance of and
8 during the course of.

9 At this juncture, with the letter that's submitted into
10 evidence, the testimony from the witnesses today, and the
11 materials I've reviewed and the government's further proffers, it
12 seems to the Court at least arguably the government has shown to
13 the Court that they have sufficient evidence to connect up the
14 statements to the conspiracy and then eventually to Ms. Dean.

15 I think the last is the important linchpin that we have
16 to eventually be convinced on, but I think at this juncture of
17 the case, I can have the evidence submitted and admitted, subject
18 to being stricken if it's not connected up appropriately.

19 For the review of that, I looked up case law, for the
20 record, in my bench book. I considered the, obviously,
2 Tarantino case in this circuit, without going through all the
2 standard older cases, under 801(d)(2)(E), I believe it is, but
2 the recent case in our circuit is United States v. Beckham. 968
2 F.2d 47, a 1992 case, where under this circuit's precedent,
2 hearsay statements by a co-conspirator may be considered in

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1 finding that a conspiracy existed, but it may not be the sole
2 basis for the ruling. There must be independent evidence of a
3 conspiracy. That's the step after Bouriaaily from the Supreme
4 Court that came down in '87, 483 U.S. 181, where that question
5 had been left open.
6 In other words, that if I can determine, as I had, that
7 the evidence is sufficient at this time, there's sufficient
8 independent evidence to establish the existence of a conspiracy,
9 the evidence can come in, subject to being connected up, and at
10 some point in the case, either at the close of government's case
11 or at any other critical point, if I determine the connections
12 have not been approved, then I will strike the testimony.
13 The statements so far really consist of the brief
14 statements Mr. Gauvry gave as to Ms. Dean and her good position
15 over there and showed him the yellow book, showing where her
16 office was located in relation to Sam Pierce and that she,
17 hyperbole used or whatever by Mr. Brennan or the expression was
18 she about ran things over there and some brief references by Mr.
19 Mitchell, but so far I don't see anything that is so
20 overwhelmingly prejudicial that it could not be cured if I decide
21 this has to be stricken at a later time.
22 All right, I'll be back at 9:30 in the morning for
23 this.
24 (Recess from 4:28 p.m., to 9:30 a.m., September 16, 1993.)
25

CERTIFICATE OF THE REPORTER

2 I certify that the foregoing is a correct transcript of
3 the record of proceedings in the above-entitled matter.

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AnaeTiese J. Thomson Date

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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

- VERSUS- DOCKET NO.
CRIMINAL NO. 92-181
DEBORAH GORE DEAN,
WASHINGTON, D.C.
DEFENDANT SEPTEMBER 16, 1993

10:05 A.M.
VOLUME IV

TRANSCRIPT OF TRIAL BEFORE
THE HONORABLE THOMAS F. HOGAN,
UNITED STATES DISTRICT JUDGE,
AND A JURY.

APPEARANCES:

FOR THE GOVERNMENT: ROBERT O'NEILL, ESQ.
PAULA SWEENEY, ESQ.
OFFICE OF INDEPENDENT COUNSEL
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FOR THE DEFENDANT: STEPHEN VINCENT WEHNER, ESQ.
513 CAPITOL COURT, N.E.
WASHINGTON, D.C. 20002

COURT REPORTER: SANTA THERESA ZIZZO

U.S. DISTRICT COURT, ROOM 4800C
3RD & CONSTITUTION AVE., N.W.
WASHINGTON, D.C. 20001
PAGES 435-590

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1 PROCEEDING S
2 THE DEPUTY CLERK: Criminal number 92-181,
3 United States of America versus Deborah Gore Dean. We
4 have Robert O'Neill and Paula Sweeney for the
5 Government. Stephen Wehner for Ms. Dean.
6 THE COURT: All right. Good morning, counsel.
7 MS. SWEENEY: Good morning, Your Honor.
8 MR. WEHNER: Good morning, Your Honor.
9 THE COURT: How is the witness organization
10 going?
11 MS. SWEENEY: well, Your Honor, it's quite a
12 job but I think we're going to be okay for today.
13 The first order of business for today, Your
14 Honor, we have about approximately 50 HUD documents that
15 have been certified by HUD - various HUD custodians and
16 we'd like to start publishing them to the jury today,
17 this afternoon and tomorrow. So as the first order of
18 business, Your Honor, we're prepared to this morning to

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19 offer those documents into evidence.
20 THE COURT: All right, and Mr. Wehner I know
2 has seen these earlier but has seen them as of now, so
2 he knows which particular 50 you're talking about and to
2 comment on them one way or another.
2 MS. SWEENEY: They are documents that
2 Mr. Wehner has been provided in our proposed exhibits.

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1 They were originally stipulated to, Your Honor, but
2 ultimately Mr. Wehner felt that he was unable to do that
3 and we had to certify them as a result.
4 MR. WEHNER: Your Honor, if I could see the
5 specific ones I might be able to cut the time on this,
6 if I can now stipulate to them. I didn't think at the
7 time I could.
8 THE COURT: I'll give you a couple of minutes
9 and then come back after you looked at them.
10 (Recess 10:10 to 11:00 a.m.)
11 THE COURT: Are we ready to go?
12 THE DEPUTY CLERK: Yes, sir.
13 THE COURT: All right, counsel, what's the
14 status of this document review that we've spent an hour
15 to look at?
16 MS. SWEENEY: Your Honor, Mr. Wehner has
17 stipulated to the authenticity and therefore we do not
18 need to call a custodian for about 50 additional
19 documents and I'd like to put that on the record.
20 THE COURT: All right. Do you want to do that
2 in front of the jury?
2 MS. SWEENEY: As long as it's on the record,
2 Your Honor.
2 THE COURT: All right. Do you have any formal
2 stipulation entered into?

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1 MS. SWEENEY: That's why I'd like to put it on
2 the record.
3 THE COURT: You'd like to read it into the
4 record.
5 MS. SWEENEY: Yes.
6 THE COURT: All right. You can check your
7 list and make sure it's accurate, Mr. Wehner.
8 MR. WEHNER: Yes.
9 THE COURT: All right.
10 MS. SWEENEY: Your Honor, Mr. Wehner has
11 stipulated to the authenticity and therefore dispenses
12 with the need of us calling a document custodian for the
13 following documents.
14 Government's Exhibit 176, which is a HUD
15 routing slip, dated 10-1-86. Government's Exhibit 193,
16 a handwritten note on HUD stationery, dated 1-27-87.
17 Government Exhibit 147, a HUD memo from Deborah Dean to
18 Shirley Wiseman, February 2, 1985. Government Exhibit
19 145 - Government Exhibit 175. I stand corrected.
20 MR. WEHNER: Just so the record is clear, I
2 don't know what 145 is as we're standing here, but
2 there's no stipulation to it.
2 THE COURT: All right. 175.
2 MS. SWEENEY: A typewritten note on the
2 defendant's HUD stationery, dated October 2, 1986.

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1 Government Exhibit 185, a letter from the defendant to
2 Lou Kitchin, dated 11-6-86. Government Exhibit 196, a
3 typewritten note from Jim Schoenberger to Deborah Dean,
4 dated 2-5-87. Government Exhibit 242, a letter from
5 Deborah Dean to Mayor Schaeffer of Baltimore, dated
6 1-10-85. Government Exhibit 244, a letter from
7 Rob Mossbacher to Deborah Dean, dated October 13, 1986.
8 Government Exhibit 245, a note from Deborah Dean to
9 Silvio DeBartolomeis, which is dated October 22nd,
10 1986. Government Exhibit 41, a letter from Mel Adams,
11 dated 5-21, 1986. Government Exhibit 226, a memo from
12 Janet Hale to Thomas Hobbs, dated November 21, 1985.
13 Government Exhibit 31 -
14 MR. WEHNER: Excuse me. I had 222 on my list
15 MS. SWEENEY: Government Exhibit 222.
16 Mr. wehner is absolutely correct.
17 THE COURT: which one is 222?
18 MS. SWEENEY: 222 is a rapid reply letter
19 signed by Maurice Barksdale dated December, '84.
20 THE DEPUTY CLERK: Did you want 226 also?
21 MS. SWEENEY: 222 and 226 have both been
22 stipulated to.
23 Government Exhibit 31, a 185 form for 293
24 units, dated July 27, 1984. Government Exhibit 150, a
25 185 form for 172 units, dated May 22nd, 1986.

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1 Government Exhibit 179, a letter from Robert Sumbry on
2 City of Atlanta letterhead, dated October 27, 1986.
3 Government Exhibit 224, a memo from Janet Hale to
4 Thomas Hobbs, dated 1985. Government Exhibit 22A, a
5 form 185 signed by Maurice Barksdale, dated December
6 24th, 1984. Government Exhibit 192A, a correspondence
7 control packet, dated 1-23, 1987, containing Exhibits
8 187, 188 and 192. Government Exhibit 240, a letter from
9 Samuel Pierce to Amy Schiff, dated November 13, 1986.
10 Government Exhibit 31A, a letter from Samuel Pierce to
11 the Government Development Bank of Puerto Rico, dated
12 8-15-84.
13 MR. WEHNER: Excuse me, Your Honor, there's
14 been a mistake. I don't have that one on my list. Can
15 I look at that one quickly?
16 THE COURT: Yes.
17 MR. WEHNER: we'll stipulate to 31A, Your
18 Honor.
19 THE COURT: All right, 31A.
20 MS. SWEENEY: Government Exhibit 42A, a list
2 of MRP units, dated September 12, 1986. Government
2 Exhibit 42B, a letter from Metro-Dade HUD to
2 DeBartolomeis, dated September 15th, 1986. 42C, a
2 revised list of MRP units, dated September 16, 1986.
2 Government Exhibit 42D, a memo from Jack Fay, F-a-y, to

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1 file, dated 9-18-86. Government Exhibit 42E, a 185
2 form, dated 9-19, 1986.

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3 Government Exhibit 69, a letter from Deborah
4 Dean to Richard Shelby on HUD stationery, dated 6-20,
5 1985. Government Exhibit 70, a letter from Richard
6 Shelby to Deborah Dean, dated July 3, 1985. Government
7 Exhibit 74, a letter from Richard Shelby to Deborah
8 Dean, dated August 15th, 1985. Government Exhibit 75, a
9 letter from Deborah Dean to Richard Shelby, dated
10 September 4, 1985. Government Exhibit 78, a rapid reply
11 letter, dated November 26th, 1985.
12 Government Exhibit 81, a 185 form, dated
13 December 2, 1985. Government Exhibit 84B, a note from
14 Richard Shelby to Deborah Dean, dated 2-3-86.
15 Government Exhibit 92, a handwritten thank you note from
16 Richard Shelby to Deborah Dean, dated December 1st,
17 1986. Government Exhibit 101, a letter from John
18 Rosenthal to Harry Staller, S-t-a-l-l-e-r, dated
19 September 13th, 1984.
20 Government Exhibit 102, a memo from Jan
2 Vagassky, V-a-g-a-s-s-k-y, dated November 5, 1984.

2 Government Exhibit 108, a letter from John Rosenthal to
2 Deborah Dean, dated February 12th, 1985. Government
2 Exhibit 108A, a letter from Finlayson to Samuel Pierce,
2 dated February 13, 1985. Government Exhibit 110A, a

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1 microfiche from HUD Executive Secretariat, dated March
2 1, 1985.

3 Government Exhibit 116, a letter from John
4 Rosenthal to Deborah Dean, dated May 14th, 1985.

5 Government Exhibit 120, a letter from John Rosenthal to
6 Deborah Dean, dated June 4th, 1985. Government Exhibit
7 122, a letter from Deborah Dean to John Rosenthal, dated
8 July 16, 1985. Government Exhibit 124, a rapid reply

9 letter, dated September 5th, 1985.
10 Government Exhibit 124A, a memo to file from
11 Ross Kumagai, K-u-m-a-g-a-i, dated September 6, 1985.
12 Government Exhibit 125, a 185 form, dated September
13 12th, 1985. Government Exhibit 129, a rapid reply
14 letter for 13 units, dated November 8th, 1985.
15 Government Exhibit 130, a 185 form for 13 units, dated
16 November 14th, 1985.
17 Government Exhibit 133, a letter from John
18 Rosenthal to Deborah Dean, dated December 16, 1985.
19 Government Exhibit 137, a letter from Thomas Broussard,
20 B-r-o-u-s-s-a-r-d, to Deborah Dean, dated June, 1985.
21 Government Exhibit 142, a computerized form authorizing
22 310 units in San Juan, dated 1-24, 1986. Government
23 exhibit 143, a computerized form authorizing 300 units
24 to the Puerto Rican Housing Finance Corporation, dated
25 1-24, 1986.

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1 Government Exhibit 157, a rapid reply letter,
2 dated September 23, 1986. Government Exhibit 158, a 185
3 form, dated September 26th, 1986. Government exhibit
4 161, a memo from Thomas Demery to Hunter Cushing and
5 Susan Zagame, dated April 8th, 1987.
6 Government Exhibit 164, a rapid reply letter
7 dated April 30, 1987. Government Exhibit 165, a 185
8 form for 88 units, dated May 7, 1987. Government
9 Exhibit 177, a handwritten note on Deborah Dean's
10 stationery dated October 20, 1986.
11 MR. WEHNER: Your Honor, if I could make one
12 brief comment regarding that one exhibit. We stipulated
13 to only one page of that exhibit. If Your Honor would
14 make note of that. It's one piece of paper.
15 THE COURT: There are a couple of pages
16 attached to that?
17 MR. WEHNER: There are a couple of pages stuck
18 in with it and I don't want there to be any
19 misunderstanding about it.
20 THE COURT: A handwritten note, you stipulate
21 to the note.
22 MR. WEHNER: Yes, sir.
23 THE COURT: All right.
24 MS. SWEENEY: Government Exhibit 184 is a 185
25 form, dated November 3, 1986. Government Exhibit 191, a

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1 note from Lou Kitchin to Deborah Dean, dated January,
2 '87. Government Exhibit 198, a letter from Al Moore,
3 dated February 13, 1987. Government Exhibit 198A, a
4 note from Jim Schoenberger to Deborah Dean, dated
5 February 13, 1987. Number -- Government Exhibit 206, a
6 memo from Jim Hammernick re: Woodcrest, dated May 21,
7 1987.
8 Government Exhibit 236, which is a check for
9 \$500 from John Mitchell to Deborah Dean, dated December
10 25th, 1986. Government Exhibit 238 is a check for \$3324
11 on John Mitchell's account, dated December 15, 1987.
12 Your Honor, those are the documents that we
13 have stipulated to this morning.
14 MR. WEHNER: Your Honor, we have also
15 stipulated to I believe it was three additional
16 attachments to number 238. It's not only a check, it is

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17 also documents surrounding -- bank statements
18 surrounding the check and I believe the stipulation
19 encompasses those statements.
20 MS. SWEENEY: I believe Mr. Wehner is
2 correct.
2 Thank you, Mr. Wehner.
2 THE COURT: Bank statements as well as check
2 on 238.
2 MS. SWEENEY: Yes.

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1 THE COURT: When you say you stipulate, j
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2 Mr. Wehner, to authenticity, is there also any objectionj
3 to admissibility and relevance?
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4 MR. WEHNER: There may be, Judge. I would
5 make those objections when they come in and I don't
i
6 anticipate a lot of those. {
7 THE COURT: You're introducing them in bulk at:
8 this time.
9 MS. SWEENEY: No, Your Honor, we're not going j
i
10 to introduce them in bulk. j
11 THE COURT: All right. The witness will
12 review them and they'll come in later.
13 All right. Do you have a witness available?
14 MR. O'NEILL: Yes, sir.
15 THE COURT: All right, bring the jury in and
16 we'll get a little work done. |
17 (Jury present)
18 THE COURT: Ladies and gentlemen, it's almost
19 good afternoon. The lawyers have not been taking it j
I
20 easy. We have been going through documents. As you j
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i
2 understand in this type of case there are multiple j
2 documents over the many years that are involved in this j
2 case and they have gone through at least 50 or more
2 documents with attachments. I've got almost two pages
2 listed in my book here that they've worked out

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1 agreements on as to authenticity. What that means is
2 that there are stipulations without having to call a
3 witness to certify that they're official records of the
4 particular agency or business, wherever they come from,
5 and that saves calling multiple witnesses and multiple
6 time showing the documents.

7 So that took this morning once the Government

8 decided which ones they were going to use in the next

9 few days or weeks. And that's what's gone on this
10 morning.

11 We're ready to go now with the witnesses again
12 and the testimony. So the Government will call the next
13 witness at this time.

14 We'll sit through lunch until probably 12:15
15 or 12:30 or so, wherever you are with the witnesses.

16 MR. O'NEILL: Your Honor, at this time the
17 Government would call Maurice Lee Barksdale.
18 (MAURICE LEE BARKSDALE, WITNESS FOR GOVERNMENT, SWORN)
19 DIRECT EXAMINATION

2 0 BY MR. O'NEILL:

2 Q Mr. Barksdale, I'll be asking you a series of

2 questions. I'd ask you to speak in a loud voice so all
2 the jurors can hear.

2 Could you please state your name for the
2 record, spelling your last name for the Court reporter?

1 A Maurice Lee Barksdale, B-a-r-k-s-d-a-l-e.

2 Q Mr. Barksdale, are you currently employed?

3 A Yes, I am.

4 Q How are you employed?

5 A I'm the president of HMB Management Company,

6 Fort Worth, Texas.

7 Q What is HMB?

8 A HMB stands for the first letters of my three

9 children's names, Hamilton, Maurice, Bryant Barksdale,
10 and it specializes in doing consultant work and
11 development work related to housing.

12 Q What type of business is it?

13 A It's a housing consultant business. It develops
14 and manages real estate, commercial real estate.

15 Q How long have you been in that business?

16 A Since 1967.

17 Q During that period of time, did you take any time
18 to do anything else?

19 A Yes, in 1982 I joined the Federal Government
20 working for the Department of Housing and Urban

2 Development in Washington.

2 Q Approximately how many years have you spent in the
2 housing industry?

2 A Approximately since '67. I guess that would be --
2 27 years, about 27 years.

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1 Q Do you also have a military background,

2 Mr. Barksdale?

3 A Yes, I served in the United States Navy in the

4 submarine force in the Pacific and in the Atlantic

5 submarine force for five years.

6 Q Could you briefly tell the ladies and gentlemen of

7 the jury what your educational background is?

8 A I graduated from high school in Fort Worth, Texas.

9 I attended the University of Texas at Arlington
10 subsequent to my Navy time. Received an undergraduate
11 degree in history. I received a master's degree from
12 the Texas Christian University at Fort Worth, Texas,
13 also specializing in history.

14 Q Mr. Barksdale, you mentioned there came a point in
15 time when you joined the federal Government and worked
16 at HUD?

17 A That is true.

18 Q Can you tell us how that came about?

19 A I've been active in the Republican party since 1968
20 and during the campaign of 1980 I worked in the
2 Reagan-Bush campaign. I had assisted at that time

2 Mr. Bush who had run for a couple of offices in the
2 State of Texas and knew him quite well and worked in the
2 Reagan-Bush campaign and headed one of the State
2 minority campaigns for Ronald Reagan.

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1 In 1980, after Reagan won, I was contacted by

2 certain people in the Republican party in the State of

3 Texas concerning maybe joining the Reagan Administration
4 at the Department of Housing and Urban Development. At
5 that time my youngest son was in the eleventh grade and
6 I did not join the Administration. He graduated in 1982
7 and when I was asked the second time I decided to join
8 HUD.

9 Q And when did you join HUD?

10 A October of 1982.

11 Q And what position did you have in HUD when you
12 joined?

13 A I came on board in October, 1982 as the Deputy
14 Assistant Secretary for multi-family housing programs.
15 Q What were your duties and responsibilities in that
16 position?

17 A I had the day-to-day responsibility of monitoring
18 all of the multi-family which for lack of a better word
19 would be apartments that were in the Department of
20 Housing and Urban Development. That included the
21 development, the management and all the ongoing
22 servicing of those types of jobs.

23 Q Mr. Barksdale, how long did you remain in that
24 position?

25 A I remained as a Deputy Assistant Secretary from

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1 October of 1982 until November of 1983.

2 Q And what if anything occurred at that time?

3 A In the fall of 1983 Philip Abrams who at that time
4 was the Assistant Secretary-Federal Housing Commissioner
5 moved upstairs; moved upstairs meant that he moved into
6 the position of Undersecretary of the Department which
7 left the Assistant Secretary of the Federal Housing
8 Commission job available.

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9 Phil Abrams was my boss. As Deputy Assistant
10 Secretary I worked for an Assistant Secretary and that
11 Assistant Secretary was the Assistant Secretary of
12 Federal Housing Commission.
13 Q Did there come a point in time when you received
14 that position?
15 A Yes, I think several people's names were nominated
16 for the position but in the early part of November of
17 1983 I was notified by white House personnel that my
18 name would be sent to the Hill as a possible candidate
19 to be the new Assistant Secretary of Housing, Federal
20 Housing Commissioner. That did occur and I did move
2 into the job on an interim appointment in November of

2 1983.
2 Congress was not in session and I think the
2 President has the power to appoint certain Assistant
2 Secretaries or Federal - confirm appointees during a

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1 recess appointment. So I received what's called a

2 recess appointment in November of 1983.

3 Q You said you were interim at that point. What were

4 you waiting for?

5 A I was waiting for the Senate to return in January.

6 They returned in January of '84. My name did go up to

7 the Hill for Senate confirmation. On February the 10th,

8 1984 I was confirmed as the Assistant Secretary of

9 Housing-Federal Housing Commissioner.

10 Q Mr. Barksdale, in ordinary layman terms what does
11 the Assistant Secretary of Housing-Federal Housing
12 Commissioner do?

13 A Very simply stated, the position involves being
14 responsible for all the housing programs at the
15 Department of Housing and Urban Development. That
16 includes both the multi-family housing programs which I
17 had as Deputy Assistant Secretary and the programs,
18 family programs which are single family homes, 234's,
19 that kind of thing. Directly responsible for the
20 day-to-day operations of housing in the Department of
21 Housing.

22 Q Is that a supervisory position?

23 A Yes, it is.

24 Q Approximately how many people were you supervising
25 in and about this period of 1984?

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1 A I think at that time in 1984 there were
2 approximately 1200 persons that worked in the Department
3 of Housing.

4 Q Now, are you familiar with certain documents used
5 at HUD known as rapid replies or 185's?

6 A Yes, I am.

7 Q Can you describe for the jury what those documents
8 are and what do they signify?

9 A Rapid replies are utilized by the Department in
10 situations where certain funding has been requested and
11 after review by staff and by supervision you use a rapid
12 reply letter to indicate that a particular item has been
13 approved and will be subsequently funded by what's
14 called a 185, which is the funding document which
15 legally authorizes the expenditure or the commitment of
16 the funds.

17 Q Who had the authority to sign off on rapid replies
18 and 185's?

19 A The Assistant Secretary of Housing-Federal Housing
20 Commissioner and persons that he may designate.

2 Q Now, did you sign any such documents while you were

2 Assistant Secretary for Housing?

2 A Yes, I did.

2 Q And do you recall, was that on a regular basis or
2 sometimes? How often did that occur?

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1 A It occurred almost on a daily basis because there
2 was always some item that needed to be funded.

3 Q Let me show you - if I may approach the witness?

4 THE COURT: Yes, sir.

5 BY MR. O'NEILL:

6 Q Mr. Barksdale, I'm going to show you what's

7 previously been marked as Government's Exhibit 30 for
8 identification.

9 THE DEPUTY CLERK: Government's Exhibit 30

10 marked for identification.

11 (Government's Exhibit 30

12 marked for Identification)

13 BY MR. O'NEILL:

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14 Q And I'd ask you just to look at it but don't refer
15 to it out loud because it is not in evidence. Okay? Do
16 you recognize that?
17 A Yes, I do.
18 Q Now, do you recall the ..specific rapid repJLy
19 document for 293 units going to the Jacksonville area?
20 A Yes, I do.
2 Q And do you recall during your tenure at HUD signing
2 off on such a document?
2 A Yes, I did.
2 Q And do you recall why you signed off on that
document?

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1 A I signed off on the document because this happened
2 to be a request that had -- came to the Department from
3 the Jacksonville office and I think from the Dade County
4 Housing Director requesting Moderate Rehab units, and it
5 had been processed and requested from the Department.
6 Q Did anybody ask you to sign off on this document?
7 A I don't specifically remember anyone asking me to
8 sign off, but generally when I sign off on those kinds
9 of documents someone had asked me to review them and I
10 believe someone must have asked me to review them, which
11 I did, and you ultimately passed it onto staff for
12 review and approval*
13 Q When you say someone, who are you referring to?
14 A Generally that would be someone that would have
15 been on the tenth floor of the department, generally in
16 the secretary's office.
17 Q And during this period of time -- and do you recall
18 when you signed off on this rapid reply?
19 A I think it was sometime in July of 1984.
20 Q During that period of time, who were you in contact
2 with from the secretary's office?
2 well, Secretary Pierce, of course, who was the
2 Secretary, Deborah Dean who was the Executive Assistant
2 to the Secretary, Phil Abrams, at that time who was the
2 Undersecretary, and persons on his staff.

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1 Q Now, did Samuel Pierce ask you to sign off on this
2 funding document?
3 A No, he did_jipt.
4 Q Did Deborah Dean?
5 A I do not remember Deborah Dean asking me.
6 Q Did Phil Abrams?
7 A No, Phil Abrams did not.
8 Q Now, do you recall -- let me go back. You've
9 mentioned earlier 293 units went to Jacksonville,
10 Florida.
11 A That's correct.
12 Q Did you know where -- when you signed this
13 document, where were the units going to go? Do you
14 recall what PHA?
15 A They were going to go first through the
16 Jacksonville HUD office which had multi-family
17 responsibility for the Miami-Dade County Housing
18 Authorities. So they would go to Jacksonville and
19 subsequent to Jacksonville they would be forwarded to

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20 the Metro-Dade County or Miami Housing Authority.
2 Q Now, at the time you signed off on this document
2 did you know that the 293 units were going to a specific
2 project in Miami?
2 A No, I did not.
2 Q At that point in time did HUD headquarters have a

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1 policy against making project specific awards?
2 A Yes, it did.
3 Q why is that?
4 A Well, our policy at the time to keep the unit - we
5 had a limited amount of units. I think at the time for
6 the fiscal year, and I may be incorrect on this, maybe
7 there were 5000 Mod Rehab units available for the entire
8 country and generally we would have ten or 15 times that
9 many units requested. Maybe 40 or 50,000.
10 So to try to keep some semblance of order we
11 had what was called a policy where units would be sent
12 to those Housing Authorities that requested them and
13 then the Housing Authorities would have a subsequent
14 competition to allow - to allow developers and other
15 persons who were interested in trying to secure units,
16 to get the units once they were sent to the housing
17 authorities.
18 Q So when you signed off on a document the funding
19 went to the local PHA?
20 A That is correct.
21 Q Now, Mr. Barksdale, at the time you signed off on
22 this document were you aware that John Mitchell had been
23 a paid consultant on these units going down to Miami?
24 A No, I was not aware of that.
25 Q would you have signed off on this document had you

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1 been aware of it?
2 A I would have been concerned about signing off on
3 the document had I known John Mitchell was involved.
4 Q why would you be concerned?
5 A Well, I was told at the time that John Mitchell was
6 the stepfather of Deborah Dean. That would have
7 concerned me.
8 Q Now, are you familiar with the standards of conduct
9 that are applicable to HUD employees?
10 A Yes, I am.
11 Q Mr. Barksdale, how are you familiar with those
12 standards of conduct?
13 A When I reported on board in October of 1982 - as I
14 said, I had been in the housing business for most of my
15 adult life. That's the only thing that I've really ever
16 done.
17 I owned about 15 rental properties in the
18 Fort Worth-Dallas area. Some of those units had Section
19 Eight housing contracts on them. As Deputy Assistant
20 Secretary for multi-family housing programs I would be
21 directly responsible for the Section Eight program.
22 So I wanted to make it absolutely clear before
23 I reported on board and was sworn in that the Department
24 and everyone else knew that I had units that were under
25 the Section Eight contracts. I didn't want to have any

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1 conflict of interest problems once I reported on board.
2 So I wrote a long letter to the Department,
3 telling them everything that I was doing, including
4 these particular units, and that letter - I was
5 directed to send that letter to a guy named David White
6 who was on the HUD staff at that time and I think he was
7 the person who was in charge of clearing potential
8 employees, and Mr. White reviewed my letter and at that
9 time gave me what I would call a little lecture on the
10 ethics of being an appointee or in a position of
11 responsibility in the Department.
12 Q What are the standards of conduct relative to a HUD
13 employee?
14 A Well, they would be basically -I
15 guess it's kind
16 of a common sense thing more than anything else. That I
17 wouldn't do anything that would bring disfavor upon
18 myself or the Department. I guess that would include -18
19 my son happens to be a housing attorney. That I
20 wouldn't do anything that would be favorable to him or
21 persons that I know. It would be more of a common sense
22 thing. Just do what you considered to be ethical.
23 Q To your knowledge, Mr. Barksdale, were these
24 standards of conduct applicable when you were making
25 funding decisions?
26 A Yes.

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1 Q Did you ever recuse yourself from making certain
2 funding decisions?
3 A Yes, I did in one instance.
4 One of the major developers of federal housing
5 in the Fort Worth-Dallas area was a high school
6 classmate of mine, a gentleman by the name of Leonard
7 Briscoe, and Briscoe did approach the Department on
8 several matters which were not in the area of housing.
9 I think he had a request in for several items in what's
10 called the Community Planning and Development area of
11 HUD. However, since I knew Mr. Briscoe, I knew him all
12 my life, I made it clear to everyone involved that I
13 would personally recuse myself from any decisions that
14 Mr. Briscoe may need with respect to any area that I was
15 responsible for, because I had known him all my life.
16 Q Now, Mr. Barksdale, I'd like to go back to the
17 rapid reply that you talked about earlier for 293 units
18 to the Jacksonville office and then down to Miami. Do
19 you recall the date of that rapid reply?
20 A I think it was in July of 1984.
21 Q Would anything refresh your recollection as to the
22 exact date?
23 A Would anything - yes, if I could see the
24 documents.
25 MR. O'NEILL: If I may, Your Honor?

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1 THE COURT: Yes.
2 BY MR. O'NEILL:
3 Q Without saying anything about the documents, is

4 your memory now refreshed?

5 A Yes.

6 Q And what was the exact date of the rapid reply?

7 A July 16, 1984.

8 Q At this time, again with the Court's permission, I
9 would approach you and I'd show you a document that you
10 can refer to now because it's already been placed in
11 evidence and it's Government's Exhibit 27, and I'd ask
12 you to review that, if you would, and let me have you
13 review a copy.

14 with the Court's permission we'll put it on

15 the screen while Mr. Barksdale reviews it.

16 THE COURT: All right.

17 A I see it.

18 Q I direct your attention to the date on that letter,
19 Mr. Barksdale. what is the date on that letter?

20 A I see a date of July 5th, 1984.

2 Q And what was the date of the rapid reply that you
2 signed?

2 A July 16, 1984.

2 Q Based on your knowledge of the way HUD worked and
2 your position as Assistant Secretary for Housing, how

1 could the defendant, Deborah Gore Dean, have assured

2 Governor Nunn that he would receive 293 units weeks

3 before the actual funding document had been signed?

4 A I guess the only way that could have happened is

5 she would have some knowledge that it was going to be

6 going out.

7 Q Have you ever seen a letter like this before in

8 your experience at HUD?

9 A No. No, I haven't.

10 Q Does that run contrary to the Department's
11 prohibition against project specific awards?

12 A I would say so, yes.

13 Q Now, Mr. Barksdale, I would like to ask you a few
14 questions about HUD overall. During this period that
15 we're talking about, and we can confine it to
16 approximately 1984, who was the Secretary at HUD?

17 A Samuel R. Pierce.

18 Q And how long did Samuel Pierce stay at HUD?

19 A Well, I think Samuel R. Pierce was the only
20 Secretary at the Department of Housing and Urban
2 Development during both terms of the Reagan

2 Administration, from 1980, I think, through 1988.

2 Q Mr. Barksdale, could you describe Samuel Pierce's

2 management style at HUD?

2 A The Secretary in my opinion had a very strange and

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1 interesting management style. It was in my opinion
2 totally hands off. I was an Assistant Secretary in one
3 of the key positions at the Department and with the
4 exception of Tuesday morning staff meetings, he did a
5 staff meeting on Tuesday morning at 10:30, I very seldom
6 had contact with the Secretary.

7 Q Now, Mr. Barksdale, when you first came to the
8 Department who was the Executive Assistant to Samuel
9 Pierce?

10 A Lance Wilson.

11 Q And during the time Lance Wilson was Executive
12 Assistant who was running the Department of HUD?

13 A I felt Lance Wilson was running the Department.

14 Q Who succeeded Lance Wilson as Executive Assistant?

15 A Deborah Dean.

16 Q And during the time she was Executive Assistant who
17 was running the Department?

18 A I felt that Deborah was running the Department.

19 Q And what makes you say that?

20 A Because I had most of my contact on matters with
2 respect to operating the Department with Deborah Dean.

2 Q Now, did that contact concern funding decisions?

2 A It concerned almost everything that would be
2 involved in the day-to-day operations of the Department
2 up to and including funding decisions.

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1 Q would the defendant Deborah Gore Dean ask you about
2 particular funding for particular projects?

3 A Yes.

4 Q Is that often?

5 A Yes.

6 Q Now, you mentioned earlier a prohibition against
7 project specific awards. Do you recall that?

8 A Yes.

9 Q why was there a prohibition against project
10 specific awards?

11 A It was in a sense trying to take the limited
12 amounts of units, as I said earlier, that we had
13 available and to keep them somewhat competitive as far
14 as directing them to PHA's or Housing Authorities and
15 giving groups or entities in different cities the
16 opportunity of coming in competitively and vye for the
17 units or attempt to secure the units.

18 Q Mr. Barksdale, the jury has heard evidence
19 concerning a process on funding called fair share.

20 A Okay.

2 Q Are you familiar with that term?

2 A Yes, I am.

2 Q And could you briefly describe what that was?

2 A well, when I reported on board in 1982 to run the
2 multi-family section, most of the units - most of the

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1 Mod Rehab units that we had available at that time, and
2 I seem to recall in 1982 it was 10,000 units, I could be
3 incorrect because it's been a long time ago, it seemed

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4 like we took 8000 of the 10,000 units and fair shared or
5 sent them out to the ten different regions that HUD has
6 and gave the Regional Administrators or the regions the
7 opportunity to advertise the 8000 units to the Housing
8 Authorities and make them competitive and get them on
9 line.
10 we kept about 2000 units in the central
11 office, if I recall, because of lawsuits that had been
12 filed against the Federal Housing Administration and for
13 disasters or things that might come up where units might
14 be needed on an emergency basis, but the rest of the
15 units were fair share out to the different regions to
16 allow there to be a competitive spirit or to allow the
17 units to be placed on a fair share basis.
18 Q Did there come a point in time when fair share
19 ended, Mr. Barksdale?
20 A Yes, it ended, I think, during the 1983 fiscal year
2 and that year, I think, began in October of 1982. No, I
2 have that incorrect. I think it started in 1984 fiscal
2 year which started in October of 1983.
2 Q The fiscal year always starts -2
A On October the 1st.

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1 Q Now, after fair share, how were the units
2 allocated?
3 A Well, they were allocated on what then was referred
4 to as a total discretionary basis.
5 Q And what was meant by that?
6 A It meant that the Office of Housing, and me being
7 the Assistant Secretary running that Department, had the
8 authority to not fair share but on a discretionary basis
9 send the units wherever we decided to send the units.
10 Q Now, during this discretionary period of time did
11 the Department still have a prohibition against project
12 specific awards?
13 A Yes.
14 Q And were there other limits as well, such as
15 standards of conduct? were they applicable to funding?
16 A Yes, we had standards of conduct that were in place
17 and of course we still wanted the same rules to apply as
18 far as the Housing Authorities were concerned with
19 respect to whether -- were the Housing Authorities
20 running the program the way it should be taken care of
2 and were they keeping the units competitive, and that
2 kind of thing. Yes, those rules still applied.
2 Q And would you occasionally issue memos to the field
2 concerning that?
2 A Yes.

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1 Q Now, Mr. Barksdale, at the time you were Assistant
2 Secretary for Housing-FHA Commissioner, did the
3 defendant Deborah Gore Dean ever approach you about

4 sending units to the State of Maryland?

5 A Yes, to Baltimore on one occasion.

6 Q And what exactly did she say or what do you recall

7 she said rather?

8 A well, she discussed units that may be sent to the

9 Baltimore Housing Authority.

10 Q And do you remember her speaking to you about that?

11 A Yes.

12 Q Did she mention whether anybody was involved in the
13 project?

14 A Well, at the time, to the best of my recollection,
15 I think she mentioned that a friend of Janice Golec was
16 involved.

17 Q And would Golec be spelled G-o-l-e-c?

18 A Yes, Janice Golec.

19 Q Did you know Janice Golec at the time?

20 A Yes, she worked for the Department.

2 Q Mr. Barksdale, at this time I would show you -- if

2 I may, with the Court's permission, approach the
2 witness?

2 THE COURT: All right.

2 BY MR. O'NEILL:

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1 Q Mr. Barksdale, I'll show you what's previously been
2 marked for identification as Government's Exhibit 222
3 and 222A. And both have been stipulated to by counsel
4 and the Government is now offering them into evidence,
5 Your Honor, as the witness looks at them.

6 A Okay.

7 THE COURT: All right. Has the witness looked
8 at them? All right, no objection, 222 and 222A
9 admitted.

10 (Government's Exhibits 222 and
11 222A received into Evidence)

12 BY MR. O'NEILL:

13 Q Do you recall those documents, Mr. Barksdale?

14 A Yes, I do.

15 Q And do both 222 and 222A bear your signature?

16 A Yes, they do.

17 Q And can you explain starting with 222 what that
18 document is?

19 A well, 222 is the rapid reply letter that went to
20 the Philadelphia office indicating that subsequent to
2 the rapid reply there would be a 185, which would be the
2 funding document on the units going to the Baltimore
2 Housing Authority.

2 Q Is that the project that Miss Dean asked you about?

2 A well, it wasn't a project. It was units.

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1 Q Excuse me, I shouldn't say project. It could not

2 be a project, correct?

3 A Right.

4 Q Are those the units she asked you about?

5 A Yes.

6 Q Now, 222A, what would be 222A in relation to 222?

7 A Well, 222A would be the 185, the funding authority,

8 the authority to go ahead and place the units in the

9 Philadelphia office for transfer to Baltimore.

10 Q On funding, does the 185 come first or does the
11 rapid reply come first?

12 A Generally the rapid reply goes before the 185.

13 THE COURT: If you're finished with this we

14 can take it now?

15 MR. O'NEILL: Yes.

16 BY MR. O'NEILL:

17 Q Mr. Barksdale, to your knowledge did Miss Dean ever
18 recuse herself from any decisions concerning funding
19 going to the State of Maryland?

20 A To my knowledge, no. To my knowledge, no.

2 MR. O'NEILL: I have nothing further. Thank

2 you.

2 THE COURT: Okay. Let me ask counsel a real

2 quick question at the bench about one matter, please?

2 (Bench conference)

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1 THE COURT: As part of the Government's full
2 disclosure operation, I received this morning on
3 Barksdale, Giglio materials with references indexed. I
4 just want to ask were these Giglio materials given to
5 the defendant?

6 MR. O'NEILL: Barksdale, yes. No Giglio would
7 have been redacted.

8 THE COURT: would have been redacted.

9 MR. O'NEILL: The Jencks is not, Your Honor.

10 THE COURT: I got the Jencks and then the next
11 thing, also for the record, I've got unredacted Jencks.

12 MR. O'NEILL: Right.

13 THE COURT: So they gave them unredacted
14 Jencks.

15 MR. O'NEILL: Yes, unredacted Jencks.

16 THE COURT: And then the Giglio, too. These
17 are other documents for Giglio. I wasn't shown, I
18 guess, the redacted Giglio, that is what I'm missing.

19 MR. O'NEILL: That's probably very true.
20 THE COURT: These are very massive. Was there
21 much redaction?
22 MR. O'NEILL: Do you have that, Paula?
23 MS. SWEENEY: I'll check to see if I have
24 that. What was done, Your Honor, was that every
25 reference to Barksdale would have been disclosed.

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1 THE COURT: I see. So these are with respect
2 to many witnesses. You just disclosed all Barksdale.
3 MS. SWEENEY: Yes, Your Honor.
4 MR. O'NEILL: The pattern was if there's any
5 reference to Mr. Barksdale it was left in, everything
6 else was redacted.
7 THE COURT: People calling and speaking to
8 Mr. Barksdale. And the Jencks is unredacted.
9 MR. O'NEILL: The Jencks is unredacted.
10 THE COURT: We were trying to compare the two,
11 but I won't deal with that.
12 (Bench conference concluded)
13 THE COURT: We have a juror that is not
14 feeling well, maybe a touch of the flu, and he just left
15 because we're having a bench conference and, so, he
16 didn't miss any testimony. What we'll do is just take a
17 short break and see how he is and see if he needs to
18 rest over lunch. Whatever it is.
19 Did the Marshal go out there with him?
20 All right. That's juror number 11,
2 Mr. Porter. Is the Marshal out there?
2 THE LAW CLERK: Yes.
2 THE COURT: Ladies and gentlemen, what we'll
2 do is take a short break for you and see how Mr. Porter
2 is feeling and if he's better we'll come in and finish

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1 up the examination of Mr. Barksdale. If not, we'll take
2 an early lunch.
3 Remember the admonitions during the break
4 about not discussing the case. You may take a break.
5 (Jury dismissed)
6 THE COURT: For the record, a juror just asked
7 me if someone could tell her what the difference is
8 between a grand jury and a regular jury. I have no idea
9 why she asked that question.
10 MR. O'NEILL: Maybe when I mistakenly said
11 tell the grand jury a couple of times.
12 THE COURT: I'll have her back for that
13 purpose. Why don't we get her out here now since
14 they're waiting? We're waiting otherwise.
15 MR. WEHNER: Judge, if it matters in terms of
16 making your decision I'm going to be a while with
17 Mr. Barksdale.
18 THE COURT: I assumed so.
19 THE LAW CLERK: They're trying to get him a
20 drink.
2 THE COURT: Water?
2 THE LAW CLERK: Yeah, he requested ginger ale.
2 THE COURT: Gloria went back to get that juror
2 for a second.
2 MS. SWEENEY: Your Honor, as long as we have a

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1 moment, perhaps we could inquire, is Your Honor -2
THE COURT: why don't you come up for a minute
3 and we'll talk about your question with the counsel
4 here, all right?
5 Counsel, come up here, please.
6 (Bench conference)
7 THE COURT: Just for the record, I need your
8 name quickly.
9 A JUROR: Pamela Thomas, juror number two. I
10 speak for everybody. We were just concerned.
11 THE COURT: Because you heard a reference to a
12 grand jury a couple of times, is that why people are
13 asking?
14 MS. THOMAS: Yes.
15 THE COURT: If other jurors are confused about
16 it I'll tell the whole jury as a group as well.
17 You're a regular trial jury. Sometimes they
18 call it petit, meaning small jury, but you're a regular
19 jury hearing the issues in this case, and a grand jury
20 meets - there's more than 21 people, and it meets to
2 consider whether or not to return charges or indictments
2 against individuals who have been - the prosecution
2 wants to charge with a criminal offense and the grand
2 jury returns the charges, they call it an indictment,
2 and they vote to see whether or not they believe there's

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1 probable cause to indict a person for a crime.
2 It's a very different standard than applies in
3 a criminal trial. They're subpoenaed to come in. They
4 listen to the prosecution by the witnesses and they
5 produce evidence where they allege there's a sufficient
6 basis to charge someone of an offense.
7 After the charge they then come to trial
8 before a regular jury. It's a very different system.
9 I'll talk to them.
10 MS. THOMAS: Yes, you need to because -11
THE COURT: Thank you.
12 (Juror dismissed)
13 THE COURT: Did you want to raise something
14 else?
15 MS. SWEENEY: Yes, Your Honor. Was Your Honor
16 expecting to receive all of the Jencks and the Giglio
17 for all of the witnesses?
18 THE COURT: Not unless there's more challenges
19 by Mr. Wehner.
20 MS. SWEENEY: That was the question we had,
2 Your Honor.
2 THE COURT: I tried to review everything, but
2 it's -- but I don't think it's necessary unless there
2 are some more challenges to be made.
2 MR. WEHNER: I would ask Your Honor to

1 continue to review the Jencks Act redactions.

2 THE COURT: Just let me know what they are,

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3 because it's hard to me to know otherwise. I don't

4 think there's been a lot except for the names of the

5 interviewing agents and things like that.

6 All right.

7 MS. SWEENEY: Thank you, Your Honor.

8 THE COURT: We'll find out what happened to

9 Mr. Porter here.

10 (Bench conference concluded)

11 THE COURT: What I'm going to do is this,
12 I've just talked to my Deputy Courtroom Clerk,
13 Miss Whyte, who said they went to get him a soft drink
14 and he looks shaky and pale and not feeling well, so
15 I'll send him down to the nurse and see if he has a flu
16 bug or whatever the problem is and take an early lunch
17 and come back later. We'll take an early lunch. Since
18 it's early, come back at 1:15 and we'll be ready to go
19 at 1:15. If there's a problem with Mr. Porter we'll
20 take care of that then.
2 For your reference, Mr. Porter is a tall thin

2 gentleman.

2 I'll tell the jury we're going to recess
2 without bringing them in here and we'll stand in
2 recess.

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1 (Lunch recess, 12:00 noon to 1:15 p.m.)

2 AFTERNOON SESSION 1:25 P.M.

3 THE COURT: Would you ask Mr. Porter to come
4 out for a minute, please? Thank you.

5 Mr. Porter, how are you feeling?

6 MR. PORTER: Fine, fine.

7 THE COURT: Okay to go ahead this afternoon?

8 MR. PORTER: Yes.

9 THE COURT: Just let us know if you don't feel
10 well, okay?

11 MR. PORTER: All right, sir.

12 THE COURT: Thank you, sir. I appreciate it.

13 All right. He had indicated to the Deputy
14 Clerk, Miss Whyte, that he feels better. I just wanted
15 to make sure of that.

16 Will you bring the jury back?

17 I'm going to mention to the jury we had an
18 inquiry about what a grand jury does and a jury.

19 There's apparently some confusion when they heard the
20 phrase.

2 (Jury present)

2 THE COURT: All right, ladies and gentlemen -

2 THE DEPUTY MARSHAL: One more.

2 THE COURT: We're about ready to proceed.

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2 All right. Ladies and gentlemen, I had an

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1 inquiry made while we were -- during our break, because

2 of counsel referring inadvertently a couple of times to

3 please tell the members of the grand jury, et cetera, et

4 cetera, as to whether there's some distinction or not

5 between a grand jury and this jury or whatever. So let

6 me explain this to you very briefly, so we don't

7 misunderstand the rules that we're applying here.

8 You're the trial jury. The legal term, it

9 used to be called the petit juror, p-e-t-i-t, meaning
10 smaller jury. The trial jury is the jury, as I told you
11 at the beginning of this case in my opening
12 instructions, is the trier of fact in this case. It's
13 the jury that makes the decision based upon the
14 instructions I give you and the evidence that's been
15 admitted at the end of the case.

16 A grand jury is a group of 21 or more people
17 that are called for a long period of time. They come in

18 like once a week for three months or it could be six
19 months or longer and they listen to presentations of
20 evidence from the prosecutors who are seeking to have
21 the grand jury return what's called an indictment or a
22 bill and it's simply returning a list of charges against
23 someone, and then the grand jury, if they believe that
24 there's probable cause to return these charges after
25 they hear from the Government and the Government

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1 witnesses, will vote on it and if they vote

2 appropriately then the bill or the indictment is filed
3 and the person is charged with offenses.
4 After that the person comes to trial like we
5 have here and a regular jury hears that.
6 Now, there's a great difference in the
7 procedures. In a grand jury there's no lawyer for the
8 people involved in it. There's simply the prosecutor
9 who presents evidence and that's all and they make a
10 decision based upon, as I said, probable cause to
11 believe that a crime has been committed as opposed to
12 here, the burden being on the Government, as I told you
13 at the beginning of the case, to prove beyond a
14 reasonable doubt as to the charges alleged against
15 Miss Dean.
16 So that's the distinction and I would not
17 worry about that. It's of no significance here. You're
18 a regular trial jury and you'll be guided by the
19 instructions I give you on how you deliberate in the
20 case.
2 All right, are you ready to go with

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2 Mr. Barksdale?
2 MR. WEHNER: Yes, Your Honor.
2 THE COURT: Ladies and gentlemen, we're going
2 to go to the cross-examination of Mr. Barksdale at this

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1 time.
2 MR. WEHNER: Good afternoon, ladies and
3 gentlemen.
4 THE JURORS: Good afternoon.
5 CROSS-EXAMINATION
6 BY MR. WEHNER:
7 Q Mr. Barksdale, my name is Steve Wehner and we've
8 never had the opportunity to meet before, although I've
9 seen you in the courtroom this morning and you saw me,

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10 and I'd like to remind you of a couple of things before
11 I start my cross-examination.
12 The first thing I'd like to remind you of is
13 that you have been put under oath and you understand
14 that since you've been put under oath that you must tell
15 the truth?

16 A I understand it, yes.

17 Q Now, I understand that you have gotten no agreement
18 from the United States Government as to whether or not
19 you'll be prosecuted for your role in the HUD - what's
20 known as the HUD scandal, is that correct?

2 A That's correct.

2 Q And they haven't said they're going to charge you
2 or they're not going to charge you, is that correct?

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2 A That's correct.

2

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Q You have testified many previous times, several

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1 previous times, about your role in the BUD scandal, is

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2 that correct?

3 A That's correct.

4 Q And, in fact, you were Housing Commissioner during

5 a large period of time that Miss Dean was employed at

6 HUD?

7 A That is correct.

8 Q And during the period of time for which her

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9 activities are on trial here, is that right?

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10 A That's correct.
11 Q Now, are you represented by a lawyer?
12 A Yes, I am.
13 Q Is he here?
14 A No, he's not.
15 Q You recognize that there are penalties for
16 committing perjury, do you not?
17 A Yes, I do.
18 Q With all that in mind, I would like to ask you if
19 there's anything, anything at all about this morning's
20 testimony that you would like to change before I begin
21 my cross-examination? I want to give you a few minutes
22 to think about as to whether there's anything at all you
23 would like to change.
24 A No, there's nothing that I know of that I'd like to
25 change.

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1 Q Would you repeat to the jury, please, your
2 statement concerning whether or not you ever made a
3 project specific Mod Rehab allocation when you were
4 Federal Housing Commissioner?
5 A To the best of my knowledge, I did not.
6 Q Isn't it a fact, sir, that almost every Mod Rehab
7 allocation during your tenure at HUD was made on a
8 project specific basis?
9 A No, that's not a fact.
10 Q That is not true.
11 A That's not true.
12 Q Now, you understand the question. I don't want
13 there to be any misunderstanding when I continue the
14 cross-examining. You know exactly what I'm asking you
15 and you're sticking by your answer this morning, is that
16 correct?
17 A Yes, I am.
18 Q Now, you of course don't have a recollection of
19 every project you funded when you were at HUD.
20 A No, there's no way -- there were many projects.
2 Q And I'm going to show you two documents, Dean
2 Exhibit 32 and Dean Exhibit 33, that have been marked
2 for identification?
2 THE DEPUTY CLERK: Defendant's Exhibits 32 and

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1 (Defendant's Exhibits 32 and 33

2 marked for Identification)

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3 BY MR. WEHNER:

4 Q And I want to know if these documents would refresh
5 your recollection as to the projects for Mod Rehab that
6 you funded while you were at HUD? Just take a look at
7 them, because I want to make sure that you have all the
8 information you need to answer my question.

9 A There is no way I could recollect all the units
10 that are on these documents that you handed me right

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11 now.
12 Q Absolutely not. I'm not suggesting that you would
13 recall all of those. I'm just asking that since you
14 can't recall all of the projects you funded while you
15 were at HUD, that possibly those documents might help
16 you recall those projects.

17 A All right.

18 Q But I'm not suggesting that you would remember
19 every detail about every project. Certainly not. Do
20 those documents refresh your recollection generally as
2 to the projects that were funded when you were at HUD?

2 A I cannot look at these documents after almost eight
2 years of being away from the Department and tell you
2 that these are the projects that I funded. I notice the
2 dates certainly go back to my tenure as the Assistant

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1 Secretary, but I still can't tell you that I remember
2 these projects, the documents, because I don't.

3 But I certainly see, for instance, this says
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4 list of projects in excess of 25 units funded since

5 October the 1st, 1983. I certainly was with the

6 Department in 1983.

7 Q well, what else could I show you, if anything, that

8 would refresh your recollection as to the projects you

9 funded when you were at HUD?

10 A well, you'd have to show me the funding documents

11 that I executed.

12 Q Okay. In that case I'll show you this notebook

13 which I'll mark as Dean Exhibit 51.

14 THE DEPUTY CLERK: Dean's Exhibit 51 marked

15 for identification.

16 (Defendant's Exhibit 51 marked

17 for Identification)

18 BY MR. WEHNER:

19 Q And ask you if this notebook contains every project

20 that you funded when you were at HUD?

21 THE COURT: Maybe you could amend that

22 question to ask him if he recognizes those documents

23 reflecting units that he funded while at HUD as opposed

24 to everyone. I don't know if he knows of every

25 document.

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1 MR. WEHNER: Thank you, Your Honor.

2 I so amend the question, Mr. Barksdale.

3 A Yes, I see my name on some of the funding

4 documents. For instance, on the first document, that's

5 not my name. It was executed by someone on my staff.

6 But on many of them I do see my name on the documents.

7 Q When you were Housing Commissioner at HUD you

8 funded the Mod Rehab project, did you not?

9 A That was my responsibility.

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10 Q And does that – do those funding documents refresh
11 your recollection as to the projects you funded under
12 your responsibility while you were at HUD?
13 A On some of these documents that have my name on the
14 documents, as I look at the documents it wouldn't
15 refresh my memory as far as exactly what transpired with
16 the document being sent out, but, yes, if I see my name
17 on here then I must have participated in the approval of
18 the document and the execution of the document to be
19 sent to the field office.
20 Q And is it your testimony, just to be clear, that of
2 all those documents that have your name on them, none of

2 those were project specific?
2 A My testimony is that during my tenure as Federal
2 Housing Commissioner, Assistant Secretary for Housing,
2 it was the policy of my section of my department that

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1 properties that were going to be funded through the Hod
2 Rehab Program would be funded through the Housing
3 Authorities and that was my understanding and that's the
4 way we sent it out to the field office.

5 Q No, sir, you need to answer the question.

6 A Well, I think I answered.

7 Q No, you didn't.

8 May he be instructed to answer the question?

9 MR. O'NEILL: Objection, Your Honor.

10 THE COURT: I'll sustain the objection.

11 BY MR. WEHNER:

12 Q When you were at HUD, did you on any occasion make
13 a project specific funding decision with regard to the
14 Mod Rehab program?

15 A To the best of my recollection, I did not. It went
16 to the Housing Authorities in the field offices, to the
17 best of my recollection.

18 Q Do you know who Jack Kemp is?

19 A Yes.

20 Q who is he?

2 A Jack Kemp at one time was the Secretary of Housing
2 and Urban Development and was a Congressman from
2 New York state.

2 Q Are you familiar with a project called Niagara
2 Frontier, Inc.?

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1 A No, I'm not.

2 Q I'll show you what's been marked by the Government
3 as their Exhibit 2370 which is a funding decision for
4 191 units for the moderate rehabilitation program
5 Niagara Frontier, Inc., and ask you if that refreshes
6 your recollection as to Niagara Frontier, Inc.?

7 A Counselor, when I was with the department -

8 MR. WEHNER: Your Honor -

9 A May I answer your question, sir?

10 THE COURT: You can answer it. Go ahead.

11 A When I was with the Department I executed hundreds
12 of documents on a daily basis. My staff prepared
13 documents. Documents would be stacked on my desk to the
14 top of my desk. I would execute them and they would go
15 out to the offices. I have no recollection specifically
16 of most of the documents that passed through my desk.
17 This is my signature on this particular 185,
18 but I can't tell you specifically what happened with
19 this document.

20 Q Isn't it true that that was a specific project for
21 Niagara Frontier, Inc. and a specific amount of units?
22 Isn't that what that reflects?

23 A I can't tell you what that reflects. It says this
24 is for the Moderate Rehab Program of the Housing Council
25 of Niagara Frontier, Inc. I know nothing about the -- I

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1 would have known nothing about the Niagara Frontier,

2 Inc. No one would have briefed me about Niagara

3 Frontier, Inc. This went out to the field office, to

4 Joe Monticello in Region Three.

5 Q Under your signature.

6 A Under my signature.

7 Q Where is Niagara Frontier, Inc.?

8 A I'm going to assume it's in New York, since it was

9 the Region Three, Joe Monticello.

10 Q And your testimony is that you know of no
11 relationship between Niagara Frontier, Inc., 191 units,
12 and Jack Kemp?

13 A No.

14 Q None.

15 A I do not.

16 Q Is it your further testimony that when you sign a

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17 funding document for 191 units for the Moderate
18 Rehabilitation Program of the Housing Council of the
19 Niagara Frontier, Inc., that that is not a project
20 specific funding?
21 A To me it would not have been.
22 Q well, then maybe we need to discuss that a little
23 further.
24 well, how more specific could it have been?
25 Are the number of units there?

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a 1 A well, I don't know what the Housing Council of the
2 Niagara Frontier is. I don't know at this point.
3 Q It says the units are for them, does it not?
4 A To me the Housing Council of the Niagara Frontier,
5 Inc. would not be a project. I don't know if that's a
6 project now. Is that a project?
7 Q Yes.
8 A I don't know.
9 Q what about the 191 units, how did you come up with
10 that?
11 A I would imagine that was a request that came from
12 the Housing Authority.
13 Q And would not a Housing Authority request a precise
14 number of units?
15 A They generally would.
16 Q And when they requested a precise number of units,
17 didn't that make it a specific project?
18 A Not to me.
19 Q How could you request a specific number of 191 and
20 it not be a specific project?
21 A That's easy. They could have requested 191 units
22 for four or five different projects, and I'm certain
23 that happened on many many occasions.
24 Q Mr. Barksdale -
25 A Yes.

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1 Q It happened on many many occasions?
2 A It happens to the best of my knowledge still.
3 Q Do you think that 191 units for Niagara Frontier,
4 Inc. was for more than one project?
5 A I certainly did.
6 Q Bow many years were you Public Housing
7 Commissioner?
8 A About two years.
9 Q Let's talk about Puerto Rico. Do you know what
10 Puerto Rico is?
11 A I certainly do.
12 Q Okay. Did you ever meet with the Secretary of HUD,
13 Samuel Pierce, and Lance Wilson regarding 610 units to
14 go to Puerto Rico for Mr. James Watt?
15 A I met with Secretary Pierce and Lance Wilson, who
16 was at that time Executive Assistant to Secretary
17 Pierce, concerning a large amount of units for Puerto
18 Rico but I don't recall talking to them about James
19 watt.

20 Q You don't remember talking to them about James
2 Watt.
2 A No, but I do remember talking about Puerto Rico.
2 Q You do remember that it was going to be over 600
2 units?
2 A I believe it was over 600 units, I do remember

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1 that.
2 Q And do recall who specifically those units were to
3 be : Eor?
4 A No.
5 Q You have no recollection that it was going to be
6 for James Watt?
7 A I remember discussing that I did not want to send
8 600 units to Puerto Rico. That's what I recall.
9 Q And, in fact, didn't the Secretary of HUD make a
10 decision not to send them to Puerto Rico?
11 A To the best of my recollection he did not make a
12 decision not to send them because I think there was
13 dissent.
14 Q And then didn't he change his mind?
15 A I don't recall him changing his mind.
16 Q You have no recollection about that whatsoever?
17 A I do not •
18 Q And you have no recollection of James -- who is
19 James Watt?
20 A James Watt was at one time the Secretary of the
2 Interior.
2 Q Did you ever meet him?
2 A Yes.
2 Q Did you ever talk to him?
2 A Yes.

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1 Q Has he been in your office at HUD?
2 A Yes.
3 Q Have you talked to him about HUD business?
4 A Yes.
5 Q what HUD business did you talk to him about?
6 A I can't tell you specifically.
7 Q Do the best you can. This is the time in which
8 Hiss Dean is at HUD and we want specifics.
9 THE COURT: Let him answer the question.

10 A I remember I spoke to Jim Watt ten years ago and it
11 was before he came into the Department. He represented
12 clients who were seeking waivers, who were seeking
13 approval on applications, and he represented his clients
14 like many attorneys.
15 Q And he came in to see you?
16 A Yes.
17 Q And he talked about Mod Rehab programs?
18 A Yes, he did.
19 Q And he talked about Puerto Rico Mod Rehab programs,
20 didn't he?
2 A I don't remember.

2 Q When you funded them you knew they were for
2 James Watts' clients in Puerto Rico, didn't you?
2 A That's not true.
2 Q Because that was part of the process?

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1 A Sir, that's not true.

2 Q Isn't it true that you set up a selection committee
3 to determine who would receive Mod Rehab funds?

4 A I had a committee who was basically my Executive
5 Assistants, the Deputy Assistant Secretary for Mod Rehab
6 programs, and occasionally people like Maddie Hastings,
7 who was on my staff.

8 Q And they sat down and assisted you in making the

9 decisions, did they not?

10 A That's true.

11 Q Where did the information come from on which you

12 would base those decisions?

13 A The information would generally come from --

14 Q No, where would they come from specifically?

15 MR. O'NEILL: Objection, Your Honor. He's in

16 the middle of answering a question.

17 THE COURT: All right, you can answer the

18 question.

19 A It would come from requests from Housing

20 Authorities, it would come from developers, it came from

2 Congresspersons.

2 Q It came from consultants, too, didn't it?

2 A It came from consultants.

2 Q Absolutely it came from consultants, and when you
2 knew, when you sat down in those funding meetings and

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1 you discussed those projects, you knew what projects

2 were linked to what consultants, didn't you?

3 A No, that's not true.

4 Q You testified that James Watt came to see you about

5 Mod Rehab projects, is that correct?

6 A Yes, and I'm telling you I don't remember

7 specifically what projects.

8 Q Do you remember that you ever had a grant of

9 funding in which Puerto Rico was discussed?

10 A Yes.

11 Q Okay. Do you remember whether any of those Puerto

12 Rico projects was James Watt's?

13 A I don't remember.

14 Q You just don't remember.

15 A I don't remember.

16 Q So if you funded projects in Puerto Rico and

17 James Watt happened to be the consultant, you don't have

18 any recollection of those events occurring at about the

19 same time, in your mind?

20 A In the first place, I would not have been funding

2 projects in Puerto Rico. I would have been funding

2 applications from the Puerto Rico Housing Agency. They

2 would not have been projects. They asked for a certain

2 amount of units. I remember the 600 units because that

2 was a large request.

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1 Q So the consultants talked to you on behalf of

2 housing agencies, is that your testimony?

3 A They said client, because people would be talking

4 to them.

5 Q Did they talk to you on behalf of the Public

6 Housing Agencies?

7 A They talked to me about many things, I don't

8 remember.

9 Q You don't remember them talking to you about

10 Housing Authorities?

11 A They talked about clients.

12 Q Do you recall them talking to you about States?

13 A Yes.

14 Q Do you recall them talking to you about specific
15 buildings?

16 A Occasionally.

17 Q Do you recall them talking to you about specific
18 numbers?

19 A Generally it wouldn't be numbers. It would just be
20 requests that were pending from specific Housing
2 Agencies.

2 Q Mr. Barksdale, let me clean up something here
2 before I forget. I'm going to show you what's been
2 marked for identification as Dean Exhibit 30 and Dean
2 Exhibit 31.

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1 THE DEPUTY CLERK: Dean's Exhibits 30 and 31
2 marked for identification.

3 (Defendant's Exhibits 30 and 31
4 marked for Identification)

5 BY MR. WEHNER:

6 Q And I'm showing you a list of what purports to be a
7 telephone list of HUD, Dean Exhibit 30, and ask you if
8 you recognize it?

9 A Yes, yes, I do.

10 Q And an expediter list for Dean Exhibit 31 and the
11 expediter list Dean Exhibit 31 is dated October, '87?

12 A All right.

13 Q And the expediter list Dean Exhibit 30 is yellow.

14 A Yes.

15 Q The yellow one is for 1988, is it not?

16 A Yes, that's right.

17 Q And the brown one is for 1987?

18 A That's correct.

19 MR. WEHNER: I just wanted the testimony to be
20 in because you had a witness yesterday -21

MR. O'NEILL: Judge, what is this?

22 THE COURT: I'll sustain the objection.

23 Comments by counsel are not evidence.

24 BY MR. WEHNER:

25 Q Mr. Barksdale, were you contacted on occasion by

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1 Senators and Congresspeople regarding various projects?

2 A That is correct, I was.

3 Q And when they would contact you would they talk

4 about specific projects?

5 A On occasion they would.

6 Q And would you on occasion fund the specific project

7 they talked about?

8 A I would fund the Housing Authorities' requests.

9 Q But did you know that it was for a specific
10 project?

11 A No, I did not know.

12 Q You did not.

13 A No, because I -- counselor, you're asking me
14 questions. May I answer the question?

15 Q Absolutely.

16 A If a Congressman, a Mayor, a Senator or a
17 consultant discussed 200 units with me for Philadelphia,
18 Pennsylvania and I chose to, based on my staff's
19 recommendation, send 200 units to Philadelphia,
20 Pennsylvania, those units could go to any qualified
21 applicant that the Housing Authority of Philadelphia,
22 Pennsylvania so chose.

23 Q Absolutely. But did you not know that there was a
24 project in Philadelphia, under your hypothetical, under
25 your hypothetical, for a specific number of units that

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1 was being pressured to you by that Congressperson?

2 A I would know of units that Congress asked for in

3 certain areas, and most Congressmen asked for units.

4 Q That's right, and they asked for units and they

5 tell you where they want them to be and they tell you

6 the number, don't they?

7 A No,

8 Q Did John Heinz ever request a specific number of

9 units?

10 A Senator Heinz on many occasions talked to me about
11 funding for the Pennsylvania area.

12 Q And, in fact, he requested specific numbers, did
13 he not?

14 A I do not recall the senator asking for specific i
15 numbers, but Senator Heinz, yes, he did. He was one of
16 the most vocal persons in Congress at the time asking
17 for units. He did.

18 Q He asked you frequently, did he not?

19 A He did.

20 Q And you have no recollection as to whether he asked
2 for specific numbers or not, is that correct?

2 A I don't remember him asking for specific numbers,
2 but he asked.

2 Q Did Secretary Pierce ever tell you to fund specific \
2 projects?

1 A He never told me to fund specific projects. He
2 discussed many projects with me.

3 Q Did he ever tell you to fund a specific project?

4 A I do not recall him telling me to fund a specific
5 project. He did talk to me about projects.

6 Q Did you ever promise John Heinz that he would
7 receive a certain number of units?

8 A To the best of my recollection, no.

9 Q I'll show you what I'll mark for identification
10 Dean Exhibit 52.

11 THE DEPUTY CLERK: Dean Exhibit 52 marked for
12 identification.

13 (Defendant's Exhibit 52 marked
14 for Identification)

15 BY MR. WEHNER:

16 Q And ask you if this letter refreshes your
17 recollection as to whether or not you ever promised
18 Senator Heinz a specific number of units for
19 Pennsylvania?

20 A I don't think I should be asked to comment on this
2 letter.

2 Q Well, Mr. Barksdale, you really don't have much of
2 a choice.

2 A And I'll tell you why. I left HUD in January of
2 1985. This letter is dated May 7, 1985. Why should I

500

1 have to comment on this letter?

2 Q Because I asked you if it refreshed your
3 recollection as to whether or not you ever promised John
4 Heinz any units, a specific number of units in

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5 Pennsylvania. Does it?
6 A May I ask what this letter would have to do with my
7 recollection since I wasn't there?
8 Q It does refresh your recollection, doesn't it,
9 Mr. Barksdale?
10 A It does not. I wasn't there. I left HUD in
11 January of 1985.
12 THE COURT: It still could refresh your
13 recollection even if you're not there. Does it refresh
14 your recollection?
15 THE WITNESS: No, sir, it does not refresh my
16 recollection.
17 THE COURT: All right.
18 BY MR. WEHNER:
19 Q It's true, Mr. Barksdale, that you testified in
20 front of the Senate and the Congress?
2 A The House.
2 Q The House of Representatives?
2 A The House.
2 Q With regard to this matter, is it not?
2 A That's true.

1 Q And that was a number years ago, was it not?

2 A I think it was 1989.

3 Q And do you recall giving the testimony at that

4 to Congress that you did not recall any specific

5 projects ever being funded?

6 A I'd have to see my testimony. That was a little

7 while ago.

8 Q I'll show you page 763 of that testimony which I

9 will mark Dean Exhibit 53.

10 THE DEPUTY CLERK: Dean's Exhibit 53 marked
11 for identification.

12 (Defendant's Exhibit 53 marked
13 for Identification)

14 A Yes, that's my testimony.

15 Q It reflects that you testified that you never
16 funded any projects specifically, does it not?

17 A Yes, it does.

18 Q And that's the same testimony you repeated here
19 today.

20 A Yes, it is.

21 Q Do you know an individual by the name of
22 Joseph Strauss?

23 A Yes, I do.

24 Q Who is Joseph Strauss?

25 A Joseph Strauss at the time I reported on board in

502

1 1982 was Deputy Assistant Secretary. As Deputy

2 Assistant Secretary I think he was one of the Special

3 Assistants to Secretary Samuel Pierce.

4 Q Did Mr. Strauss ever discuss funding specific

5 projects with you?

6 A Mr. Strauss discussed his -- the fact that he was a

7 consultant to certain clients and that he was interested

8 in certain areas, with the areas of funding.

9 Q And what clients did he identify?

10 A He didn't identify clients.

11 Q He didn't tell you the name of any of the clients?

12 A No, I didn't ask him.

13 Q He didn't tell you?

14 A I didn't ask him.

15 Q How did he identify them, the clients, at all? j

16 A He would identify certain Housing Authorities that j
17 had requested it.

18 Q So your impression was he was working for the
19 Housing Authorities?

20 A No, I don't know who he was working for. I didn't
2 ask him. He didn't tell me.

2 Q Well, who did you think he was working for?

2 A I don't know.

2 Q You didn't have any idea who he was working for?

2 A No, it wasn't my business.

503

1 Q You shut your eyes to who he was working for?

2 A What do you mean I shut my eyes?

3 Q Didn't it matter?

4 A Counselor, people talk to me every day about many

5 many items and I didn't ask people what they were
6 talking to me about and who they were talking to me
7 about. If Senator Heinz called me he was calling me on
8 behalf of one of his constituents, I assume. I didn't
9 ask him which one, I never did, and that goes for most
10 of the people, all the people in Congress.
11 Q How about consultants, did you ever care which
12 consultant you were talking about?
13 A Not really.
14 Q I believe your testimony was a few minutes ago that
15 you don't recall ever being directed by Secretary Pierce
16 to fund any specific project, is that correct?

17 A That's correct.
18 Q Okay. I'll show you what I'll mark for
19 identification as Dean Exhibit 54.
20 THE DEPUTY CLERK: Dean Exhibit 54 marked for
2 identification.

2 (Defendant's Exhibit 54 marked for
2 Identification)
2 BY MR. WEHNER:
2 Q And ask you if you recognize the handwriting on

504

1 this document?

2 A It looks like the writing of Secretary Pierce,

3 Samuel Pierce.

4 Q Does that refresh your recollection as to whether

5 Samuel R. Pierce ever directed you to fund a specific

6 project?

7 A He didn't direct me. Be discussed it with me. He

8 didn't direct me. I worked for -

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9 Q why don't you -- for the benefit of the jury why
10 don't you tell them without me leading you what Sam
11 Pierce said to you about Project Dignity?
12 A Secretary Pierce was my boss. I was an Assistant
13 Secretary. He was the Secretary. Like most people -
14 I'm certain most of you have gainful employment. If the
15 Secretary called me to his office and asked me about a
16 specific project, a specific area of the country or a
17 specific request, he didn't have to tell me to do
18 anything. He was my boss. And I would go back
19 downstairs and do whatever I could with my staff to give
20 him a report on his request.
2 So if he asked me about Project Dignity I
2 would go down, call my staff in, explain the fact that I
2 had just spoken with the Secretary. He asked me about
2 the status of a particular request. Give me a report
2 and I will give that report back to the Secretary.

505

1 If I felt that the Secretary had an interest.
2 a legitimate interest in the request I would tell my
3 staff to see if it could be funded. If it could be
4 funded I would get back to the Secretary and tell him.
5 That's the way that worked. He was my boss.
6 Q And was there an occasion when he would tell you to
7 fund a specific project?
8 A No, sir.
9 Q And it would be funded?
10 A No, he never directed me to fund a project.
11 Q Did he ever request or direct that you get 203
12 units for Project Dignity?
13 A He asked me to look at the possibility of funding
14 2C 13 units , which I got back with my staff.
15 Q And did you?
16 A I don't recall if I funded it or not.
17 Q You got back with your staff.
18 A Yes.
19 Q What discussion did you have with your staff?
20 A I told my staff to review the request.
2 Q Did Deborah Gore Dean ever ask you to fund any
2 project?
2 A Not to the best of my knowledqe, no. She discussed
•*~
2 projects with me.
2 Q What projects did she discuss with you?

506

1 A I think I testified this morning that she discussed
2 the 1Patriot with me.
3 Q What did she say to you and what did you say to
4 her?
5 A She asked me about the Patriot request. I think we
6 talked about the fact that Janice Golec's friend was
7 involved in a couple of requests of the office in
8 Baltimore and she asked me to check with staff and see
9 if it could be funded, which I did.
10 Q And what happened?
11 A It was funded.
12 Q Now, what did you do?
13 A What did I do?
14 Q Did you talk to your staff?
15 A Yes, I talked to my staff.
16 Q Who did you talk to?

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17 A I probably talked to Maddie Bastings at the time.
18 Q And what did Maddie Bastings say to you?
19 A I can't tell you specifically what Maddie Bastings
20 said to me.
2 Q Generally.
2 A I would not have spoken at first directly with
2 Maddie Bastings.
2 Q I want to know who you talked to?
2 Q Are you going to answer my question for me,

507

1 counsel, or are you going -to give me a chance to

2 answer?

3 THE COURT: Go ahead.

4 BY MR. WEHNER:

5 Q who did you talk to?

6 A I probably spoke with either Stew Davis or

7 Marjorie Lawrence on my staff and they would have spoken

8 with persons like Maddie Hastings, who was in that area,

9 and told them that I was interested in a particular
10 project or a particular application from Baltimore or
11 Philadelphia, wherever the request was coming from.

12 As an Assistant Secretary I didn't talk to
13 staff people on a daily basis. That's why I had
14 assistants.

15 Q Now, who did you talk to about Patriot on your
16 staff?

17 A I'm telling you I don't recall who I specifically
18 spoke with on Patriot. That's what I'm saying.

19 Q Do you recall speaking specifically to anyone on
20 Patriot?

2 A No, but I certainly spoke with my staff about it.

2 I can't tell you specifically who I spoke to. I told
2 you it probably would have been my Executive Assistant
2 or my Special Assistant.

2 Q Who was your Executive Assistant?

508

1 A At that time it would have been Stew Davis.

2 Q How long had Mr. Davis been with you?

3 A Mr. Davis was with me from the time I reported on

4 board/ which was October 17, 1982, and I think Stew left
5 in 1984.

6 Q And where did he go after that?

7 A I think he went to work in the private sector. I
8 can't remember exactly who he went to work for.

9 Q And can you recall anything at all about your

10 conversation with Stew Davis about the Patriot project?

11 A No, I can't and I can't even recall if I
12 specifically spoke with Stew. It could have been Stew
13 or Margie or Joanne Collins or anyone on my staff. I
14 could have spoken directly with Maddie Hastings. I just
15 don't remember. I like to tell I could remember most of
16 the things that happened nine years ago, but I can't.

17 Q Do you know an individual by the name of John
18 Mitchell?

19 A John Mitchell? You mean the John Mitchell?

20 Q No, a John Mitchell.

2 A I could possibly know a person named John Mitchell,
2 yes

2 And which person first comes to your mind when you
2 say John Mitchell?

2 A The John Mitchell who was at one time the Attorney

509

1 General of the United States of America. I did not know
2 that John Mitchell. To the best of my recollection I
3 never met him.

4 Q How about Lance Wilson?

5 A I know Lance Wilson.

6 Q How do you know Lance Wilson?

7 A As I testified earlier, when I reported on board
8 Mr. Wilson was the Executive Assistant to Secretary
9 Pierce.

10 Q Did Mr. Wilson ever discuss with you Mod Rehab
11 units?

12 A Yes.

13 Q Do you recall if Mr. Wilson ever discussed any Mod
14 Rehab units in Florida with you?

15 A I don't recall.

16 Q Do you recall whether Mr. Nunn ever discussed Mod
17 Rehab units with you?

18 A I don't recall.

19 Q Do you know who Mr. Nunn is?

20 A Mr. Nunn I think at one time was the Governor of
2 Kentucky and I think he served as a consultant here in
2 Washington or as a lobbyist.

2 Q And Mr. Nunn has been in your office from time to
2 time, has he not?

2 A I don't recall Mr. Nunn being in my office. He

1 could have, but I don't recall. In fact, if Mr. Nunn

2 was sitting in this Courtroom I don't know if I could

3 identify him.

4 Q Do you know if Mr. Nunn was ever in your office?

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5 A He could have been.

6 Q He could have been?

7 A He could have been. I don't remember.

8 Q Do you remember ever meeting Mr. Nunn?

9 A I don't remember ever meeting Mr. Nunn.

10 Q Do you remember discussing with Mr. Nunn a project

11 called Arama?

12 A No, I don't.

13 Q Do you remember a project called Arama?

14 A Yes, I discussed that this morning.

15 Q Okay. And do you remember any connection between

16 Arama and Mr. Nunn?

17 A No, I do not.

18 Q None.

19 A No.

20 Q To coin a phrase.

2 A No, I remember nothing that I discussed with him.

2 Q I'll show what you I've previously marked as
2 Defendant's Exhibit number 23, and without referring to
2 it, without saying anything about it, I just want to
2 know if that refreshes your recollection as to whether

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1 you ever had a conversation with Lance Wilson about 300

2 units in Florida?

3 THE DEPUTY CLERK: Defendant's Exhibit 23

4 marked for identification.

5 (Defendant's Exhibit 23

6 marked for Identification)

7 A No, this does not refresh my memory.

8 Q Okay. Did you have a conversation with

9 Lance Wilson about 300 units in Florida?
10 A To the best of my recollection, no, I did not.
11 Q Did you have a conversation with Louie Nunn about
12 300 units in Florida?
13 A To the best of my recollection, I did not.
14 Q When did Miss Dean become Mr. Pierce*s Executive
15 Assistant?
16 A I can't tell you specifically, but I remember when
17 I was sworn in in February of 1984 Mr. Wilson left the
18 Department that spring, and probably that spring, that
19 spring being April or May of 1984, Miss Dean became
20 Executive Assistant to Secretary Pierce. I could be
21 incorrect because, once again, it was quite awhile ago.
22 Q Did Miss Dean ever sit in on any of the selection
23 processes, selection committee meetings for the Mod
24 Rehab units?
25 A I never remember her sitting in on them.

512

1 Q Did you sit in on them?
2 A Yes, I did.
3 Q And in fact, you had a number of people who sat in
4 on them, is that correct?
5 A Yes.
6 Q Kind of a joint committee decision?
7 A Yes.
8 Q And would you tell these people if you received any
9 information from the Secretary or from Deborah Gore Dean
10 as to whether they wanted a particular project funded?
11 A I never recall receiving any - you mean written
12 information? Is that -
13 Q No, no, just a casual comment in a hallway, to a
14 letter, anything.
15 A Well, I testified this morning that I remembered
16 Miss Dean discussing the Patriot with me but other than
17 that, no, I don't remember any specific instructions
18 from her or anyone else.
19 Q That wasn't the question, Mr. Barksdale. The
20 question is -2
A I'm not trying to be coy with you, I'm not. So
2 please go back and ask the question again, okay?
2 Q The question was did you discuss with the members
2 of the committee any of these specific requests from
2 Secretary Pierce or Deborah Dean or anybody else?

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1 A Yes. I'm sorry. If Deborah Dean or Lance Wilson
2 or anyone else in a position of authority over me had
3 asked me about the status of a request I think I would
4 have mentioned that in the meeting.
5 Q In the meeting.
6 A Yes.
7 Q And what would you have said?
8 A I would have said exactly that, that this was a
9 unit that I had been asked about and the staff had an
10 opportunity to review it and what was the status. Is
11 there anything I need to know.
12 Q With regard to Patriot, do you remember making that
t 13 kind of statement?
14 A Not specifically, no. I could have, but I don't

15 remember.

16 Q You testified on your direct this morning that your
17 understanding was that the award of these Mod Rehab
18 programs was discretionary?

19 A That's true.

20 Q I believe in some of your previous testimony that
2 you said that you interpreted discretionary in the
2 broadest possible sense, is that correct?

2 A No, I didn't interpret it in any way. I asked the
2 staff of the General Counsel for their opinion, and the
2 opinion of the Office of General Counsel was that I

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1 coulç - I specifically asked the question, if I could
2 send all units to Fort worth, Texas if I had the
3 manpower to do it, and they said something else.

4 Q They said what?

5 A They said something else that I do not choose to
6 state to the Court.

7 If Your Honor, sir.

8 Q Without putting the word that you don't choose to
9 use, could you put a blank in there as to what they
10 said?

11 A If I had the blank to do it I could send it
12 anywhere I wanted to in the country.

13 Q So you actually had the authority to send those
14 units wherever you wanted to?

15 A That was my understanding j from the Office of
16 General Counsel.

17 Q And was that true during your entire tenure as
18 Federal Housing Commissioner?

19 A No.

20 Q Was it true from 1983 - to your knowledge, was it
2 true from 1984 on?

2 A It was true from the start of the fiscal year,
2 1984, which is October 1st on.

2 Q And prior to that it was fair share.

2 A Yes, fair share.

515

1 Q And from October, 1984/ as far as you know, to

2 1987?

3 A Yes, I left in 1985. I didn't really track -

4 Q I'm talking about through 1985.

5 A Yes. That's all right.

6 Q If the Secretary of HUD wanted all the units to go

7 to Kenwood, West Virginia?

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8 A X can only assume that if the Secretary made that

9 decision, signed the 185, you'd have to reply and they

10 would have all headed to Kenwood, West Virginia.

11 Q And they could have gone to any place he wanted
12 them to go?

13 A Yes, it's my understanding that that was the rule.

14 Q Isn't that why or at least one of the reasons why
15 that everybody came to talk to you and Secretary Pierce
16 and Deborah Gore Dean and everyone else that was in a
17 position of some kind of authority at HUD about these
18 Mod Rehab units?

19 A I would say that that's the case, that once people
20 found out that the discretionary rule was official and
2 in place I certainly noticed that more people began to

2 come in and start talking about units. Once it went
2 from being a fair share to discretionary, yes.

2 Q Absolutely. So if Governor Nunn came in to see you
2 or James Watt or Sam Pierce or Senator Heinz or Deborah

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1 Dean or anybody else came in to you and said we're

2 interested in this project, the reason they were

3 interested was because you could send them any place you

4 wanted to, isn't that correct?

5 A I would assume that that would be correct, yes.

6 Q So you were being lobbied, weren't you?

7 A For lack of a better term I'd say that would be,

8 yes.

9 Q Pick your term.

10 A Yes, I'd say I was being lobbied.

11 Q Because there was a lot of money to be made in this
12 program, wasn't there?

13 A I would say there was money to be made in the
14 program, yes.

15 Q Didn't Congress guarantee a certain amount of
16 profit to the developers in the Mod Rehab program?

17 A I don't recall the specific profits that were
18 involved. I know there were various programs that would
19 allow Section Eight to be attached to the particular
20 unit.

2 Q Isn't it true that the developers received a profit

2 when they received Mod Rehab units?

2 A It's my understanding there was a profit.

2 Q And Congress knew that when they passed the
2 legislation?

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1 A I can only assume that.

2 Q And the developers were in that to make money?

3 A I can only assume that they were in it to make
4 money.

5 Q So the developers had an interest in you sending
6 them to certain areas, isn't that right?

7 A I would imagine anyone in there requesting would
8 have that interest.

9 Q And when these people, whoever they were, came to
10 you and asked for your consideration of a request, did
11 you tell them there wasn't anything you could do, or did
12 you tell them you'd look at it?

13 A I was, and I still consider myself to be, a
14 hands-on manager and I spent an inordinate amount of
15 time almost, visiting with anybody who wanted to get on
16 my calendar and talk to me. So when people talked to me
17 I would listen to them very attentively and tell them I
18 would look at their request. I did that over and over.
19 I spent a considerable amount of time with anybody who
20 came in my office, be they Congressmen, consultants,
2 ladies and gentlemen. And to be very polite I said I'd

2 listen to their request, and I would.

2 Q You listened to everybody who wanted to talk to
2 you?

2 A I had basically an open door policy.

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1 Q whether it was your friend, whether it was your
2 enemy, whether it was a Republican, a Democrat?

3 A It made no difference to me. I considered that to
Page 273

4 be a responsibility of my job.

5 Q And if someone came in and talked to you about

6 those projects did you take whatever information they

7 gave you into consideration when you determined where

8 you were going to send the Mod Rehab money?

9 A I would pass the information on to my staff.

10 Generally – when I say talk to me, generally there
11 would be a staff person there. If I knew a person was
12 going to come in and talk about a specific area of the
13 country or a specific matter I'd try to have my staff
14 available with me. They'd listen, they'd take notes.

15 Q And would that go into the process of making the
16 decision as to where the units went?

17 A The ultimate decision, yes.

18 Q So if Strom Thurmond expressed an interest in his
19 State receiving units, that would be something you would
20 take into consideration?

2 A I certainly would. Let me say this, I was a

2 political appointee and if certain committee chairman
2 asked me, if the Chairman of the House Appropriations
2 Committee asked me to look at something in his State of
2 course I would look. If the Speaker of the House called

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blank)

me and said look, I would look, yes.

2 Q And they did that, didn't they?

3 A Yes, they did.

4 Q And did you look?

5 A Yes, I did.

6 Q And you would fund them on occasion, wouldn't you?

7 A If they were warranted I would fund it.

8 Q And there wasn't one project funded when you were

Housing Commissioner that did not qualify to be funded,

10 isn't that correct?

11 A I would hope so.

12 Q And they were all qualified under HUD rules and
13 regulations, isn't that correct?

14 A I would certainly hope so.

15 Q But it was so discretionary, that you could pick
16 from all these hundreds of qualified projects and decide
17 which one to fund?

18 A That is correct.

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19 Q A tough position to be in, wasn't it?

20 A It was a very tough position.

2 Q Because you didn't know that in retrospect a

2 finetooth comb would go over every decision you made and
2 an effort would be made to question your integrity. You

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blank)

2 didn't know that when you were making the decisions, did
2 you?

520

1 A I certainly didn't know that, no.

2 Q And that's exactly what happened, didn't it?

3 A Here I am.

4 Q And you have been interviewed and you've been
5 investigated and you've testified in front of Congress
6 as to why you made every decision you made?

7 A That's basically true.

8 Q Did ever meet an individual by the name of Phil
9 Winn?

10 A Yes.

11 Q Who is Phil Winn?

12 A Phil Winn was the Assistant Secretary for Housing,
13 the Federal Housing Commissioner, I think in 1981, '82.
14 I think he was the first Reagan appointee.

15 Q And when did he leave the Department of Housing and
16 Urban Development?

17 A I don't know exactly when he left because when I
18 reported on board in 1982 he already had left. Phil
19 Abrams was the Federal Housing Commissioner. So I can
20 only assume that he left at some point before October,
2 1982.

2 Q After he left did he come back and talk to you
2 about Mod Rehab units?

2 A Yes, he did.

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blank)

2 Q And he wanted Mod Rehab units for a specific - I

521

1 don't want to use the word specific, for a State or

(Rectangle comment Administrator

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blank)

2 Housing Authority?

3 A Yes, he would come in and discuss it.

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4 Q And would his projects get funded?

5 A I'm sure some of his projects were funded.

6 Q What about Joe Strauss, were some of his projects

7 funded?

8 A I can only assume that possibly some of his

9 projects would have been funded, yes.

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12/13/2005 10:45:45 AM
blank)

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12/13/2005 10:45:47 AM
blank)

10 Q Jack Kemp's?

11 A Well, I guess you just showed me one that you said
12 was Jack Kemp's. I don't know if it was Jack Kemp's but
13 you said it was. If it was Jack Kemp's I assume it was
14 funded. I never met Jack Kemp. I don't know Jack Kemp.

15 Q Are you familiar with a project in Hampton,
16 Virginia?

17 A Yes.

18 Q What do you know about a Mod Rehab project in
19 Hampton, Virginia?

20 A I remember there was a request for a project in
21 Hampton, Virginia when I was Assistant Secretary.

22 Q What else do you remember about the request for the
23 project?

24 A I can't remember all the specifics. I don't even
25 know if it was funded or not funded. I think there was

522

1 a lawsuit involved in which I was going to have to

2 testify, and something came up and I didn't have to

3 testify. I don't remember all the details but I do

4 remember there was a request from Hampton, Virginia.

5 Q Do you recall whether it was ever funded?

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12/13/2005 10:45:50 AM
blank)

6 A I do not recall.

7 Q Do you recall where the request was from?

8 A No, I don't recall where the request was from.

9 Q You previously testified that Stew Davis was one of
10 your assistants.

11 A That is correct, my Executive Assistant.

12 Q And he was your assistant during what period of
13 time?

14 A Well, Stew Davis was my Executive Assistant when I
15 was Deputy Assistant Secretary and when I was nominated
16 to be an Assistant Secretary Stew moved up with me and
17 was my Executive Assistant during my tenure as Federal
18 Housing Commissioner Assistant Secretary.

19 Q Now, who was Silvio DeBartolomeis?

20 A Silvio DeBartolomeis when I first reported on board
2 was one of the Special Assistants to Secretary Pierce.

2 When I moved up to become the Federal Housing
2 Commissioner Stew Davis received the appointment as the
2 Deputy Assistant Secretary for multi-family housing
2 programs. He replaced me.

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12/13/2005 10:45:54 AM
blank)

1 Q Who replaced you?

2 A Silvio DeBartolomeis became the Deputy Assistant

3 Secretary for multi-housing programs.

4 Q Okay. Do you know whether Stew Davis had anything

5 to do with funding units in Baltimore?

6 A Well, Stew Davis certainly would have been on my

7 committee, would have been one of the persons that I

8 would have talked to about funding Mod Rehab units. He

9 certainly could have, yes.

10 Q What about Mr. DeBartolomeis?

11 A Yes, Silvio was the Deputy Assistant Secretary. He

allbinders as word for experiment.txt

12 would have been in to discuss this.
13 Q Let me show you what I've marked for identification
14 as Dean Exhibit 40.
15 THE DEPUTY CLERK: Dean Exhibit 4 0 marked for

16 identification.
17 (Defendant's Exhibit 40 marked
18 for Identification)
19 BY MR. WEHNER:
20 Q And I ask you if Mr. DeBartolomeis made the
2 decision that a project known as Uplift should be funded
2 in Baltimore, Maryland?
2 A Okay. Now, would you rephrase your question?
2 Q Do you have any recollection as to whether
2 Mr. DeBartolomeis made the decision to fund a project

(Rectangle comment Administrator
12/13/2005 10:45:57 AM
blank)
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1 called Uplift in Baltimore?
2 A No, I do not recollect that. No, I do not.
3 Q What about Stew Davis, that he funded such a
4 project in Baltimore?
5 A Stew Davis would not have had the authority to fund
6 the project. He was a Special Assistant with no line
7 authority to fund.
8 Q Does not that exhibit refresh your recollection as
9 to whether Stew Davis or Silvio DeBartolomeis caused the

10 funding of a project in Baltimore called Uplift?
11 A No, it does not.
12 Q Were you aware that there was a legal opinion from
13 the General Counsel at HUD stating that there's nothing
14 illegal about the use of consultants by HUD developers?
15 A No, I was not familiar with that fact, but I can
16 only assume that that was the case since there were
17 consultants and other persons in the building at all
18 times. No one ever told me they could not be there. So
19 I just assumed that it must have been legal.
20 Q You didn't think there was anything illegal about
2 meeting with a consultant?

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2 A No, I didn't, or I would never.
2 Q Of course.
2 MR. WEHNER: Could I have a minute, Your
2 Honor?

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1 THE COURT: All right.
2 BY MR. WEHNER:
3 Q I believe you previously testified, sir, about an
4 individual by the name of Janice Golec?
5 A Yes.
6 Q And you knew who she was?
7 A Yes.
8 Q At the time you knew her when she was working at
9 HUD did she have a boyfriend?
10 A I was introduced to a person at several social
11 events that was supposed to be her boyfriend. She said
12 this is my boyfriend.
13 Q And that individual's name was Jim Lomenick, was it
14 not?
15 A Yes, it could be. I don't specifically remember
16 his name. She said this was my boyfriend.
17 Q Let's talk about the boyfriend without putting a
18 name on it. Do you remember meeting with the boyfriend
19 regarding Mod Rehab?
20 A No, I do not.
2 Q Do you recall meeting with Janice Golec's boyfriend
to discuss the sending of units to Patriot?

2 A No, I do not.
2 Q I show you what I've marked for identification as
2 Dean Exhibit 96.

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1 THE DEPUTY CLERK: Dean's Exhibit 96 marked
2 for identification.
3 (Defendant's Exhibit 96 marked
4 for Identification)
5 BY MR. WEHNER:
6 Q And ask you if that refreshes your recollection as
7 to whether or not you ever discussed the Patriot project
8 with James Lomenick or with Janice Golec's boyfriend?
9 A That doesn't refresh my recollection, no.
10 Q Do you have any recollection at all then of
11 discussing the Patriot project with Janice Golec's
12 boyfriend?
13 A I do not remember discussing it.
14 Q What about with Janice Golec?
15 A I don't remember discussing it with Janice Golec.
16 Q You do remember discussing it with Miss Dean?
17 A Yes.
18 Q Isn't it a fact that Miss Dean told you not to fund
19 that project? And that she was afraid that if that
20 project got funded it would ruin Janice Golec at the
2 Department of Housing and Urban Development?
2 A I do not remember that conversation.
2 Q Do you remember that that didn't happen or you just
2 don't remember if it did?
2 A I think I would have remembered that if it

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1 happened. I do not remember that conversation.

2 Q Do you remember any conversation with Deborah Dean
3 about any connection between Janice Golec and Patriot?
4 A I testified this morning that I remembered that
5 Deborah Dean asked me about the Patriot and the fact
6 that Janice Golec's boyfriend had something to do with
7 it, but I do not remember a conversation where she told
8 me not to fund the project. I never recall Deborah Dean
9 telling me to fund or not fund anything. She asked me
10 questions about many many projects but I never remember
11 Deborah telling me to fund or not fund any project.
12 Q When she was asking you about the many many
13 projects, was she asking you because Deborah Dean was
14 interested in knowing or was it because Sam Pierce was
15 interested in knowing?
16 A I assume that she was asking because she was
17 Executive Assistant to the Secretary and as I testified
18 this morning, that she was basically running the
19 Department for the Secretary's Office on behalf of the
20 Secretary.
21 Q Isn't it true that you previously testified that if
22 you ever had any questions about what Deborah Dean said
23 to you about a project, that you would go to the
24 Secretary and ask him about it if you thought she was
25 going outside her authority?

528

1 A No. I testified in some instances that I would
2 request a meeting with the Secretary, not in all
3 instances. I talked to Miss Dean almost on a daily
4 basis about the general duties of Bousing and my
5 responsibilities. I would be going to the Secretary
6 every five minutes if that was the case.
7 Q And did the Secretary ever tell you that, yes,
8 Miss Dean was acting for him?
9 A No, he never told me that specifically, but if you
10 worked at the Department of Housing and Urban
11 Development during that period you knew that his
12 Executive Assistant acted for him. You didn't have to
13 be told that. You knew that.
14 Q To take it in the reverse, did she ever tell you to
15 do anything that Sam Pierce didn't want you to do?
16 A What's your question again?
17 Q Did she ever tell you to do anything that
18 Sam Pierce, her boss, didn't want her to tell you to do,
19 to your knowledge?
20 A To my knowledge, no.
21 Q So you took what she said as being essentially
22 instructions from the Secretary of HUD?
23 A Yes, I did.

2 Q That didn't make you feel uncomfortable, I suppose,
2 sometimes?

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1 A Well, if it made me feel real uncomfortable I would

2 ask specifically to go talk to the Secretary.

3 Q Exactly. And you would ask to speak to the

4 secretary?

5 A Yes, I would on occasion.

6 Q That happens to be the way that Secretary Pierce

7 ran the Department, isn't it?

8 A Yes, that's basically correct, the Executive

9 Assistant ran the Department.

10 Q Because Miss Dean had no line authority, did she?

11 A No, none that I know of.

12 Q She wasn't a Presidential appointee, was she?

13 A No, I don't think that position - yes, I know it

14 wasn't a Presidential appointee.

15 Q You were a Presidential appointee when you were

16 Federal Housing Commissioner?

17 A That is correct.

18 Q And the Secretary of HUD was a Presidential

19 appointee?

20 A That is correct.

2 Q When you're a presidential appointee does that mean

2 you can't be fired except by the President?

2 A That's basically what it means.

2 Q So you couldn't be fired unless the President of

2 the United States fired you, neither could Sam Pierce?

530

1 A That's right.

2 Q I believe you testified earlier that Miss Dean

3 never sat in on any of the selection committees that you

4 had working when you were -

5 A I never remember her sitting in.

6 Q And her input, if any, would be provided by you?

7 A Yes.

8 Q Or the Secretary's input would be provided by you?

9 A Yes.

10 Q Once you made those funding decisions, did you ever

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11 receive inquiries as to what you had decided to do?
12 A How do you mean that, from the Secretary, from
13 Deborah?
14 Q From anyone.
15 A Yes, I would receive input. People would call in.
16 Q And when they called in would you tell them what
17 the committee decided?
18 A Not until such time as the paperwork was completed.
19 Q What paperwork are you referring to?
20 A The rapid reply and the 185.
2 Q Would somebody on your staff receive telephone
2 calls and would they tell them what had been decided at
2 the meeting?
-2 A Absolutely. There were no secrets in the HUD
2 building, it was like a sieve, and once something was

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1 approved the whole country would know ten minutes later.

2 Q So that information got out real fast?

3 A Real fast. Not from me, but it got out real fast.

4 Q From whoever was on your committee?

5 A I don't know if it came from the committee or the

6 staff or whatever. One time I tried to find out but I

7 gave up. That was impossible.

8 Q The only people that knew the information were you

9 or the members of the committee?

10 A It got out.

11 Q It got out from you or the members of the

12 committee.

13 A It didn't get out from me.

14 Q I'm not suggesting that it got out from you.

15 A Right.

16 Q But it had to get out from you or a member of the
17 committee?

18 A It got out from one person and it wouldn't
19 necessarily have to be from the members of the
20 committee. Once the approval was made and it was passed
21 on to lower echelon persons to do the actual paperwork,
22 then it was out then.

23 Q Once the approval is made and it gets spread to
24 those lower echelon people where does it go?

25 A What do you mean where does it go?

532

1 Q where does the information go?

2 A where does it go?

3 Q Yes, what happens to it?

4 A It goes to the persons who have the direct line

5 responsibility for preparing the paperwork.

6 Q In fact/ it goes all over the country, doesn't it?

7 A That's true, and I would imagine that would be true

8 September 16, 1993.

9 Q And wouldn't it be true that that occurred - how
10 fast did the information get out as to who your
11 committee had funded, is it 24 hours?

12 A Sometimes it would get out pretty fast. Sometimes
13 it would get out in the 24 hours.

14 Q 48 hours?

15 A Yes. That wasn't true of just funding decisions.
16 It would be true of waivers. Generally a person would
17 call who had some pending asking why this wasn't
18 approved.

19 Q And they would have already known that theirs
20 hadn't been approved?

2 A They certainly would.

2 Q Just dealing with Mod Rehab decisions, that
2 information got out within 24 hours?

2 A Possibly, yes.

2 Q within 48 hours?

533

1 A Possibly, yes.

2 Q what's the longest, do you know, that it generally

took the information to get out?

4 A I don't know how long it would take but I know that
5 it got out fast. The information was like a sieve, and
6 not just on Mod Rehab. On almost every decision that
7 was made it would be known to people who wanted to know
8 it fast.

9 Q People had a real interest in finding out that

10 decision was made. Some people would, wouldn't they?

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11 A I would assume so.
12 Q Developers wanted to know on Mod Rehab decisions?
13 A I would assume so.
14 Q The PHA's would want to know?
15 A Yes.
16 Q Consultants would want to know?
17 A Yes.
18 Q The Secretary would want to know? The Secretary of
19 HUD?
20 A Yes.
2 Q An American citizen might want to know?
2 A That's correct.
2 Q And they could call up and find out, could they
2 not?
2 A They could call up and find out but as I say there

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1 was no legal rule on this but my policy was to at least
2 try to do the paperwork to get the funding in place
3 before a general announcement was made, but, yes -
4 Q But reality suggested that they could call up and
5 find out, couldn't they?
6 A Yes, they could call up.
7 Q And anybody could call up and find out, couldn't
8 they?
9 A Almost anybody.
10 Q well, who couldn't?
11 A Very few people that I know didn't.
12 Q who couldn't, what class of people couldn't call up
13 and find out very fast?
14 A People called, all people. As far as I know any
15 person that had any interest or wanted to call, called.
16 Q And they got the information, didn't they?
17 A From one way or the other.
18 Q They got it from HUD, didn't they?
19 A They got it somehow.
20 Q And it was fast?
2 A It would be generally relatively fast.

2 Q would it be less than a week?
2 A Pardon me?
2 Q Less than a week?
2 A I would say yes.

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1 Q And how soon would you be getting these phone calls
2 after a funding committee decision?

3 A Sometimes the next day, a couple of days, 48 hours,
4 36 hours.

5 Q You stated previously that you don't recall if

6 Miss Dean called you about Arama.

7 A That's correct.

8 Q Do you recall if anybody called you about Arama?

9 A Possibly, yes.

10 Q No, do you recall if anybody -11

A Oh, I don't recall specifically speaking to one
12 directly about it, but possibly someone could have, yes.

13 Q Okay. Could it have been Secretary Pierce that

14 called you about Arama?

15 A It could have been.

16 Q Could it have been Lance Wilson that called you

17 about Arama?

18 A It could have been, but I don't think so.

19 Q why do you not think so about Lance Wilson?

20 A I think I would have remembered if Secretary Pierce

2 had asked me about it and I think I would have

2 remembered if Lance Wilson had asked me. I think I

2 would have remembered if Deborah Dean asked me about it.

2 Q And you don't?

2 A As I testified, I didn't.

1 MR. WEHNER: Nothing further.

2 THE COURT: All right, you may redirect.

3 MR. O'NEILL: Thank you, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. O'NEILL:

6 Q Mr. Barksdale, Mr. Wehner on cross-examination

7 asked about integrity on some questions. Just so it's

8 clear, has the Government questioned your integrity?

9 A No.

10 Q He mentioned the fact that you'd been testifying

11 pursuant to a grant of use immunity. Have you ever

12 asked for an immunity?

13 A No, I have not.

14 Q Have you ever cooperated with the Government

15 voluntarily?

16 A Yes.

17 Q He mentioned an opinion from the General Counsel

18 that the program was totally discretionary?

19 A Yes.

20 Q Just to make that clear, was that a written

2 opinion?

2 A There was an oral opinion from the person who was
2 the General Counsel at the Department, that was a
2 gentleman by the name of John Knapp, that was an oral
2 opinion from John Knapp to me personally and that was

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1 the occasion where he told me if I had the courage to do

2 it I could do it, but it was phrased a little different.

3 Q During cross-examination you were also asked about

4 constantly being lobbied throughout your tenure as

5 Assistant Secretary for Housing.

6 A Yes, I would.

7 Q By people from all walks of life?

8 A I hated to go out in Washington because persons

9 knew who I was.

10 Q Was that one of the reasons that you left the
11 Department?

12 A That was one of the major reasons I decided to
13 resign and go home.

14 Q Were you comfortable with that going on?

15 A I was very uncomfortable.

16 Q Why was that?

17 A I'm what's known in circles as a down home guy. I
18 was used to things going on in a certain way and I
19 consider myself having high ethics. I just got to the
20 point where I didn't like the Washington process the way
2 things were being operated at the Department. I didn't

2 like Washington and so I left. That was one of the main
2 reasons that I resigned.

2 Q Finally, Mr. Wehner asked you about whether you
2 spoke with Lance Wilson about Arama. Earlier during

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1 direct examination I referred you to the rapid reply
2 documents that you signed.

3 A Yes.

4 Q Do you recall the approximate date of that?

5 A On Arama.

6 Q The 293 units?

7 A I think it was July 16, 1984.
8 Q Was Lance Wilson at the Department of HUD at that
9 time?
10 A No, he was not.
11 MR. O'NEILL: No further questions, thank you.
12 THE COURT: All right. Thank you.
13 You have one question? You've had a lot.
14 MR. WEHNER: Maybe two, Judge.
15 THE COURT: Let me see where you're going.
16 RE CROSS EXAMINATION.
17 BY MR . WEHNER:
18 Q When did Lance Wilson leave HUD?
19 A I don't know specifically.
20 Q Generally.
2 A I think he left in the spring of 1984 which would

2 probably be in March or April, 1984. I don't know
2 specifically when he left.
2 Q Before he left did he talk to you about Mod Rehab
2 projects?

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1 A Yes, when he was Executive Assistant for the
2 Secretary, yes, he did.
3 MR. WEHNER: Thank you.
4 THE COURT: Thank you, Mr. Barksdale. You're
5 free to go, sir.
6 THE WITNESS: Thank you, sir.
7 MR. O'NEILL: Your Honor, at this time the
8 Government would publish Government's Exhibit 147.
9 THE COURT: 140 or 37. I didn't hear you.
10 MR. O'NEILL: 147, Your Honor, I'm sorry.
11 THE COURT: 147. I want to look at that for a
12 moment.
13 MR. O'NEILL: Your Honor, with the Court's
14 permission -15
THE COURT: Oh, I see. No objection to it
16 then. That's Government's 147, a memo of 2-2-85 to be
17 published to the jury.
18 Ladies and gentlemen, this was admitted this
19 morning when we did our conference and it's being
20 published to you now to see the document. Publishing
2 means you can see it and read it.
2 MR. O'NEILL: Your Honor, at this time the
2 Government would call Richard Shelby.
2 (RICHARD SHELBY, WITNESS FOR GOVERNMENT, SWORN)
2 DIRECT EXAMINATION

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1 BY MR. O'NEILL:

2 Q Mr. Shelby, I will be asking you a series of

3 questions. Please speak loudly so everyone can hear

4 you. State your name for the record, spelling your last

5 name?

6 A Richard D. Shelby, S-h-e-l-b-y.

7 Q For the record, are you testifying pursuant to a

8 grant of use immunity?

9 A Yes, I am.

10 Q What is your understanding of that?

11 A That I'm granted immunity from prosecution in
12 return for my testimony here today.

13 Q Are you currently employed, sir?

14 A I'm self-employed.

15 Q And how are you employed?

16 A Primarily as a political consultant.

17 Q How long have you been involved as a political
18 consultant?

19 A Off and on over a period of 23 or 24 years.

20 Q As a political consultant what do you do?

2 A Very generally, advise candidates seeking political

2 office on such things as strategy tactics and the
2 nuances that are involved.

2 Q Can you describe to the ladies and gentlemen of the
2 jury any campaigns you've worked on or anything of that

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1 like in the nature of your business?

2 A Yes, I was involved in many campaigns over the

3 period of years, probably most notably campaigns for

4 President Reagan, President Bush.

5 Q Did you hold any position with the Republican party

6 during those campaigns?

7 A I served one term as a Republican party chairman in

8 the State of Oklahoma.

9 Q What would that entail, sir?

10 A Responsibility for the coordination of all party
11 activities, primarily focused on political organization,
12 fundraising.

13 Q Mr. Shelby, are you familiar with a project or

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14 building located in the Miami area known as Park Towers?
15 A Yes.
16 Q How or from whom did you first learn about that
17 project?
18 A From a gentleman by the name of Eli Peinberg.
19 Q And without telling us what he may have said to
20 you, did you have a conversation with Mr. Feinberg?
21 A Yes, I did.
22 Q As a result of that conversation what if anything
23 did you do?
24 A After my conversation with Mr. Feinberg I contacted
25 John Mitchell to ask his assistance in helping me with

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1 that project.
2 Q Now, at the time of this initial contact with
3 Mr. Feinberg did you agree to act as consultant on the
4 Park Towers project?
5 A I don't believe that I did in that initial
6 conversation. I believe that occurred subsequently.
7 Q At that initial conversation, did you agree to act
8 as a consultant for any set amount of money?
9 A Again, I don't believe in that initial discussion a
10 fee was discussed. I could be mistaken but I believe
11 that was a subsequent discussion.
12 Q At the time you received this telephone call from
13 Mr. Feinberg, did you have any housing experience in -
14 let me withdraw that. Did you have any experience in
15 the housing area?
16 A For all practical purposes, no. I had had some
17 exposure to programs during the period of time when I
18 served on the staff of Senator Barclay.
19 Q And when you say you had some exposure, what are
20 you referring to?
2 A A general understanding, but certainly didn't
2 understand, again, all the regulations and what have
2 you.
2 Q Did you have any knowledge of the Moderate
2 Rehabilitation Program at that time?

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1 A Again, a very general knowledge, nothing more.
2 Q Now, you mentioned already that you contacted John
3 Mitchell.
4 A Yes.
5 Q And how did you know John Mitchell?
6 A I had met Mr. Mitchell, I believe, in December of
7 1980 or sometime thereafter, and over the course of the
8 next few years we had developed a friendly relationship.
9 Q Had you ever done any business with John Mitchell?

10 A Not per se. On two occasions I had taken potential
11 business transactions to Mr. Mitchell for his
12 consideration, but in neither instance did they come to
13 fruition.
14 Q Did you socialize with Mr. Mitchell from the time
15 you met him until the time you're talking about?
16 A Yes, I did.

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17 Q And how often approximately, Mr. Shelby, would you
18 socialize with Mr. Mitchell?
19 A My guess would be that we would have lunch probably
20 two or three times a year.
2 Q At that time did you know anything about his family
2 situation?
2 A For all practical purposes, no. Of course I knew
2 what I had read in news accounts relating to his
2 marriage and whatnot, but in terms of specifics, no, X

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did not.

2 Q Now, this contact with John Mitchell, was it in
3 person or telephonically?

4 A It was telephonically.

5 Q Did you subsequently have any meetings with
6 John Mitchell in person?

7 A Yes, I did.

8 Q And during these meetings did you discuss the
9 Park Towers project with him?

10 A Yes, I did.

11 Q Now, when you met with him and discussed the

12 Park Towers project, what information did you have

13 concerning the project?

14 THE COURT: Could we get a timeframe on all
15 this , please?

16 MR. O'NEILL: Yes, Your Honor, I apologize.

17 BY MR. O'NEILL:

18 Q When you first received the telephone call from

19 Mr. Feinberg concerning Park Towers, when was this?

20 A To the best of my recollection it would have been

2 in March of 1985, March, April timeframe, but again I

2 can' t remember specifically.

2 Q And do you have any records that would specifically

2 refresh your recollection?

2 A No, I do not.

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1 Q Please proceed, sir. When you spoke with

2 John Mitchell about this project, what information on

3 Park Towers did you have at that time?

4 A At the time of the initial conversation I really

5 had nothing other than the name of the project and the

6 name of the developer.

7 Q Had you seen any pictures of Park Towers at that

8 point?

9 A At that point I had not.

10 Q Had you gone to Florida to view the project?

11 A No, I had not. |

12 Q Now, what did you tell John Mitchell about the j

13 project and what you were going to do? j

14 A In that initial conversation really nothing other |

15 than the fact that I had been contacted by

16 Mr. Feinberg. The name of the project. The name of the

17 developer. And a query or question on my behalf as to

18 whether or not he would have an interest in working with i

19 me on it. I did specifically ask if he might be able to j

20 learn something about Mr. Fine -- something about the ;

2 facility or the project itself. ;

2 Q Now, did you agree on that occasion to compensate \

2 Mr. Mitchell for any work that he would perform?

2 A My recollection is that in that initial :

2 conversation it was merely a question saying that should ;

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1 this come to fruition that we would split whatever fees
2 would accrue from it.

3 Q And how much was he to receive, did you know at
4 that point?

5 A I can't recall at this point whether I had had the
6 conversation with Mr. Feinberg in which a fee was
7 specifically discussed or whether that was subsequent to
8 my first conversation with Mr. Mitchell. I believe that
9 the discussion relative to a fee may have occurred
10 subsequent to that conversation, but I can't be certain.

11 Q The agreement to compensate Mr. Mitchell at this
12 time, was it reduced to writing?

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13 A No, it was not.

14 Q Now, at this point in time that we're talking about
15 when you first met with Mr. Mitchell, had you done any
16 consulting work at the Department of Housing and Urban
17 Development?

18 A For all practical purposes, no. Some years before
19 I had made several calls to an official within the
20 Department at the request of a friend that had a problem
2 within the Department, but in the strictest sense of the
2 word as a consultant, no.

2 Q At this point in time were you aware whether
2 John Mitchell had any prior experience with the Moderate
2 Rehabilitation Program?

s

1 A No.

2 Q Now, at that point in time -- withdrawn, I'm

3 sorry. Now, in seeking to obtain Mod Rehab units for

4 the Park Towers project, what if anything did you do?

5 A My recollection is that I hand carried a copy of

6 the application to the Department. Subsequent to that

7 there were probably three meetings with the Department

8 officials and then there were numerous telephone calls

9 to different officials within the Department.

10 Q Now, when you say there were, and forgive me, did
11 you say three or four meetings at the Department?

12 A I think I said three and I'm guessing. It could
13 have been four, it could have been two.

14 Q Well, let's use your initial number then. Within
15 these three meetings do you recall who within the
16 Department that you dealt with?

17 A On this project, primarily with Silvio DeBartolomeis
18 but I also had conversations at one time or another with
19 Miss Dean and Hunter Cushing.

20 Q Now, did you review any records, trying to refresh
2 your recollection as to who you dealt with at HUD on

2 this project?

2 A I had an opportunity last evening to review some of
2 the records, yes. I believe they've been entered as
2 Exhibits.

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1 Q And was that in my presence?

2 A Yes.

3 Q Are there any records indicating any dealings with

4 Mr. DeBartolomeis at this period of time?

5 A No, there are not.

6 Q Are there any records indicating dealings with the

7 defendant Deborah Gore Dean?

8 A In the March-April-May timeframe or -- I think the

9 records indicated that there was some correspondence in

10 June and then a meeting in August.

11 Q And is that when the correspondence first started
12 showing between yourself and Miss Dean?

13 A Yes, it is.

14 Q And are there any correspondence detailing any
15 connection between yourself and Hunter Cushing?

16 A Not during that timeframe, no. At least not that I
17 recall.

18 Q Now, you stated to the best of your recollection
19 you dealt with Mr. DeBartolomeis, the defendant, and
20 Hunter Cushing?

2 A Yes, that's correct.

2 Q At that point in time what was Mr. DeBartolomeis'
2 position at the Department of Housing and Urban
2 Development?

2 A I believe that he was the Deputy Assistant

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1 Secretary.

2 Q And what about the defendant, Deborah Gore Dean?

3 A Her title, I believe, was Executive Assistant to

4 the Secretary.

5 Q What about Hunter Cushing?

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6 A At this point in time I believe that he was a

7 Special Assistant.

8 Q why did you contact Silvio DeBartolomeis concerning

9 Park Towers?

10 A I had been given his name by someone. I pulled it
11 out of the Congressional directory. To be honest with
12 you I can't tell you exactly what it was. My thought is
13 that his name was given to me by an associate at my
14 place of employment.

15 Q Now, you've mentioned a place of employment. So
16 let's go into that for a second so the jury is aware.
17 During this period of time from the moment in
18 approximately March, as you've said, of '85 when you
19 first received a telephone call from Eli Feinberg, did
20 you enter a new employment?

2 A In approximately mid-April.

2 Q And where did you go?

2 A I joined the Keefe Company.

2 Q What is the Keefe Company?

2 A It's a Government relations firm located here in

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|

1 Washington, D.C.

2 Q When you say a Government relations firm, what do
3 they do?

4 A Basically lobbyists.

5 THE COURT: We're going to take our afternoon
6 break. We started early at one o'clock. !

7 Ladies and gentlemen, we'll take our afternoon I
8 break at this time. I think your refreshments are j

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9 here. So we'll take our 15 minute recess. Be back at |
10 3:15. Please remember the admonition of the Court about
11 not talking about the case among yourselves or with
12 anyone else. Thank you.

13 (Jury dismissed)

14 THE COURT: Sir, you can step down.

15 (Recess, 3:00 p.m. To 3:35 p.m.)

16 THE COURT: Ready to go?

17 MR. O'NEILL: Yes, Your Honor.

18 THE COURT: All right.

19 (Jury present)

20 THE COURT: All right. We're ready to go again.

2 We're going to resume the direct examination of Mr.
2 Shelby.

2 MR. O'NEILL: Thank you, Your Honor.

2 BY MR. O'NEILL:

2 Q Mr. Shelby, I believe when we took the break you

551

1 were talking about starting with the Keefe Company?

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2 A Yes, I joined the Keefe Company in mid-April of
3 1985.
4 Q And just to refresh everyone's recollection, I
5 believe you said it was a Government -
6 A - Relations firm engaged in lobbying type
7 activities.
8 Q And what date did you join the Keefe Company?
9 A It was in and around April 15th, it could have been
10 a few days on either side of that date, but
11 approximately mid-April.
12 Q Do you recall at this time whether you spoke to
13 John Mitchell before joining the Keefe Company or after?
14 A I had telephonic conversations with him before. I
15 didn't actually meet with him until afterwards.
16 Q And do you recall approximately when you first met
17 with him? what date that would have been?
18 A I believe that it was in May of '85.
19 Q Now, Mr. Shelby, we talked about entering into a
20 contractual agreement of some sort in order to represent
21 the developer of Park Towers.
22 A Yes.
23 Q Did there come a point in time when you did enter
24 into such a contractual arrangement?
25 A Yes.

552

1 Q Do you recall approximatley when that was?

2 A My guess would be that that would have been in
3 early summer of 1985.

4 Q Did you at that time agree upon a fee, a consulting
5 fee for your services on Park Towers?

6 A Yes.

7 Q what was that consulting fee to be?

8 A \$225,000.

9 Q Now, going back to when you first started dealing
10 with people at the Department, you had mentioned certain
11 people, and let's start with Silvio DeBartolomeis. Why
12 did you contact him?

13 A Because of his position within the Department, his
14 involvement with the program.

15 Q And had you known him before?

16 A To the best of my knowledge we had not met
17 personally. We had mutual friends. Again, my
18 recollection is that I was familiar with him by name but
19 I do not believe that we had actually met. Certainly we
20 didn't have a formal relationship. If we had met, it
21 would have been at a reception or something of that

2 nature.
2 Q You also mentioned you had spoken with
2 Hunter Cushing?
2 A Yes.

553

1 Q why did you speak with him?
2 A Again, because of his position within the
3 Department, his involvement with various programs.
4 Q And how did you know of his position and his
5 involvement in the programs?
6 A I believe that I was introduced to Mr. Cushing by
7 Mr. DeBartolomeis.
8 Q And, finally, you also mentioned you spoke with the
9 defendant about the Mod Rehab project at Park Towers?
10 A Yes, that's correct.
11 Q why did you go to her?
12 A Again, a Department official who was involved in
13 the administration of programs.
14 Q Did you know what position she held at HUD at that
15 time?
16 A At that time, yes.
17 Q And what was that?
18 A I believe the exact title was Executive Assistant
19 to the Secretary.
20 Q And did you know what if any role she played in the
2 Mod Rehab funding process?
2 A Generally, not specifically. I knew that she was
2 involved in the decision making process.
2 Q Now, did there come a point in time that
2 John Mitchell did anything in relation to Park Towers,

554

1 to your knowledge?
2 A After those initial conversations he recommended
3 changes that should be made to the original contractual
4 agreement when it became necessary to extend the date of
5 contract or the date by which the certification was to
6 have been completed, the award, I should say.

7 Q I'm sorry, other than modifying that agreement,
8 what else did he do?
9 A Nothing other than that.
10 Q Now, did there come a point in time that you
11 learned that Park Towers had been funded?
12 A Yes.
13 Q And how did you learn that Park Towers had been
14 funded?
15 A I received a call from an official with the
16 Department.
17 Q Do you know what official you received that
18 telephone call from?
19 A At this point in time I can't specifically
20 remember.
2 Q Now, are you familiar with a HUD document known as
2 a rapid reply?
2 A Yes, I am.
2 Q And what is that?
2 A It's a document that indicates that, in this case

555

1 at least, a certain number of housing units have been
2 assigned to a particular Housing Authority.

3 Q Was there an occasion in which you received a rapid
4 reply letter concerning Park Towers?

5 A Yes.

6 Q Can you relate to the ladies and gentlemen of the
7 jury how you received that document?

8 A As I recall, via fax.

9 Q Do you know who you received that fax from?
10 A I don't specifically recall. I believe it was
11 Hunter Cushing but I don't specifically recall.
12 Q What makes you believe that it was Hunter Cushing?
13 A It's just the best recollection I have of the
14 circumstance.
15 Q Was that document signed or unsigned?
16 A It was unsigned.
17 Q Now, what if anything did you do with the document
18 after you received it?
19 A I faxed a copy of the document to Mr. Feinberg in
20 Florida.
2 Q Why did you fax it to Mr. Feinberg?

2 A It was the closest thing to official notification
2 of the award.

2 Q And what was the importance of an official
2 notification of the award?

556

1 A Signifying that the units had been awarded to
2 the -- by the Housing Authority, and at that point in
3 time the contract was structured in a manner such that
4 the initial payment would be made to the Keefe Company.

5 Q Do you recall what the initial payment was?

6 A \$45,000, I believe.

7 Q Now, did there come a point in time when either you

8 individually or you on behalf of the Keefe Company

9 received payment for your consulting efforts on Park
10 Towers?

11 A Yes.

12 Q And how much did you receive?

13 A Well, again, the total was \$225,000, including the
14 initial 45.

15 Q And to your knowledge, what did John Mitchell
16 receive?

17 A \$50,000.

18 Q Am I correct, your testimony is he helped modify an
19 agreement on Park Towers?

20 A The extension. As I mentioned at the outset,
2 earlier, right at the outset had made some calls
2 concerning Mr. Fine and the project itself.

2 Q And that was to check out Mr. Fine?

2 A Yes.

2 Q And is it fair to say Mr. Fine is a prominent

557

1 attorney in the Miami area?

2 A Yes.

3 Q And he's a senior partner in a major law firm down

4 there?

5 A Yes, that's correct.

6 Q Now, did you ever thank anyone at the Department

7 for their assistance in Park Towers?

8 A I don't specifically recall having done so, but

9 there's a strong likelihood that I would have. That
10 would be my general manner.

11 Q Now, you stated John Mitchell received \$50,000 for
12 his efforts. How much was given to the Keefe Company?

13 A I believe in the final analysis, \$95,000.

14 Q And would that have represented what you had done
15 on the project as consultant?

16 A Yes, that's correct.

17 Q And what exactly had you done on the project?

18 A Again, I would guess, I can't be specific, three or
19 four meetings with Department officials, and scores and
20 scores of telephone calls.

2 Q Now, Mr. Shelby, did there come a point in time
2 where you became involved as a consultant in another Mod
2 Rehab project?

2 A Yes.

2 Q Do you know an individual by the name of Andrew

558

1 Sankin?

2 A Yes, I do.

3 Q How did you first meet or what was your first
4 contact with Andy Sankin?

5 A Mr. Sankin telephoned me.

6 Q Up until that point in time did you know

7 Mr. Sankin?

8 A No, I did not.

9 Q Now, without telling us what he said, did you have

10 a discussion with Mr. Sankin at that time?

11 A Yes, I did.

12 Q And as a result of that discussion what if anything
13 did you do?

14 A I reached an agreement with him to collaborate on a
15 project on which he was representing a client.

16 Q Was there already a particular project in mind?

17 A Yes, there was.

18 Q And what was the project?

19 A Foxglenn Project.

20 Q Where was that located?

2 A In Prince Georges County, Maryland.

2 Q And who was the developer of the Foxglenn Project
2 in Maryland?

2 A The Altman Brothers.

2 Q Now, what was your role going to be as a consultant

559

1 in seeking Mod Rehab units on the Foxglenn Project in

2 Maryland?

3 A To work with the officials at the Department.

4 Q Who were you going to contact, meaning these

5 officials at the Department?

6 A Again, Miss Dean, Mr. DeBartolomeis and

7 Mr. Cushing.

8 Q Do you recall who your primary contacts were at the

9 time in regards to Foxglenn?

10 A On this project, predominantly with Miss Dean.

11 Q To your knowledge, was she aware that you were

12 working with Mr. Sankin on this project?

13 A Yes.

14 Q And to your knowledge was she aware that Foxglenn

15 was located in Maryland?

16 A Yes.

17 Q Now, in your contacts with Miss Dean on this

18 project, what if anything did you say to her?

19 A Again, as I recall, it was a question of making a

20 copy of the application available and then periodically

2 thereafter visiting with her to determine what the

2 status of the application was.

2 Q How many times did you meet with Miss Dean

2 concerning the Foxglenn project in Maryland?

2 A I can't be certain. Perhaps on three or four

560

1 occasions.

2 Q And how many telephone calls did you have?

3 A Probably a similar number, three or four.

4 Q Now, in any of these meetings with Miss Dean, did

5 you bring any charts, photos or any technical data

6 concerning Foxglenn?

7 A No.

8 Q Now, what was Andrew Sankin's role in regards to

9 Foxglenn?

10 A Whereas I was primary contact with the Department
11 officials, Mr. Sankin was working with the local Housing
12 Authorities.

13 Q Now, these meetings you had with Miss Dean during
14 this period of time, where did most of them take place?

15 A For the most part, being in conjunction with a
16 luncheon appointment.

17 Q Would you discuss the Foxglenn project during these
18 luncheon meetings?

19 A Yes.

20 Q Now, during this period of time that you were
2 working on the Foxglenn Project did the defendant

2 express any interest in the State of Maryland?

2 A Not that I recall, not specifically.

2 Q And that's even in a general sense?

2 A Well, I, of course, knew that Miss Dean was from

561

1 Maryland. That her family had been active in Republican

2 politics. And so I feel certain that we probably had

3 conversations about Republican politics within the State

4 of Maryland.

5 Q And do you recall her asking you for support if she

6 ran for political office in the State of Maryland?

7 A At one point in time we did discuss that, yes.

8 Q Did she ever ask any assistance from you in the

9 event that she did that?

10 A Just in a very general way.

11 Q What did she ask?

12 A Just that if she ever would decide to do this,
13 would I help, and I answered, of course, that I would.

14 Q Now, Mr. Shelby, did there come a point in time
15 that you learn that Foxglenn had been funded?

16 A Yes.

17 Q How did you learn that?

18 A Via telephone call, as I recall, in this instance.

19 Q From whom did you receive that telephone call?

20 A It was from, as I recall, someone in Miss Dean's
21 office.

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22 Q Was that person to your knowledge acting as an
23 agent of Miss Dean in reference to that telephone call?
24 MR. WEHNER: Objection.
25 THE COURT: All right, sustained.

562

1 BY MR. O'NEILL:

2 Q To your knowledge, Mr. Shelby, was that person

3 acting on behalf of Miss Dean?

4 MR. WEHNER: Objection.

5 THE COURT: How can he answer that? Try it

6 again.

7 BY MR. O'NEILL:

8 Q Do you know whether Miss Dean had requested that

9 person to call you?

10 A I don't know that, no.

11 Q Now, did there come a point in time, Mr. Shelby,
12 where you and Mr. Sankin were paid for your services?

13 A Yes.

14 Q How much did you receive?

15 A I believe it was \$220,000.

16 Q And that fee to be split up between the two of you?

17 A Yes, sir, that's correct.

18 Q So you made approximately \$110,000 on this project?

19 A Yes.

20 Q Is it fair to say that was for a couple of meetings
2 and a number of phone calls?

2 A As I indicated, probably three or four meetings and
2 then a number of telephone calls.

2 Q Mr. Shelby, did there come a point in time when you
2 and Mr. Sankin again decided to work together as

563

1 consultants on a Mod Rehab project?

2 A Yes.

3 Q When did that occur?

4 A On the Eastern Avenue project.

5 Q Who was the developer of that project?

6 A That was an Altman Brothers project also.

7 Q Where was the Eastern Avenue project located?

8 A It was on the District and Prince Georges County

9 line. A portion of the project was in Maryland, a

10 portion of the project was within the District.

11 Q Now, can you relate to the ladies and gentlemen of
12 the jury what if anything did you do on this project in
13 your efforts as a consultant?

14 A Again, basically the selfsame process. A number of
15 meetings with Department officials and then a series of
16 telephone calls thereafter.

17 Q Who did you meet with at the Department on this
18 project?

19 A Again, with Miss Dean, Mr. Cushing, and I believe
20 that Mr. DeBartolomeis was still there at that point,
2 although I can't be certain about that.

2 Q Did you have a primary source of contact at the
2 Department on the Eastern Avenue project?

2 A Again, that would have been with Miss Dean.

2 Q And what if anything did you do with Miss Dean in

564

1 relation to your consulting efforts on Eastern Avenue?

2 A Again, there would have been two or three meetings

3 and then telephone calls in addition to that.

4 Q To your knowledge, was she aware that the Eastern

5 Avenue project was located in Maryland?

6 A Yes.

7 Q And to your knowledge was she aware that you were

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8 working with Andrew Sankin on this project?

9 A Yes, I believe so.

10 Q Now, during the course of this project did the
11 defendant again express her interest in the State of
12 Maryland?

13 A Yes.

14 Q Now, did there come a point in time where you
15 received a fee for your efforts in Eastern Avenue?

16 A Yes, there was.

17 Q How much money did you receive?

18 A \$57,000.

19 Q Was that the total fee that was provided for in the
20 contract?

2 A No, it was not.

2 Q Why did you only receive a part of the fee?

2 A Because in this instance the units that were
2 awarded to the local Housing Authority actually didn't
2 go to Altman. It went to another developer.

565

1 Q Subsequent to the Eastern Avenue project, and this

2 project that you worked with Andrew Sankin and received

3 \$57,500, did you do any additional consulting work with

4 the Altman Brothers Realty Company?

5 A There was one other occasion thereafter.

6 Q Now, did you engage as a consultant in that project

7 in conjunction with Andrew Sankin once again?

8 A No, in this instance I was acting alone.

9 Q And why was that?

10 A We had had a difference of opinion as a result of
11 working together on the Eastern Avenue project
12 initially.

13 Q Now, Mr. Shelby, did there come a point in time
14 where you learned that the defendant was interested in
15 seeking a nomination to be Assistant Secretary for
16 Community Planning and Development at HUD?

17 A Yes.

18 Q When was that?

19 A My recollection would be that it was sometime in
20 1987.

2 Q Did the defendant speak to you about that?

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2 A Yes, we talked about that.

2 Q And did she request anything of you?

2 A Again, just very generically. Generally a request
2 for support and/or assistance.

566

1 Q what if anything did you do?

2 A Two things that I specifically recall. I organized

3 a group of people to sign a mailgram in her support that

4 went to the white House Office of Personnel and then I

5 believe on two occasions I visited with Bob Tuttle, the

6 Director of white House Personnel, on her behalf.

7 Q Now, Mr. Shelby, I would with the Court's

8 permission show you a number of documents.

9 If I may approach the witness, Your Honor.

10 Mr. Shelby, I'm showing you what has

11 previously been marked for identification as

12 Government's Exhibits 11A and 11B.

13 THE DEPUTY CLERK: Government's Exhibits 11A

14 and 11B marked for identification.

15 (Government's Exhibits 11A and

16 11B marked for Identification)

17 MR. O'NEILL: And, Your Honor, the defendant has

18 stipulated that these records can be moved into

19 evidence.

20 THE COURT: All right.

2 BY MR. O'NEILL:

2 Q Mr. Shelby, I'd ask you to look at 11A and tell the
2 jury what that is?

2 A It is an American Express receipt for May 23rd,
2 1985, I believe, for a charge at the Guards Restaurant.

567

1 Q what is the Guards Restaurant?

2 A It's an eating establishment in Washington.

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3 Q Do you recall who you had lunch with on that date?

4 A I believe this was the day that I had lunch with

5 Mr. Mitchell.

6 Q I ask you now to look at 11B and I'd ask you what

7 is that?

8 A It's another American Express receipt, August the

9 9th, 1985. Again, I believe the restaurant is 209 1/2.

10 Q And what is 209 1/2?

11 A Again, an eating establishment restaurant in
12 Washington, D.C.

13 Q Do you recall who you had lunch with on that date?

14 A I believe on that occasion I had lunch with
15 Miss Dean.

16 Q Did you pay for lunch on that date, sir?

17 A Yes.

18 Q Mr. Shelby -- if I may approach the witness, Your

19 Honor, with the Court's permission?

20 THE COURT: All right.

2 BY MR. O'NEILL:

2 Q I would show you what's previously been marked as

2 Government's Exhibit 67 for identification and ask you

2 if you recognize that, sir?

2 THE DEPUTY CLERK: Government's Exhibit 67

568

marked for identification.

2 (Government's Exhibit 67 marked

3 for Identification)

4 A Yes, I do.

5 Q And does it contain a signature on that document?

6 A It does. It contains my own.

7 Q And did you write that letter, sir?

8 A Yes.

9 Q Do you recall writing that letter?

10 A Yes, I did.

11 MR. O'NEILL: Your Honor, I'd offer it into

12 evidence as Government's Exhibit 67.

13 MR. WEHNER: No objection, Your Honor.

14 THE COURT: All right, admitted into evidence,

15 67.

16 (Government's Exhibit 67

17 received into Evidence)

18 BY MR. O'NEILL:

19 Q Mr. Shelby, I'd ask you to refer to that letter for

20 a second what is the date on that letter?

2 A May the 14th.

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2 Q And is this letter on a letterhead?

2 A Yes , it is.

2 Q And what is the letterhead?

2 A Keefe Company letterhead.

569

1 Q And do you recall why you wrote that letter?

2 A Yes, I, as I mentioned earlier, had an association

3 with Mr. Feinberg, and at the time that we first met I

4 was working alone, and upon joining the Keefe Company

5 had written him to make him aware of my association with

6 the Keefe Company.

7 Q Was this letter drafted shortly after you joined

8 the Keefe Company?

9 A Approximately a month thereafter.

10 Q Mr. Shelby, again with the Court's permission, I

11 will show you what's previously been marked for

12 identification as Government's Exhibit 68?

13 THE DEPUTY CLERK: Government's Exhibit 68

14 marked for identification.

15 (Government's Exhibit 68

16 marked for Identification)

17 BY MR. O'NEILL:

18 Q Sir, do you recognize that document?

19 A Yes, I do. It is an expense voucher that is or was

20 completed by me for the Keefe Company.

2 Q And is it in your handwriting?

2 A It is.

2 MR. O'NEILL: Your Honor, I'd move that into
2 evidence at this time. Government's Exhibit 68.

2 MR. WEHNER: No objection, Your Honor.

570

1 THE COURT: All right, 68 is admitted.

2 (Government's Exhibit 68

3 received into Evidence)

4 BY MR. O'NEILL:

5 Q Mr. Shelby, I'd ask you to -- I'd direct your

6 attention specifically to 5-23?

7 A Yes.

8 Q And I'd ask you if that has a notation on it?

9 A Yes, it indicates lunch with Mr. Mitchell at the
10 Guards Restaurant.
11 Q Would this be 1985?
12 A Yes.
13 Q Mr. Shelby, I'd now show you what's previously been
14 entered into evidence as Government's Exhibit 69. So
15 you may refer to it.
16 A Yes.
17 Q What is that, sir?
18 A It is a note to me from Miss Dean congratulating me
19 on my association with the Keefe Company.
20 Q Mr. Shelby, is that letter from Miss Dean to
2 yourself dated June 20, 1985?
2 A Yes, I believe that is correct. It was June.
2 Q Mr. Shelby, I'd show you Government's Exhibit 70
2 which has already been introduced into evidence and I'd
2 ask you to identify that, please?

571

1 A This is a letter from me to Miss Dean thanking her
2 for her letter.
3 Q And what is the date on that letter?
4 A July 3rd.
5 Q Again, Mr. Shelby, I would show you what's
6 previously been marked for identification purposes only
7 as Government's Exhibit 73. And I'd ask you if you
8 could identify that?
9 THE DEPUTY CLERK: Government's Exhibit 73
10 marked for identification.
11 (Government's Exhibit 73
12 marked for Identification)
13 A Yes, this is another expense voucher to the Keefe
14 Company.
15 Q Did you prepare that expense voucher?
16 A Yes, I did.
17 Q And is it in your handwriting?
18 A Yes, it is.
19 MR. O'NEILL: Your Honor, I would have that
20 moved into evidence as Government's Exhibit 73.
21 MR. WEHNER: No objection.
22 THE COURT: All right, 73 is admitted.
23 (Government's Exhibit 73 received
24 into Evidence)
25 BY MR. O'NEILL:

572

1 Q Mr. Shelby, I'm showing you a document previously
2 entered into evidence as Government's Exhibit 74. Do
3 you recognize that, sir?
4 A Yes, I do.
5 Q And what do you recognize that as?
6 A This again is a letter from me to Miss Dean
7 thanking her for taking the time from her busy schedule
8 to have lunch with me.
9 Q Mr. Shelby, I'm now showing you a document

10 previously entered into evidence, Government's Exhibit
11 75, and I'd ask you what is that?
12 A This is a letter to me from Miss Dean which is
13 enumerating a number of Departmental publications that
14 she sent to me.
15 Q Mr. Shelby, at this time I'm showing you a document
16 previously marked as Government's Exhibit 76 for

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17 identification.

18 THE DEPUTY CLERK: Government's Exhibit 76

19 marked for identification.

20 (Government's Exhibit 76 marked

2 for Identification)

2 A Yes, a note from me to Miss Dean indicating that I

2 was directing to her some information concerning the

2 Section Eight project in Miami and also a question

2 relating to the provision of cable television service to

573

1 a Departmental project in Marathon, Florida.

2 Q This Section Eight project you're referring to in

3 Miami, was that the Park Towers project?

4 A Yes.

5 Q And did you write this note to Miss Dean?

6 A Yes.

7 MR. O'NEILL: Your Honor, at this time I'd

8 move it into evidence, Government's Exhibit 76.

9 MR. WEHNER: No objection.

10 THE COURT: All right, Government's 76 will be

11 admitted.

12 (Government's Exhibit 76 received

13 into Evidence)

14 BY MR. O'NEILL:

15 Q By the way, Mr. Shelby, on Government's Exhibit 76

16 which is the letter I just referred you to, it mentions,

17 "Debbie, enclosed please find the information

18 concerning the Section Eight moderate rehab program in

19 Miami and the contract for Cable Television Service for

20 the Marathon Housing Project in Marathon, Florida." Can

2 you make out the date on that?

2 A May I see the document again?

2 Q Sure.

2 A September the 10th, 1985.

2 Q Thank you. Mr. Shelby, I'm now showing you what's

574

1 previously been marked as Government's Exhibit 79 for

2 identification. Since it's not in evidence I'd ask you

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3 not to refer to it yet.
4 THE DEPUTY CLERK: Government's Exhibit 79
5 marked for identification.
6 (Government's Exhibit 79 marked
7 for Identification)
8 BY MR. O'NEILL:
9 Q Do you recognize that, sir?
10 A Yes, I do.
11 Q Have you ever seen that document before?
12 A Yes.
13 Q Do you recall receiving that document?
14 A Yes.
15 Q When did you receive that document?
16 A November 27, 1985.
17 Q How did you receive that document?
18 A Again, my recollection is that it was faxed to me.
19 Q I would direct your attention to the second page of
20 that document. Have you ever seen that document before?
2 A Yes.
2 Q Do you recall whether that was a document that was
2 sent to you?
2 A Yes, I believe it was.
2 MR. O'NEILL: Your Honor, I would now move that

575

1 into evidence as Government's Exhibit 79.

2 MR. WEHNER: Could I have a brief voir dire on

3 that document?

4 THE COURT: Sure.

5 (VOIR DIRE)

6 BY MR. WEHNER:

7 Q Mr. Shelby, would you take a close look at that

8 document, please, and do you recall that that is a

9 document that was faxed to you? It's not, is it?

10 A It appears to be.

11 Q Isn't it true that you retyped the document after
12 you received it and sent it off to Martin Fine?

13 A I didn't retype the document.

14 Q Did you cause it to be retyped?

15 A Not to the best of my knowledge, not to my
16 recollection, no, sir.

17 Q Do you recall that being the precise document you
18 received?

19 A It appears to be.

20 Again, this was over eight years ago. So it's
2 difficult to be absolutely certain, but it appears to

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2 be.

2 Q Do you have any recollection at all of causing a
2 document to be retyped and then sending it on to
2 Mr. Fine?

576

1 A No, I do not.

2 MR. WEHNER: Nothing further, Your Honor.

3 THE COURT: All right, thank you, 79 will be
4 admitted.

5 (Government's Exhibit 79
6 received into Evidence)

7 BY MR. O'NEILL:

8 Q Mr. Shelby, I now show you what's previously been
9 marked for identification purposes as Government's
10 Exhibit 80?

11 THE DEPUTY CLERK: Government's Exhibit 80
12 marked for identification.

13 (Government's Exhibit 80
14 marked for Identification)

15 BY MR. O'NEILL:

16 Q Once again, do you recognize that?

17 A It's an invoice from the Keefe Company to Mr. Fine
18 for the initial portion of the fee, total of \$45,000.

19 Q Was that invoice made out on or about the time you
20 were at the Keefe Company?

2 A Yes, I believe it was.

2 Q Was that pursuant to the consulting agreement, that
2 payment?

2 A Yes.

2 MR. O'NEILL: Your Honor, at this time I'd

577

1 move it into evidence, Government's Exhibit number 80.

2 MR. WEHNER: No objection, Your Honor.

3 THE COURT: 80 is admitted.

4 (Government's Exhibit 80

5 received into Evidence)

6 BY MR. O'NEILL:

7 Q And, Mr. Shelby, with Government's Exhibit 80, the

8 document you've just seen, is that the initial demand

9 for \$45,000 pursuant to the terms of the contract?

10 A Yes.

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11 Q And when was that \$45,000 to be made payable
12 pursuant to the contract?
13 A My recollection was that it was within 30 days of
14 the housing units being awarded to the Housing
15 Authority. I can't remember specifically, but I believe
16 that's correct.
17 Q Mr. Shelby, I now show you Government's Exhibit
18 84.
19 THE DEPUTY CLERK: Government's Exhibit 84
20 marked for identification. !

i

I

21 (Government's Exhibit 84 marked i
22 for Identification)
23 BY MR. O'NEILL:

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24 Q It's only marked for identification. So don't
25 refer to it yet at this time. Do you recognize that

578

1 document?

2 A I recognize this as one of the Keefe Company what I
3 would refer to as a buck slip. Yes, I recognize this.

4 Q Are there any attachments to what you called a buck
5 slip?

6 A Yes.

7 Q I would direct your attention to that and ask you
8 if you recognize that?

9 A Yes, I do. This is --

10 Q You cannot read through it at this time.

11 A Oh, I'm sorry.

12 Q That's okay. Do you recall ever seeing that
13 document before?

14 A Yes, I do.

15 Q To your knowledge, Mr. Shelby, did you cause this
16 buck slip to be filled out and sent?

17 A I don't believe that I did, in that I didn't

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18 personally sign it.
19 Q Mr. Shelby, at this time I will show you what's
20 previously been marked for identification as
2 Government's Exhibit 90.

2 THE DEPUTY CLERK: Government's Exhibit 90
2 marked for identification.
2 (Government's Exhibit 90 marked
2 for Identification)

579

1 BY MR. O'NEILL:

2 Q I'd ask you to look at this and not refer to it out
3 loud because it's not in evidence yet, and I would
4 direct your attention to the second page, not the short
5 attachment. Is that your handwriting in the body of the
6 letter?

7 A Yes, it is.

8 Q Thank you, -sir.

9 Mr. Shelby, at this time I'm showing you a
10 document previously marked for identification as
11 Government's Exhibit 91 and I'd ask you do you recognize
12 that?

13 A Yes, I do.

14 Q And what do you recognize that to be?

15 A This is the mailgram that was submitted to the
16 White House in support of Miss Dean's candidacy for
17 Assistant Secretary.

18 MR. O'NEILL: Your Honor, at this time I'd
19 move it into evidence as Government's Exhibit 91.

20 MR. WEHNER: No objection.

2 THE COURT: All right, it will be admitted as

2 Government's Exhibit 91.
2 (Government's Exhibit 91
2 received into Evidence)
2 BY MR. O'NEILL:

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1 Q Mr. Shelby, does your name appear on that?

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2 A Yes, it does.

3 Q And do other names appear as well?

4 A Yes.

5 Q Did you personally contact the mailgram office to

6 send this?

7 A Yes, to the best of my recollection I did.

8 Q Mr. Shelby, I'm now showing you Government's

9 Exhibit 92.

10 THE DEPUTY CLERK: Government's Exhibit 92

11 marked for identification.

12 (Government's Exhibit 92

I

13 marked for Identification)

14 BY MR. O'NEILL: j

15 Q And that's previously been entered into evidence

16 pursuant to a stipulation. Do you recognize that, sir? j

|

17 A Yes, I do. i

i

18 Q What is it?

19 A This is a letter from me to Miss Dean thanking her
20 for her help and also thanking her for her having
2 extended an invitation to me to spend Thanksgiving day

2 with them, with her and her family.

2 Q Now, before I put that one on the visual presenter
2 screen, Mr. Shelby, as to the previous exhibit, the

2 mailgram, did you have any conversations with the people

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1 listed on that, specifically Lee Atwater, Frank
2 Donatelli, Lou Kitchin, Kenny Kling, Jim Lake, Mike
3 Masson, Clyde Pearce, Ed Rollins, Wayne Roberts,
4 yourself, Roger Stone, Anne Stanley and Bill Tucker?
5 A Yes.
6 Q What if anything did you do?
7 A Simply contacted them to ask them if they would be
8 willing to lend their support to her nomination.
9 Q By the way, Mr. Shelby, did you have any

10 conversations with John Mitchell about Miss Dean's
11 nomination to be Assistant Secretary for Community
12 Planning and Development?
13 A I did, I believe, on one occasion, yes.
14 Q To your knowledge was he supporting her in that
15 endeavor?
16 A Yes, of course.
17 Q And to your knowledge, what if anything was he
18 doing?
19 A I don't have specific knowledge of anything other
20 than my conversation with him in which he requested that
21 I do whatever I could to support her candidacy.
22 Q And finally, Mr. Shelby, I'll show you what's
23 previously been marked for identification as
24 Government's Exhibit 88.
25 THE DEPUTY CLERK: Government's Exhibit 88

582

1 marked for identification.
2 (Government's Exhibit 88 marked
3 for Identification)
4 BY MR. O'NEILL:
5 Q And I'd ask you if you recognize this?
6 A Yes.
7 Q And what do you recognize it to be?
8 A It is a note from Miss Dean to me thanking me for
9 lunch at a point in time prior to the note, which is
10 dated April 10, 1986.
11 MR. O'NEILL: Your Honor, I'd move it into
12 evidence as Government's Exhibit 88.
13 MR. WEHNER: No objection.
14 THE COURT: All right, 88 will be admitted.
15 (Government's Exhibit 88
16 received into Evidence)
17 MR. O'NEILL: I have no further questions at
18 this time, thank you.
19 THE COURT: All right.
20 You'll be .awhile?
2 MR. WEHNER: I will, Judge, but I can get
2 started.
2 THE COURT: All right, I'll give you a few
2 minutes.
2 CROSS-EXAMINATION

1 BY MR. WEHNER:
2 Q Mr. Shelby, you paid John Mitchell a considerable
3 amount of money for very little work, isn't that
4 correct?
5 A Yes.
6 Q Isn't it true that you paid John Mitchell that

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7 amount of money specifically to get an introduction to
8 Miss Dean?
9 A No, that's not correct.
10 Q Did you have a conversation with Mr. Mitchell in
11 which you asked him to introduce you to Miss Dean
12 because she was at HUD?
13 A No.
14 Q Why, in fact, did you pay Mr. Mitchell \$50,000?
15 A I had had the conversation with Mr. Mitchell prior
16 to joining the Keefe Company and although I had made an
17 employment change I felt an obligation to honor the
18 commitment I made to him.
19 Q What was your commitment to Mr. Mitchell, to pay
20 him for what?
2 A At the time we had our initial conversation it was
2 to work with me in bringing, or I should say to work
2 with me in helping to win the award from the Department
2 Q And a part of that was introducing him to
2 Miss Dean -introducing
you to Miss Dean?

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1 A No, that's not correct.
2 Q That's not correct?
3 A That's not correct, no. At that point I was not
4 aware of the relationship with Miss Dean.
5 Q How much money did Miss Dean receive from your
6 consultant fees? I
7 A To my knowledge, none. j
8 Q Did you pay her any money from your consultant j
9 fees' ?
10 A None whatsoever, of course. \
11 Q To your knowledge did anyone else pay her any money
12 from your consulting fees? I
13 A Not to my knowledge.
14 Q You made a lot of money as a result of
15 relationships that you developed at HUD, is that
16 correct?
17 A I suppose the answer to that question is yes. !
18 Q Well, you did. ;
19 A Yes. |
20 Q And those included Miss Dean?
2 A Yes.
2 Q And Hunter Cushing? ;
2 A Yes.

2 Q And who else?
2 A Silvio DeBartolomeis, as I mentioned. Are you
i

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1 A I would generally sit in on the morning meetings
2 and if there was a prospective nominee that I had
3 knowledge of I was free to interject my opinion.
4 Q And you said you want somebody to get a job or you

5 don't want somebody to get a job, isn't that correct?

6 Isn't that the way it works?

7 A Again, I would have the opportunity to voice my --

8 Q Isn't that correct, that you helped people get jobs

9 and you stopped people from getting jobs?

10 A Yes, that's correct.

11 Q And that was true for Executive Branch employees

12 that were political appointees, right?

13 A Yes.

14 Q And you used those same connections to go make a
15 ton of money, isn't that correct?

16 A Yes.

17 Q And you used every one of those people who you
18 helped, to make a ton of money, isn't that correct?

19 A In that sense of the word I suppose that's correct,

20 yes.

2 Q And you didn't give them any of that money, did

2 you?

2 A No.

2 Q And that's the way Washington operated at that

2 time, isn't that true?

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1 A Yes.

2 Q Okay. Now, did Miss Dean ever know that

3 John Mitchell was receiving a consulting fee as a result
4 of any of these projects?

5 A To the best of my knowledge, no.

6 Q Did you tell her?

7 A No.

8 Q She was a friend of yours, wasn't she?

9 A Yes.

10 Q You abused that friendship, didn't you?

11 A I don't believe so.

12 MR. WEHNER: Can we continue tomorrow, Your

13 Honor?

14 THE COURT: All right, sure.

15 All right, ladies and gentlemen, we're going

16 to take the evening break and finish up tomorrow.

17 I'm going to have to ask the witness to come

18 back.

19 Ladies and gentlemen, remember the admonition

20 I've given you all along, particularly pay attention to

2 it now, please, as this case goes on and you listen to

2 more witnesses. Don't talk about the case among

2 yourselves or express your opinions to each other about

2 this case or the testimony in any fashion. Don't let

2 anybody else talk about it or let anybody talk about it

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1 in your presence. Remember not to read or watch or
2 listen to it in the media.
3 Be back tomorrow. Tomorrow is a half day
4 because I have other matters in the afternoon, other
5 cases I have to consider. I'll take a break from this
6 one for the day.
7 So we'll start tomorrow at 9:30 and as closely
8 as possible and then we'll be finished around 12:30 or
9 so to see where we are with the witnesses at that time.
10 All right?
11 All right. Have a good evening. See you back
12 tomorrow morning. 9:30, please.
13 (Jury dismissed)
14 THE COURT: Can you get back at 9:30?
15 THE WITNESS: Yes, sir.
16 THE COURT: All right. Thank you. You can
17 go.
18 How long do you think you'll be on cross?
19 MR. WEHNER: Maybe not very long. I mean
20 frankly I need to think about that.
2 THE COURT: All right.
2 MR. WEHNER: I may stop.
2 THE COURT: Have you got some people for
2 tomorrow? . 2
MR. O'NEILL: Yes, Judge, we're in real good

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1 shape for tomorrow.
2 MR. WEHNER: My understanding is you have
3 Mr. Feinberg.
4 MR. O'NEILL: Yes, and Mr. Sharifi. I believe
5 that would take the morning.
6 THE COURT: If they're here tomorrow if we
7 have to sit late at lunch we'll do it to try to get it
8 in tomorrow, all right?
9 MR. WEHNER: we'll try to get them in
10 tomorrow.
11 MS. SWEENEY: Your Honor, we also had some
12 housekeeping matters. We indicated the last time we had
13 an in-chambers conference on the record that we would
14 prepare rule 6E orders permitting us to provide to Mr.

9

VOLUME V

10

APPEARANCES:

11

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2 COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

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3 WITNESSES ON BEHALF OF

THE GOVERNMENT:

4

Richard Shelby

5 (Resumed)

6 Patricia Sharifi

7 Eli Michael Feinberg

8

9

10 GOVERNMENT'S:

11 No. 68A

12 198

13 204

14 501

15

DEFENDANT'S:

16

NO. 55

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2 (Defendant present, Jury out.)
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3 THE CLERK: Criminal No. 92-181, United States of
4 America v. Deborah Gore Dean. We have Robert O'Neill and Paula
5 Sweeney for the government, Stephen Wehner for Ms. Dean.
6 THE COURT: All right. We're all ready to proceed?
7 MR. O'NEILL: Yes, Your Honor.
8 MR. WEHNER: Yes, Your Honor.
9 THE COURT: Okay. I'll take up with counsel if you
10 remind me at the end of the day, the short one you have here,
11 correspondence I'm sure you've already got copies of from
12 Mr. Martinez.
13 MR. O'NEILL: Yes, Your Honor.
14 MR. WEHNER: Yes.
15 THE COURT: All right. And for the record,
16 Mr. Martinez is complaining about having to come back to testify.
17 (Jury in.)
18 THE COURT: All right, Ladies and Gentlemen, we're
19 ready to proceed again. If you'll recall, Mr. Shelby was on the
20 stand. He's going to resume the stand at this time. We'll be
21 sitting up through lunch today, and then we'll be recessing for
22 the rest of the day, because I have some matters I have to take
23 up in another case.
24 RICHARD SHELBY, GOVERNMENT'S WITNESS, PREVIOUSLY SWORN, RESUMED
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25 THE COURT: All right, sir, you're ready to go?

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1 THE WITNESS: Yes, sir.
2 THE COURT: Mr. Wehner, you may proceed with your cross
3 examination.
4 MR. WEHNER: Thank you.
5 Good morning.
6 THE JURORS: Good morning.
7 CROSS EXAMINATION (Cont'd.)
8 BY MR. WEHNER:
9 Q. Mr. Shelby, I believe when we had finished yesterday, the
10 last question I asked you was whether or not you believed you had
11 abused your friendship with Ms. Dean, and you had testified, I
12 believe you said you felt that you had not.
13 A. Yes, sir.
14 Q. Okay. You first met Ms. Dean at lunch or at HUD?
15 A. To the best of my recollection -- and I can't be certain --
16 but it was at the department.
17 Q. And you met her outside of Mr. DeBartolomeis's office; is
18 that correct?
19 A. That's my recollection, yes, sir.
20 Q. And your best recollection as to the date of that was what,
2 1983?

2 A. No, sir, sometime in June of 1985.
2 Q. June of '85?
2 A. Yes, sir.
2 Q. So you didn't know Ms. Dean until June of 1985?

1 A. Yes, sir, that's correct, to the best of my knowledge.
2 Q. How long had you known Mr. DeBartolomeis?
3 A. As I mentioned yesterday, for all practical purposes, I
4 didn't know him prior to that same general time frame. I think
5 perhaps our paths may have crossed at a reception or some such
6 thing, but he was not a friend in that sense of the word.
7 Q. The question was how long had you known him? We established
8 that you first met the first time Ms. Dean in June of 1985.
9 A. Yes. I'm sorry --

10 Q. What date and year did you meet Mr. DeBartolomeis?
11 A. It would have been sometime earlier in 1985.
12 Q. Okay. Had you known him prior to January of 1985?
13 A. Not to the best of my recollection, no, sir.
14 Q. Okay. How did you meet Mr. DeBartolomeis?
15 A. At this point, I honestly can't remember whether I met him
16 outside the department or whether it was within the department.
17 Q. From the time you met Mr. DeBartolomeis in early 1985 ;
18 through approximately 1987, which is the time period that we're
19 dealing with with regard to Ms. Dean, he told you he would help
20 you with your mod rehab projects, did he not?
2 A. Yes.

2 Q. And what position did Mr. DeBartolomeis have at the
2 department at that time?
<i 2 A. I believe that it was deputy assistant secretary in the

2

multi-family division.

1 Q. And you had many conversations with Mr. DeBartolomeis about
2 your mod rehab projects; is that correct?

3 A. Yes, sir.

4 Q. Now Ms. Dean did not say she would help you with your mod
5 rehab projects; isn't that correct?

6 A. I don't recall her saying that, no.

7 Q. Now you do recall what she did say, didn't you, when you
8 talked to her about mod rehab projects, because you've previously
9 told the Independent Counsel what she said, didn't you?

10 A. Yes.

11 Q. Now didn't you tell the Independent Counsel that Ms. Dean
12 said it would be put into the mix and compared with the other

<B 13 projects?

14 A. Yes.

15 Q. Did she ever say she would help you?

16 A. No.

17 Q. Did she ever say she would see that the project was funded?

18 A. No.

19 Q. Did she ever say, "Don't worry. I'll take care of it"?

20 A. No.

2 Q. Now you became a close friend of Ms. Dean's, did you not?

2 A. Yes, I did.

2 Q. As a matter of fact, so close that you exchanged Christmas
presents, didn't you?

2 A. Yes, that's correct.

1 Q. Not large Christmas presents. She gave you a copy of a
2 movie of White Christmas on a video cassette once; isn't that
3 correct?

4 A. Yes, sir.

5 Q. And you gave her what, a candle set?

6 A. Yes, candlesticks.

7 Q. So we're not talking expensive gifts; we're just talking
8 social pleasantries?

9 A. Yes, that's correct.

10 Q. And you had kind of a history with Ms. Dean of having lunch
11 with her on Christmas Eve; isn't that correct?

12 A. Yes, that's correct.

13 Q. You did that for two or three years running, didn't you?

14 A. Yes, sir.

15 Q. You'd go to the same restaurant and have a little pleasant
16 end-of-the-year get-together?

17 A. Yes, sir.

18 Q. And of course, your wife was aware that you had this
19 relationship with Ms. Dean?

20 A. Absolutely.

2 Q. It was not romantic?

- 2 A. Of course not.
2 Q. It was platonic, as they say?
2 A. Yes.
2 Q. Innocent, to use another word.

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- A. Yes.
2 Q. But you were, in fact, very good friends?
3 A. Yes, that's correct.
4 Q. Now there came a time after June of 1985 in your
5 relationship with Ms. Dean that you became aware, according to
6 your testimony, of her relationship to John Mitchell; isn't that
7 correct?
8 A. I can't recall specifically when in 1985 that occurred, but
9 it was sometime in that general time frame, yes.
10 Q. It was after June of 1985, because you didn't meet her until
11 June of 1985, correct?
12 A. Yes, but I thought you were saying specifically was it then,
13 and I --
14 Q. No. I just want to make clear, have you made clear the
15 basic order that these events occurred.
16 A. Yes.
17 Q. I know you can't remember exact dates.
18 A. Yes.
19 Q. So in June of 1985, you meet Ms. Dean. Some point after
20 that, you say that you became aware of her relationship with John
21 Mitchell.
22 A. Yes.
23 Q. Now was that in 1985?
24 A. Yes.
25 Q. During that period of 1985, you have social contact with

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599

Ms. Dean, correct?

- A. Yes.
3 Q. And you have lunch with Ms. Dean?
4 A. Yes.
5 Q. And on some occasions, you pay for lunch?
6 A. Yes.
7 Q. And on some occasions, she pays for lunch?
8 A. Yes.
9 Q. And you go to dinner with her -- lunch with her on Christmas
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10 Eve?

11 A. Yes.

12 Q. And you see her at receptions?

13 A. Yes.

14 Q. And you're friendly with her?

15 A. Yes.

16 Q. And you become aware of her close personal relationship with

17 John Mitchell.

18 A. Yes.

19 Q. Didn't you feel the slightest bit uncomfortable continuing

20 to go to Ms. Dean and discussing HUD projects with her when after

21 you became aware of her relationship to John Mitchell?

22 A. At the time, I didn't.

23 Q. Did you ever think to yourself, "I'd better tell Ms. Dean

24 that I'm in a business relationship with this person that's close

25 to her"?

600

A. Well --

2 Q. Did you?

3 A. No, I didn't.

4 Q. Did you think about it?

5 A. Not really, because once I became aware of the relationship,

6 I no longer had a business association with Mr. Mitchell. He was

7 not involved in any other HUD-related work that I did.

8 Q. Did you do that intentionally?

9 A. Yes.

10 Q. Why?

11 A. Because I was concerned about the perceptual problem that I

12 thought could evolve from the professional relationship with

13 Mr. Mitchell.

14 Q. So you didn't even want there to be an appearance of

15 anything wrong?

16 A. Yes.

17 Q. Between you and Ms. Dean; is that correct?

18 A. That's correct.

19 Q. Now you've been given immunity in return for your testimony

20 in this trial; is that correct?

21 A. Yes.

22 Q. And that means you can't be prosecuted by the Independent

23 Counsel for anything that you did; is that correct?

24 A. Yes.

25 Q. Are you aware that they named you as a co-conspirator with

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1 Ms. Dean in their charges?

2 A. Yes.

3 Q. And that they refer to you as something called

4 co-conspirator No. 5?

5 A. Yes.

Q. What did you do wrong?

A. I don't believe that I did anything wrong.

Q. To your knowledge, did Ms. Dean do anything wrong?

A. No.

- 10 Q. So they've named you in a count in the indictment as a
11 co-conspirator, and you've never had any explanation as to what
12 you or Ms. Dean did wrong?
13 A. Yes.
14 Q. That's correct? Is that correct?
15 A. Yes.
16 Q. I believe you've testified that Mr. DeBartolomeis said, "I
17 will try and help you," words to that effect. I don't mean to
18 tie you down to specific words, but words to that effect?
19 A. Yes.
20 Q. It's true, is it not, that other people at HUD made requests
2 of you such as contributions to charitable organizations in
2 return for their help at HUD; is that correct?
2 A. Could you restate the question, please?
2 Q. Back up. Do you know what Food for Africa is?
2 A. Yes.

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- 1 Q. What is it?
2 A. It was a charity that would help to subsidize the cost of
3 purchasing food for people starving in Africa.
4 Q. And do you know who Thomas Demery is?
5 A. Yes.
6 Q. Who was Thomas Demery between 1983 and 1985?
7 A. He was the assistant secretary for housing at the
8 department.
9 Q. And did he ask you to contribute to Food --or did somebody
10 on his behalf ask you to contribute to that organization?
11 A. To the best of my recollection, Mr. Demery never asked me to
12 contribute, but I was asked to contribute by a businessman that
13 was working on the project.
14 Q. And did you contribute?
15 A. No, I did not.
16 Q. Why?
17 A. Again, I was concerned about a perceptual problem that might
18 arise from doing so.
19 Q. So you were sensitive to these issues?
20 A. Yes.
2 Q. Did Ms. Dean ever ask you to do anything?

2 A. No.
2 Q. Would you have done anything if she had asked you?
2 A. Contribute to Food for Africa?
2 Q. Would you have given her a penny if she had asked you?

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- A. Of course not.
2 Q. Don't you think based on your relationship with Ms. Dean
3 that if you would have told her that John Mitchell was receiving
4 \$50,000 based on some of the same HUD projects that you were
5 talking to her about, that she wouldn't have talked to you
6 anymore?
7 MR. O'NEILL: Objection, Your Honor.
8 THE COURT: All right, I'll sustain it. That's
9 speculation. The objection is sustained.

10 BY MR. WEHNER:

11 Q. Did you ever tell Ms. Dean that you were paying John
12 Mitchell any money?

13 A. No.

14 Q. Did you, in fact, intentionally keep it from her?

15 A. Yes.

16 MR. WEHNER: I have nothing further, Your Honor.

17 THE COURT: All right. You can have some redirect :
18 then.

19 MR. O'NEILL: Yes, Your Honor. Thank you very much.

20 REDIRECT EXAMINATION

21 BY MR. O'NEILL:

22 Q. Mr. Shelby, do you recall whether you had lunch with Deborah
23 Gore Dean and John Mitchell on September 9, 1985?

24 A. Yes.

25 Q. And you're absolutely certain about that?

604

1 A. I believe based upon a review of the documents that that is
2 correct, yes.

3 Q. I now show you what's been previously marked as Government's
4 Exhibit 76 for identification, and you looked at that yesterday?

5 A. Yes, I did.

6 Q. On September 10, 1985, a day after you had lunch with John
7 Mitchell and Deborah Dean, did you send information to Deborah
8 Dean about Park Towers?

9 A. Yes.

10 Q. Now, Mr. Shelby, is it your testimony today that you met
11 Deborah Dean for the first time in 1985?

12 A. Yes, it is.

13 Q. I show you what has previously been marked as Government's
14 Exhibit 501 for identification purposes only, and I'd ask you,
15 sir, did you ever tell a special agent of the United States
16 government in 1987 that you knew Deborah Dean for approximately
17 five years? Yes or no, sir?

18 A. Yes.

19 THE CLERK: Government's Exhibit 501 marked for
20 identification.

2 (Government's Exhibit No. 501 was

2 marked for identification.)

2 BY MR. O'NEILL:

2 Q. I now show you, Mr. Shelby, what's previously been put into
2 evidence as Government's Exhibit 92 and ask you to look at it,

605

1 sir. And it's already in evidence. Please read it to the jury-
2 out loud.

3 A. In its entirety?

4 Q. Yes.

5 A. "Dear Debbie:

6 "Merely a note (long overdue) to let you know how very
7 much I appreciate all that time and effort which you've

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8 necessarily had to extend on my behalf over the course of the
9 past few years. In a relative sense, a simple thank you seems

10 terribly inconsequential and thus irrelevant, but please accept
11 it as such, with the assurance that I hope to be able to
12 reciprocate in some small way at some future point in time.
13 "I also wanted to thank you again for your
14 thoughtfulness in thinking to include me in your Thanksgiving
15 plans. Needless to say, I was greatly disappointed that a prior
16 commitment made it impossible for me to take advantage of your
17 kind invitation. I hope that you and your family had an eventful
18 holiday.
19 "Again, much thanks for all your help and, even more
20 importantly, for your friendship.
2 "Kind regards, Rick."

2 Q. Now isn't it true that there's a date posted of December 1
2 on this letter?
2 A. Yes, there is.
2 Q. But it does not have a year?

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1 A. Yes, that's correct.
2 Q. But there is a postmark; is there not?
3 A. Yes.
4 Q. And does that postmark not state December 8, 1986?
5 A. Yes, it does.
6 Q. And do you not write in this letter that you're thanking
7 Ms. Dean for her help over the last few years?
8 A. Yes.
9 Q. Now, Mr. Shelby, who did you principally deal with on the

10 Foxglenn project at HUD headquarters?

11 A. Ms. Dean.

12 Q. Who did you principally deal with on Eastern Avenue on

13 Foxglenn project -- excuse me, on the Eastern Avenue project?

14 A. Ms. Dean.

15 Q. You were asked on cross examination by Mr. Wehner whether

16 you were paid a lot of money for your lobbying efforts at HUD; is

17 that correct?

18 A. Yes.

19 Q. How much money, approximately, did you make on the Park

20 Towers, Foxglenn, and Eastern Avenue projects?

2 A. Let's see, on Park Tower, it was \$220,000; on Eastern
2 Avenue, \$110,000; and there -- I'm sorry, on Foxglenn, 110,000,

2 and Eastern Avenue, \$57,000.

2 Q. Were you paid this money because you had access to

2 high-ranking government officials?

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1 A. In part, yes.

2 Q. In part for a couple of meetings and a couple of phone
3 calls, correct?

4 A. Yes.

5 Q. You had no technical information; is that right?

6 A. Yes.

7 Q. Do you have any housing experience whatsoever?

8 A. Certainly at the outset I didn't.

9 Q. Did you know about the Mod Rehab Program? Did you know any

10 of the technical aspects to the program?

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11 A. No.

12 Q. Did you have any background in housing, sir?

13 A. No.

14 Q. You were a political consultant, correct?

15 A. Yes, that's correct.

16 Q. Now to your knowledge, does everyone have access to high-

17 ranking government officials?

18 A. No.

19 Q. So was the defendant, Deborah Gore Dean, one of those high-
20 ranking government officials?

2 A. Yes.

2 Q. Was it wrong for you to take advantage and use your
2 influence with her? Yes or no, sir. Was it wrong?

2 A. At the time --
2 Q. Was it wrong, sir? Yes or no.

1 A. Yes
2 Q. Okay. And you said that to a federal grand jury, did you
3 not?
4 A. Yes
5 Q. Let me just refresh your recollection if there's any doubt
6 about it and I'd ask you when you testified before that federal
7 grand jury. When did you testify before the grand jury?
8 A. Last year.
9 Q. And did you say that the system was wrong?

10 A. Yes
11 Q. And that there was obviously something wrong with it?
12 A. Yes
13 Q. But now today in front of this jury, it's no longer wrong,
14 correct, sir?
15 MR. WEHNER: Objection. That's not what he said, Your
16 Honor.
17 THE COURT: All right, I'll sustain the objection.
18 BY MR. O'NEILL:
19 Q. And your belief in it was wrong. That's why you asked
20 immunity right, sir?
21 A. Yes
22 MR. O'NEILL : No further questions.
23 THE COURT: All right.
24 All right, thank you, Mr. Shelby. You can step down,
25 sir.

609

1 MR. WEHNER: Your Honor, if I may?
2 THE COURT: Oh, you have recross?
3 MR. WEHNER: One quick follow-up on a question.
4 THE COURT: All right.
5 RE-CROSS EXAMINATION
6 BY MR. WEHNER:
7 Q. When did you come to the understanding in your own mind that
8 what you'd done was, quote, wrong?
9 A. In the wake of the investigation.

10 Q. No, when?
11 A. 1989.
12 MR. WEHNER: Nothing further.
13 THE COURT: All right. You can step down. Thank you.
14 (Witness excused.)
15 MR. O'NEILL: Your Honor, at this time, the government
16 would call Patricia Sharifi.
17 PATRICIA SHARIFI, GOVERNMENT'S WITNESS, SWORN
18 DIRECT EXAMINATION
19 BY MR. O'NEILL:
20 Q. Mrs. Sharifi, I'll be asking you a series of questions. I'd
2 ask you to speak in a loud and clear voice so that everyone can

2 hear you.
2 Ma'am, would you please state your name for the record,
2 spelling your last name?

2 A. My name is Patricia Sharifi, S-h-a-r-i-f-i.

610

1 Q. Now, Ms. Sharifi, by whom are you employed?

2 A. I'm employed by Dade County Housing Authority, Special
3 Housing Programs, in Miami, Florida.

4 Q. And how long have you been employed there?

5 A. It will be ten years in January of 1995.

6 Q. And is that the local PHA, or public housing authority, in
7 Miami?

8 A. Yes, it is.

9 Q. I would direct your attention to approximately 1984, ma'am,

10 and I'd ask you what was your position at the local PHA at that
11 time?

12 A. I was a finance advisor.

13 Q. And can you tell the Ladies and Gentlemen of the Jury what
14 does that mean?

15 A. Basically my responsibility was to work with the owner from
16 the application stage all the way through the rehabilitation of
17 the project, determining if the project was feasible and ensuring
18 compliance with the federal regulations.

19 Q. Okay. Now at that time, did the local PHA in Miami have a
20 system in place for selecting proposals for funding for mod rehab
2 projects?

2 A. Yes, we did.

2 Q. And can you describe that system to the Ladies and Gentlemen
2 of the Jury?

2 A. Basically we had a pipeline, and that pipeline was

611

1 open-ended. We had run an advertisement in approximately '84 and
2 185 soliciting proposals for the program, and owners would submit
3 their applications to our department, and we would insert it into
4 the pipeline, noting the time and date that the owner submitted
5 the proposal.

6 Q. And how were proposals supposed to be selected?

7 A. They were supposed to be selected on a
8 first-come-first-served basis.

9 Q. How did the pipeline actually work?

10 A. It actually worked by the developers would come into our
11 office and ask us to submit a letter to Washington. They would
12 tell us the name of the person that it should be addressed to,
13 tell us exactly what the wording should be, specifying the number
14 of units, in some cases, the breakdown of the units. They said
15 if we wrote that letter, that the county could get some units.
16 So we wrote the letter to the official designated by
17 the developer. :

18 Q. Did there come a point in time when you would receive notice
19 as to whether a particular project had been funded? Not a
20 project, excuse me, whether a particular number of units would
2 come to Miami?

2 A. Yes. The developer would either come into the office and
2 tell us within a few hours or by the next day that we would be
2 receiving a call from the HUD field office in Jacksonville, that
2 the Jacksonville office would be telling us how many units to

612

1 submit the application for, or in some cases, the developer would
2 bring in the HUD 185, which is a form that, from Washington to,
3 to the regional offices which tells how many units are allocated
4 for each particular housing authority.

5 Q. And what would you as the local housing authority do when
6 those units came down?

7 A. When the --we would wait for the call from the field
8 office, when the field office would tell us how many units to
9 submit the application for, and then we would complete the

10 application and send it up to the field office.

11 Q. Did the developer who asked you to write the letter, did he
12 get the units that came down, if they matched his, his request?

13 A. Yes.

14 Q. Now was there any competition at the local PHA to determine
15 which were the best projects?

16 A. No.

17 Q. Did the local PHA select the projects to be funded?

18 A. No, no.

19 Q. Now why did the local PHA agree to do this the way the
20 developers had set it up?

2 A. The county desperately needed the units. We had a very

2 extreme -- and still do -- housing shortage, a lot of refugees
2 coming into Miami, so the determination was made by the county
2 that since we needed the units, this is the way to get the units.
2 Q. Ms. Sharifi, let me show you a document that has previously

613

1 been marked for identification purposes as Government's Exhibit
2 204.

THE CLERK: Government's Exhibit 204 marked for
identification.

(Government's Exhibit No. 204 was
marked for identification.)

BY MR. O'NEILL:

8 Q. Now I'd show it to you, and I'd ask you not to read it out
9 loud, because it is not in evidence as yet. Do you recognize

10 that document?

11 A. Yes, I do.

12 Q. And what do you recognize it as?

13 A. That's the HUD 185 --

14 Q. Okay.

15 A. -- which is from headquarters to the regional office in
16 Atlanta authorizing a certain amount of units for Dade County and

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17 other housing authorities.
18 Q. Is there handwriting on that notice, ma'am?
19 A. Yes.
20 Q. Okay. Now I'm not directing your attention to the top of
2 it, where there's a signature of an individual at HUD

2 headquarters, but the rest of the handwriting, whose handwriting
2 is that?
2 A. That's mine.
2 Q. And do you recall why you wrote on this document?

614

1 A. The developer had come in and given us that form and told us
2 that those were his units, and as well as the other party on that
3 form.

Q. And who was that developer?
A. Manny Medina.
Q. Okay.
7 THE COURT: would you give that name again?
8 THE WITNESS: Manny Medina.
9 THE COURT: Medina?
10 THE WITNESS: Medina.

11 THE COURT: Thank you.

12 BY MR. O'NEILL:

13 Q. And there's another project mentioned on that 185 as well;

14 is that correct?

15 A. Yes.

16 Q. who is the developer on that project?

17 A. Jim Mitchell.
18 Q. Are you familiar with a project known as

19 Springwood/Cutlerwood?

20 A. Yes, I am.

2 Q. And how are you familiar with that project?

2 A. I worked, the lead person in determining in the project was
2 feasible, working with the financing of the project and the
2 rehabilitation of the project.
2 Q. These letters that you were referring to earlier, did you

1 submit a letter on behalf of Springwood/Cutlerwood?
2 A. The county did, yes.
3 Q. And did you write that letter?
4 A. Yes, I did.
5 Q. And what was the purpose of the letter?
6 A. The developer had asked us to write that letter. He said
7 that if we wrote that letter, that the county would be able to
8 get units.
9 Q. Now, Ms. Sharifi, let me show you what's been previously

10 marked as Government's Exhibit 198 for identification.
11 THE CLERK: Government's Exhibit 198 marked for
12 identification.
13 (Government's Exhibit No. 198 was
14 marked for identification.)
15 BY MR. O'NEILL:
16 Q. And I'd ask you if you recognize this document, ma'am?
17 A. Yes, I do.
18 Q. And what do you recognize that to be?
19 A. That's the letter that we wrote on behalf of the developer
20 requesting units for the county.
2 Q. Is that for Springwood/Cutlerwood?

2 A. Yes, it is.
2 MR. O'NEILL: Your Honor, at this time, pursuant to
2 stipulation, I would move that into evidence as Government's
2 Exhibit 198.

1 MR. WEHNER: Can I see it for a second, Your Honor?
2 THE COURT: Sure.
3 BY MR. O'NEILL:
4 Q. Ms. Sharifi; I'll show you a document sort of with a
5 government's exhibit on it. That's 198. I move that into
6 evidence, Your Honor, pursuant to stipulation of counsel.
7 MR. WEHNER: No objection, Your Honor.
8 THE COURT: I think it was received the other day, when
9 we discussed it out of the presence of the jury. I'll let 198 be

10 admitted. There was a separate 198A, right?
11 MR. O'NEILL: Yes, there is.
12 THE COURT: All right, I just want to make sure we
13 aren't confused. All right.
14 (Government's Exhibit No. 198 was
15 received in evidence.)
16 BY MR. O'NEILL:
17 Q. And is this the document that you sent on behalf of the
18 developer on Springwood/Cutlerwood?
19 A. Of that one?
20 Q. Yes. Do you recall it? Let me put it in front of you.
2 A. The other one I would have --

2 Q. The other one?
2 A. Yeah, the other one you just showed me was for Cutlerwood.

(I 2 That's for another project.
2 MR. WEHNER: Your Honor, Ms. Dean will stipulate that

617

1 that letter is for that project. What we did was there was some
2 writing on the one that Mr. O'Neill wished to introduce that we
3 didn't wish -- that was not identified. So we simply switched
4 one that had some handwriting in the upper right-hand corner for
5 the one that didn't. But they are the same letter.
6 THE COURT: Let the witness compare the two.
7 MR. WEHNER: Sure. We'll stipulate that it's precisely
8 the same. It's just different Xeroxes made at different times.
9 MR. O'NEILL: That is correct, Your Honor.
10 THE COURT: Let her see if she can recognize it.
11 MR. O'NEILL: Bear with me one second, Your Honor.
12 We've redone it, Your Honor.
13 THE COURT: Try it again.
14 MR. O'NEILL: With a stipulation that we'll put on the
15 record later.
16 THE COURT: All right.
17 BY MR. O'NEILL:
18 Q. I'll show you the first one. Is that the letter that was
19 sent?
20 A. Yes.
2 Q. Okay. And what does the letter request? Without mentioning
2 anything on top, what is requested of the Department of Housing
2 and Urban Development?
2 A. It's requesting approval for a project containing 2
2 efficiency units, 153 one-bedroom units and 48 two-bedroom units.

618

1 Q. And is that what the developer was requesting on Cutlerwood
2 and Springwood?
3 A. Yes.
4 Q. Now, Ms. Sharifi, you had stated that the pipeline system
5 worked this way in 1984. How long did it work in the manner that
6 you've told the jury?
7 A. Through 1988.
8 Q. And what happened in 1988?
9 A. There was an audit, and as a result of the audit, the, we
10 changed the selection criteria.
11 MR. O'NEILL: I have no further questions. Thank you.
12 CROSS EXAMINATION
13 BY MR. WEHNER:
14 Q. Did anyone suggest that you or anybody else in your housing
15 authority had done anything wrong in connection with your award
16 of mod rehab units?
17 A. No.
18 Q. And you know who Mr. Alvin Moore is?
19 A. Yes.
20 Q. And his position -
he's testified here previously, just so
2 you know -
Mel Adams, I'm sorry. Mel Adams.
2 THE COURT: Mel Adams.
2 THE WITNESS: Yes, I do.
2 BY MR. WEHNER:
2 Q. He's testified previously as to what the process was. Do

619

1 you know what the process was prior to 1984?
2 A. No, I don't.

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3 Q. Because you weren't employed there?

4 A. Correct.

5 Q. Okay. So post-1984, from your experience at the housing
6 authority, were you under the impression or did you get
7 information that the units in the Mod Rehab Program were
8 allocated or distributed by HUD headquarters?

9 A. Yes.

10 Q. Okay. By Washington?

11 A. Yes.

12 Q. And that the local housing authority's role was limited to

13 assuring that whatever projects were in that pipeline were

14 legitimate and proper projects, correct?

15 A. Yes.

16 Q. And you assured yourself that they were all good, legitimate

17 projects?

18 A. Yes.

19 Q. So then the issue became, once you had that pipeline in

20 place, which one Washington would fund, correct?

2 A. Yes.

2 Q. And you wanted to get as many of those as you could, and if
2 consultants could help you do that, that was okay?

2 A. We weren't aware of any consultants at the time.

2 Q. If developers could help you do that, that was okay?

620

1 A. There was a need for the county to have units, yes.

2 Q. Now on several occasions, you would write to HUD
3 headquarters asking for the units, would you not?

4 A. Yes.

5 Q. And you would write to the individual that the developer
6 told you to write to, would you not?

7 A. Correct.

8 Q. And you, in fact, wrote some of those letters? In that
9 sense, I mean, participated in the drafting?

10 A. Correct.
11 Q. Okay. And isn't it true that you wrote letters to Sam
12 Pierce?
13 A. Yes.
14 Q. Letters to Deborah Dean?
15 A. Yes.
16 Q. Letters to Jim Chaplin?
17 A. Yes.
18 Q. And all of these letters were simple requests from your
19 housing authority to get the units down, to send us these units?
20 A. Yes.
21 Q. All right. These letter requests would have specific

2 numbers in them, would they not?
2 A. In many cases, yes. They all had specific numbers.
2 Q. Because you would request 53 one-bedroom units, for example,
2 and 20 two-bedroom units, right?

A. Um-hum.
2 Q. As in a hypothetical.
3 A. Yes.
4 Q. And that information came to you from the developer; is that
5 correct?
6 A. Yes.
7 Q. And the developer said, "You need to make this request
8 specific"?
9 A. Yes.
10 Q. And you knew that when you wrote the letter?
11 A. Yes.
12 Q. That it was a specific request for a specific project?
13 A. In, in some cases, it was for a specific amount of units.
14 In other cases, it was not broken down by bedroom sizes.
15 Q. Okay. But it was for a specific project?
16 A. Yes.
17 Q. What the jury has heard previously called project specific.
18 And that project-specific request would be responded to from HUD
19 with a project-specific allocation; isn't that true?
20 A. Yes. The name of the project wasn't on the letter, but it
21 was for a specific project that the owner had submitted into the
22 pipeline.
23 Q. All right. And you knew what project that designation from
24 headquarters went to?

25 A. Yes.

622

1 Q. Okay. Now, Ms. Dean and Ms. Pierce weren't, the --
2 Mr. Pierce and Ms. Dean were not the only two individuals at HUD
3 that you wrote these letters to; isn't that correct?
4 A. Yes, I believe so.
5 Q. They went to a number of officials at HUD. Hunter Cushing,
6 do you recall the name Hunter Cushing?
7 A. Yes.
8 Q. Do you recall writing one to Hunter Cushing or sending a
9 copy to Hunter Cushing?

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10 A. Yes.

11 Q. Jim Chaplin?

12 A. Yes.

13 Q. And the reason that you sent these letters to these HUD

14 employees or executives was to get the units down to Florida;

15 isn't that correct?

16 A. Yes.

17 MR. WEHNER:

18 Dean Exhibit No. 55.

19 THE COURT:

20 THE CLERK:

2

2

2 MR. WEHNER:

2 THE CLERK:

2

Your Honor, I've marked for identification

All right.

Dean Exhibit 55 marked for identification.

(Defendant's Exhibit No. 55 was

marked for identification.)

And Dean Exhibit 56.

Dean Exhibit 56 marked for identification.

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m (Defendant's Exhibit No. 56 was

marked for identification.)

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MR. WEHNER: And Dean Exhibit 57.

THE CLERK: Dean Exhibit 57 marked for identification.

(Defendant's Exhibit No. 57 was

marked for identification.)

7 MR. WEHNER: I apologize for that brief delay, Your

8 Honor. I'm trying to make sure that we get these letters right,

9 as opposed to confusing the issue more than it already was --

10 THE COURT: All right.

11 MR. WEHNER: -- or is.

12 Q. Now I'm going to show you all three of these exhibits and

13 just ask you to look at them quickly.

14 A. Okay.

15 Q. Now do you recall an occasion based upon looking at these

16 letters on which you received a telephone call from someone at

17 HUD headquarters directing you to give certain units to a

18 specific developer?

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19 A. Yes.

20 Q. Who made that telephone call to you?

21 A. Dubois Gilliam.

22 Q. And what did Mr. Gilliam tell you?

23 A. He told us that the, specified who the units should go to.

24 Q. By that, the developer?

25 A. Developer, right.

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Q. And did he tell you what developer the units were to go to?

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blank)

A. Yes.

Q. What developer did he tell you?

A. Manny Medina.

Q. Manny Medina?

A. Yes.

7 Q. Okay. Now did Ms. Dean ever call you and tell you the funds

8 were to go to a specific developer?

9 A. No.

10 Q. Did anyone else at HUD headquarters ever call you and tell

11 you that the funds were to go to a specific developer?

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12 A. Not to our particular department, no.

13 Q. Well, to any other particular department of which you have

14 knowledge?

15 A. Right.

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3 16 Q. I don't want to conceal anything from the jury. Do you know

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17 of any others?

3 18 A. No.

2

5 19 Q. These letters were sent to particular individuals in the

3

3

20 department, isn't that correct, like to Mr. Pierce on some

4J

i.

21 occasion, to Ms. Dean on some occasion, to Mr. Chaplin, to
22 Mr. Cushing? They were sent to different individuals?

23 A. Yes.

24 Q. Can you tie a specific developer that would come in with the

•

25 request to whom the letter was going to be sent? In other words,

625

1 do you recall who told you to send the letter to Sam Pierce?

2 A. When the developer would come in, they would specify who it
3 should go to.

4 Q. Exactly, but do you recall which developer, the name of the
5 developer that said you need to write the letter to Mr. Pierce?

6 A. I'm not -- for what project?

7 Q. Any project.

8 A. There were several developers that asked us to write these
9 letters.

10 Q. Exactly. And of those developers that asked you to write
11 the letters, some number of those developers asked you to write
12 the letter to Mr. Pierce?

13 A. Yes.

14 Q. And do you remember the names of any of those developers
15 that asked you to write to Mr. Pierce?

16 A. Yeah.

17 Q. Would you name the ones that asked you to write the letters
18 to Mr. Pierce?

19 A. Well, really I can't remember which ones said to Mr. Pierce,
20 which ones said to the others. I mean --

2 Q. So you don't have any --

2 A. That I really can't remember for sure.

2 Q. That's really what I was asking you, which developer would
2 ask you to write to Pierce, which one would ask you to write to
2 Ms. Dean?

626

1 A. I would have known it eight years ago, but I can't remember
2 it right now.

3 Q. You have no recollection of that today.

4 Are you familiar with the name of Claude Pepper?

5 A. Yes.

Q. Who is Mr. Pepper?

A. He's a congressman for Miami.

Q. And he is a -- how long has he been the --

A. He's deceased now.

10 Q. He's retired, deceased?

11 A. Deceased.

12 Q. How long was he a congressman for Miami?

13 A. A long, long time. I'm not sure how long, but a long, long

14 time.

15 Q. Many, many, many years.

16 A. Yes.

17 Q. Forty -- very long time.

18 A. Yes.

19 Q. And he was known as a very strong advocate for Miami, was he

20 not?

2 A. Yes.

2 Q. And for housing in Miami, was he not?

2 A. Yes.

2 Q. And did he help get mod rehab units to your office?

2 A. I only know from seeing letters that he wrote on behalf of

1 some developers. I've seen the letters that he wrote.

2 Q. And in fact, he wrote letters, did he not, ranking these

3 projects as to which ones he wanted funded first and second and

4 third and fourth, did he not?

5 A. I don't know if he ranked them. I think he, he wrote the

6 addresses of the projects. Whether he ranked them or not, I

7 don't know.

8 Q. Okay. But he would write the addresses of the project, the

9 street address?

10 A. I believe it said either the street address or the name of

11 the project. I'm not really sure. I can't remember without

12 looking at the document.

13 Q. Well, let me show you additional documents.

14 I marked Dean Exhibit No. 58, Your Honor.

15 THE COURT:

16 THE CLERK:

17

18

19 BY MR. WEHNER:

All right.

Dean Exhibit 58 marked for identification.

(Defendant's Exhibit No. 58 was

marked for identification.)

20 Q. I just ask you to look at this and see if it refreshes your

2 recollection as to whether Congressman Pepper ever ranked

2 projects in the order in which he wanted them funded?

2 A. He's indicating the priority of the projects.

2 Q. And that means that he would say, "I want this one funded

2 first, this one funded second, this one funded third"; is that

correct?

A. Yes.

3 Q. Now do you know of your own personal knowledge -- back up
4 for a second.

5 As far as you understood the system, you would write to
6 HUD and say, "We want units"?

7 A. Yes.

8 Q. A developer would go to HUD and say, "We want units." A
9 congressperson would go to HUD and say, "We want units," correct?

10 A. The only case I'm aware of a congressman would be Claude
11 Pepper wanting the units.

12 Q. Right, exactly.

13 A. Right.

14 Q. Do you know what happened inside HUD as to how they would
15 make the decision as to whether Claude Pepper's district got the
16 units or whether somebody by the name of Rick Shelby, his
17 developer, got the units or whether somebody by the name of
18 Martinez got the units? Do you know how they made those
19 decisions?

20 A. No.

21 Q. You were just happy to have the units in Florida, correct?

22 A. Yes, the county was happy to have the units.

23 MR. WEHNER: Nothing further, Your Honor.

24 THE COURT: All right. Redirect, sir?

25 MR. O'NEILL: Thank you, Your Honor.

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REDIRECT EXAMINATION

BY MR. O'NEILL:

3 Q. Mrs. Sharifi, you were asked on cross examination about what
4 type of studies did you do on projects before they entered the
5 pipeline. Can you tell the Ladies and Gentlemen of the Jury what
6 you did as to a project before you placed it in the pipeline?

7 A. I reviewed, I conducted a preliminary feasibility study
8 and --

9 Q. What does that mean in our regular, day-to-day language?

10 A. Basically, it's based on the owner's proposed terms of the
11 financing, plugging the operating expenses and the financing into
12 this financial feasibility analysis to see if it would, if it
13 would be within the fair market limits imposed by HUD.

14 Q. Is it fair to say he fills out an application and submits it
15 to you?

16 A. Yes.

17 Q. And you reviewed that application?

18 A. Yes.

19 Q. When did an on site inspection and a complete feasibility
20 study, when was that conducted by the local PHA?

21 A. That was done after HUD awarded the units to the county.

22 Q. So after a project had been selected?

23 A. Yes.

24 Q. Now just so the record is clear, you were asked about
25 letters going to Mr. Pierce, Ms. Dean, and Mr. Chaplin at HUD

630

1 headquarters. was Jim Chaplin, a name used on direct
2 examination, at HUD headquarters or at the regional office?
3 A. At the field office.
4 Q. Field office. And where was that located?
5 A. Jacksonville, Florida.
6 Q. Now you were asked by Mr. Wehner whether you recall whether
7 a particular developer, whether you could associate a particular
8 developer with a particular person at HUD headquarters, in other
9 words, a particular developer asking to write to Sam Pierce.

10 A. Um-hum.
11 Q. And your testimony was you could not.
12 A. Right.
13 Q. Is that right? Okay.
14 Now, Mrs. Sharifi, you stated that on the letter that
15 you would send out, you'd put a specific number of projects,
16 including the particular number of apartment units, including the
17 bedroom sizes. Why didn't you put the project name?
18 A. Why didn't?
19 Q. Right.
20 A. We were instructed not to put the project name on it.
2 MR. O'NEILL: No further questions. Thank you.

2 THE COURT: All right, thank you.

2 MR. WEHNER: Excuse me, Your Honor.
2
2

RE-CROSS EXAMINATION

BY MR. WEHNER:
3 Q. By whom?
4 A. The developers made it clear that they didn't want, they
5 told us they didn't want us to put the project name on it.
6 Q. But by no one from HUD headquarters?
7 A. No.
8 MS. WEHNER: And certainly not from Ms. Dean?
9 Thank you.

10 THE COURT: Ms. Sharifi, thank you, ma'am. You may
11 step down.
12 (Witness excused.)
13 THE COURT: Do you have a short witness in time frame?
14 MS. SWEENEY: Your Honor, I believe the direct
15 examination will be short.
16 THE COURT: All right. Let's do the direct and then
17 take a break.
18 MR. WEHNER: I've rarely been set up like that, Your
19 Honor, so successfully.
20 THE COURT: All right.
21 MS. SWEENEY: Your Honor, the government at this time
22 calls Eli Feinberg.
23 THE COURT: All right.

24

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632

1 ELI MICHAEL FEINBERG, GOVERNMENT'S WITNESS, SWORN
2 DIRECT EXAMINATION

BY MS. SWEENEY:

4 Q. Mr. Feinberg, I'm going to be asking you a series of
5 questions, and I'll ask you to keep your voice up so that the
6 Ladies and Gentlemen of the Jury may hear all of your answers.
7 Will you kindly state your name for the record,
8 spelling your last name for the court reporter?
9 A. Eli Michael Feinberg, F-e-i-n-b-e-r-g.

10 Q. Mr. Feinberg, are you presently employed?

11 A. Yes, I am.

12 Q. And what type of employment are you engaged in?

13 A. I am the, the principal owner of a consulting/marketing firm
14 in Miami, Florida.

15 Q. What type of business does your consulting/marketing firm
16 do?

17 A. We do consulting and strategic planning and public relations
18 for companies in Florida and outside the state.

19 Q. Do you know an individual named Martin Fine?

20 A. Yes, I do.

21 Q. Who is Martin Fine?

22 A. Martin Fine is a prominent lawyer in the Miami, past
23 president of the Greater Miami Chamber of Commerce, and a friend
24 of mine.

25 Q. Without telling us what was said, did you ever have a

633

1 discussion with Mr. Fine about a building named Park Towers?

2 A. Yes, I did.

3 Q. And approximately when was that?

4 A. Sometime in early 1985.

5 Q. As a result of that discussion, did you do anything?

6 A. Yes. Mr. Fine and I talked about creating a consulting
7 relationship where I would try to assist him with his, his
8 problem.

9 Q. And what did you do in your attempts to try to assist him

10 with his problem?

11 A. Basically Mr. Fine had a, an application for some mod rehab
12 units. They had been approved in the local HUD office in Miami,
13 and I believe that they were also approved through the
14 Jacksonville office, and it was my, my mission to find out why
15 the projects had not been approved in Washington.

16 Q. Did you contact anyone else in your efforts to assist
17 Mr. Fine?

18 A. From our initial conversations, no. Later on, yes.

19 Q. When you contacted another individual in your efforts to
20 assist Mr. Fine, whom was it that you contacted?

2 A. The first person who I reached out to was a Mr. Rick Shelby.

2 Q. And who is Mr. Shelby?

2 A. Mr. Shelby was a consultant in, in Washington and at the
2 time was in a, I believe, a two-person consulting firm.

2 Q. Did there come a time when you entered into a formal

634

1 consulting agreement with Mr. Fine regarding mod rehab allocation
2 for Park Towers?

3 A. Yes. He and I signed an agreement again in early '85 for
4 the purposes of trying to get those units.

5 MS. SWEENEY: Just a moment, Your Honor?

6 May I approach the witness, Your Honor?

7 Q. Mr. Feinberg, I'm going to show you a document that's
8 previously been marked Government's Exhibit 68A for
9 identification. It's not in evidence, so I'll ask you not to
10 read from the document, but I'd ask you if you could look at that
11 document and if that refreshes your recollection as to the time
12 period when you entered into a formal consulting agreement with
13 Mr. Fine.

14 THE CLERK: Government's Exhibit 68A marked for
15 identification.

16 (Government's Exhibit No. 68A was
17 marked for identification.)

18 THE WITNESS: This is correct.

19 BY MS. SWEENEY:

20 Q. Does that refresh your recollection?

2 A. Yes.

2 Q. And what is your recollection as to when you entered into a
2 formal consulting agreement with Mr. Fine?

2 A. Well, we agreed to agree, again, around this period of time,
2 and then when I brought on some further consultants to assist in

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the project, the agreement changed.

Q. What was the period of time approximately that you agreed with Mr. Fine to, to serve as his consultant? I'm really looking for a date, Mr. Feinberg.

A. For an actual date, I don't recall.

Q. Can you give us a month or a season?

A. I'd probably say, you know, around the summer of '85.

Q. You mentioned that you were going to be working with some other consultants.

A. Yes.

Q. And can you tell us who they were?

A. Well, I had discussions with Shelby when he was basically working on his own with a partner in his own consulting company. The, the conversations and the understanding became a little bit more formalized when Mr. Shelby went to work for the Keefe Company.

Q. What role was Mr. Shelby to play in securing mod rehab units for Park Towers?

A. Basically Mr. Shelby was to provide access to, to the bureaucracy to try to find out where the problem was, try to resolve the problem, you know, to enter into a, a dialogue, to try -- again, in trying to resolve problems, if there were any.

Q. And what was your role, Mr. Feinberg?

A. Basically after the, the Keefe Company came on board, I acted more or less like a liaison between the Keefe Company and

636

1 Washington and Mr. Fine's office in Miami.

2 Q. Did you know Mr., were you aware of Mr. Shelby's
3 relationship with the Keefe Company?

4 A. Yes.

5 MR. WEHNER: Your Honor, I don't see the relevance of
6 this to Ms. Dean, and I raise the objection to that point of
7 relevancy.

8 THE COURT: The document?

9 MR. WEHNER: I don't see the relevancy of any of this.

10 THE COURT: we'll just have to wait until they bring
11 out some more, and we'll see.

12 MR. WEHNER: Yes, sir.

13 BY MS. SWEENEY:

14 Q. Mr. Feinberg, you indicated that Mr. Shelby's role was to

allbinders as word for experiment.txt

15 work in Washington, I believe you said, with the bureaucracy.

16 A. Yes.

17 Q. Did you come to understand with whom he was having contact
18 at HUD headquarters?

19 A. In various conversations with Mr. Shelby during the course
20 of the project, he would mention that he was going over to HUD to
2 talk to, to officials to check on the status of various matters,
2 and the two names of individuals that he would mention, again,
2 I'm not sure how you pronounce the last name, Silvio
2 DeBartolomeis.

2 Q. "DeBartolomeis"?

637

1 A. Yes, DeBartolomeis, and Deborah Dean.

2 Q. Did you and Mr. Shelby have an arrangement for sharing fees
3 on this project?

4 A. I did with the Keefe Company.

5 Q. And the Keefe Company was Mr. Shelby's employer; is that
6 correct?

7 A. Yes.

8 Q. Who was to receive the lion's share of the fees on this
9 project?

10 A. The Keefe Company.

11 Q. To your knowledge, was an individual named John Mitchell

12 working as a consultant on this project?

13 A. Not to my knowledge.

14 Q. To your knowledge, was Mr. Mitchell was going to receive any

15 consulting fees on this project?

16 A. Not to my knowledge.

17 Q. Did there come a time when you learned that a mod rehab

18 application had been made for Park Towers?

19 A. Yes.

20 Q. How did you learn that?

2 A. Mr. Shelby called me and, and asked me to try to find
2 Mr. Fine to alert him to that.

2 Q. Do you recall approximately when that occurred?

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2 A. Late in '85.

2 Q. Did you ever receive any fees as a result of your work on

638

Park Towers?

2 A. Yes, I did.

3 Q. And how much did you receive?

4 A. My associate and I split a fee of \$80,000.

5 MS. SWEENEY Your Honor, with the Court's permission,

6 I'd now like to show the witness Government's Exhibit 66 for

7 identification.

8 THE COURT:

9 THE CLERK:

10 identification.

11

12

13 BY MS. SWEENEY:

14 Q. Mr. Feinberg, do

15 A. Yes, I do.

16 Q. Do you recognize

17 A. Yes, I do.

All right.

Government's Exhibit 66 marked for

(Government's Exhibit No. 66 was
marked for identification.)

you recognize that document?

the handwriting on the document?

18 Q. Was this a document that you created in the ordinary course
19 of your business?

20 A. Yes, I did.

21 MS. SWEENEY: Your Honor, I'd now offer Government's
22 Exhibit 66 into evidence at this time.

23 MR. WEHNER: No objection, Your Honor.

24 THE COURT: Okay. All right, it will be admitted,

25 No. 66 for the government.

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(Government's Exhibit No. 66 was
received in evidence.)

BY MS. SWEENEY;

4 Q. Mr. Feinberg, you may see the document on the small monitor
5 or on the large monitor.

6 A. Right.

7 Q. And is that your handwriting?

8 A. That's my handwriting and my business card.

9 Q. And what does it say?

10 A. "Marty, our guy. Eli."
11 Q. And what is it that you're forwarding?
12 A. I'm forwarding, I believe, an announcement of Rick Shelby
13 joining the Keefe Company.
14 MS. SWEENEY: No further questions at this time, Your
15 Honor.
16 THE COURT: Okay. Ladies and Gentlemen, I think we'll
17 take our morning break and then come back and finish up with the
18 cross of --
19 MR. WEHNER: Actually, Judge, I have no more than ten
20 minutes.
21 THE COURT: Pardon me?
22 MR. WEHNER: No more than ten minutes.
23 THE COURT: All right. Well, maybe you can finish that
24 up and then take a break instead of keeping the witness, if you
25 all don't mind. I notice some of you are chilly, but we'll get

1 through this.

2 MR. WEHNER:

3 THE COURT:

4

5 BY MR. WEHNER:

I will make this very quick.
All right, go ahead.

CROSS EXAMINATION

6 Q. What precisely did Shelby tell you about Ms. Dean, to the
7 best of your recollection?

8 A. That he was having meetings with Ms. Dean.

9 Q. What did he tell you about his meetings with

10 Mr. DeBartolomeis?

11 A. That he was meeting with, with Silvio.

12 Q. Did he tell you that Ms. Dean said she would do something?

13 A. No.

14 Q. Did you get the impression that he said Ms. Dean would do
15 something?

16 A. The impression was that she would look into it.

17 Q. Did you get the impression -- okay. That she would look
18 into it?

19 A. Yes.

20 Q. What about Mr. DeBartolomeis, that he would look into it?

21 A. Yes.

2 Q. Or did Mr. DeBartolomeis say he was going to help?

2 A. Best impression? Look into it.

2 MR. WEHNER: That's it, Judge. Thank you.

2 THE COURT: Nothing else? All right, thank you.

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1 All right, sir, you can step down then. You're free to
2 go. I appreciate it.

3 (Witness excused.)

4 THE COURT: Now, Ladies and Gentlemen, we'll take our
5 break. A couple things: I'll check with the engineers about

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6 whether we can turn up the --or turn down the air conditioning,
7 whatever is the best way to say it, turn up the air conditioning
8 to make it a little warmer if you're cold, and we'll take a
9 recess in one minute.

10 MR. O'NEILL: We have no more witnesses, Your Honor.

11 That was it for witnesses.

12 THE COURT: Oh, is that it? We did finish earlier than
13 you thought.

14 MR. O'NEILL: Yes.

15 THE COURT: All right. We had discussed last night and
16 the government thought we would be busy through lunch, and
17 obviously they can't tell how long things are going to take
18 sometimes and questions that may be asked as issues come up in
19 the questioning. The attorneys in this case have been very
20 precise and are moving the case along, so we won't complain we
2 don't have any more witnesses today. So you're all going to get
2 to go, period, and then come back on Monday morning again.
2 Now, Ladies and Gentlemen, that's a nice recess, and I
2 want you to keep in mind my admonitions particularly again. I
2 don't want you casually talking about this case among yourselves

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1 or making remarks to each other about it or letting anybody else
2 talk to you about it over the recess in any fashion, family or
3 friends, coworkers wondering what you're doing.
4 The only thing you can tell them is you're on a case
5 that's going to take a while and leave it at that, because if you
6 tell them the name of the case and all, someone's going to come
7 back and say to you, "I just saw something in the paper about
8 that." Then you'll get into trouble about it. So the only thing
9 you can learn about this case is what you learn here in the
10 courtroom and not through any conversations or reading or
11 listening to it in the media in any way.
12 So with that admonition in mind, we're going to recess
13 you all for the weekend, and we'll have you back at 9:30 Monday
14 morning, ready to proceed at that time. Next week, again, I
15 think we'll be planning Friday as either a short day -- I'm not
16 sure yet of our schedule on Friday; it will definitely be a short
17 day. I'm not sure how much time we'll get in on Friday, but
18 we'll let you know as we develop the case here and my other
19 schedule.

20 All right, have a good weekend. Remember the
2 admonitions of the Court that I give you at each break, and we'll
2 see you back 9:30 Monday morning. Thank you. Have a good
2 weekend.

2 (Jury out.)

2 THE COURT: Can we talk about witnesses for the next

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few weeks for a few minutes?

2 MR. O'NEILL: Yes, Judge. We have a number of
3 out-of-town witnesses all set up. We have approximately 20
4 witnesses set up for the week.

5 THE COURT: Okay. Are they all out of town, too?

6 MR. O'NEILL: Most of them, but they're all set to come
7 the night before. The only person who I can't state for certain
8 is Louie Nunn -

9 THE COURT: Right.

10 MR. O'NEILL: -

whom we expect by the end of the week.

11 His doctor's appointment is Tuesday, and unless
12 something changes, he'll be coming later in the week. I'm just

allbinders as word for experiment.txt

13 going to tell Steve who the witnesses are for Monday.
14 THE COURT: All right. we'll get through as many as
15 you can. I hate to see people coming from out of town wait
16 around and miss it because we can't reach them, but at the same
17 time, I do want witnesses here. You all are moving the case on
18 both sides well.
19 MR. O'NEILL: So Your Honor knows, we're moving quicker
20 than we thought, so obviously the time frame is being pushed out.
21 THE COURT: That's all right. we'll see what we can
22 get. I'm sure there will be times when you'll slow down a little
23 bit.
24 MR. O'NEILL: Yeah. It always happens when you have
25 them ready.

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1 THE COURT: Right. we'll try to get it going then and
2 keep it going like we are.
3 All right. If you'll give him the witness list for
4 Monday and make sure the Jencks and other materials, Giglio. is
5 all out so they can read it over the weekend?
6 Mr. Martinez, do you really want him back here or not?
7 I mean -
8 MR. WEHNER: I don't -
9 THE COURT: -
his letter is not sufficient to quash a
10 subpoena, but I just think -
11 MR. WEHNER: It is fifty-fifty that we will want him
12 back. I didn't know who represented him. I will certainly be in
13 touch with his attorney now -
14 THE COURT: You can find out his attorney and see what
15 the problems are.
16 MR. WEHNER: -
and discuss the problem and make sure
17 it's done in the proper way if we do need him back.
18 THE COURT: All right. we'll stand in recess until
19 return of court this afternoon.
20 (Recess from 11:08 a.m. to 9:30 a.m., September 20, 1993.)

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CERTIFICATE OF THE REPORTER

2 I certify that the foregoing is a correct transcript of the
3 record of proceedings in the above-entitled matter.

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Anneliese J. Thomson

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA

3 UNITED STATES OF AMERICA,
4 - VERSUS
5 DEBORAH GORE DEAN,
6 DEFENDANT
7

DOCKET NO.
CRIMINAL NO. 92-181

WASHINGTON, D.C.
SEPTEMBER 20, 1993

9:55 A.M.
8 VOLUME VI
9 TRANSCRIPT OF TRIAL BEFORE
THE HONORABLE THOMAS F. HOGAN,
10 UNITED STATES DISTRICT JUDGE,
AND A JURY.

11
12
13

APPEARANCES:
FOR THE GOVERNMENT:

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16

FOR THE DEFENDANT

17
18

COURT REPORTER:

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20
2
2
2

ROBERT O'NEILL, ESQ
PAULA SWEENEY, ESQ.
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444 NORTH CAPITOL STREET, N.W,
WASHINGTON, D.C. 20001

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STEPHEN VINCENT WEHNER, ESQ.
513 CAPITOL COURT, N.E.
WASHINGTON, D.C. 20002

SANTA THERESA ZIZZO

U.S. DISTRICT COURT,
3RD & CONSTITUTION AVE., N.W.
WASHINGTON, D.C. 20001
2 Pages 647-841
2

(COMPUTER-AID TRANSCRIPT OF STENOGRAPHIC NOTES)

647

1 I N D E X
WITNESSES: DIRECT CROSS REDIRECT RECROSS
2 M. Fine 650 668 687

J. Rosenthal 688 708 716 718
3 J. Hale 720 739 801 808

S. DeBartolomeis 808 833
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FOR THE GOVERNMENT:

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EXHIBITS: FOR IDENTIFICATION IN EVIDENCE

6 154 649
62 653 658
7 63 659 659
6 8A 660 660
8 7 0A 661 661
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17 127 705 706
132 706 707
18 133 707 707

124 733
19 129 736
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20 16 821
220A 830 832
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FOR THE DEFT:

2 67 748
68,69 758
2 70,71 767
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1 PROCEEDINGS .
2 THE DEPUTY CLERK: Criminal number 92-181,
3 United States of America versus Deborah Gore Dean. We
4 have Robert O'Neill and Paula Sweeney for the
5 Government. Stephen Wehner for Miss Dean.
6 THE COURT: Good morning, counsel.
7 MR. O'NEILL: Good morning, Your Honor.
8 MR. WEHNER: Good morning, Your Honor.
9 THE COURT: well, one of the jurors was a bit
10 late, but we're ready to go at this time.
11 MR. O'NEILL: Your Honor, before we broke on
12 Friday you mentioned the scheduling for Friday of next
13 week. Could you be more specific at this time?
14 THE COURT: Yes, this week?
15 MR. O'NEILL: Yes.
16 THE COURT: Yeah, I think I have this FBI
17 fairness hearing I have to conduct. This week is a -18
18 Friday afternoon is a hearing in a case that follows
19 your case.
20 MR. O'NEILL: So it will only be in the
21 morning.
22 THE COURT: It will be in the morning, right.
23 MR. O'NEILL: Thank you.
24 THE COURT: All right. Have you got your
25 witnesses ready for today?

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1 MR. O'NEILL: Yes, Your Honor, we do.
2 THE COURT: All right. Bring in the jury and
3 we'll be ready to go.
4 (Jury present)
5 THE COURT: All right. Good morning.
6 THE JURORS: Good morning.

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7 THE COURT: Thank you for getting here
8 promptly now that you're all here. We're ready to
9 proceed and the Government is going to go and call the
10 next witness at this time.
11 MR. O'NEILL: Before I do, Your Honor,
12 pursuant to stipulation, the Government would be putting
13 into evidence Government's Exhibit 154. The defense has
14 stipulated to the authenticity of it.
15 THE COURT: All right. What is the cover on
16 that -- what's the date, or a description?
17 MR. O'NEILL: It is a check, Your Honor, dated
18 August 5th, 1986.
19 THE COURT: All right. It will be admitted
20 then.
2 MR. WEHNER: No objection.
2 (Government's Exhibit 154
2 received into Evidence)
2 MR. O'NEILL: Your Honor, at this time the
2 Government will call Mr. Martin Fine.

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1 THE COURT: All right.
2 (MARTIN FINE, WITNESS FOR GOVERNMENT, SWORN)
3 DIRECT EXAMINATION
4 MR. O'NEILL:
5 Q Mr. Fine, I will be asking you a series of
6 questions. I'd ask you to speak loudly so all the
7 jurors can hear you. Will you please state your name
8 for the record, spelling your last name?
9 A Martin Fine, F-i-n-e.
10 Q Mr. Fine, what is your occupation?
11 A I'm an attorney.
12 Q And how long have you been an attorney?
13 A Forty-four years.
14 Q Are you currently associated with a law firm?
15 A I am.
16 Q And what is the name of that law firm?
17 A Fine, Jacobson, Schwartz, Nash and Block.
18 Q And are you the Fine in that title?
19 A I am.
20 Q Mr. Fine, how many persons -- how many lawyers are
2 in that firm?
2 A Approximately 75.
2 Q Now, Mr. Fine, where is that law firm located?
2 A In Miami, Florida.
2 Q And I'd ask you just to raise your voice a little

1 more.
2 A All right.
3 Q Or you could pull the microphone a little closer.
4 It might help.
5 Mr. Fine, can you please describe your
6 educational background?
7 A I went to Temple University in Philadelphia and
8 graduated law school at the University of Miami in June
9 of 1949.
10 Q Aside from the practice of law, have you been
11 engaged in any other occupation?
12 A Over the years I've developed some real estate.
13 Q And have you been -do
you have any housing
14 experience or real estate experience?
15 A I do.
16 Q Can you briefly describe that to the ladies and

17 gentlemen?

18 A I have developed several housing projects over the
19 years. I helped develop a nursing home. I helped
20 develop a congregate living facility.

21 Q And, Mr. Fine, are you familiar with the housing
22 project in the Miami area known as the Park Towers
23 Apartments?

24 A I am.

25 Q And what is your relationship, if any, to the Park

1 Towers Apartments?

2 A I am one of the general partners of that

3 development.

4 Q Were you involved with the building of that

5 development?

6 A I was.

7 Q Now, did there come a point in time where you

8 applied for funding from the Moderate Rehabilitation

9 Program for the Park Towers Apartments?

10 A Yes.

11 Q And approximately when did you do that?

12 A In about 1985 we expressed for the first time our
13 interest in participating in that program.

14 Q To whom did you apply for Mod Rehab funding?

15 A The local HUD, little HUD they call it, and it was
16 to Mr. Melvin Adams in the form of a letter.

17 MR. WEHNER: Excuse me, Your Honor, could I
18 have a repeat of that date? I didn't catch the year.

19 THE COURT: All right.

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20 MR. WEHNER: The year, Mr. O'Neill? I didn't
2 hear what year.

2 BY MR. O'NEILL:

2 Q Can you repeat it again?

2 A I'd have to see the letter to make certain, but I
2 believe it was 1985. I'm sorry, 1983.

653

1 Q I would show you what's previously been marked for
Page 356

2 identification as Government's Exhibit 62?

3 THE DEPUTY CLERK: Government's Exhibit 62

4 marked for identification.

5 (Government's Exhibit 62 marked

6 for Identification)

7 BY MR. O'NEILL:

8 Q And I ask you if you would look at this, please, and

9 don't read it out loud because it's not in evidence at
10 this time, and by reviewing that document does that
11 refresh your recollection as to when you first applied?

12 A Yes, it does.

13 Q And when would that be, Mr. Fine?

14 A In '83, 1983.

15 Q Now, again, to whom did you apply for the Mod Rehab
16 funding?

17 A To Melvin Adams in his capacity as Executive
18 Director of the Public Housing Agency in Miami known as
19 little HUD.

20 Q why did you apply to the local public housing
2 authority?

2 A Because it was my impression that that's where the
2 process started.

2 Q And you mentioned Mel Adams, what was his position
2 with the local public housing authority?

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1 A He was Executive Director.

2 Q Now, did there come a point in time where you
3 received a response from the local public housing
4 authority?

5 A No.

6 Q Did there come a point in time where you hired or
7 retained a consultant to assist you in obtaining Mod
8 Rehab units for the Park Towers Apartments?

9 A Yes.

10 Q And who did you turn to?

11 A Eli Feinberg.

12 Q why did you contact Eli Feinberg?

13 A I knew Eli had been in Washington. He had been
14 Chief Administrative Assistant to one of our United
15 States Senators and I felt that he was able to look into
16 that situation and be of assistance.

17 Q Mr. Fine, did you enter into an initial agreement
18 with Eli Feinberg in which you agreed to pay a sum of
19 money for his services?

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2 0 A Yes.

2 Q And how much did you agree to pay on this initial agreement?

2 A On the initial agreement it was \$150,000.

2 Q Mr. Fine, did there come a point in time when that initial agreement was revised?

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1 A Yes.

2 Q what did the new agreement provide for?

3 A The new agreement provided for a payment of

4 \$225,000.

5 Q To whom was that payment going to be paid?

6 A To Mr. Feinberg and to the Keefe Company.

7 Q Now, are you familiar with an individual by the

8 name of Richard Shelby?

9 A Yes, I am.

10 Q And to your understanding, what was Richard Shelby supposed to do in seeking Mod Rehab units for the Park Towers Apartments?

13 A It was my understanding that Mr. Shelby was experienced in matters of that nature and that he would help guide the application through the appropriate process.

17 Q Mr. Fine, did there come a point in time where you received word that some Mod Rehab units were coming to the Miami area?

20 A Yes.

2 Q And how did you learn that?

2 A My recollection is I learned that in a memo, I think it was a fax, from Mr. Shelby.

2 Q Now, to your -- at that time, to your knowledge, did that -- well, withdrawn. Do you recall at this time

656

1 how many units were coming to the Miami area?

2 A My recollection is it was in the neighborhood of 3 160 or 266. Somewhere in that vicinity.

4 Q Was it your understanding that the Park Towers

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5 Apartments would be included in that 266?
6 A I had been advised by Mr. Shelby that our
7 allocation was supposed to be a part of that.
8 Q How many units were you seeking for the Park Towers
9 Apartments?
10 A 143.
11 Q Now, after receiving this fax from Mr. Shelby, did
12 you in turn send any money to anyone? Do you
13 understand? I could repeat that.
14 A All right.
15 Q After receiving this information as to Mod Rehab
16 units coming to Miami, pursuant to your contract did you
17 send any money?
18 A Pursuant to our contract we did, and as I recall,
19 the amount was \$45,000 which was agreed to in the
20 contract.
2 Q Now, were there still other issues that had to be
2 resolved concerning Park Towers Apartments?
2 A We learned that there was – the answer is yes. We
2 learned there was a requirement that we needed two
2 waivers.

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1 Q Was the waiver issue ultimately resolved?
2 A Yes.
3 Q Now, did there come a point in time where Park
4 Towers Apartments received 143 units?
5 A Yes.
6 Q And at that point did you have to pay an additional
7 sum of money to the Keefe fund?
8 A Yes.
9 Q How much money was paid?
10 A An additional \$180,000, for a total of \$225,000.
11 Q During his lifetime, Mr. Fine, did you know
12 John Mitchell, the ex-Attorney General of the United
13 States?
14 A I didn't know him. The answer is I had met him
15 once about 25, 30 years ago, it may have been, at a
16 committee that I served on at HUD to deal with bond
17 transactions, and he was a member of that committee.
18 Q Did that meeting have anything to do with the Park
19 Towers Apartments?
20 A No, it did not.
2 Q Were you aware that John Mitchell was acting on
2 your behalf as a consultant in seeking Mod Rehab units
2 for the Park Towers Apartments?
2 A No.
2 Q Were you aware that John Mitchell received \$50,000

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1 as a consultant's fee for his role in the Park Towers
2 Apartments?
3 A No.
4 Q Now, Mr. Fine, did you know the defendant
5 Deborah Gore Dean who is seated in the courtroom today?
6 A I do not.
7 Q And have you ever met her?
8 A No.
9 Q Mr. Fine, at this time I'd like to show you a
10 number of documents and I'll begin with the document I
11 showed you for identification earlier, Government's
12 Exhibit 62. And I ask you if you recognize that, sir?

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13 A I do.
14 Q And what do you recognize that to be?
15 A A letter that I wrote to Mel Adams in his capacity
16 as Executive Director of the Housing Authority on
17 December 5th, 1983 expressing our initial interest for
18 units.
19 MR. O'NEILL: At this time, Your Honor, I'd
20 move that into evidence as Government's Exhibit 62.
2 MR. WEHNER: No objection, Your Honor.
2 THE COURT: All right, Government's 62 is
2 admitted.
2 (Government's Exhibit 62 received
2 into Evidence)

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1 BY MR. O'NEILL:
2 Q Mr. Fine, I'll now show you what's previously been
3 marked Government's Exhibit 63.
4 THE DEPUTY CLERK: Government's 63 marked for
5 identification.
6 (Government's Exhibit 63 marked for
7 identification)
8 BY MR. O'NEILL:
9 Q Again, Mr. Fine, I would show you Government's
10 Exhibit 63 for identification and I'd ask you if you
11 recognize that, sir?
12 A I do.
13 Q What do you recognize that to be?
14 A A letter dated February 27th, '84 which I wrote to
15 Mr. Calabrese of the local housing authority asking for
16 the application packet.
17 MR. O'NEILL: Your Honor, I'd now move this
18 into evidence as Government's Exhibit 63.
19 MR. WEHNER: No objection, Your Honor.
20 THE COURT: All right, 63 is admitted.
2 (Government's Exhibit 63 received
2 into Evidence)
2 BY MR. O'NEILL:
2 Q Mr. Fine, at this time I show you what's previously
2 been marked for identification as Government's Exhibit

1 6 8A.
2 THE DEPUTY CLERK: Government's Exhibit 68A
3 marked for identification.
4 (Government's Exhibit 6 8A marked
5 for identification)
6 BY MR. O'NEILL:
7 Q And I would show Government's Exhibit 68A to you,
8 Mr. Fine, and I ask you if you recognize that document?
9 A I do.
10 Q And what do you recognize that to be?
11 A This is a letter dated May 30th of '85 in which I
12 employed Mr. Feinberg to be of advice and assistance to
13 us.
14 MR. O'NEILL: Your Honor, at this time I'd
15 move it into evidence as Government's Exhibit 68A.
16 MR. WEHNER: No objection, Your Honor.
17 THE COURT: All right. No objection. 68A is
18 admitted.
19 (Government's Exhibit 68A received
20 into Evidence)
2 MR. O'NEILL: With the Court's permission,

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2 Your Honor, at this time I'd publish it to the jury.
2 THE COURT: All right. You can go ahead and
2 do so.
2 BY MR. O'NEILL:

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1 Q Mr. Fine, I will show you what's previously been
2 marked for identification as Government's Exhibit 70A.
3 THE DEPUTY CLERK: Government's Exhibit 70A
4 marked for identification.
5 (Government's Exhibit 70A
6 marked for Identification)
7 BY MR. O'NEILL:
8 Q And I'd ask you if you recognize it, sir?
9 A I do.
10 Q And what do you recognize that to be?
11 A A letter dated July 18th, 1985 to Mr. Feinberg in
12 which we reiterate our employment and in which the total
13 fee is \$225,000.
14 Q Mr. Fine, at this time I'll show you Government's
15 Exhibit 72 for identification which is slightly worse
16 for wear since I ripped it.
17 THE DEPUTY CLERK: Government's Exhibit 72
18 marked for identification.
19 (Government's Exhibit 72 marked
20 for Identification)
21 BY MR. O'NEILL:
22 Q And I'd ask if you recognize that, sir?
23 A I do.
24 Q And what do you recognize that to be?
25 A A memo that I wrote to the file dated July 31st,

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1 1985.
2 Q And is that concerning the Park Towers Apartments?
3 A It is.
4 MR. O'NEILL: I'd move that into evidence now,
5 Your Honor, as Government's Exhibit 72.
6 THE COURT: All right. No objection?
7 MR. WEHNER: No objection.
8 THE COURT: 72 is admitted.
9 (Government's Exhibit 72
10 received into Evidence)
11 THE COURT: You didn't want to move 70A?
12 MR. O'NEILL: I thought I had, Your Honor. I
13 did not? I'll move it in at this time.
14 MR. WEHNER: No objection.
15 THE COURT: All right, 70A is admitted, May
16 '85 renewed contract.
17 MR. O'NEILL: Thank you.
18 (Government's Exhibit 70A
19 received into Evidence)
20 BY MR. O'NEILL:
21 Q Mr. Fine, at this time I'd show you what's
22 previously been marked for identification as
23 Government's Exhibit 79.
24 THE DEPUTY CLERK: Government's Exhibit 79
25 marked for identification.

1 (Government's Exhibit 79

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2 marked for Identification)
3 BY MR. O'NEILL:
4 Q And, sir, I'd ask if you recognize that?
5 A I do.
6 Q And what do you recognize that to be?
7 A An indication from HUD that there will be an
8 allocation of 266 units to Dade County.
9 Q And do you recall receiving that?
10 A Yes.
11 MR. O'NEILL: I move that into evidence, Your
12 Honor, as Government's Exhibit 79.
13 MR. WEHNER: No objection, Your Honor.
14 THE COURT: All right. 79 will be admitted.
15 (Government's Exhibit 79
16 received into Evidence)
17 BY MR. O'NEILL:
18 Q Mr. Fine, at this time I'd show you what's
19 previously been marked for identification purposes as
20 Government's Exhibit 79A.
2 THE DEPUTY CLERK: Government's Exhibit 79A
2 marked for identification.
2 (Government's Exhibit 79A
2 marked for Identification)
2 BY MR. O'NEILL:

1 Q Sir, I'd ask you
2 A Sorry?
3 Q Do you recognize
4 A I do.
5 Q And what do you

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if you recognize that?
that, sir?

recognize that to be?

6 A A memo to the file dated December 6, '85 indicating
7 of the units, 266 had been allocated to Dade County.
8 MR. O'NEILL : At this time, Your Honor, I move
9 that into evidence as Government's Exhibit 79A.
10 MR. WEHNER: No objection, Your Honor.
11 THE COURT: All right, 79A is admitted.
12 (Government's Exhibit 79A
13 received into Evidence)
14 BY MR. O'NEILL:
15 Q At this time, Mr . Fine, I'd show you what's
16 previously been marked for identification as
17 Government's Exhibit 85.
18 THE DEPUTY CLERK: Government's Exhibit 85
19 marked for identification.
20 (Government's Exhibit 85
2 marked for Identification)
2 BY MR. O'NEILL:
2 Q And I'd ask you if you recognize it, sir?
2 A I do.
2 Q And what is it?

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1 A It's a memo to the file dated February 3rd, 1986 in
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2 connection with a phone call to Mr. Feinberg.
3 MR. O'NEILL: At this time, Your Honor, I'd
4 move that into evidence as Government's Exhibit 85.
5 MR. WEHNER: No objection, Your Honor.
6 THE COURT: All right, Government's Exhibit 85
7 will be admitted.
8 (Government's Exhibit 85
9 received into Evidence)
10 MR. WEHNER: No objection.
11 BY MR. O'NEILL:
12 Q Okay, Mr. Fine, I would show you what's previously
13 been marked as Government's Exhibit 90 for
14 identification and counsel has stated no objection to
15 it, so I would move it into evidence at this time, Your
16 Honor.
17 THE COURT: All right. It will be admitted.
18 (Government's Exhibit 90
19 received into Evidence)
20 THE COURT: Do you want to identify it for the
2 record, please?
2 BY MR. O'NEILL:
2 Q Can you identify it, please, Mr. Fine?
2 A Yes, it's a letter from Rick Shelby of the Keefe
2 Company dated 5-29-86.

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1 Q And do you have an attachment on this letter for
2 yourself?
3 A Yes, it's a letter -- or a memo dated 6-2-86 in
4 which I sent a copy of it to John Kislak.
5 Q And who -- just for the record who would
6 John Kislak be?
7 A He's partner in this project.
8 Q A partner of yours, Mr. Fine?
9 A Yes.
10 Q I show you a document previously marked as
11 Government's Exhibit 93 for identification.
12 THE DEPUTY CLERK: Did you say 93?
13 MR. O'NEILL: 93.
14 THE DEPUTY CLERK: Thank you. Government's
15 Exhibit 93 marked for identification.
16 (Government's Exhibit 93
17 marked for Identification)
18 BY MR. O'NEILL:
19 Q And I ask you if you recognize it, sir?
2 O A I do.
2 Q And what is it?
2 A A letter dated January 7, '87 to Mr. Shelby.
2 Q And do you recall writing that?
2 A I do.
2 MR. O'NEILL: I now move it into evidence, Your

1 Honor, as Government's Exhibit 93.
2 THE COURT: All right. No objection?
3 MR. WEHNER: No objection.
4 THE COURT: It will be admitted.
5 (Government's Exhibit 93
6 received into Evidence)
7 BY MR. O'NEILL:
8 Q And finally, Mr. Fine, I will show you what's
9 previously been marked as Government's Exhibit 95 for
10 identification.
11 THE DEPUTY CLERK: Government's Exhibit 95
12 marked for identification.

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13 (Government's Exhibit 95
14 marked for Identification)
15 BY MR. O'NEILL:
16 Q And I'd ask you if you recognize this, sir?
17 A I do.
18 Q What do you recognize that to be?
19 A A memo to the file dated January 13th, '87.
20 Q And is it concerning the Park Towers Apartments?
2 A It is.
2 MR. O'NEILL: Your Honor, I'd now move that
2 into evidence as Government's 95.
2 MR. WEHNER: No objection, Your Honor.
2 THE COURT: All right, it's admitted.

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1 (Government's Exhibit 95
2 received into Evidence)
3 MR. O'NEILL: I have no further questions. Thank
4 you, Your Honor.
5 THE COURT: All right, cross-examine, please.
6 MR. WEHNER: Thank you, Your Honor.
7 Good morning, ladies and gentlemen.
8 THE JURORS: Good morning.

9 CROSS-EXAMINATION

10 BY MR. WEHNER:
11 Q Good morning, Mr. Fine. My name is Steve Wehner
12 and I represent Miss Dean. We've never had the
13 opportunity to meet before.
14 Your involvement in Park Towers was a little
15 more complex than your direct testimony entailed, was it
16 not? By that I mean the process was more complex in
17 terms of waivers and getting the project funded, et
18 cetera, et cetera?
19 A The whole process was complex, yes.
20 Q And you basically gave a summary of that process on
2 your direct examination, did you not?

2 A Yes.
2 Q Directing your attention back to December of 1983
2 when you testified, I believe, that the project started,
2 how did you first become aware of the Mod Rehab Program?

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1 A The project didn't start in December of '83. The

2 letter was --

3 Q When you first wrote a letter asking for

4 consideration for the Mod Rehab Program.

5 A Yes, exactly.

6 Q How had you become aware of the program at that

7 point?

8 A There were other projects of that nature going on

9 throughout the country and there were some in Dade
10 County and generally there were advertisements, what
11 they called floaters, I think, notice of fund
12 availability, and I became aware of it.

13 Q So you became aware from reading a newspaper

14 advertisement?

15 A Not always. I read other housing periodicals and I
16 knew that was a program that had been enacted by the
17 Congress and was being implemented in Miami.

18 Q Part of your information came from reading it in
19 the public newspaper.

20 A Oh, yes.

2 Q And after you read that in the public newspaper did
2 you do some further checking in the program?

2 A I did some checking as a result of reading about it
2 in housing periodicals and the newspaper, yes.

2 Q And you never previously had done a Moderate

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1 Rehabilitation Project, right?

2 A Not Moderate Rehab, yes.

3 Q You had had some experience generally in other HUD
4 programs?

5 A I had.

6 Q But not in Moderate Rehabilitation Programs?

7 A Correct, not as a developer.

8 Q Not as a developer.

9 Did you first call Mr. Mel Adams or did you
10 first simply write him a letter expressing interest? Do
11 you remember?

12 A I can't recall.

13 Q Do you remember having conversations with
14 Mr. Adams?

15 A Yes.

16 Q Approximately when you wrote the letter and over
17 the succeeding years?

18 A Yes.

19 Q What did Mr. Adams tell you regarding how the
20 Moderate Rehabilitation Program was funded? How were
2 those decisions made?

2 A He told me that those decisions were made in
2 Washington at the HUD office.

2 Q Did he express any - could you infer that there
2 was anything that he - that he believed there was

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1 anything wrong with that process, from what he said?

2 A I didn't make any inference. He said that's where
3 it was, the decisions were being made, and that's what I
4 followed up on.

5 Q Did he have any suggestions for you as how you
6 should then go about seeing that your project was
7 funded?

8 A No.

9 Q Ultimately you decided to hire a consultant in
10 Miami, is that correct?

11 A Yes.

12 Q And that was Mr. Feinberg.

13 A Yes.

14 Q What gave you the idea initially to hire the
15 consultant?

16 A Because it was my understanding that consultants
17 were being hired in projects of that nature and I did
18 not have the experience in Washington with HUD to go
19 through the bureaucratic effort to get it, and so I
20 thought a consultant was a wise person to have to assist
21 us.

22 Q And did Mr. Feinberg -- he had Washington
23 experience, did he not?

24 A He did.

25 Q And he had been an administrative assistant to a

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1 Senator, had he not?

2 A He had.

3 Q So you believed that he knew how Washington worked,
4 correct?

5 A Yes, correct.

6 Q And you didn't have any intention at that time, and
7 for that matter, never had any intention that

8 Mr. Feinberg would do anything, quote, wrong, end quote,
9 on your behalf?

10 A Of course not.

11 Q You just wanted him to help you get through the
12 Washington maze.

13 A Yes.

14 Q Did Mr. Feinberg report back to you?

15 A On many occasions.

16 Q And he kept you informed, did he not, as to what he
17 was doing, generally?

18 A He did.

19 Q When he was doing it.

20 A Yes.

2 Q Who he was meeting with.

2 A Yes.

2 Q And what the progress of the matter was, isn't that

2 correct?
2 A That is correct.

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1 Q And he also informed you that he had retained
2 another Washington person by the name of Shelby, is that
3 correct?
4 A That is correct.
5 Q And he told you that Shelby was going to do what?
6 A He told me that Shelby would work with him in an
7 effort to obtain an allocation.
8 Q Did you believe, based upon your conversations with
9 Mr. Feinberg, that Shelby was going to do anything,
10 quote, wrong, end quote?
11 A No.
12 Q Of course not. You thought that that was a part of
13 the process in obtaining the Moderate Rehabilitation
14 units, isn't that correct?
15 A That's correct.
16 Q For that matter, did there ever come a time when
17 Mr. Shelby led you to believe that he was doing anything
18 wrong in terms of helping you get the project?
19 A No.
20 Q Okay. And, in fact, Mr. Shelby reported to you
2 from time to time, did he not?
2 A He did.
2 Q And you wrote down what Mr. Shelby told you, didn't
2 you, generally?
2 A I did.

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1 Q And lawyers have a bad habit of taking notes of
2 telephone conversations.
3 A Yes.
4 Q So we generally write down what was said during a
5 telephone conversation, isn't that correct?
6 A That's correct.
7 Q And you kept extensive notes of those
8 conversations.
9 A I did.
10 Q And, of course, nowhere in those conversations is
11 any reflection that Mr. Shelby or Mr. Feinberg was doing

12 anything illegal or wrong on your behalf, isn't that
13 right?
14 A That's correct.
15 Q And you certainly wouldn't have been involved in it
16 if they had been doing anything wrong or illegal?
17 A Absolutely, I would not have been involved.
18 Q Absolutely not. You are a fairly well known and
19 reputable, if I might say, attorney in the Florida area,
20 are you not?
2 A I would like to think so.

2 Q And you value your reputation highly, do you not?
2 A I do.
2 Q And you would be very careful about harming your
2 reputation, would you not?

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1 A I'd be very very careful.

2 Q And would stay away from anything you thought might
3 besmirch that reputation, isn't that correct?

4 A That's correct.

5 Q Is that one of the reasons you took such careful

6 notes of your telephone conversations with Mr. Feinberg

7 and Mr. Shelby so you'd have an absolutely accurate

8 recollection of what had happened?

9 A That's one of the reasons.

10 Q And because you have that accurate recollection you
11 can be absolutely sure, as far as you knew, they were
12 doing nothing, quote, wrong, unquote, on your behalf, is
13 that right?

14 A I believe so.

15 Q Now, I want you to explain, please, the difference
16 to the jury between what are called waivers in the
17 housing field and funding, because as I understand this,
18 that the Moderate Rehabilitation Program is funded by
19 units and we understand that money comes from
20 Washington, D.C. to the local housing authority and then
2 is paid out to developers, correct?

2 A I believe that's correct.

2 Q Now, would you explain what the difference between
2 that and waivers is?

2 A A waiver is a -- a waiver is an administrative

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1 regulation in which there will be -- which there was
2 decided that certain conditions had to be waived in
3 order to obtain these funds, and there were two such
4 waivers that we requested in our case.

5 Q A waiver basically means, does it not, that a
6 regulation that exists is removed as it pertains to a
7 particular project, isn't that right?

8 A That's correct.

9 Q And somebody at HUD has to say we're not going to

10 apply this regulation to your project, do they not?

11 A That's right.

12 Q Let's talk about the first waiver for a minute.

13 what regulation generically was in effect that had to be
14 waived for the first waiver?

15 A It had to do with the fact that any project which
16 had received a subsidy for a certain period of time
17 might not be eligible.

18 Q So your project, Park Towers, had been receiving a
19 subsidy for a period of time, is that right?

20 A It had.

2 Q what type of subsidy was that?

2 A It was a mortgage insured under the FHA 221D3
2 program at a low market rate of interest.

2 Q So, generally speaking, the Government limits the
2 amount of support they will give to those housing

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1 programs, do they not?

2 A I don't know what they limit, but I know that was
3 one of the administrative regulations.

4 Q And that administrative regulation said that you

5 can't have the Government insuring a below market

6 mortgage at the same time you're doing a moderate

7 rehabilitation, is that right?

8 A No, not quite.

9 Q Explain it, please.

10 A All right. We had paid off that mortgage. That
11 mortgage was no longer in effect. And we had agreed to
12 pay it off or had paid it off, I'm not sure, but in any
13 event, it had to be-- the administrative regulation said
14 that if it had received any subsidy for a certain number
15 of years then it would not be eligible, then it may not
16 be eligible.

17 Q By that regulation you were not eligible unless a
18 waiver was issued, is that accurate?

19 A That is accurate.

20 Q Now, you went about getting a waiver of that
2 regulation, did you not?

2 A I did. I requested that.

2 Q How did you go about requesting that waiver?

2 A I requested that through Mr. Melvin Adams of the
2 local housing authority.

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1 Q And Mr. Adams replied back to you and what did he
2 say?

3 A He said he requested it in Washington. He would
4 send our request to Washington.

5 Q Did he say he would concur in that request?

6 A He did concur.

7 Q He did with his concurrence.

8 A Yes.

9 Q Did you receive any information at any point before
10 you received the waiver as to to whom in Washington that
11 waiver request was going?

12 A I don't recall that.

13 Q Do you recall receiving information after the
14 waiver was granted as to who made the decision to grant
15 the waiver?

16 A I think we had a letter, a copy of the letter in
17 which the waiver had been granted.

18 Q And do you recall who was the signatory on the
19 letter?

20 A My recollection is it was Mr. DeBartolomeis.

2 Q And do you know what position Mr. DeBartolomeis had
2 at that time?

2 A I knew he was a HUD official.

2 Q Did you discuss that waiver that Mr. DeBartolomeis
2 signed with Mr. Shelby?

1 A Yes.

2 Q what did Mr. Shelby tell you about what

3 Mr. DeBartolomeis was doing?

4 A He said he had approved the waiver.

5 Q Mr. DeBartolomeis had approved the waiver.

6 A Yes.

7 Q Okay. Did you have any discussions about that

8 waiver with Mr. Feinberg?

9 A Yes.

10 Q And what did he tell you about the waiver?

11 A The same thing Mr. Shelby told me, that they had
12 applied for it and had reason to believe it would be
13 granted.

14 Q And that Mr. DeBartolomeis had granted the waiver,
15 isn't that correct?

16 A Yes.

17 Q At any point in that time did you have any
18 conversations with former Attorney General
19 John Mitchell?

20 A No.

2 Q Okay. were you told that John Mitchell was doing

2 anything?

2 A No.

2 Q But you were told who made the decision about the
2 first waiver?

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1 A I was told who signed the letter and then I
2 received a copy of the letter.

3 Q Now, the second waiver, would you describe for the
4 jury what the second regulation was that you needed to
5 have voided or done away with or ignored, whatever, for
6 the project?

7 A It was in the nature of the same type of -- it was
8 a subsidy. It was a section 312 loan which had been
9 made by the City of Miami with federal funds and we had

10 made it for improvements, and it was basically the same
11 situation, that is, there had been a subsidy, and
12 therefore there needed to be a waiver of those two
13 items.

14 Q And did you discuss that with Mr. Adams?

15 A I did.

16 Q And what did Mr. Adams say to you?
17 A The same thing, because we discussed both waivers
18 at one time.
19 Q Very good. Did you have a similar conversation
20 with Mr. Feinberg?
2 A Yes.
2 Q Similar conversation with Mr. Shelby?
2 A Yes.
2 Q And did you find out who made the decision to issue
2 the waiver of that regulation?

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1 A I don't know who made the decision. I knew who
2 signed the letter.
3 Q Who signed the letter?
4 A Mr. DeBartolomeis.
5 Q Did you have discussions with Shelby and Feinberg
6 where it was discussed that he had made that decision?
7 A He signed the letter.
8 Q Okay. But did you have any conversations with
9 Shelby -
10 A I don't recall.
11 Q You don't recall. Or with Feinberg?
12 A I don't recall.
13 Q For the second waiver, was John Mitchell's name
14 ever mentioned?
15 A Never.
16 Q Now, these waivers, both these waivers, did they
17 take place before or after you received approval for Mod
18 Rehab funding?
19 A This whole process started ten years ago and I
20 can't remember exactly the dates but they took place
21 prior to the execution of the AHAP agreement which is
22 the agreement in which we actually entered into a
23 contract with the Government.
24 Q Do you recall that Park Towers received the funding
25 in approximately November of 1985?

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1 A I think it was about that time.
2 Q At that point in time in November of 1985, do you
3 recall receiving information from your Washington
4 consultants that your units had been funded?
5 A I'd have to look at the letter or memo, but I think
6 the answer to that question and my recollection is,
7 about that time.
8 MR. WEHNER: Your Honor, may I approach the
9 witness?
10 THE COURT: All right.
11 BY MR. WEHNER:
12 Q I show you what's been previously introduced as
13 Government's exhibit 79A and ask you if that reflects
14 your receiving that information on or about November 27
15 of 1985?
16 A Which information?
17 Q That the Mod Rehab Program had been funded.
18 A Yes.
19 Q Now, at or about that same time did you hear from
20 Mr. Feinberg that it had been funded?

2 A At or about that time my recollection is that it
2 did.
2 Q Did Mr. Feinberg say to you who funded it?
2 A He said HUD funded it.
2 Q At the same time you received that letter from

Mr. JShelby, did you not? Fax, I'm sorry.

2 A
3 Q
4 A
5 with
6 Q
7 tell
8 A
9 Q

I believe it was about that time.
And did you have a conversation with
My recollection is that I had several
him.
During any of those conversations did
you who had funded the project?
Just that HUD had funded it.
Did he tell you that Mr. Mitchell had

10 do with the funding of the project?
11 A He did not.
12 Q Had you ever met Deborah Gore Dean in
13 A Never.

Mr. Shelby?
conversations

Mr. Shelby

anything to

your life?

14 Q When was the first time you heard Deborah Gore
15 Dean s name mentioned outside of readig it in the
16 newspaper?
17 A I don't recall. I -- by that I mean I think the
18 first time I saw it was in the newspaper.
19 Q Other than that?
20 A I have no recollection.
2 Q Do you have any recollection of Deborah Gore Dean
2 before you met with agents of the FBI with regard to the
2 Mod Rehab Program?
2 A I don't understand your question, I'm sorry.
2 Q Did agents of the FBI ask you about Deborah Gore

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1 Dean when they interviewed you about the Hod Rehab

2 Program?

3 A I don't recall. I really don't. But I -- I don't

4 recall any questions of that nature.

5 Q Did they ask you about John Mitchell?

6 A I don't recall if they did. They may have, but I

7 really can't clearly say that I recall.

8 Q I show you a telephonic interview on May 13th of

9 1992 which purports to be an interview with you, I

10 assume, by agents of the Independent Counsel's Office,
11 and I'll ask you if you recall saying to them that, "He
12 had never heard Mitchell's name mentioned in connection
13 with Mod Rehab in Florida, and he," meaning you, "had no
14 knowledge that Mitchell had any involvement in the Park
15 Towers project?"

16 A I may very well have said that.

17 Q And that is consistent with what you said today, is
18 it not?

19 A I never discussed it with Mr. Mitchell. I never
20 knew he was involved.

2 Q Okay.

2 Q You had what you perceived to be or what actually
2 was a decent relationship with Mel Adams, did you not?

2 A I did.

2 Q And he -- in your judgment he is a straightforward

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1 honest, good, hard working public servant, is he not?

2 A Yes, sir.

3 Q And you talked to him regularly about the project,
4 did you not?

5 A I talked to him often.

6 Q As a matter of fact, he called you and told you
7 when that program will be funded, did he not?

8 A He did on one occasion or more perhaps, but he did
9 originally, yes.

10 Q And I believe that that telephone call was on or
11 about December 3rd of 1985, was it not?

12 A I believe it was in that period. I don't know if
13 it was exactly the 3rd.

14 Q At any event, it was after you had heard that from
15 Shelby and Feinberg?

16 A I believe so.

17 Q Shortly thereafter.

18 A I believe so.

19 Q Do you recall Mr. Adams saying to you that the
20 units have been allocated but there was no actual

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2 designation for your building?
2 A Yes.
2 Q what did you take that to mean from Mr. Adams?
2 A I took it to mean I had a degree of concern about
2 whether our units were actually funded -allocated.

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1 Q why was that?

2 A I didn't have anything in writing from HUD that

3 said they were going to allocate 143 units for Park

4 Towers.

5 Q Didn't Mr. Adams say he was going to give you the

6 143 units?

7 A He did not say it directly. He said 266 units had

8 been allocated. Originally when I talked to him he said

9 he thinks that 143 were allocated to Park Towers. He
10 called me several days later and said he wasn't sure.
11 That's my recollection.

12 Q Did you have a conversation with Mr. Adams in which
13 he finally told you that, yes, 143 of these are yours?

14 A I never felt as if the allocation was completely
15 and finally officially done until we signed the AHAP
16 agreement at the HUD office in Miami.

17 Q And who signed the AHAP agreement with you?

18 A I don't recall.

19 Q Do you recall that Mel Adams was present?

20 A I really don't recall. I can tell you I signed it
2 and a HUD official signed it. It may have been

2 Mr. Adams.

2 MR. WEHNER: Nothing further, Your Honor,
2 thank you.

2 THE COURT: All right. Thank you.

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1 MR. O'NEILL: Very briefly, Your Honor.

2 THE COURT: All right.

3 There's some redirect.

4 REDIRECT EXAMINATION

5 BY MR. O'NEILL:

6 Q Mr. Fine, during cross-examination you were asked

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7 about your notetaking and your habits of doing so. When
8 you make those notes, are they made at or about the
9 time -- as the events are taking place?
10 A They are.
11 Q And do you try to be as accurate as possible in
12 your notes?
13 A I do.
14 Q Now, Mr. Wehner asked you about when was the first
15 time you heard the defendant Deborah Gore Dean's name.
16 Did you ever hear her name at all in any way, shape or
17 form in relation to the Park Towers project?
18 A I have no recollection that I did.
19 Q But you did hear the name Silvio DeBartolomeis?
20 A Yes, I did.
2 Q And that's reflected in your notes.
2 A Yes, it is.
2 MR. O'NEILL: No further questions.
2 THE COURT: All right. Anything else?
2 Thank you, Mr. Fine.

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1 THE WITNESS: Thank you, sir.

2 MR. O'NEILL: Your Honor, at this time the

3 Government would call John Rosenthal.

4 THE COURT: All right. John Rosenthal.

5 (JOHN ROSENTHAL, WITNESS FOR GOVERNMENT, SWORN)

6 DIRECT EXAMINATION

7 BY MR. O'NEILL:

8 Q Mr. Rosenthal, I plan to ask you a number of

9 questions. Please speak loudly so that all the jurors

10 can hear you. Sir, would you please state your name for
11 the record, spelling your last name for the Court
12 reporter?

13 A My name is John Rosenthal, R-o-s-e-n-t-h-a-l.

14 Q Mr. Rosenthal, are you currently employed?

15 A Yes, I am.

16 Q And how are you employed, sir?

17 A I'm self-employed as chairman of the board of
18 Fennrose Properties.

19 Q What type of business is Pennrose Properties?

20 A The development of affordable housing.

2 Q Sir, can you briefly state your educational

2 background to the ladies and gentlemen of the jury?

2 A Yes, I have a bachelor of arts from Williams

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2 College in Massachusetts. I have an MBA from Cornell
2 University and a law degree from Cornell University as

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1 well. I'm admitted to practice law in the State of New

2 York.

3 Q Just for the record, do you practice law?

4 A No, I do not, nor have I ever practiced law.

5 Q I hope that's not directed at me.

6 Mr. Rosenthal, are you familiar with the

7 project in Pennsylvania known as the Necho Allen Hotel?

8 A Yes, I am.

9 Q And how are you familiar with that project, sir?

10 A I was the general partner and the developer and the
11 owner of that project.

12 Q Did there come a time when you sought exception
13 rents for that project?

14 A Yes, I did.

15 Q In ordinary laymen terms, what are exception rents?

16 A Exception rents are a waiver of the existing rental
17 guidelines that HUD establishes for a geographical
18 area. Usually that is a result of special circumstances
19 which requires higher rents than what is normally market
20 in that area.

2 Q Did you personally attempt to obtain exception

2 rents for the Necho Allen Hotel?

2 A Yes, I did.

2 Q what if anything did you do?

2 A I contacted the Department of Housing and asked for

690

1 a waiver for exception rents in order to facilitate the

2 rehabilitation of what was a vacant old hotel property

3 in Pottsville, Pennsylvania.

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4 Q Were you successful in obtaining exception rents?

5 A Eventually I was, but not initially.

6 Q And were you successful when you tried it on your

7 own?

8 A By contacting HUD directly?

9 Q Right.

10 A No, I was not.

11 Q What if anything did you do next?

12 A I contacted a consultant.

13 Q Okay. And who did you contact?

14 A Andy Sankin.

15 Q How did you know Andrew Sankin?

16 A I was introduced to him by a developer friend of
17 mine and a partner, Mr. Berel Altman.

18 Q Would that be B-e-r-e-l A-l-t-m-a-n?

19 A That is correct.

20 Q What if anything did you tell Mr. Sankin?

2 A I told Mr. Sankin that we had a development

2 problem. There was a big vacant historic building in
2 downtown Pottsville, that the building could not be
2 rehabilitated for senior citizen housing without the
2 opportunity to get a rent level that would be sufficient

1 -to support the rehabilitation of that building.

2 Q As a result of your conversation with Mr. Sankin,
3 did you reach an agreement with him?

4 A Yes, I did.

5 Q What was agreed upon?

6 A To pay Mr. Sankin a fee for his assistance in
7 trying to get a waiver of those exception rents.

8 Q And what was the fee that was agreed to?

9 A \$10,000.

10 Q To your knowledge what was Mr. Sankin going to do
11 in order to try to get this waiver for the exception
12 rents?

13 A Well, to use whatever contacts he had in a central
14 office, to have a central office review the decision
15 that was a part of the Philadelphia region office which
16 denied my request for exception rents.

17 Q Was he able to set up any meetings for you on the
18 exception rents for Necho Allen?

19 A Yes, he was.

20 Q And who did you meet with?

21 A I met with Deborah Dean and possibly other people
22 at the Department of Housing and Urban Development to
23 discuss this problem.

24 Q Was one of those people Hunter Cushing?

25 A I believe it was, yes.

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1 Q Did there come a point in time where you learned
2 that the exception rents had been granted for Necho
3 Allen?

4 A Yes, there was a time that it was granted.

5 Q From whom did you learn that information?

6 A From Andrew Sankin, initially.

7 Q Did there come a point in time that you paid
8 Mr. Sankin for his services?

9 A Yes, I paid Mr. Sankin for the services that he
10 performed.

11 Q How much you pay him?

12 A \$10,000.

13 Q Are you familiar with a project known as Regent
14 Street?

15 A Yes.

16 Q Can you describe what Regent Street is?

17 A Regent Street is a development consisting of 80
18 units of housing for the elderly and for low income
19 families in west Philadelphia. It comprises six
20 buildings on a small block in west Philadelphia, three
2 buildings on one side of the street, and three on the
2 other side. It's a mixed use development combining both
2 senior citizen housing and low income family housing,
2 primarily for single mothers with children.

2 Q Mr. Rosenthal, did there come a point in time where

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1 you asked Mr. Sankin to help you obtain Mod Rehab units
2 for the City of Philadelphia for the Regent Street
3 Project?

4 A Yes.

5 Q And how many units were you seeking at that time
6 since you said it was an 80-unit development?

7 A When the city had selected us to do this
8 development in Philadelphia, originally it was a total,
9 I believe, of 54 units which was - which consisted of
10 five out of the six buildings on this block.

11 When one sees the block it was clear that in
12 order to do the block successfully you had to have all
13 of the buildings because to leave one of the vacant
14 buildings out would have significant deleterious impact
15 on the overall development.

16 So when we received the - when we were
17 awarded the property from the city, the city assigned us
18 54 units of Section Eight to go along with the buildings
19 that it had transferred to us.

20 There was a single building that was out - it
2 was an out parcel. We acquired it independently and
2 then at that point in time it was necessary to secure an
2 additional Section Eight subsidy, so that that other
2 building could be developed consistently with the
2 overall development plan.

1 Q And how many units would you need?

2 A I think it was 26 units necessary to do that.

3 Q Did you agree to pay Mr. Sankin a fee for his
4 services on Regent Street?

5 A Yes, I did.

6 Q Do you recall what that was?

7 A The total fee that was paid, I believe, was

8 \$11,000.

9 Q Now, did there come a time that you learned that
10 the units had gone to Philadelphia?
11 A Yes.
12 Q Okay. How many units ultimately did go, do you
13 recall?
14 A Ultimately 26 units went to Philadelphia.
15 Q Now, do you know the defendant Deborah Gore Dean?
16 A Yes, I do.
17 Q And how did you first meet her?
18 A I was introduced to her by Andy Sankin.
19 Q And where did that take place?
20 A At her offices at HUD.
21 Q Do you know when that took place?
22 A The exact date I do not know. I don't recall.
23 I'll sure that it's part of the record.
24 Q Now, you stated that you met with her concerning
25 the Necho Allen project. How many times did you meet

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1 with her concerning that?

2 A I would say at least once, possibly twice.

3 Q How about Regent Street? Did you have an

4 opportunity to meet with her on that project?

5 A I know I met with her a couple of times. I wasn't

6 sure whether it was on Regent Street at this point or

7 the Necho Allen, but I believe I probably met with her

8 once on Regent Street and maybe twice on Necho Allen or

9 vice versa.

10 Q why did you meet with the defendant Deborah Gore

11 Dean?

12 A To make our case for the waiver in one case, for
13 the Necho Allen; and in the other case, for the Section
14 Eight, additional Section Eight grants that we needed
15 for the Regent Street Section Eight project.

16 Q Mr. Rosenthal, at this time I would show you a
17 number of documents. First of all, Government's Exhibit
18 101 for identification purposes?

19 THE DEPUTY CLERK: Government's Exhibit 101
20 marked for identification.

21 (Government's Exhibit 101
22 marked for Identification)

23 BY MR. O'NEILL:

24 Q And I'd ask you, sir, to look at this and I ask you
25 what is it?

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1 A This is a letter that I wrote to Harry Staller who
2 was the director of the region, Philadelphia, requesting
3 exception rents on the Necho Allen.
4 MR. O'NEILL: Your Honor, I'd move it into
5 evidence as Government's exhibit 101.
6 MR. WEHNER: No objection, Your Honor.
7 THE COURT: All right, no objection. 101 is
8 admitted.
9 (Government's Exhibit 101
10 received into Evidence)
11 BY MR. O'NEILL:
12 Q Mr. Rosenthal, I'll now show you what's previously
13 been marked as Government's Exhibit 103 for
14 identification.
15 THE DEPUTY CLERK: Government's Exhibit 103
16 marked for identification.
17 (Government's Exhibit 103
18 marked for Identification)
19 BY MR. O'NEILL:
20 Q And I'd ask you, sir, what is this?
21 A This is a letter of transmittal from myself to
22 Andrew Sankin basically setting forth the information
23 that I was sending him concerning the background of our
24 request for exception rents for the Necho Allen.
25 MR. O'NEILL: Your Honor, at this time I'd

1 move it into evidence as Government's Exhibit 103.
2 MR. WEHNER: No objection, Your Honor.
3 THE COURT: All right. 103 is admitted.
4 (Government's Exhibit 103
5 received into Evidence)
6 BY MR. O'NEILL:
7 Q At this time, Mr. Rosenthal, I show you what's
8 previously been marked as Government's Exhibit 105 for
9 identification.
10 THE DEPUTY CLERK: Government's Exhibit 105
11 marked for identification.
12 (Government's Exhibit 105
13 marked for Identification)
14 BY MR. O'NEILL:
15 Q And I'd ask you, if you recognize this, sir?
16 A Yes. This is a letter from me to Andrew Sankin
17 basically acknowledging an agreement to pay Mr. Sankin
18 \$10,000 for his assistance in connection with the Necho
19 Allen project.
20 MR. O'NEILL: At this time Your Honor, I would
2 move this into evidence as Government's Exhibit 105.
2 MR. WEHNER: No objection.
2 THE COURT: All right, 105 is admitted.
2 (Government's Exhibit 105
2 received into Evidence)

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1 BY MR. O'NEILL:
2 Q Mr. Rosenthal at this time I would show you what's
3 previously been marked for identification purposes as
4 Government's Exhibit 108?

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5 THE DEPUTY CLERK: Government's Exhibit 108
6 marked for identification.
7 (Government's Exhibit 108
8 marked for Identification)
9 BY MR. O'NEILL:
10 Q And I'd ask you if you recognize this, sir?
11 A Yes, this is the letter that I wrote to
12 Deborah Dean, basically thanking her for her assistance
13 in obtaining the exception rents for the Necho Allen.
14 MR. O'NEILL: Your Honor, I'd move this into
15 evidence as Government's Exhibit 108?
16 MR. WEHNER: No objection, Your Honor.
17 THE COURT: All right. 108 is admitted.
18 (Government's Exhibit 108
19 received into Evidence)
20 BY MR. O'NEILL:
2 Q Mr. Rosenthal, is there an envelope affixed to
2 that?
2 A Yes, there is.
2 Q And to whom is it directed?
2 A Deborah Dean, the Assistant Secretary of the

1 Department of Housing and Urban Development.
2 Q Once again, Mr. Rosenthal, I'm showing you a
3 document previously marked for identification as
4 Government's Exhibit 111?
5 THE DEPUTY CLERK: Government's Exhibit 111
6 marked for identification.
7 (Government's Exhibit 111
8 marked for Identification)
9 BY MR. O'NEILL:
10 Q And I'd ask you if you recognize that, sir?
11 A Yes. This is a letter to Andrew Sankin, enclosing
12 a check in the amount of \$10,000 pursuant to our
13 agreement for the Necho Allen.
14 MR. O'NEILL: Your Honor, at this time I'd
15 move Government's Exhibit 111 into evidence as
16 Government's Exhibit 111.
17 MR. WEHNER: No objection, Your Honor.
18 THE COURT: All right, 111 will be admitted.
19 (Government's Exhibit 111
20 received into Evidence)
21 BY MR. O'NEILL:
22 Q Mr. Rosenthal, I show you again a document at this
23 time. It's been marked for identification purposes as
24 Government's Exhibit 113?
25 THE DEPUTY CLERK: Government's Exhibit 113

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1 marked for identification.
2 (Government's Exhibit 113
3 marked for Identification)
4 BY MR. O'NEILL:

5 Q And I'd ask if you recognize that, sir?

6 A Yes, this is a letter that I wrote to Andy Sankin,
7 attaching a summary of the Regent Terrace Project by way
8 of background to assist him in understanding the plight
9 that we were under and trying to provide him with some
10 background in order to enable him to assist us with the
11 Undersecretary.
12 MR. O'NEILL: Your Honor, at this time I would
13 move it into evidence as Government's Exhibit 113.
14 MR. WEHNER: No objection.
15 THE COURT: All right. 113 is admitted.
16 (Government's Exhibit 113
17 received into Evidence)
18 BY MR. O'NEILL:
19 Q Again Mr. Rosenthal, I show you a document that's
20 previously been marked for identification as
2 Government's Exhibit 114?

2 THE DEPUTY CLERK: Government's Exhibit 114
2 marked for identification.
2 (Government's Exhibit 114
2 marked for Identification)

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1 BY MR. O'NEILL:
2 Q And I'd ask you to look at this, sir? What do you
3 recognize that to be?
4 A This was a letter to Andy Sankin requesting a
5 meeting with Deborah to discuss the Regent Terrace
6 situation.
7 MR. O'NEILL: At this time, Your Honor, I'd
8 move it into evidence as Government's Exhibit 114.
9 MR. WEHNER: No objection, Your Honor.
10 THE COURT: All right. 114 is admitted into
11 evidence.
12 (Government's Exhibit 114
13 received into Evidence)
14 BY MR. O'NEILL:
15 Q At this time, Mr. Rosenthal, I will be showing you
16 Government's Exhibit 116, previously marked for
17 identification, and I'd ask if you recognize this?
18 A Yes, this is a letter on my personal stationery to
19 Deborah, thanking her for the opportunity to have lunch
20 with her, and thanking her for her assistance on the
21 Necho Allen.
22 MR. O'NEILL: Your Honor, at this time I would
23 move into evidence Government exhibit 116.
24 THE COURT: No objection to 115?
25 MR. WEHNER: No objection, Your Honor.

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1 MR. O'NEILL: 116, Your Honor.

2 THE COURT: I'm sorry. 116 will be admitted.

3 116.

4 (Government's Exhibit 116

5 received into Evidence)

6 BY MR. O'NEILL:

7 Q Again, for the record, Mr. Rosenthal, I'll be

8 showing you a copy of Government's Exhibit 117 marked

9 for purposes of identification.

10 THE DEPUTY CLERK: Government's Exhibit 117

11 marked for identification.

12 (Government's Exhibit 117

13 marked for Identification)

14 BY MR. O'NEILL:

15 Q I'd ask you what that is, sir?

16 A This is a letter from myself to Deborah Dean

17 indicating that the City of Philadelphia has advised us

18 that they are willing to commit 26 Mod Rehab units to

19 the Regent Street Project.

20 MR. O'NEILL: At this time, Your Honor, I'd move

2 it into evidence as Government's Exhibit 117?

2 MR. WEHNER: No objection, Your Honor.

2 THE COURT: All right, 117 is admitted.

2 (Government's Exhibit 117

2 received into Evidence)

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1 BY MR. O'NEILL:

2 Q Again, Mr. Rosenthal, I'm showing you a copy of a

3 document marked as Government's Exhibit 120 for

4 identification and I'd ask you what is this document?

5 THE COURT: How many more do you have?

6 MR. O'NEILL: About four or five, Judge.

7 MR. WEHNER: No objection, Your Honor.

8 MR. O'NEILL: Five.

9 THE COURT: All right.

10 A Again, this is a letter from myself to Deborah Dean

11 regarding the Section Eight certificates on Regent

12 Terrace. If you want me to give you a further

13 explanation, I'd have to read the letter.

14 Q Did you write the letter, sir?

15 A Yes, I did.

16 MR. O'NEILL: Your Honor, I'd move it into

17 evidence as Government's Exhibit 120.

18 THE COURT: All right. You indicated no

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19 objection to 120. It will be admitted.
20 (Government's Exhibit 120
2 received into Evidence)
2 BY MR. O'NEILL:
2 Q I'm now showing you a copy of Government's Exhibit
2 121.
2 THE DEPUTY CLERK: Government's Exhibit 121

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1 marked for identification.
2 (Government's Exhibit 121
3 marked for Identification)
4 BY MR. O'NEILL:
5 Q And I'd ask you if you could identify that, please?
6 A This was a letter to Andy Sankin asking him for his
7 assistance in facilitating the release of funds to the
8 City of Philadelphia for the Regent Street property.
9 Q Thank you.
10 Your Honor, I'd move it into evidence as
11 Government's Exhibit 121.
12 MR. WEHNER: No objection, Your Honor.
13 THE COURT: All right, 121 is admitted.
14 (Government's Exhibit 121
15 received into Evidence)
16 BY MR. O'NEILL:
17 Q Mr. Rosenthal, I show you a document previously
18 marked for identification purposes as Government's
19 Exhibit 126.
20 THE DEPUTY CLERK: Government's Exhibit 126
21 marked for identification.
22 (Government's Exhibit 126
23 marked for Identification)
24 BY MR. O'NEILL:
25 Q And I'd ask if you recognize it, sir?

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1 A This was a letter that I wrote to Deborah thanking
2 her for her cooperation in assisting Regent Street
3 Associates which is the partnership, the ownership of
4 Regent Street project, for securing or for helping to
5 secure the additional 13 Section Eight Mod Rehab units
6 for that development.
7 MR. O'NEILL: At this time, Your Honor, I'd
8 move it into evidence as Government's Exhibit 126.

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9 MR. WEHNER: No objection.

10 THE COURT: All right. 126 is admitted.

11 (Government's Exhibit 126

12 received into Evidence)

13 BY MR. O'NEILL:

14 Q Mr. Rosenthal, you mentioned 13 Mod Rehab units

15 during that time. Did these units for Regent Street,

16 this allocation of 26 come in two installments or one?

17 A Yes, it did. It came in two installments.

18 Q Again, Mr. Rosenthal, I show you a copy of

19 Government's Exhibit 127 for identification purposes.

20 THE DEPUTY CLERK: Government's Exhibit 127

21 marked for identification.

22 (Government's Exhibit 127

23 marked for Identification)

24 BY MR. O'NEILL:

25 Q And I'd ask you what is this, sir?

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1 A This is a letter to Andrew Sankin of transmittal,

2 enclosing a check in the amount of \$1000 for helping us

3 to secure Section Eight units for the Regent Street

4 development for the initial 13 units.

5 MR. O'NEILL: I move this into evidence, Your

6 Honor, as Government's Exhibit 127.

7 MR. WEHNER: No objection.

8 THE COURT: All right, 127 is admitted.

9 (Government's Exhibit 127

10 received into Evidence)

11 BY MR. O'NEILL:

12 Q Mr. Rosenthal, I show you a copy of a document

13 previously marked for identification purposes as

14 Government's Exhibit 132.

15 THE DEPUTY CLERK: Government's Exhibit 132

16 marked for identification.

17 (Government's Exhibit 132

18 marked for Identification)

19 BY MR. O'NEILL:

20 Q And I ask you if you recognize that, sir?

2 A Yes, this was a letter that I wrote to

2 Andrew Sankin congratulating him on his creativity in
2 establishing what he expected to receive from us, for
2 the assistance that he provided us in connection with
2 securing those units for Section Eight, Regent Terrace.

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1 MR. O'NEILL: At this time, Your Honor, I
2 would move it into evidence as Government's Exhibit 132.
3 MR. WEHNER: No objection, Your Honor.
4 THE COURT: All right. 132 is admitted.
5 (Government's Exhibit 132
6 received into Evidence)
7 BY MR. O'NEILL:
8 Q And, finally, Mr. Rosenthal, I show you what has
9 previously been marked for purposes of identification as
10 Government Exhibit 133.
11 THE DEPUTY CLERK: Government's Exhibit 133
12 marked for identification.
13 (Government's Exhibit 133
14 marked for Identification)
15 BY MR. O'NEILL:
16 Q And I'd ask you if you recognize that, sir?
17 A Yes, this is a letter to Deborah Dean indicating to
18 her that we received an invitation for the Young Friends
19 of the Red Cross benefit, saying that I was unable to
20 attend but making a contribution in the amount of \$250.
2 MR. O'NEILL: At this time, Your Honor, I'd
2 move it into evidence as Government's Exhibit 133.
2 MR. WEHNER: No objection, Your Honor.
2 THE COURT: All right. 133 is admitted.
2 (Government's Exhibit 133

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1 received into Evidence)

2 MR. O'NEILL: Your Honor, that would conclude my

3 direct examination.

4 THE COURT: You're going to be a few minutes.

5 MR. WEHNER: Yes, sir, I will.

6 THE COURT: Let me take a short break. The

7 jury has been sitting for an hour.

8 All right, ladies and gentlemen, we'll take a

9 15 minute recess. Come back at 11:20 by that clock.

10 Remember my admonition not to talk about the
11 case among yourselves or with anyone else. See you back
12 in 15 minutes.
13 (Recess, 11:05 a.m. To 11:20 a.m.)
14 THE COURT: All right.
15 MR. WEHNER: Miss Dean is in the ladies room,
16 Your Honor, she should be here momentarily.
17 THE COURT: Do you want me to wait a minute
18 until she gets here?
19 MR. WEHNER: Yes, Your Honor.
20 THE DEPUTY MARSHAL: All right, ladies and
2 gentlemen, please.

2 (Jury present).
2 THE COURT: All right, we're ready to resume.
2 we'll go with the cross-examination.
2 MR. WEHNER: Thank you, Your Honor.

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1 CROSS-EXAMINATION
2 BY MF . WEHNER:
3 Q Mr. Rosenthal, this -- the Regent Street
4 development, the total is about 26 units?
5 A The total is 80 units.
6 Q How many of those were Moderate Rehabilitation
7 funds ?
8 A All of them.
9 Q How many units did you require in 1985 and 1986 to

10 finish that project?
11 A 26.
12 Q And of those 26, they were funded in two rounds,
13 were they not?
14 A That's correct.
15 Q Thirteen one year and 13 the next year,
16 approximately?
17 A That's right.
18 Q Did you have political support from The United
19 States Senate for that project?
20 A Yes.
2 Q And you had support from the now late Senator
2 Heinz , isn't that correct?
2 A Correct.
2 Q And he wrote letters to Secretary Pierce supporting
2 that project, did he not?

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1 A Correct.
2 Q And Senator Specter, Arlen Specter from
3 Pennsylvania?

4 A Yes, sir.

5 Q Also wrote letters of support of the project?

6 A Correct.

7 Q In fact, you are very proud of the project, are you

8 not?

9 A Yes, the project won the national award for
10 historic preservation I think about three, four years
11 ago.

12 Q Would it have been possible to do this project
13 without the Moderate Rehabilitation Program?

14 A Without the Mod Rehab Program, no, that was the
15 only Government subsidized program to my knowledge that
16 would have been appropriate for the development.

17 Q Now, you met with Miss Dean about the project, did
18 you not?

19 A That's correct.

20 Q And present during those meetings with Miss Dean
2 were other people from HUD, isn't that correct?

2 A That is correct.

2 Q And these people are commonly called career staff,
2 are they not?

2 A Yes.

711

1 Q And these are people that are not political

2 appointees at HUD but are really the true experts in the

3 field, the bureaucrats, are they not?

4 A Yes.

5 Q And these bureaucrats supported that project, did

6 they not?

7 A I assume they did. They asked questions that were

8 searching of the facts and circumstances surrounding my

9 request and eventually apparently we received the

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10 Section Eight, so I assume that they supported
11 Deborah's -- they supported Deborah's request to have
12 this project reviewed, and the decision was made
13 positively.
14 Q Directing your attention to the difference between
15 your meetings with Miss Dean and the career bureaucrats
16 in Washington and your efforts in Philadelphia to get
17 the same units approved, was there a difference between
18 the response you received?
19 A Of course.
20 Q And what was the difference?
21 A Well, I think the -- my efforts in Philadelphia in
22 dealing with the Philadelphia area office have been very
23 distressing over the last 23 years that I've been in
24 this business. They seem to have an attitude of trying
25 to put in the way of developers' efforts at least

712

1 everything that they can in order to delay or complicate
2 the development process.

3 I thought as a result of the meeting with
4 Deborah and her staff, the attitude was positive, that
5 they were trying to see a way that they could get the
6 job done as opposed to killing it.

7 Q You corresponded directly with Miss Dean after you
8 first met with her, did you not?

9 A Yes.

10 Q And you spoke with Miss Dean directly after you met
11 with her, did you not?

12 A Yes.

13 Q And you wrote letters that have been introduced,
14 isn't that correct?

15 A Yes.

16 Q Did anybody ever from HUD, including Miss Dean, ask
17 you to keep this a secret that you were meeting with
18 her?

19 A No, no.

20 Q That you were writing letters to her?

2 A No.

2 Q That the project was being funded.

2 A No.

2 Q And in fact, both United States Senators from
2 Pennsylvania knew the project was being funded, didn't

713

1 they?

2 A Correct. They were doing everything they could to

3 assist the project.

4 Q So in your judgment it's fair to say that Miss Dean

5 did whatever she could to help you cut through the

6 bureaucratic maze, isn't that correct?

7 A That is correct.

8 Q Now, that's really half of the story or the

9 testimony. I don't mean story in a negative sense but
10 that's half of the story visavis what Deborah did for
11 you. The other half of the story is this gentleman by
12 the name of Sankin.

13 A Correct.

14 Q Now, Sankin was involved in this process, was he
15 not?

16 A Yes.

17 Q Did Miss Dean ever suggest that you should pay
18 Sankin any money?

19 A No, she did not.

20 Q Did she ever suggest that she would do something
2 for you because of Andrew Sankin?

2 A No, she did not.

2 Q Did she ever suggest that you would get some kind
2 of special consideration because of Andrew Sankin?

2 A No, she did not.

714

1 Q To your knowledge did you receive anything other

2 than what you should have received from Deborah Gore

3 Dean as a result of Andrew Sankin?

4 A To my knowledge, no.

5 Q Now, did Miss Dean ever tell you that she was going
Page 391

6 to do anything at all as a result of her relationship

7 with Andrew Sankin?

8 A No, she never told me that she was going to do

9 anything as a result of her relationship with
10 Andrew Sankin.

11 Q Let's take Mr. Sankin for a minute. What was
12 Mr. Sankin telling you his relationship with Miss Dean
13 was?

14 A That he was a friend of Miss Dean.

15 Q And what else was he telling you?

16 A That he was in a position to get Miss Dean to pay
17 attention to our request because of that friendship.

18 Q And did Mr. Sankin ever say that in the presence of
19 Miss Dean?

20 A Not to my knowledge. Not to my recollection I
2 should say.

2 Q Did Mr. Sankin ever say anything about his
2 relationship with Miss Dean to you in front of
2 Miss Dean?

2 A Not to my recollection.

715

1 Q Did you have something else?

2 A No, no, I was just trying to think back. That was

3 several years ago and I'm getting older now.

4 Q Absolutely. But all we can go on today is your

5 best recollection, and I appreciate it. Thank you.

6 MR. WEHNER: May I have a second, Your Honor?

7 THE COURT: All right.

8 BY MR. WEHNER:

9 Q Mr. Rosenthal, you've been in the development

10 business for a long time?

11 A Twenty-three, 24 years.

12 Q And during that time you have seen come and go, I'm
13 sure, tens and probably hundreds of Government, both
14 state and federal, bureaucrats dealing with housing

15 matters?

16 A I've seen more come than I've seen go.

17 Q Of those that you've seen, would you say that

18 Miss Dean was a good, dedicated public servant?

19 MR. O'NEILL: Objection, Your Honor.

20 THE COURT: I don't know the basis for that.

2 All right, I'll sustain the objection.

2 BY MR. WEHNER:

2 Q Do you have an opinion as to how Miss Dean did her

2 job?

2 MR. O'NEILL: Objection, Your Honor.

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1 THE COURT: I'll sustain the objection. It's
2 getting into character testimony.

3 BY MR. WEHNER:

4 Q Isn't it true, Mr. Rosenthal, that Miss Dean
5 treated you fairly?

6 A I believe so.

7 MR. WEHNER: Nothing further, Your Honor.

8 THE COURT: All right.

9 Any redirect?

10 MR. O'NEILL: Yes, Your Honor, briefly.

11 REDIRECT EXAMINATION

12 BY MR. O'NEILL:

13 Q Mr. Rosenthal, Mr. Wehner asked you about whether
14 the career people at HUD supported the Regent Street
15 project. Did the career people support the exception
16 rent increase for Necho Allen?

17 A There was a meeting at HUD that I remember at
18 Deborah's office with a number of career people from the
19 regional office. At that point -from
the central

20 office. At that point I think it was more a question of
2 the career people gaining information. There was no
2 decision made and no preference for the development or
2 against the development that was stated at that
2 meeting. Obviously the office of the region denied our
2 request for exception rents on the Necho Allen. I think

717

1 that was unfortunate. I think that has - you know, the
2 region responded as a matter of course. That was not an
3 unusual thing to have occurred in those days, where the
4 region would act negatively on an application.

5 Q Mr. Rosenthal, you mentioned the meeting at the
6 defendant Deborah Dean's office. Did that meeting occur
7 before or after you hired Andrew Sankin?

8 A After.

9 Q Now, Mr. Rosenthal, you talked about how
10 distressing it was sometimes working with the local area
11 office in Philadelphia over the last 20 some odd years.

12 As to the Mod Rehab program specifically, did the local
13 officials tell you what their role was in regards to
14 that?

15 A I'm not sure of your question.

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16 Q what was your understanding as to who controlled
17 the funding decisions for the Mod Rehab program?
18 A well, my understanding was that the decisions of
19 the Mod Rehab Program were controlled out of Washington.
20 Q Is that why you sought to go to Washington, D.C.
2 A Correct.
2 Q Now, Mr. wehner asked you about what Mr. Sankin
2 said in terms of his relationship to the defendant
2 Deborah Gore Dean. Do you recall those questions?
2 A Yes.

718

1 Q During cross-examination? what exactly did he say
2 his relationship with the defendant was?
3 A I think he said that he was a friend of hers. I
4 don't know if there was a relationship from college or
5 something like that but there was some sort of a prior
6 friendship that was the basis of a business relationship
7 or the basis of their relationship.
8 Q And that brings the further point which you just
9 said, did he mention whether it was a social
10 relationship, a business relationship, a personal
11 relationship? Did he mention what type of relationship?
12 A I don't recall that he mentioned what kind of
13 relationship. It was clear that he and Deborah were
14 certainly on a first name basis and there was some
15 relationship that existed, prior relationship that
16 existed between them.
17 MR. O'NEILL: No further questions. Thank
18 you.
19 THE COURT: Anything else?
20 MR. WEHNER: I have a couple of follow-up
2 questions.
2 RE-CROSS EXAMINATION
2 BY MR. WEHNER:
2 Q Regarding Necho Allen, Mr. Rosenthal, Mr. O'Neill
2 asked you a series of questions regarding whether or not

719

1 that had been supported by the region. And I believe
2 you testified that your recollection was that it had not
3 been supported by the region?
4 A I believe that was my recollection, yes.
5 Q I'm going to show you, in an effort to refresh your
6 recollection, a memorandum dated December 13, 1984 and
7 see if this refreshes your recollection as to whether or
8 not the region actually supported or did not support the
9 Necho Allen exception rents?
10 A well, this is from Mr. Finlayson, the regional
11 administrator, indicating that, and I'll quote, "the
12 project will" -
13 THE COURT: Don't do that. why don't you
14 read it to yourself and see if it indicates to you in
15 your mind a recollection as to the question you were
16 asked.
17 THE WITNESS: Yes, it definitely indicates that
18 there was support on the part of the region.
19 THE COURT: Is that what you recall after
20 reading that or not?
2 THE WITNESS: Yes.
2 THE COURT: All right.
2 THE WITNESS: I never saw this. This is an
2 internal memorandum.
2 BY MR. WEHNER:

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1 Q No, sir, I wasn't suggesting that you had seen it
2 previously. I just wanted to know if it refreshed your
3 recollection as to what the position of the region was?

4 A I don't know. My answer was that I thought the
5 region turned me down. That's why I appealed to
6 Mr. Staller and it appears that there was an internal
7 memorandum that was in the file from Mr. Finlayson
8 indicating that the region did support.

9 THE COURT: All right. I'll ask the jury to
10 disregard the comments of whatever this memo said. It's
11 not in evidence. But your recollection is you do not
12 know.
13 MR. WEHNER: Nothing further, Your Honor.
14 THE COURT: Any other questions?
15 MR. O'NEILL: No, Your Honor.
16 THE COURT: Thank you, Mr. Rosenthal.
17 You can step down, sir. I appreciate it.
18 MS. SWEENEY: The Government at this time
19 calls Janet Hale.

20 . THE COURT: All right.
2 (JANET HALE, WITNESS FOR GOVERNMENT, SWORN)
2 DIRECT EXAMINATION
2 BY MS. SWEENEY:
2 Q Miss Hale, I'm going to be asking you a series of
2 questions and I'd ask you to keep your voice up so that

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1 the ladies and gentlemen of the jury can hear everything
2 that you have to say.
3 Will you kindly state your name for the
4 record, spelling your last name for the Court reporter?
5 A Janet Hale, H-a-l-e.
6 Q Miss Hale, are you presently employed?
7 A Yes, I am.
8 Q And where are you employed?
9 A University of Pennsylvania.

10 Q What is it that you do at the University of
11 Pennsylvania?
12 A I'm the executive vice-president.

13 Q Have you in the past worked at HUD?
14 A Yes.
15 Q And when was that?
16 A 1981 to 1986.
17 Q During that course of time did you hold a number of
18 different positions at HUD?
19 A Yes, I did.
20 Q And what were they?
21 A My first job with the Department was the Executive
22 Secretariat. I was then Deputy Assistant Secretary for
23 Housing Policy and Budget, ultimately renamed to Deputy
24 Secretary for financial management. Then I was acting
25 Deputy Assistant Secretary and Acting Assistant

722

1 Secretary for Housing and was appointed to finally

2 General Deputy Assistant Secretary.

3 Q Miss Hale, could you describe briefly your

4 educational background?

5 A I have an undergraduate degree from Miami

6 University at Oxford, Ohio and a master's degree from

7 Harvard University.

8 Q I'm going to use Government's Exhibit One in

9 evidence. Miss Hale, can you see Government's Exhibit

10 one, the chart?

11 A Yes.

12 Q Now, the jury is familiar with the program commonly
13 called the Mod Rehab program and I'd like first to focus
14 on the period when you served as Deputy Assistant
15 Secretary, was that for Policy and Budget did you say?

16 A Yes, and up there on the chart it's Financial
17 Management Administration.

18 Q And which box is that?

19 A It's the one on the left, the third one up from the
20 bottom, the green shaded box.

21 Q And what was the time period, again, that you were
22 in that position?

23 A I think about 1983 through officially 19 -
24 probably '85. At some point I held dual appointments to
25 the DAS and then was acting as the General Deputy

723

1 Assistant Secretary.

2 Q While you were in ths position as Deputy assistant

3 Secretary or DAS, as you just referred to it, did you

4 have any duties and responsibilities with regard to the

5 Mod Rehab program?

6 A My principal responsibilities as Deputy Assistant

7 Secretary were policy and budget, so I would review what

8 is referred to as program offices, single family or

9 multi-family. So I would review the funding

10 requirements. Should we ask for Mod Rehab from

11 Congress, request appropriations. If we got the money,

12 then being sure that there were funds in place for it.

13 I would also do some program review through

14 regulations or other policies that the Assistant

15 Secretary would ask me, but I had no direct program

16 responsibility. It was much more as a staff policy

17 advisor.

18 Q Did you have any duties and responsibilities

19 pertaining to decisions as to where the funds would be

20 allocated?

2 A No, not for Mod Rehab.

2 Q There came a time when you were promoted, is that

2 right?

2 A Yes.

2 Q And which job were you elevated to?

724

1 A I -- when the Assistant Secretary for Housing and

2 the General Deputy Assistant Secretary for Housing were

3 vacant I moved up to act as General Deputy Assistant

4 Secretary and then also obviously would have been acting

5 as Assistant Secretary because the top two boxes were

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6 vacant, and as I indicated previously I was ultimately
7 appointed to the General Deputy Secretary, so I would
8 replace myself and not wear three hats.

9 Q So you were occupying two of the boxes at that point
10 in time, is that right, performing --

11 A At one point I was occupying three and then
12 officially got appointed to the number two and still was
13 acting as Assistant Secretary.

14 Q And how long were you in those positions?

15 A Six, seven months from May of '85 through probably
16 February of '86 when I unofficially left to go to another
17 department of Government.

18 Q May of 1985 through February of 1986?

19 A Right. I believe the personnel papers would show I
20 wasn't sworn in at the other department until later, but
2 I left and was acting in a position over there.

2 Q While you served as General Assistant Secretary and
2 Acting Assistant Secretary, in that position did you
2 have any duties and responsibilities with regard to the
2 Mod Rehab program?

725

1 A Yes, because that office oversaw not only the
2 policy and budget office but also multi-family and
3 single family, I was responsible for other office
4 program operations and was the person that was involved
5 in the funding allocation.

6 Q What was your particular role in regard to the
7 funding allocation?

8 A What I would do when I acted as the General Deputy
9 Assistant Secretary was that obviously developers,

10 individuals were interested in getting Mod Rehab units
11 at a specific location. I would receive telephone calls
12 from developers or from individuals and would make notes
13 of those that had called me and then I would ultimately
14 meet with Debbie Dean to go over the list and then get

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15 which programs, which cities would be funded.

16 Q Are you familiar with the term signature authority?

17 A Yes.

18 Q And what does that term mean in connection with the

19 Mod Rehab program?

20 A I think the signature authority that you're

2 probably referring to is there has to be a process to

2 get the money out of central headquarters into -

2 through the bureaucracy, which would be going through a

2 regional office to a field office to a Public Housing

2 Authority and it would be the signature authority of

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1 those that actually released the funds.

2 Q Did you ever have signature authority?

3 A Yes, I was the official that was releasing the

4 funds out to the field.

5 Q Were you also making the decisions as to where

6 those funds would go?

7 A No.

8 Q who was making those decisions?

9 A Debbie Dean.

10 Q Now, you've indicated that a number of developers
11 and consultants would contact you and that you would
12 keep track of this information. What would you then do
13 with that information?

14 A The times that I met with Debbie, and I believe it
15 was twice, but I'm not real sure, I would go over who
16 had called me and tell her, since it was the office of
17 housing and it was housing funds, who had called me.

18 Q You indicated that you believed it was two meetings
19 that you had with the defendant. Do you recall
20 approximately when they occurred?

2 A There was one the end of September, since the --

2 whatever fiscal year we would have been in, '85, '86
2 fiscal year, funds would have lapsed, have gone back to
2 the Treasury, and low income money would not have gone
2 out to support the program to house low income people.

727

1 So in order to be sure that we got the money out then I
2 met with Debbie to make decisions on the final dollars
3 that were remaining for the end of the fiscal year.

4 Q You referred to a second meeting. Do you recall
5 when that occurred?

6 A That fiscal year we were in what was called a
7 continuing resolution and that gave us additional
8 dollars that could be allocated to the field and again

9 be used for program purposes as intended by Congress.
10 So probably sometime in October and November there was a
11 second meeting to decide where other units would be
12 sent, other funding would be sent.

13 Q who was present at the September meeting?

14 A Deborah and myself.

15 Q who was present at the November meeting?

16 A Deborah and myself.

17 Q Could you describe for us what occurred at the
18 September meeting?

19 A I -- again, I went over the people that had called
20 me, who they were, and then Deborah ultimately told me
2 which units we would fund, which projects needed

2 funding.

2 Q And when she indicated which units you would fund
2 do you recall how she conveyed this information to you?
2 what particular information was conveyed?

728

1 A It was -in
some respects it was number of units
2 or dollar amounts, since that's really -- we didn't send
3 money out by the number of units. We would send it out
4 by the amount of money that would go to a specific
5 location. So it would be location specific, where was
6 the money going, and numerous times, to whom.

7 Q when you say to whom, what do you mean by that?

8 A well, they were often referred to by individual
9 developers' or consultants' projects.

10 Q what were the selection criteria that were used
11 during those meetings?

12 A There was no selection criteria for where the
13 funding would ultimately go.

14 Q well, then how were the decisions made, to your
15 knowledge?

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16 A They were political.

17 Q After the September meeting what did you do with
18 the information that was conveyed to you by the
19 defendant?

20 A When the decisions were made about where the
2 funding would go I would give the information to my
2 Executive Assistant, Tom Casey, who would then start the
2 processing of the forms and that was checking to be sure
2 there was a Public Housing Authority that had applied
2 for the units in the location that the decision had been

729

1 made to send them to, was it -- and then sort of

2 processing how much money and how we would send it out.

3 Q Were there any cases where there were no requests

4 from the Public Housing Authority for units that had

5 been decided to be awarded at the meeting by Miss Dean?

6 A Yes, there were times when we'd have to be sure

7 that there were applications on file before we would

8 send money out to the regional office.

9 Q What would you do in those circumstances?

10 A Tom Casey would work with Debbie or with the
11 developer to be sure that the application was in and on
12 file before the money would be released.

13 Q Could you briefly describe for the jury who Tom
14 Casey was and what role he played?

15 A Tom Casey was my Executive Assistant when I was
16 acting General Deputy Assistant Secretary for Housing,
17 and was a person that processed -- helped me with the
18 rest of the department, moved the money through the
19 system. He served in numerous other capacity, but
20 that's the one that's relevant here.

2 Q Miss Hale, are you familiar with the term project

2 specific as it relates to Mod Rehab?

2 A Yes.

2 Q Were the Mod Rehab decisions made at the September
2 meeting project specific decisions?

730

1 A The decision was to send them to individual

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2 locations. The requirements by statute and by reg was
3 that the local Public Housing Authority was the selector
4 of the actual project developer. So there were -- the
5 process officially would have not been project specific,
6 but the way it actually worked is that you would
7 quantify the number of units, the dollar value that
8 those would generate in low income housing assistance
9 and that quantity of money was sent out through the
10 regional office to the local Public Housing.
11 So it was project -- it was location specific,
12 and ultimately the dollars were calculated to assist the
13 developer in getting the project selected at the other
14 end.
15 Q You have said now that a number of developers and
16 consultants called you. Do you recall any specific
17 developers and consultants who contacted you?
18 A Yes, Senator Ed Brook and former Assistant
19 Secretary Larry Simon are two that I remember.
20 Q Do you recall anyone else specifically?
2 A Not by name. Those names have come up in the

2 course -- and so I've had an opportunity to sit down,
2 but I don't think I could go through a list of who had
2 called me.
2 Q What did you do as a result of those contacts?

731

1 A I would tell Tom Casey, my Special Assistant, since
2 he was a little more thorough than I would be, and I was
3 keeping a record for housing who had called us, and I
4 would tell Tom Casey who had called, where they were
5 requesting units or dollars be sent, and then when I met
6 with Debbie I took my list of those that had called me
7 that I had gotten from Tom and went over those with

8 Debbie.

9 Q Now, you've described for us the September
10 meeting. I'd like you to turn your attention to the
11 November meeting and describe that for the members of
12 the jury as well?

13 A It would have been the same process. Go through
14 sort of the dollars that were available and as I recall,
15 we did not spend all the money that was available. This
16 wasn't my favorite part of the job, i didn't like it,
17 and I also didn't believe that since there was going to
18 be a new Assistant Secretary coming that I thought it
19 would be appropriate not to spend all that money. So
20 it's my recollection that we didn't spend all of it. So
21 the decision was how much should we spend and, again,
22 Debbie locating the location that the dollars should be
23 sent.

24 Q You indicated that one of the individuals who
25 contacted you were Senator Brook. Were you acquainted

732

1 with Senator Brook?

2 A Yes, I was. I worked for him for two years.

3 Q Do you recall what you said to the defendant about
4 Senator Brook's contact with you?

5 A Those meetings are difficult for me to remember.
6 My assumption is that as I walked through the meeting
7 Debbie was familiar with the Senator and with the other
8 individuals. I'm sure I probably indicated something
9 like he was the housing Senator. He's the one that
10 wrote the statute. Something like that.

11 Q You were at HUD, Miss Hale, for several years in
12 various positions. How would you describe Secretary
13 Pierce, your supervisor's management style?

14 A It's probably easiest to quote his description, and
15 that was that he -

16 MR. WEHNER: Objection, Your Honor.

17 THE COURT: what is your own description?

18 THE WITNESS: Okay. He was a delegator of
19 authority, very remote, not a direct hands-on manager.

2 0 BY MS. SWEENEY:

2 Q What was the defendant's role at HUD while you were
2 General Deputy Assistant Secretary?

2 A She was the Executive Assistant to the Secretary.

2 Q And what authority did she exercise?

2 A A significant amount of authority. That is a

733

1 position in most department's that comes with authority,
2 often not explicitly delegated, but because of the
3 nature of the position it has the confidence of the
4 Secretary and she exercised a significant amount of
5 authority.

6 Q Miss Hale, I'm going to show you a document which
7 is marked Government Exhibit 124 for identification.

8 May I approach the witness, Your Honor?

9 THE COURT: All right.

10 BY MR. SWEENEY:

11 Q Do you recognize that document, Miss Hale?

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12 A Yes, it's a rapid reply for Mod Rehab units - Mod
13 Rehab funding.
14 Q And is that your signature on the document?
15 A Yes, it is.
16 MS. SWEENEY: Your Honor, we have a
17 stipulation as to authenticity of this document and I
18 would offer it into evidence at this point in time.
19 MR. WEHNER: May I see it quickly, Your
20 Honor?
2 THE COURT: Certainly.
2 MR. WEHNER: No objection, Your Honor.
2 THE COURT: All right, 124 will be admitted
2 and identified and was authenticated earlier.
2 (Government's Exhibit 124

734

1 received into Evidence)
2 BY MS. SWEENEY:
3 Q Miss Hale, I'm going to have this document put on
4 the -our
visual presenter. You'll be able to see the
5 document on the monitor, either the large monitor or the
6 one that's closest to you.
7 Now, you talked earlier about signature
8 authority. Is this one of the documents where you
9 exercised signature authority?
10 A Yes, that is a document, the purpose of that
11 document was to indicate to those that were preparing
12 the actual funding documents that it was appropriate to
13 go ahead and cut the 185 to move it out to the field.
14 Q Now, looking at this document, can you tell what
15 locality these Mod Rehab funds would have gone to?
16 A It says Philadelphia on the first line you could
17 see.
18 Q Can you tell how much of the Mod Rehab funds were
19 sent to Philadelphia? How many funds or how many units?
20 A All you can tell from that is the dollar amount
2 that was released through the - again, through the
2 official HUD bureaucracy to go to the, I think - does
2 it say on there?
2 Q The one Public Housing Authority? It may be easier
2 on this monitor.

735

1 A To the Philadelphia Housing Authority. So it was
2 the dollar figure.
3 Q And I'd ask you to take a look and see if units are
4 specified at all?
5 A Can you turn it?
6 Yes, there's a quantity of units up on the

7 righthand side that says 12 and then it has TDC's

8 initials next to it, which is Tom D. Casey's.

9 Q Do you recognize Mr. Casey's handwriting?

10 A It looks pretty much like his.

11 Q Do you know who the developer was behind this

12 particular Mod Rehab allocation?

13 A I do not.

14 Q Do you have any knowledge of a consultant being

15 associated with this particular allocation?

16 A No, I don't.

17 Q Do you know what project received this allocation?

18 A No, I don't.

19 Q While you were at HUD, did you ever meet an

20 individual named John Rosenthal?

2 A No, I did not.

2 Q While you were at HUD did you ever meet with a

2 consultant named Andrew Sankin?

2 A No.

2 Q I'm going to show you another exhibit, Government's

736

1 Exhibit 129 and ask you if you recognize this document?

2 A It looks like the next step in the funding form,

3 which was the request for the issuance of the 185, which

4 is the official release of the funds. The 185 is the

5 funding document.

6 Q Did you recognize the signature -7

A That's mine.

8 MS. SWEENEY: Your Honor, this is a document

9 that has already been stipulated to as to authenticity

10 and we move it into evidence at this time.

11 THE COURT: All right, we'll admit 129, is

12 it?

13 MR. WEHNER: No objection, Your Honor.

14 THE COURT: Very well.

15 (Government's Exhibit 129

16 received into Evidence)

17 BY MS. SWEENEY:

18 Q Miss Hale, before we look at Government's Exhibit

19 129 I'd like you to take one more look at Government's

20 Exhibit 124 and tell us if you see a date that would

2 reflect approximately when you might have signed that

2 document or when this action would have been taken?

2 A There's a -- Tom initialed on the bottom. Is that

2 a September date? It doesn't look like I dated it on

2 the righthand side, is there a date on very end? It

737

1 would be helpful to see it up close, if I could. That

2 could be nine September. It looks like a nine but I

3 can't tell what the rest of that is.

4 Q Does that refresh your recollection as to when this

5 document might have been signed?

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6 A If it is September it would have been in the first
7 meeting. Again, this would be where this comes from,
8 this is from the first funding Mod Rehab decision.
9 Q Now, looking at Government Exhibit 129, do you see
10 a date on that document that would indicate when that
11 document was prepared?
12 A A little more clearly on that one, it looks like
13 that's a Ross Kumagai signature of 11-6-85, and then
14 Casey initialing it down below.
15 Q And when would that document have been prepared,
16 approximately?
17 A Oh, there's a date, too next to mine, is that
18 11-8? So next to my signature on the righthand side is
19 11-8.
20 Q And when you put the date next to your signature,
2 what would that reflect?
2 A Sometimes I remembered to sign the dates and
2 sometimes I didn't. So it would be the date that I
2 signed it.
2 Q Does this document reflect the locality that was

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1 receiving the Mod Rehab funds associated with this
2 particular funding document?
3 A I haven't seen these forms in years. I'd to again
4 look at it up close -- yes, it does. It says
5 Philadelphia Housing Authority and location is
6 Philadelphia, Pennsylvania.

7 Q Does it reflect an amount of Mod Rehab funds that
8 are being allocated?
9 A Yes, it has the contract authority.
10 Q And what about units?
11 A It does have units on it.
12 Q And how many units does it reflect?
13 A Thirteen units.
14 Q Do you know who the developer was who was behind
15 this particular allocation?
16 A No, I don't.
17 Q Do you have any knowledge of what project received
18 this allocation?
19 A No, I don't.
20 Q Do you have any knowledge as to whether or not
2 there was a relationship between the allocation
2 represented by Government Exhibit 124 which you've just
2 looked at and Government exhibit 129, which is now on
2 the screen?
2 A No, I don't.

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1 MS. SWEENEY: We have no further questions at
2 this time, Your Honor.
3 THE COURT: A few minutes?
4 MR. WEHNER: It's going to be lengthy, Judge,
5 but I could start.
6 THE COURT: You think it's going to be
7 lengthy.
8 MR. WEHNER: Yes.

9 THE COURT: why don't you go on for a few
10 minutes and then we'll take a break for lunch.
11 MR. WEHNER: Yes.
12 CROSS-EXAMINATION
13 BY MR. WEHNER:
14 Q Miss Hale, my name is Steve Wehner and I represent
15 Miss Dean.
16 When you were in the position of General
17 Deputy Assistant Secretary for Housing, how would you
18 describe your responsibilities towards the Mod Rehab?
19 A I was responsible for the program. Again, with a
20 very -- with the Deputy Assistant Secretary that had day
2 in and day out responsibility, but I was responsible for
2 the program. The regulations as well as the funding
2 dollars associated with it.
2 Q Were you responsible for directing the local public
2 housing authorities as to how they should go about

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1 requesting funds for the Mod Rehab program?

2 A At one point during my tenure I did send out a memo
3 to the field requesting public housing authorities
4 submit their requests for housing units, housing
5 dollars.

6 Q And did you describe to them how that should be
7 done?

8 A Yes, I believe that indicated a date and the type
9 of information available.

10 Q And did you describe to them how those projects
11 would be selected?

12 A I don't think so. I haven't seen that memo in
13 years, but I don't think so.

14 Q Isn't it true that you told them that the projects
15 would be selected in Washington?

16 A Again, if you have the memo I'd be happy to look at
17 it, sir, to see what it actually said.

18 Q I'll show you what I've marked for identification
19 as Dean Exhibit 66 ask you if it reflects any
20 instructions to the field offices as to where decisions
2 would be made regarding the allocation of Mod Rehab

2 funds? And I need to restate my question. Does it
2 refresh your recollection as to whether you told the
2 field where those decisions were going to be made?

2 A Yes, it says decisions or allocations of units to

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1 PHA's will be made in headquarters.
2 THE COURT: Does that refresh your
3 recollection? Is that what you did, as opposed to what
4 the document says? Does it refresh your recollection
5 you sent out such a memo or a memo was sent at least
6 saying that that's how they would be selected?
7 THE WITNESS: Your Honor, it is my signature,
8 it is my document and it does refresh my recollection of
9 what it says.

10 THE COURT: All right.
11 BY MR. WEHNER:
12 Q So you informed the field offices that the
13 decisions were going to be made in Washington, is that
14 correct?
15 A Yes.
16 Q Did you also inform the field offices as to how the
17 local public housing authorities should be rated and
18 ranked?
19 A Would you repeat your question?
20 Q I refer you to page two of that memo and ask if
21 that refreshes your recollection as to whether you also
22 told the field offices as to what criteria they should
23 use to rate and rank public housing authorities?
24 A It says, "Please evaluate each PHA's request based
25 on the following information," so there is a series of

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1 four items that should be reviewed.
2 Q And, in fact, you told the public housing
3 authorities that there were four criteria that they
4 should use -- I'm sorry, you told the field offices that
5 there were four criteria they should use to rank and
6 rate the public housing authorities, did you not?
7 A Could I have that back, please?
8 Q Absolutely. There are four criteria that you told
9 them --
10 A There are four right here and it says, "Please
11 evaluate each PHA's request based on the following."
12 Q You have no reason to believe that they didn't
13 follow your instructions, do you?

14 A No.

15 Q You were responsible for the program.

16 A Yes, but I also know the process and what happened
17 in headquarters.

18 Q I realize that, and believe me, we will get to that
19 shortly. Right now I'm asking you about what

20 instructions you sent to the field offices visavis
2 ranking and rating the public housing authorities and I

2 believe you've testified that you sent them those
2 instructions, is that correct?

2 A That's correct.

2 Q And secondly, you informed them that the decisions

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1 as to where the units would be sent would be made in
2 Washington, did you not?

3 A Yes.

4 Q And you were the person that was responsible for
5 the program?

6 A I had the signature authority for this program,
7 that's correct.

8 Q Well, let's delineate for the jury in your judgment
9 what is the difference between signature authority and

10 responsibility, because you've used both those words to
11 describe your role. Were you responsible for the
12 program?

13 A I was responsible for Mod Rehab by having the
14 funding authority go out over my signature. I was
15 responsible for program things like housing quality
16 standards, what were the sort of normal operations, what
17 was our follow-up going to be.

18 Q You were responsible, were you not, for the
19 regulations regarding the Mod Rehab program?

20 A I delegated authority and came to the Assistant
2 Secretary for Housing. Was I the ultimate decision
2 maker of where those units were sent? No.

2 Q That wasn't the question.

2 Would you read back the question, please?

2 (Question read back by the Reporter)

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1 A By delegation of authority, the Assistant Secretary
2 for Housing has responsibility.

3 Q And that was your position?

4 A That's correct. Acting Assistant Secretary.

5 Q You were responsible for the Mod Rehab regulations,
6 were you not?

7 A Yes.

8 THE COURT: All right. We'll take a break. It's
9 12:15.

10 MR. WEHNER: Thank you, Your Honor.

11 THE COURT: Ladies and gentlemen, we'll take
12 our luncheon recess until 1:30. Remember the
13 admonitions of the Court. Don't talk about this case
14 among yourselves or with anyone else. Don't let anybody
15 speak to you about it in your presence whatsoever. Have

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16 a pleasant lunch. Be back at 1:30, please?
17 (Lunch recess, 12:15 to 1:30 p.m.)
18 AFTERNOON SESSION, 1:45 P.M.
19 THE COURT: Bring the jury in, sir, please?
20 (Jury present)
2 THE COURT: All right, ladies and gentlemen,
2 we're ready to resume the afternoon session. Miss Hale
2 has been on the stand and we'll continue with
2 cross-examination at this time.
2 MR. WEHNER: Thank you, Your Honor.

1 Good afternoon.

2 THE JURORS: Good afternoon.

3 BY MR. WEHNER:

4 Q Miss Hale, I believe when we finished I had asked

5 you about your responsibility for the Moderate

6 Rehabilitation rules and regulations. If you recall,

7 you were the Acting General Deputy Assistant Secretary

8 for Housing at that point in time. When you held that

9 position you did not have day to day responsibility for
10 operating the program, did you?

11 A That's correct.

12 Q Okay. What individual did have day to day

13 responsibility?

14 A Silvio DeBartolomeis was the Deputy Assistant
15 Secretary. Then there were a series of managers in the
16 headquarters office as well.

17 Q Just dealing with Mr. DeBartolomeis, what were his
18 duties during your tenure as Acting General Deputy?

19 A As Deputy Assistant Secretary for Multi-family
20 Housing he had a myriad of responsibilities. He was
2 responsible for the vouchers existing in Section Eight

2 Multi-family Operations as well as regulatory, as well
2 as looking at individual projects and their review.

2 Q Now, as Acting General Deputy, did you look to him
2 for input on Mod Rehab issues?

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1 A I looked to both Silvio and the program people that
2 were there.

3 Q Did the program people work for Mr. DeBartolomeis?

4 A Yes.

5 Q So they would report to him, ideally, and he would
6 report to you?

7 A Yes, but it was also not unusual for me to meet

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8 with Silvio or with those people as well.
9 Q So you would meet with Silvio, whose last name is
10 DeBartolomeis?
11 A Right.
12 Q How do you pronounce that?
13 A How do I pronounce it?
14 Q Yes.
15 A DeBartolomeis.
16 Q I'm going to have trouble with that.
17 A I think he does sometimes too.
18 Q You would consult with him and other -- as well as
19 other people under him, is that correct?
20 A That's right.
2 Q So while you had responsibility for the rules and
2 regulations you were not in charge of the day to day
2 implementation or the day to day task of seeing that
2 they were followed? Is that fair?
2 A That's correct.

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1 Q Now, you sent a memo out to the field offices in
2 which you described, I will summarize this, and if I
3 don't do it fairly, please correct me, that the funding
4 decisions for Mod Rehab were going to be made in
5 Washington and, secondly, among other things, but for my
6 purposes now the second thing I want to remind you about
7 was that the PHA's had to be rated and ranked in the
8 field. Do you recall that?
9 A Yes, although I don't think the words rated and
10 ranked were actually used in that memo.
11 Q Rated?
12 A If I can find it. It's the bottom of the first
13 page. It says something about review, I think.
14 Q To evaluate?
15 A Right.
16 Q Did there come a time when this memo that you sent
17 out to the field was reviewed within the Office of
18 General Counsel?
19 A I don't think I know the answer to that question.
20 That would -- that memo was developed by Tom Casey and
2 so he may well have reviewed it, but without ever seeing
2 a particular document I'm not sure I would remember the
2 answer.
2 Q I'll show you what I've marked for identification
2 as Dean Exhibit 67.

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1 THE DEPUTY CLERK: Dean Exhibit 67 marked for
2 identification.
3 (Defendant's Exhibit 67 marked
4 for Identification)
5 BY MR. WEHNER:

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6 Q It's a memorandum dated October 18, 1985, and I'm

7 also going to show you the memorandum that I've

8 previously showed you just so we can put this in

9 context, and I ask you if that refreshes your
10 recollection as to whether the Office of General Counsel
11 ever reviewed your memorandum that you sent to the
12 field?

13 A It is not addressed to me. It is from Bob Kenison,
14 one of the General Counsel Senior Staff Attorneys, and
15 it is sent to one of the program officials, but it does
16 indicate that it reviewed the memo to the field.

17 Q Now, in the General Counsel's review of the memo to
18 the field, do you recall that they approved of the memo?

19 A He concurs in the memo. Yes, he concurs.

20 Q Do you recall that he concurred in the memo?

2 A Again, reading the memo I don't remember having any

2 conversation with Mr. Kenison about this memo.

2 Q The question is I've shown you the memo, do you
2 have a memory now that I've shown you the memo of the
2 General Counsel's office concurring in the regulations

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1 you sent to the field?

2 A The memo indicates he concurred in the memo that I
3 sent to the field.

4 THE COURT: That's not the answer that he
5 asked for. Do you recall that, not what the memo says,
6 but from your own recollection now that you have seen
7 the memo that at that time you learned that they had
8 been cleared?

9 THE WITNESS: I have no recollection of it.

10 BY MR. WEHNER:

11 Q Would it be your practice to have regulations that
12 you issued signed off on in the General Counsel's
13 Office?

14 A Again, that's not a regulation. That's a notice to
15 the field, but, yes, it would have been.

16 Q And would it have been -- did you ever issue a memo
17 to the field of that nature that you didn't have the
18 Office of General Counsel sign off on?

19 A There were a lot of memos to the field. It would
20 have been standard operating procedure to have the
2 General Counsel review.

2 Q Based upon your standard operating procedure at the
2 time do you believe that you had the Office of General
2 Counsel sign off or approve or concur in the memorandum
2 you sent to the field setting out these items dealing

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1 with the Mod Rehab program?

2 A Yes.

3 Q Was Silvio DeBartolomeis in charge of seeing that

4 those rulings were followed?

5 A The rulings or at the most instructions, is that

6 what you're asking?

7 Q Yes.

8 A Yes.

9 Q And you were responsible for supervising him.

10 A It probably would have been all of us. The Acting
11 Assistant Secretary, that memo was prepared by the
12 Executive Assistant, he would have had sort of
13 involvement in it as well as Silvio and the multi-family
14 housing people and the other people that were involved
15 in Mod Rehab funding selections.

16 Q Would you name specifically the individuals that
17 would have been responsible for enforcing those rules as
18 set out in that memo? Not their titles, but their
19 names. So far we've established you and Mr.
20 DeBartolomeis.

2 A Tom Casey. Other folks that would have been

2 involved would have been Maddie Hastings, Louise
2 Kleffner. If it had been followed in the field and they
2 went to the area office managers, the area office
2 manager, of which there were numerous ones, could well

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1 have gone through -regional
administrators.

2 Q You said Tom Casey. You mentioned his name.

3 A Yes.

4 Q Was he your Executive Assistant?

5 A Yes, he was.

6 Q And you say he was responsible for writing the
7 memo?

8 A He assisted in the preparation of the memo.

9 Q And you assisted in the preparation of the memo?

10 A Yes.

11 Q You were advised by the General Counsel's Office,
12 were you not, that it was entirely acceptable for Mod
13 Rehab selection to be done at HUD headquarters? Were
14 you not?

15 A That memo concurs in the issuance of the memo, yes.

16 Q The answer to my question is yes.

17 A Yes, I was never personally advised, but I think

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18 the answer is yes.

19 Q Well , you were responsible for the program?

20 A When you're the Assistant Secretary or Acting
2 Assistant Secretary you're responsible for a whole
2 myriad of housing programs, and a lot of things occur.

2 Q I 'm sure that's true, but you were under the - you

2 operated under the understanding that it was acceptable

2 and legal to make the decisions regarding Mod Rehab

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1 allocations in Washington, D.C., weren't you?

2 A Yes.

3 Q And that had been signed off on by the General

4 Counsel at HUD, hadn't it?

5 A Yes.

6 Q And your memo to the field established that, to the

7 field offices, didn't it?

8 A Yes.

9 Q Now, do you also recall the Office of General

10 Counsel recommending to you or someone in your shop that

11 a record of the deliberative processes by which PHA's

12 are ranked be made?

13 A That is the second paragraph of the memo from

14 Bob Kenison to Louise Kleffner.

15 Q Did you keep a record of those deliberative

16 processes?

17 A No, we did not.

18 Q Whose responsibility was it to keep that record?

19 A Probably the individuals involved in the selection

20 process.

2 Q Miss Hale, we need names. Now, I don't -- you need

2 to be specific in responding to my questions. Would you

2 please give me the name of the individual or names of

2 the individuals who would have been responsible for

2 keeping a good record?

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1 A Since the decisions for Mod Rehab were made by

2 Deborah Dean I would say Deborah Dean, myself, either

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3 Tom Casey, Silvio DeBartolomeis, any of the individuals
4 that were ultimately involved in the decision process,
5 and it would have been from the career staff, who did
6 not participate in that process, up through the decision
7 makers.
8 MR. WEHNER: would you read back that answer,
9 please?

10 (Answer read back by the Reporter)
11 BY MR. WEHNER:
12 Q Were all of those individuals that you named,
13 including Miss Dean, involved in the process for
14 determining where the Mod Rehab units went?
15 Yes or no, please, and you can explain.
16 A Yes.
17 Q So there was involvement among all those people one
18 way or another?
19 A Correct.
20 Q So when you said on the record that Miss Dean made
2 the decisions, you don't mean that in the way that she's
2 the only person that had anything to do with the
2 selection, do you?
2 Do you?
2 A Yes, I do.

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1 Q She is the only one that had anything to do with
2 any of the selections.
3 A You may want to define what that means, but -4
Q I want you to define what that means.
5 A I'd be happy to.
6 Q Please.
7 A There were people that would review to be sure that
8 they had applications in hand from those PHA's that had
9 been chosen to receive units. And that is what either
10 Tom Casey or the career people did, but the ultimate
11 decision of where the funding went was Debbie's.
12 Q well, what about Mr. DeBartolomeis? what was his
13 role?
14 A During my tenure he was not an active participant
15 in the decisions of where the funding would be
16 allocated.
17 Q Didn't he receive telephone calls from various
18 developers and various consultants that he would pass on
19 to you?
20 A During my tenure, I don't think so. I don't recall
2 anybody ever calling him.
2 Q So you received all the telephone calls from
2 developers and consultants?
2 A I received the phone calls that I received, that's
2 correct. who else received it in the Department was an

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1 issue you'll have to ask them.
2 Q Didn't you receive information from your
3 subordinates about the specific Mod Rehab units that
Page 415

4 were up to be funded?

5 A I would receive information that there were

6 legitimate PHA applications and that there was funding

7 available to be sent. That they would review the PHA's,

8 I'm sure, to be sure that they had -- they had the

9 competency to administer the program. But not on which
10 cities that the funding would go to.

11 Q So, is it your testimony then that you would take a
12 list of or -- of qualified Mod Rehab projects to these
13 meetings with Miss Dean?

14 A No.

15 Q If there were requests on file from the PHA, and if
16 your staff had reviewed the applications --

17 A That was not the process used.

18 Q Okay. Pardon me. Because I thought you just •
19 testified that that's what had happened, that that was
20 the information you received?

2 A When the funding decision was made of which cities

2 to send the units to, then they would go through the
2 process to be sure we had a legitimate application, and
2 there was a PHA that could administer the program.

2 Q On each and every occasion?

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1 A To the best of my recollection, that's what
2 happened.

3 Q So on each -4

A I don't remember taking in a list of all the
5 applications that were received in the second round.

6 Q Did you receive any information from your
7 subordinates regarding their recommendation as to what
8 PHA's should receive Mod Rehab units?

9 A No.

10 Q Did you make any recommendations to Miss Dean
11 regarding to which PHA's Mod Rehab units should be sent?

12 A Not which PHA's. The conversation with Debbie was
13 that I would tell her who had called me.

14 Q Did you make any recommendation -- did you ever
15 recommend that X-number of units go to a certain city?

16 A No, I think what we would talk about is sort of who
17 had called me and, you know, there might have been
18 general conversation about geographic distribution or
19 individuals that hd called, but not a formal
20 recommendation.

2 Q What's -- did you make any informal recommendations
2 to Miss Dean as to where the units should go? If you
2 didn't make any formals, did you make any informals?

2 A The conversation was years ago, it was a friendly
2 conversation, we sat either in her office or my office

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1 and, again, I went through a list of the people that
2 called me.
3 Q Do you recall anything more specifically about
4 those conversations?
5 A Sir, it was seven years ago.
6 Q I recognize that, but we're dealing with events of
7 seven years ago.
8 A That's correct.
9 Q That are of critical importance to Deborah Dean.
10 Now, do you remember anything else specifically about
11 those meetings?
12 A No, I - I had -
13 Q The answer is no, is it not? Is that your answer?
14 A Yes.
15 MR. WEHNER: Your Honor, I have a poster that
16 I've previously shown to the Office of Independent
17 Counsel that I'd like to exhibit to the witness.
18 MR. O'NEILL: If he'd like to put it into
19 evidence we have no objection, but otherwise it's got -2
0 it can't be up there.
2 THE COURT: Let her see it first.
2 MR. WEHNER: Your Honor, she's not -- she has
2 seen it previously, that's correct, the -- what this is
2 is a list of funding decisions that were made during her
2 tenure. I can have her identify those and refresh her

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1 recollection as to each one and write it on a chart,
2 which would take considerable time, or we can simply use
3 the prepared one. It doesn't matter. This is not -- it
4 will come out exactly the same way.
5 THE COURT: I'll let him go ahead and use it
6 at this time.
7 MR. WEHNER: Thank you, Your Honor.
8 THE COURT: It's for identification only, it's
9 not in evidence, but go ahead.
10 MR. WEHNER: Yes, sir.
11 THE COURT: what's the number on it?
12 MR. WEHNER: Sixty-three.
13 THE COURT: All right.
14 BY MR. WEHNER:
15 Q Miss Hale, I'm going to show you what I've marked

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16 for identification as Dean Exhibits 68 and 69 and just
17 ask you to look at these. I don't want you to identify
18 them. I don't want you to read from them. I just want
19 you to look at them for a second.
20 THE DEPUTY CLERK: Dean Exhibits 68 and 69
2 marked for identification.

2 (Defendant's Exhibits 68 and
2 69 marked for Identification)
2 BY MR. WEHNER:
2 Q Have you had a chance to review those?

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1 A Yes, I have. Can I see it once more?

2 Q I'm sorry. Have you had a chance to review them?

3 A Yes.

4 Q Now, do you recall generally the allocation of Mod

5 Rehab units to Puerto Rico?

6 A No, I really didn't spend a lot of time on any of

7 this -- explicitly. I know units went down there,

8 but -

9 Q Do you recall the recapture of units from Puerto

10 Rico?

11 A I know that there was recapture and then reuse.

12 Q Why don't you tell us what you know about the
13 recapture and reuse, reissue of units for Puerto Rico?

14 A If this is the case that I have had others ask me
15 about, it is a memo that I received, I believe, from the
16 Regional Administrator that asked me for reuse of Puerto
17 Rican units and since I did not normally spend a lot of
18 time on this I asked Tom Casey to check with Debbie
19 about their recapture and reuse.

20 Q And what happened?

2 A Again, my assumption is, although I haven't seen

2 the documents in a long time, is that they were
2 reallocated.

2 Q Do you recall who any of the developers percent or
2 any of the consultants were on that particular project?

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1 A My assumption is that one of them was Joe Strauss.

2 Q On what do you base that assumption?

3 A From information probably at the time, and

4 recollection since that time. Hallway conversation in

5 the department. Hallway conversation at that time in

6 the department.

7 Q I thought you met with Miss Dean in your office.

8 A I don't remember talking to Debbie about that

9 directly.

10 Q So from where in the hallway did you hear about

11 Joe Strauss being involved in this project?

12 A There was numerous conversations about Joe, since

13 he had served in the department previously.

14 Q But I thought all your input came from Miss Dean?

15 A Oh, there was a lot of conversation about some --

16 Q Exactly. They were discussed all over the

17 department, weren't they, Miss Hale?

18 A I think individual selections and individual

19 projects probably were.

20 Q Absolutely. They were.

2 A Or one with reallocation like that.

2 Q And you, as the responsible official, heard these
2 being discussed, didn't you? It was of interest to you,
2 wasn't it?

2 A Anything that had my name on it would be my

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1 interest, yes. On the other hand, hallway gossip's hard

2 to avoid when it is not directly related to the events

3 at the time.

4 Q But it was related to the events at the time, was

5 it not? Wasn't it important to you since you had to

6 sign on these allocations, that you have information

7 about where they're going?

8 A Let me rephrase it, if I can. I think the gossip

9 came afterwards. I asked Tom explicitly to go up and
10 check with Debbie. The gossip heard afterwards was sort
11 of the surrounding events and how angry people were at
12 the time. Tom did go check with Debbie about whether or

13 not their units should be reallocated.

14 Q But, in fact, units were reallocated, is that

15 correct?

16 A That's correct.

17 Q Do you know why they were reallocated?

18 A No, I don't.

19 Q You have no information about it whatsoever?

20 A Again, in this process when there were individual
21 funding selections I would have my staff or myself,
22 depending on what the case was, check with Debbie.

23 Q Who on your staff would you have, quote, check with
24 Debbie, unquote?

25 A Usually it was Tom Casey.

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1 Q And who else?

2 A I don't think I turned very often to Silvio to do

3 that. It could have been either Silvio or his special

4 assistants. Political appointees in the department.

5 Q And who were they? We need names, please.

6 A Let me see if I can remember.

7 Q The ones you can remember.

8 A Nancy Murray at the time. Again, I would have to

9 see a list of the folks that worked for Silvio at the

10 time.

11 Q Do you have any other recollection of any other
12 names that you would have checked with Miss Dean?

13 A No, primarily Tom.

14 Q Primarily Tom Casey?

15 A That's correct.

16 Q why not Silvio, Mr. DeBartolomeis? He was in
17 charge of the program day to day.

18 A I think Tom would probably check both downstairs
19 and upstairs. The primary decision maker was Debbie, so
20 that's where it would be checked with. Tom would check
2 downstairs with Silvio and the career people about what

2 the technicalities were, but the final decision maker
2 was Debbie.

2 Q I'm getting confused. Tom would check downstairs
2 and upstairs?

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1 A Yes.

2 Q who would he check downstairs with?

3 A Probably to the career people about aspects -
4 about what issue was current at the time.

5 Q what issue was important when it came to Mod Rehab
6 funding, what was it important for you to know or Tom to
7 know?

8 A Are we talking about Puerto Rico, or would you like
9 to take up a generalities?

10 Q whichever you prefer is fine. what was important
11 for Puerto Rico?

12 A I had been checked to about the decision to
13 reallocate. since it was a political decision I checked
14 with the decision maker as to where it would go. But I
15 assume it was a normal process, it would go through any
16 other extraneous technical and legal events that had
17 occurred.

18 Q Exactly. Your subordinates would check it out,
19 wouldn't they?

20 A Sure.

2 Q And who would they report back to?

2 A They would report back to the person handling the
2 case for me, if they were technical, and what Debbie's
2 opinion was.

2 Q Now, we recognize that you want to say Miss Dean's

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1 name as often as you can during your testimony, but for
2 a second -3

MS. SWEENEY: Objection, Your Honor.

4 THE COURT: Overruled. This is
5 cross-examination.

6 BY MR. WEHNER:

7 Q For a second I'd like to go to the technical side
8 because you repeatedly said Deborah, Deborah, Miss Dean,
9 Debbie, Miss Dean, Debbie. But there was a technical
10 side to those programs, weren't there?

11 A Correct.

12 Q And your people had to evaluate these programs on
13 the technical side, did they not?

14 A If it was a technical issue, yes.

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15 Q So if there were technical issues, they reviewed
16 the technical issues?
17 A That's correct.
18 Q Okay. Didn't they also have to review at least at
19 some point to see whether there was a FHA application on
20 file?
2 A Yes, I guess they would have, even for the
2 reallocation.
2 Q Sure. They would have had to look at that.
2 A Yes.
2 Q And presumably all of those matters, all those

765

1 technical issues and whether the PHA letter was in order

2 would have been brought to your attention at some point,

3 would they not?

4 A I think you'd be surprised at the lack of paper

5 that followed these political decisions.

6 Q There's no question it was political. Nobody is

7 disputing that. The question is if your people checked

8 on the technical matters where did that information go?

9 Did they check and do nothing with it?

10 A Before I signed a funding document I would have
11 been reassured that there was an application in the

12 file.

13 Q And would you be reassured that the technical items
14 were in order?

15 A That there was an application in the file, that
16 there was the funding available, yes.

17 Q And was that the only technical item you would

18 refer to? You said the General Counsel's Office would
19 review this?

20 A Not funding decisions, to my knowledge.

2 Q What about recaptures?

2 A I don't think they looked at recaptures. I'm not
2 sure. I would think they did. The General Counsel
2 would have looked at the general policy for recapture
2 and reviews when we were going through massive

766

1 recaptures for units, but I don't think they would have

2 looked at individual ones.

3 Q Do you know of an individual or have you heard of

4 an individual by the name of Paula Hawkins?

5 A Yes, I have.

6 Q And what do you know about Paula Hawkins?

7 A She was an United States Senator from Florida.

8 Q And she's a Republican or a Democrat?

9 A She's a Republican.

10 Q And her efforts in the Republican party was to see
11 that she got reelected?

12 A Yes.

13 Q And HUD played a role in her getting reelected?

14 A Yes.

15 Q What was that role?

16 A The 202 funding for her, and elderly and
17 handicapped project.

18 Q That was because the Republican party at HUD wanted
19 to get Paula Hawkins reelected?

20 A That's correct.

2 Q There were also Mod Rehab decisions that were made
2 that affected her reelection, were there not?

2 A Yes, I assume so.

2 Q 266 units were sent down to her district to help
2 her get reelected, were they not?

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1 A If that's up there on the board.

2 Q Don't rely on my board. Let me show you what I'll
3 mark as Dean Exhibit 70?

4 THE DEPUTY CLERK: Dean Exhibit 70 marked for
5 identification.

6 (Defendant's Exhibit 70 marked
7 for Identification)

8 BY MR. WEHNER:

9 Q It's a little hard to see, but I think you'll be
10 able to make it out if you try. And I'll show you
11 what's been marked as Dean Exhibit 71.

12 THE DEPUTY CLERK: Dean Exhibit 71 marked for
13 identification.

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14 (Defendant's Exhibit 71 marked
15 for Identification)
16 BY MR. WEHNER:
17 Q Have you had a chance to review these?
18 A Yes, I have.
19 Q Now, it's true, is it not, that HUD made the
20 decision to assist Paula Hawkins in her reelection
21 campaign by sending 266 units of Mod Rehab to her
22 district, isn't that correct? I should say to her
23 State.
24 A I never heard the conversation directly saying it
25 was helping Paula Hawkins, but that note from Debbie

768

1 says that she indicated she had talked to Senator
2 Hawkins.

3 Q Isn't it true that they were sent to Florida to
4 assist Senator Hawkins in her reelection campaign?

5 A I never had any conversation about reelecting
6 Paula Hawkins on any other project other than the 202's.

7 Q So you recall specific recollection on 202's?

8 A I had a 202 conversation that -- on Senator

9 Hawkins, that's correct.

10 Q With whom?

11 A With, I believe, Deborah.

12 Q But you don't recall any specific Mod Rehab funding
13 discussion?

14 A No, because the 202 decision was out of cycle and
15 something I didn't want to do.

16 Q Something you didn't want to do. I just gather
17 from your testimony on direct that you felt like you had
18 been forced into a very bad position with regard to the
19 Mod Rehab program. There was a lot you didn't want to
20 do?

2 A It would not have been what I would have chosen to
2 do, that's correct, and not how I handled the rest of my
2 Government career.

2 Q You met with the Secretary every Tuesday, did you
2 not?

769

1 A There were staff meetings scheduled every Tuesday.

2 Q Were you in the same room with the Secretary every

3 Tuesday?

4 A No, because they were often canceled, but when

5 there were staff meetings, I was there.

6 Q And was he in the room?

7 A During his staff meetings, yes.

8 Q And were you in the room?

9 A Yes.

10 Q So you were looking at each other?

11 A Yes.

12 Q Did you have any conversation with him about your
13 concerns about the Mod Rehab program?

14 A Not in that meeting.

15 Q At any of those meetings you attended on those
16 Tuesdays?

17 A Not any of those Tuesday meetings.

18 Q Did you ever express your concern to him about how
19 the Mod Rehab program was being run on any other
20 occasion?

2 A Yes.

2 Q And what did you say to him and what did he say to
2 you?

2 A I explicitly objected to the funding of one Mod
2 Rehab unit that was up there on your chart.

1 Q which one is that?

2 A Durham Hosiery.

3 Q And he told you to fund it, didn't he?

4 A He did not. He told me he would meet with me when
5 he got back into town, and I never met with him.

6 Q Did he tell Shirley Wiseman to fund it?

7 A That was her testimony, yes.

8 Q Did you ever have the opportunity to meet with him
9 to discuss it?

10 A Not with -- no, when I requested to meet with him.
11 Debbie showed up at the meeting and told me that I
12 should fund the project.

13 Q And do you really believe that she was doing this
14 on her own? Is that truly your testimony, that she was
15 ultimately responsible for all this?

16 A Debbie assumed a tremendous amount of
17 responsibility --

18 Q Do you really believe that she was solely
19 responsible for the Mod Rehab funding decisions that

20 were made when you were in that position?
2 A I think she assumed a tremendous amount of
2 responsibility. I can answer the question more
2 explicitly on 202. Mod Rehab I'm not sure.
2 Q I'm talking about Mod Rehab. Don't you believe
2 that Secretary Samuel Pierce knew everything she was

771

1 doing when she was doing it?

2 A No, I don't believe that.

3 Q You don't believe that. Give me one example when

4 you believe that Deborah Dean funded one project that

5 Secretary Pierce did not know was being funded?

6 A I have no direct knowledge of the Secretary knowing

7 of any of those projects. I can give you an example of

8 when the secretary did call to talk to me about a

9 project and said, please add this to this project, and I

10 said I will add it to the rest of the list that Debbie

11 has brought down to you and he said I have no other

12 list.

13 Q What project was that?

14 A It was 202 for Western Massachusetts.

15 Q Did you ever tell the Secretary or ask the
16 Secretary if he authorized Miss Dean to fund these
17 projects?

18 A No, I did not.

19 Q Let's talk about Durham Hosiery Mills for a few
20 minutes. That's one of the projects up here. I believe
21 your testimony was that Miss Dean ordered you to sign
22 off on the funding of that document, is that correct?

23 A Yes, it is.

24 Q Do you recall the specific circumstances under
25 which she ordered you to sign off on the document?

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1 A Yes, I do.

2 Q Would you please describe that?

3 A It was over a series - I had become the Acting

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4 General Assistant Secretary and was requested to set -
5 I was requested to sign waivers, the rapid reply was -6
had Samuel Pierce's signature on it. The Durham Hosiery
7 project was a housing project. It had Mod Rehab. It
8 had FHA insurance and it had ultimately had a UDAG
9 funding from another Assistant Secretary. So the entire
10 project was handled by the tenth floor, the Secretary's
11 office, Debbie.
12 Q Do you recall that Durham Hosiery was to have been
13 funded with Mod Rehab units that were ultimately pulled
14 back from that project?
15 A I actually think maybe it was funded with new
16 construction and then pulled back.
17 Q Do you recall the event that required it to be
18 pulled back?
19 A The story goes, although I wasn't involved
20 personally in housing funding decisions at the time,
2 that Ronald Reagan was flying up to New Jersey to
2 campaign for Millicent Fenwick, and a phone call came to
2 say that they would like to be able to announce this
2 project in New Jersey, and then those that were in
2 authority at the time had to find units and they pulled

1 it back from Durham.

2 Q And that's what happened because the President of
3 the United States ordered that something be funded,
4 isn't that correct?

5 A I never heard it was directly Ronald Reagan.

6 Q Who was President at the time.

7 A Ronald Reagan.

8 Q Thank you.

9 A A lot of people do things in President's,
10 Secretary's, and other people's names.

11 Q Do you know George Hipps?

12 A Yes, I do.

13 Q Would it surprise you to know that George Hipps
14 told Secretary Pierce that Ronald Reagan had ordered
15 that funding?

16 MS. SWEENEY: Objection, Your Honor.

17 THE COURT: All right, I'll sustain the
18 objection.

19 BY MR. WEHNER:

20 Q Were you aware that George Hipps wrote a memo to
2 Sam Pierce saying Ronald Reagan ordered this funding?

2 A I was not aware of that.

2 Q Were you aware as to the discretion that was
2 possessed by the secretary of HUD with regard to the
2 award of these units? Do you have a general

774

1 understanding of what discretion he had?

2 A If -- I think you're referring to the fact that the

3 statutory requirements to Fair Share/Mod Rehab was

4 waived by an appropriation, so that rather than having

5 15 percent left in headquarters for what was called

6 Secretary's discretion we were allowed to keep all of

7 them back in headquarters and not do a Fair Share

8 requirement.

9 Q So your understanding is that they were all kept in
10 headquarters and were all distributed at the discretion
11 of the Secretary, is that right?

12 A Yes.

13 Q And that the Secretary of BUD could have sent them
14 any place he wanted to send them? To use my example, he
15 could have sent them all to Kenwood, West Virginia?

16 A Yes, when the statutory requirement for Fair Share
17 was waived by the appropriations bill, that's correct.

18 Q And you would agree that the Secretary of HUD
19 worked for the President of the United States?

20 A Always has, always will.

2 Q Are you familiar with an individual by the name of

2 Philip Abrams?

2 A Yes, I am.

2 Q When did you first meet Mr. Abrams?

2 A When I -- when he and I both arrived at HUD about

775

1 the same time, 1981.

2 Q And have you kept in touch with Mr. Abrams ever

3 since?

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4 A I have until the last couple of years and I haven't

5 talked to him for the last couple.

6 Q Do you consider yourself a good friend of

7 Mr. Abrams?

8 A Yes.

9 Q Did you become aware when you were Acting General
10 Deputy that a funding of Mod Rehab units had been made
11 to a partner of Mr. Abrams? Do you remember that
12 incident?

13 A Yes, I -- yes.

14 Q And wasn't that allocation that was made to
15 Mr. Abrams pulled back at some point?

16 A I don't know. I don't remember if it happened
17 during my tenure.

18 Q I believe you testified on direct that you had a
19 professional relationship with Senator Brook from
20 Massachusetts?

2 A Yes, I have.

2 Q When did you work for him, please?

2 A 1977 and 1978.

2 Q And what was your position with Senator Brook?

2 A I worked on his campaign for reelection to the

776

1 United States Senate.

2 Q What was your role?

3 A I had numerous duties at that time. Sometimes I
4 was his scheduler, sometimes I was his fund raiser. And
5 in the end of the campaign I traveled with him. I was
6 considered a staff person to take notes and handle
7 follow-up.

8 Q Do you consider him a close friend?

9 A Yes, sir, I do.

10 Q Are you familiar with Hod Rehab allocations that
11 were made during your tenure to Massachusetts?

12 A Yes, I am.

13 Q And did Senator Brook call you and lobby you and
14 ask that you give those considerations?

15 A Senator Brook and Rene Finlayson, that's correct.

16 Q And they talked to you about it?

17 A Yes.

18 Q What did you do with that?

19 A Again, as I said, I would give it to my Special
20 Assistant, ask him to keep a record of the phone calls
2 that I had received and I would tell Debbie as we sat
2 down to meet on the funding.

2 Q On that funding specifically did you describe to
2 Miss Dean that Ed Brook had called you?

2 A Yes, with any of these people -

777

1 Q No, Mr. Brook explicitly, did you tell Deborah Gore

2 Dean that Senator Brook had called you?

3 A I assume so, yes.

4 Q Did you tell her that you had worked for him for

5 two years?

6 A She knew it.

7 Q Did you tell her?

8 A I wouldn't think that would be part of the

9 conversation, it was generally known in the department
10 that I worked for him.

11 Q We have to deal with specifics. Did you tell her?

12 A Sir, I can't remember the specifics of that
13 conversation.

14 Q Did you have a conversation with her when you
15 discussed it and said, look, I am very close to
16 Senator Brook, maybe we shouldn't fund these?

17 A Maybe we should not? No, I never said that.

18 Q Did you recommend that they be funded?

19 A I am sure that I indicated that it was -- that he
20 was a leading Senator, that he had dealt with housing
2 and it would be a good idea to fund them.

2 Q You recommended that they be funded, didn't you?

2 A If that's the term you'd like to use, yes.

2 Q Notwithstanding your personal relationship with
2 him, you recommended that they be funded, isn't that

778

1 correct?

2 A He -I

received the phone call from him. I told

3 Debbie of the phone call.

4 Q What do you think from your knowledge of the way

5 the Secretary ran the department, Secretary Pierce would

6 have done if he would have known that you had

7 recommended that those units be funded for

8 Senator Brook?

9 A I'm not even sure I can answer that.

10 MS. SWEENEY: Objection, Your Honor.

11 THE COURT: All right. I'll sustain the

12 objection.

13 BY MR. WEHNER:
14 Q To your knowledge, did he know?
15 A Did he know that Ed Brooks' units were funded? To
16 my knowledge, no.
17 Q Did you tell him?
18 A No, sir, I never had any direct conversation with
19 the Secretary on any funding decisions other than the
20 couple that I described.
2 Q would you have expected Miss Dean to tell him?
2 MS. SWEENEY: Objection, Your Honor.
2 THE COURT: All right. Sustained.
2 BY MR. WEHNER:
2 Q To your knowledge, did Miss Dean tell him?

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1 A I don't know what Debbie said to the Secretary.
2 Q Did Miss Dean ever tell you she had told him or
3 tell you she didn't tell him?
4 MS. SWEENEY: Objection, Your Honor.
5 THE COURT: All right. I'll sustain the
6 objection.
7 BY MR. WEHNER:
8 Q Did Miss Dean ever mention a conversation to you
9 that she had with the Secretary regarding those units?
10 A No, sir, she did not.
11 Q Did Senator Brook help you get your job at the
12 Department?
13 A Senator Brook knew Secretary Pierce. He may have
14 talked to him about me.
15 Q well, did he?
16 A I don't know, sir.
17 Q Did you ask him to?
18 A Yes, I did. I don't know if they ever hooked up.
19 Q what did you say to him when you asked him to talk
20 to him?
2 A That I was interested in a job at HUD. I probably
2 came in through other people as well. But I probably
2 thought he knew and would ask for my interest alone.
2 Q Do you know the name Mike Karam?
2 A Yes.

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1 Q Who is that?
2 A Mike Karam was Deputy Assistant Secretary in the
3 early days of the Reagan Administration.
4 Q Is he a friend of yours?
5 A He's somebody I knew from the campaign.
6 Q which campaign?
7 A The Reagan-Bush campaign.
8 Q Did there come a time when he did s<
9 consulting work?

10 A Yes.
11 Q When was that? was that during yoi :?
12 A I'm sure he did before and after.
13 Q Did you ever get any Mod Rehab units for his
14 developers when he was consulting in that area?
15 A Again, sir, I don't really remember the projects
16 and who they went to except a couple of them.
17 Q Do you ever recall him calling you about a project?
18 A I think that he has called me on projects. I'm not

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19 sure if it's on Mod Rehab.

20 Q Okay. We've briefly discussed Durham, North

21 Carolina. That's the first one that's on my little list

22 I prepared. And do you recall the consultants that were

23 involved in that or the developers that were involved in

24 that?

25 A I think if I heard their names I would remember

781

1 them. I don't think I can come up with them.

2 Q Do you recall receiving any telephone calls with

3 regard to those?

4 A From Deborah and from a woman on the staff

5 upstairs.

6 Q From people, non HUD employees?

7 A I don't think I got any directly, but I did meet

8 with them at the request of the tenth floor.

9 Q Whose offices are on the tenth floor?

10 A Debbie is the Special Assistant, the Secretary, the

11 General Counsel.

12 Q Who else?

13 A Executive Office, Budget Office, Assistant

14 Secretary for Administration.

15 Q Can you be more specific as to the people you

16 talked about other than the tenth floor?

17 A That's a euphemism when we talked about it.

18 Q A euphemism for what, for what?

19 A Funding decisions, whatever was the -- oh, the

20 tenth floor was interested. It was a generic statement.

21 Q The superiors within the Department, correct?

22 A Yes.

23 Q The people you worked for?

24 A Right.

25 Q Including the secretary?

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1 A In some instances. In other instances it was

2 colleagues, Assistant Secretaries or others were also up

3 there.

4 Q I direct your attention to project funded in North

5 Dakota during your watch. Do you recall a project in

6 the amount of 12 units being assigned to North Dakota?

7 A I see them up there, yes.

8 Q Do you recall it?

9 A Sir, again, seven years ago, a lot of these

10 projects I don't -11

Q I'm going to show you what purports to be the

12 funding decision that was made on this project signed by

13 you.

14 A Okay.

15 Q And see if that refreshes your recollection as to

16 that funding decision?

17 A Again, these are all the same sort of standard form

18 for filling them in. It went to the regional office and

19 went out.

20 Q You funded it?

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2 A It is my signature, that's correct.
2 Q Does that mean that it was funded?
2 A It meant that the decision was made in those
2 meetings with Deborah and I. It is my final document
2 that released the funds, that's correct.

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1 Q Do you recall any conversation about sending units
2 to North Dakota with anyone outside of HUD? Those 12.

3 A No.

4 Q What discussion do you recall with Deborah Gore
5 Dean with regard to this?

6 A Again, I have a very scant recollection of any of
7 these meetings.

8 Q What do you recall that you said to her and she
9 said to you, anything?

10 A Again, I would go over who called me. So if
11 somebody had called me on any of those projects I would

12 have called her.

13 Q Ma'am, this is very important. Do you have any
14 recollection about what was said about North Dakota at
15 any of those meetings?

16 A No, a specific recollection, no.

17 Q None?

18 A No recollection.

19 Q Do you remember 12 units to Philadelphia,
20 Pennsylvania?

2 A Again, that's the same thing.

2 Q You have no specific recollection of anything that
2 was said during that meeting between you and Miss Dean?

2 A No.

2 Q Is that correct?

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1 A Very little. Again, as I have testified, I would
2 go over the list of the names of people who called. We
3 would have general conversations, but not -I
don't

4 remember anything about Philadelphia.

5 Q Now, Massachusetts, I believe you've already
6 testified that you had conversations with Senator Brook,
7 is that correct?

8 A That's correct.

9 Q And you passed those on to Miss Dean?
10 A That's correct.
11 Q Metro-Dade County, Florida. Do you recall
12 discussions with Miss Dean regarding Metro Dade County,
13 Florida? Eight units?
14 A Again, there was a conversation about some Miami
15 units because I at one point had a meeting with the
16 Undersecretary of HUD about some and that's - that
17 could be one of those. I don't know which units it
18 would have been.
19 Q Who is the Undersecretary at that time?
20 A Lee Versatig.
2 Q And did you discuss mod rehab units with him?
2 A There was a meeting that I had in his office about
2 some Dade County units.
2 Q And what did he say to you and what did you say to
2 him?

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1 A Nothing. We just listened to the developers who
2 requested the units and, again, that would have been on
3 my list.
4 Q I direct your attention back to the Chicago Housing
5 Authority's allocation. Did you ever meet with
6 Mike Karam regarding those units?
7 A I have met with Mike Karam. I don't know if that
8 was specifically on those units. I don't think so.
9 Q You have no recollection of meeting him with regard
10 to those units?
11 A Mike Karam has called me, has asked me for stuff.
12 I didn't remember if it was Mod Rehab.
13 Q Did he ever promote you while you were at HUD?
14 A Yes.
15 Q What did he promote you from and to?
16 A Oh, did he promote me? No, I'm sorry. He was the
17 Deputy Assistant Secretary when I was the Executive
18 Secretariat. *
19 Q Did he help you get a promotion?
20 A No.
2 Q Did he support you for promotion?
2 A Maybe he did. I don't know.
2 Q Now, I think you testified that the nine units for
2 Massachusetts you discussed with Senator Brook, right?
2 A I believe Senator Brook requested more than nine

786

1 units. I think the number was something like 150 to
2 200.
3 Q So there were actually more units that were
4 requested by Senator Brook, not just the nine?
5 A That's correct.

6 Q And you took that information into this meeting

7 with Miss Dean and you discussed it and you said it

8 would be a good idea. Is that what you said?

9 A Yes. who knows? Something similar to that.

10 Q well, you knew.

11 A Again, we discussed those people that called me.

12 It would be natural for me to have wanted Brook to get
13 units.

14 Q There's another designation of units, of Mod Rehab
15 units to North Dakota. Bismarck. Do you recall a
16 designation about rehab units to Bismarck, North Dakota?

17 A Again, until you put that list up, I haven't seen a
18 list like that since I left the department.

19 Q Let me see if I can refresh your recollection.

20 Does this refresh your recollection as to your
2 participation in a funding decision to send Mod Rehab

2 units to North Dakota?

2 A Again, this is the Mod Rehab funding documents. It
2 was signed by Susan Zagame over my signature, but it
2 would have been one of the ones, I'm sure, that was

787

1 decided either at that first or second meeting.

2 Q Are you familiar with -I

believe you've already

3 testified you're familiar with Mr. Philip Winn?

4 A Yes.

5 Q And are you familiar with a person by the name of
6 Lance Wilson?

7 A Yes.

8 Q And are you familiar with a person by the name of
9 Phil Abrams?

10 A Yes.

11 Q Did you have any discussions with any of those
12 three people regarding those units, North Dakota?

13 A I know I never talked to Phil Abrams, Lance Wilson
14 about North Dakota.

15 Q You never had any discussions with them about the
16 the North Dakota units?

17 A Not a request from them, no.

18 Q well, anything to do with, to use use your word.
19 requests?

20 A No.

2 Q Do you remember a project known as Demonstration
2 for Independent Living?

2 A No. Is it a type of HUD funding program or is it a
2 name of a project?

2 Q No, actually it's a name of a project that Mod

788

1 Rehab units were funded for in Dade County, Florida.

2 It's 24 units to Dade County, Florida. I'll slow you
3 the funding document and see if that refreshes your

4 recollection?

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5 A It's the same funding document that I've seen
6 before. We would discuss them by units or by city, not
7 by - no, that doesn't help.

8 Q I refreshed your recollection as to each, to the
9 extent I can, each of those cities, and the units that

10 were sent to those cities. And I would like you to
11 identify those which you specifically recall Miss Dean
12 telling you specifically to fund?

13 A Deborah indicated the funding that I was to do when
14 we went over the list. So I would say that all of
15 those. I can remember very explicit conversations with
16 Deborah under the Hosiery Mill. The rest of them are
17 all part of that same meeting where there was a
18 discussion about where the units would go.

19 Q So the only one to your recollection that she
20 specifically ordered you to fund that you can recall
2 today was Durham Hosiery Mill, isn't that correct?

2 A I have testified explicitly to the conversations on
2 Durham and to the fact that Deborah at that meeting
2 indicated which units should be funded. So, that's
2 true.

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1 Q She told you to fund Durham Hosiery Hill, did she

2 not?

3 A Yes.

4 Q But you have no recollection of her telling you to

5 fund the remainder of those units, isn't that true?

6 A I don't think that's what I said. I don't remember

7 explicit conversations about any of those individual

8 ones. I remember the meeting and going over and having

9 the final decision on where the units were going.

10 Q Of course you had meetings. Of course you
11 discussed where they were going to go. Of course you
12 said that Ed Brook wanted units. Of course you had
13 these discussions. But that's not the question. The
14 question is of all of those projects you couldn't
15 remember one that you specifically remembered Deborah
16 Dean ordering you to fund?

17 A Deborah Dean made the final decision on where all
18 of those were going at that meeting.

19 Q As far as you were concerned.

20 A That's correct.

2 Q Now, we've talked pretty consistently and for quite

2 a period of time about the input that you received from
2 your subordinates regarding the Mod Rehab fundings. And
2 you recall we went through what you would learn from
2 Mr. Casey and what you would learn from

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1 Mr. DeBartolomeis. what input did Miss Dean receive -
2 her input into these meetings? where was she getting
3 her information?
4 MS. SWEENEY: Objection, Your Honor.
5 THE COURT: All right. I'll sustain that.
6 BY MR. WEHNER:
7 Q Did Miss Dean ever tell you where she was getting
8 her input?
9 MS. SWEENEY: Objection, Your Honor.
10 Your Honor, may we approach?
11 THE COURT: Sure.
12 (Bench conference)
13 MS. SWEENEY: Your Honor, Mr. wehner repeatedly
14 is attempting to elicit from the witness statements by
15 Miss Dean and I believe Your Honor has already addressed
16 this issue with him previously in the trial and I would
17 simply ask that we not waste all that time again.
18 MR. WEHNER: I don't know that you previously
19 addressed that issue.
20 THE COURT: No, I think you asked awhile ago
2 what did Miss Dean say to so and so.
2 MR. WEHNER: Judge, I think that this witness
2 has spent two hours mentioning Deborah Gore Dean's name
2 every five minutes, and I think it's only fair for me to
2 be able to ask her. She doesn't know who was directing

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1 the funds. She doesn't have a clue.
2 THE COURT: You're free to ask her what did
3 Miss Dean tell you about it. There's a lot of other
4 ways to phrase your question than saying what did Miss
5 Dean tell you and then ask her. She doesn't know
6 anything. You're on cross-examination and you can lead
7 all you want to.
8 MR. WEHNER: Can we take a few minutes so
9 Miss Dean can have a bathroom break?
10 THE COURT: We take a break at three because
11 that's when the refreshments are brought out.
12 MR. WEHNER: I'll see if she can hold on.
13 Thank you.
14 (Bench conference concluded)
15 THE COURT: Mr. wehner, we'll take a break now
16 because other people want a break now.
17 All right, ladies and gentlemen, we'll take a
18 break. It will have to be 20 minutes because your
19 refreshments will be brought up. We'll take a break for
20 15 or 20 minutes at this time. Remember the admonitions
21 of the Court during the afternoon break.
22 (Recess, 2:55 p.m. To 3:20 p.m.)
23 THE COURT: All right. Bring the jury in.
24 THE DEPUTY MARSHAL: Yes, Your Honor.
25 MR. WEHNER: Your Honor, while the jury is

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1 coming in, could we see you quickly at the bench for a

2 few seconds?

3 THE COURT: Sure.

4 (Bench conference)

5 THE COURT: Yes.

6 MR. WEHNER: Your Honor, I think I saw briefly

7 in the courtroom, and Mr. O'Neill confirmed it, I had

8 seen briefly in the courtroom a lawyer for a witness and

9 I would like to ask the Independent Counsel to please
10 tell the lawyers for their witnesses that there is an
11 order and they should not discuss what they see in the

12 courtroom, what they hear in the courtroom with their

13 client before they testify because -- this was
14 significant because it was Mr. DeBartolomeis' attorney

15 and I've tried to do the same thing, Judge. I
16 understand why he was here but I've also been cut off.

17 MS. SWEENEY: Your Honor, we'll be sure to
18 make that clear to the attorneys. We certainly didn't
19 invite him or anything like that.

20 THE COURT: Just let know if anybody shows
2 up. who was it?

2 MR. WEHNER: I think it was Bob Ogren.

2 MS. SWEENEY: Your Honor, I didn't see him. I
2 would have been sure to tell him.

2 (Bench conference concluded)

1 THE COURT: Thank you. All right, are we ready

2 to resume?

3 MR. WEHNER: We are, Your Honor. Shall we

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4 wait for Mr. O'Neill?

5 THE COURT: No, go ahead.

6 BY MR. WEHNER:

7 Q Do you recall, Miss Hale, the funding of 375 units

8 to Richmond, Virginia?

9 A No, sir, not any more than any of the other ones.

10 Q Okay. That would have been one that would have
11 fallen in your general category that you must have
12 discussed it with Miss Dean but you don't remember the
13 specifics.

14 A That's correct, sir.

15 Q I'll show you what I've marked for identification
16 as Dean exhibit 72?

17 THE DEPUTY CLERK: Dean Exhibit 72 marked for
18 identification.

19 (Defendant's Exhibit 72 marked
20 for Identification)

2 BY MR. WEHNER:

2 Q And I'm going to ask you to review it with
2 particular review to the last sentence of the first
2 paragraph. Have you had a chance to review that?

2 A Yes, the last sentence of the second paragraph.

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1 Q Now, it's true, is it not, that 375 units that were
2 sent to Richmond, Virginia were sent as a result of a
3 settlement of civil litigation, is that correct?

4 A That's what the memo says, yes, sir.

5 Q Now, do you have any recollection?

6 A No, sir, I don't, but the memo on the funding
7 document says that that's it, so it must be the case.

8 Q Do you have any recollection of discussing those
9 375 units with Miss Dean?

10 A Again, sir, it was seven years ago. I don't
11 remember much of the conversation about it. If it was a
12 legal settlement it would have come to me and I would
13 have discussed that with her.

14 Q Do you recall we testified or you testified
15 concerning some units that were sent to Dade County,
16 Florida and I asked you some questions about
17 Senator Paula Hawkins?

18 A Yes.

19 Q And do you recall that she was up for reelection at
20 the particular time -2

A Yes.

2 Q -- that those units were funded. Do you recall we
2 also discussed some units that were funded that at least
2 Senator Brook was interested in?

2 A Yes.

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1 Q What was Senator Brook's relationship to that
2 project when he made the telephone call to you?
3 A I believe he would be the consultant or the
4 developer, I'm not sure which.
5 Q But he wasn't sitting in the U.S. Senate.
6 A That's correct.
7 Q Now, I believe you testified, on -- in response to
8 one of my questions on cross-examination that you tried
9 to meet with the Secretary regarding Durham Hosiery
10 Mill, but that when you showed up at the meeting
11 Miss Dean was there.
12 A That's correct.
13 Q Where did you show up for a meeting where Miss Dean
14 was there?
15 A I went up to the Secretary's suite and was told -16
16 by either Debbie or a secretary, somebody told me it
17 would be with Debbie.
18 Q Do you recall who told you it would be with Debbie?
19 A No, I don't.
20 Q So where did the meeting take place?
2 A In Debbie's office.
2 Q So where she showed up was in her own office.
2 A Right.
2 Q Finally, I believe you testified on
2 cross-examination several times and direct examination

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1 several times that Miss Dean was the as far as you
2 were concerned, the final decision maker with regard to
3 the allocation of Mod Rehab units, is that correct?
4 A Yes.
5 Q And that you -- these decisions would be made after
6 discussions between you and Miss Dean, is that correct?
7 A That's correct.
8 Q And you told the jury about the input that you
9 received from your subordinates, is that correct?
10 A That's right.
11 Q Did you receive input from other individuals at HUD
12 that were superior to you, besides Miss Dean?
13 A I don't think so.
14 Q Do you have any recollection of receiving such
15 information?
16 A No.
17 Q Specifically with regard to Durham Hosiery Mill, do
18 you remember a meeting with Miss Dean
19 project?
20 A Yes, there were several.
2 Q Well, specifically the one where
2 Secretary would not meet with you, do
2 meeting?
2 A Yes, that would have been one of
2 Q And, in fact, you were basically

concerning that

you say that the
you remember that

the last meetings.
refusing to fund

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1 Durham Hosiery Mill, weren't you?

2 A Yes, I was.

3 Q And why were you refusing to fund it?

4 A I thought it was too expensive and the housing part

5 would probably not be the best utilization of housing

6 resources.

7 Q And you were vehemently opposed to that, weren't

8 you?

9 A That's correct.

10 Q As a matter of fact, you thought it would wreck
11 your career if you funded that, didn't you?

12 A I thought that there was always a potential to a
13 scandal to develop around that and other Mod Rehab
14 funding.

15 Q And did Miss Dean -- strike that. Did you receive
16 any information from any source that Secretary Pierce
17 had ordered that project to be funded?

18 A The 180 -- a rapid reply I guess it was -- actually
19 funding of that Mod Rehab. Funding a Mod Rehab was a
20 two-step process. There would be a rapid reply signed
2 and then an 185 cut and that was the actual funding

2 document, and the 185 from Durham -- no, the rapid reply
2 for Durham Hosiery Mill had the Secretary's signature on
2 it. I would also add that it may have been an auto pen.

2 Q That was unusual, was it not?

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1 A To auto pen, A. It was unusual to send the

2 documents upstairs, yes.

3 Q It was unusual to have the Secretary's signature,

4 auto pen or not.

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5 A That's correct.

6 Q Did you have a discussion with Miss Dean as to

7 whether the Secretary specifically was going to sign the

8 funding document for that project?

9 A That was my second day as acting and I don't
10 remember the conversation. I do remember it being in my
11 in box and processing it. I have a far stronger
12 recollection of the subsequent meetings when I was
13 actually being asked to sign the waivers.

14 Q Do you recall making any changes to the form, to
15 the funding document? So that the -- your title would
16 not appear on the funding document?

17 A The rapid reply I, think, was signed, and you'd
18 have to look at the dates for sure, before I became *
19 acting or about the first day, one of those two. When
20 the 185 was going to be signed, which would be my
2 funding, I considered sending it upstairs to have it

2 signed again and finally decided that the Secretary's
2 signature on the rapid reply would be sufficient.

2 Q Did you make any changes to the rapid reply form so
2 that your title would not appear on the form?

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1 A I would have to see the rapid reply. I don't
2 have -I

don't know whether -3

Q Isn't it true that you whited out the title, the
4 first part of the title, Assistant Secretary, so that
5 the word Secretary would appear?

6 A No, not I, because that occurred, I think, during
7 the tenure -- the debate about that was on the -during
8 Shirley wiseman, but I'm not -I

don't remember because

9 I think the document was already up there when I
10 started, but I'm not sure.

11 Q So your testimony is that you did not white out the
12 word Assistant on that form?

13 A I don't think so.

14 Q well, you don't think so, or you know you didn't?
15 whiting out would be something you would probably
16 remember.

17 A I don't think I did that.

18 Q Miss Hale, do you have an agreement -;

19 A I do remember that it has been whited out. If you
20 get the document it will just say Secretary, if you look
2 at the rapid reply.

2 Q who do you think did white it out?

2 A I don't know. Again, it may have been me. I don't
2 remember processing that form. I think that happened
2 before my tenure, but it may well have been.

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1 Q May well have been what?

2 A That it was prepared and that it was whited out

3 before I got there. It may have been whited out while I

4 was in.

5 Q what arrangement do you have with the Independent

6 Counsel regarding your own prosecution? Have they given

7 you any guarantees?

8 A They have not. To my knowledge I've never been a

9 target of this investigation.

10 Q Do you have a letter to that effect?

11 A No, sir, I don't.

12 Q You're just relying on the verbal assurances of the
13 Independent Counsel?

14 A I have had no assurances.

15 Q And how do you know you have never been a target?

16 A Because I keep asking every time I go in there, but
17 there have been no assurances.

18 Q Well, they answer the question.

19 A At this time, there's always an at this time, sir.

20 Q That's right. Specifically with regard to

2 Senator Brook, and his phone calls to you as a

2 consultant, and your discussions of that project with

2 Miss Dean, have they given you any assurances that

2 you're not a target in that investigation?

2 A No.

1 Q But you haven't been prosecuted for those

2 conversations with Senator Brook, have you?

3 A That's correct.

4 Q And you haven't been prosecuted for the funding

5 that followed those conversations with Senator Brook,

6 have you?

7 A I have not.

8 Q And you haven't been prosecuted for the thousands

9 of dollars Senator Brook as a consultant received from

10 those units, have you?

11 A I have not been.

12 MR. WEHNER: I have nothing further, Your Honor.

13 THE COURT: All right. Thank you. Redirect,
14 miss Sweeney?

15 MS. SWEENEY: Yes, Your Honor.

16 REDIRECT EXAMINATION

17 BY MS. SWEENEY:

18 Q Miss Hale, on cross-examination you were asked a
19 number of questions about Senator Brook. During the
20 time that you knew the defendant did you ever have
21 occasion to talk with her about the fact that you had
22 worked for Senator Brook?

23 A I'm sure she knew. We talked about each of our
24 lives, where we had come from, so I must have told her.
25 It's obviously evident, yes.

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1 Q How long did you know the defendant?

2 A I met her when she first applied for the Executive

3 secretary job.

4 Q Do you recall when that was?

5 A Probably 1983.

6 Q And can you tell the members of the jury the nature

7 of your relationship with her?

8 A I considered her a friend and a colleague.

9 Colleague first, probably friends.

10 Q Miss Hale, we've been talking a lot this afternoon
11 about the funding responsibility that you had for the
12 Mod Rehab Program. Did you have funding responsibility
13 for other programs?

14 A Yes, ma'am.

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15 Q And can you describe for the jury, members of the
16 jury, briefly what those programs were and what the
17 nature of that responsibility was?

18 A The Office of Housing --

19 MR. WEHNER: Objection. I think it's beyond
20 the scope of cross, but I raise it because if it goes
2 into great detail I think I'm going to have to go into

2 it in great detail on recross. That's the objection.

2 THE COURT: All right, I'll allow her briefly
2 to answer the question, briefly summarize the
2 responsibilities.

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1 THE WITNESS: Yes, sir. I think I actually

2 said it before. Housing has FHA insurance and then

3 assisted vouchers, amendment money. There's a whole

4 myriad of assisted housing that's directly appropriated

5 by the Congress, and decisions have been made about how

6 that money would be allocated.

7 Q Were there funding documents associated with those

8 other program responsibilities that you just described?

9 A For the assisted, yes, and actually, I guess, FHA

10 too, but a very different type.

11 Q During cross-examination you made a reference to
12 not being particularly happy while you were at the
13 Department of Housing and Urban Development working on
14 Mod Rehab and you contrasted that to other times in your
15 federal career. What did you mean by that?

16 A I actually probably will contrast it not just to
17 the federal Government, but I loved my time in HUD. I
18 think we made significant process both in the assisted
19 and FHA reforms. The Mod Rehab funding process would
20 not have been one that I was interested or wanted to
2 participate in. It came with the Acting Assistant

2 Secretary title. I did it the best I could.

2 Q Why was it one that you were not particularly
2 interested in?

2 A In almost -- in every other housing program that I

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1 was involved with at the time and in my tenure at the
2 other agencies there I've served in the Federal
3 Government, there were processes of how federal money
4 would be allocated and I remain convinced today to the
5 best of my knowledge that the low income housing that
6 was appropriated by Congress for Mod Rehab did not
7 ultimately serve low income people. I don't believe
8 that the selection process we used was in the best
9 interests of the Federal Government.

10 Q You described signature authority in connection
11 with Mod Rehab, and in connection with that you signed
12 certain documents referred to as rapid reply?

13 A Yes.

14 Q You signed other forms called 185's, is that
15 correct?

16 A That's correct.

17 Q Did you ever sign any 185's for Mod Rehab
18 allocations where the defendant had not told you to send
19 funds to that particular locality?

20 A Not ones that I hadn't discussed with her and that
2 she indicated should be funded.

2 Q With regard to rapid replies, did you ever sign any
2 rapid replies for Mod Rehab where the defendant had not
2 told you to send those particular funds to that
2 particular locality?

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1 A No, ma'am.

2 Q On cross you were asked about a rather colorful
3 story involving the Durham Hosiery Mill and
4 Millicent Fenwick. Do you have any personal information
5 about that particular incident?

6 A No, ma'am. I was not involved at all in that and,
7 again, it is a story that circulated widely and was
8 testified to in front of Congress.

9 Q During your cross-examination you made reference to

10 certain technical issues that could arise in the course
11 of processing Mod Rehab. would the actual funding
12 decision itself be a technical issue?

13 A No. I would point out that the one that I
14 hadn't -- hadn't remembered, which was the legal issue
15 that I hadn't remembered, that there was a Court
16 settlement. while it would have been recommended by the
17 Court I still think we had to make the actual decision
18 to fund.

19 Q Now, Mr. Wehner during cross-examination asked you
20 a lot of questions about your meeting with the
2 defendant. Could you please describe again for the
2 members of the jury how these meetings occurred?

2 A Again, in September I probably would have initiated
2 the meeting as we would have had to get the money
2 through the HUD process and get it out through the door

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1 so we would not lose the money.

2 In the second meeting I would think was

3 initiated by Debbie and we would discuss sort of who had

4 called me, who the potential location was -- what the

5 potential locations were, and then Debbie would make the

6 ultimate decision of where they would go.

7 Q As you describe it, it sounds as though you left

8 these meetings with a list, is that right?

9 A That's correct.

10 Q And what did that list contain?

11 A It contained the list of the locations of where the
12 low income housing money would be sent.

13 Q And who had designated the localities to be placed
14 on that list?

15 A Debbie.

16 Q What did you then do with the list?

17 A I would then turn to my Special Assistant,
18 Executive Assistant, Tom Casey, and ask him to process
19 the funding documents, to go and check to be sure there
20 was a public housing application on record, they had the
2 capacity to administer the program, and then it would be

2 processed by Ross Kumagai and the other offices to get
2 the funding document actually processed and developed
2 and sent forward.

2 MS. SWEENEY: with the Court's permission I'd

1 like to show the witness a document that's been marked

2 Government's Exhibit 78.

3 BY MS. SWEENEY:

4 Q Miss Hale, do you recognize that document?

5 A Yes, it's one of the formal forms of releasing

6 money.

7 Q Do you recognize the signature on that document as

8 being your own?

9 A Yes, I do.

10 MS. SWEENEY: Your Honor, we have a
11 stipulation as to the authenticity of this document and
12 at this point I move this document into evidence.

13 MR. WEHNER: No objection, Your Honor.

14 THE COURT: All right, 78 will be admitted.

15 (Government's Exhibit 78

16 received into Evidence)

17 BY MS. SWEENEY:

18 Q Miss Hale, looking at this document, do you know
19 which developer was behind this particular allocation?

20 A No, ma'am, I don't.

2 Q Do you know whether any particular consultant was
2 involved with this particular allocation of Mod Rehab
2 units?

2 A I don't know.

2 MS. SWEENEY: No further questions, Your

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1 Honor.

2 THE COURT: Recross?

3 RE-CROSS EXAMINATION

4 BY MR. WEHNER:

5 Q Miss Hale, do you recall which Senator was behind
6 that project?

7 A No, sir, I don't.

8 Q What Senator was in office during that time period?

9 A It would have been Paula Hawkins and there probably

10 would have been another Senator who was Gramm?

11 MR. WEHNER: Nothing further, Your Honor.

12 THE COURT: All right. You're free to go.

13 Thank you for being here.

14 MR. O'NEILL: Your Honor, at this time the

15 Government would call Mr. Silvio DeBartolomeis.

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16 THE COURT: All right.
17 (SILVIO DEBARTOLOMEIS, WITNESS FOR GOVERNMENT, SWORN)
18 DIRECT EXAMINATION
19 BY MR. O'NEILL:
20 Q Mr. DeBartolomeis, I will be asking you a series of
2 questions. I'd ask you to speak in a loud voice so that
2 everyone can hear you. All the jurors.
2 Will you please state your name for the record
2 and please spell it for the Court reporter so she has it
2 down properly?

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1 A My name is Silvio James DeBartolomeis, the last
2 name is D-e B-a-r-t-o-l-o-m-e-i-s.

3 Q Mr. DeBartolomeis, have you pled guilty to certain
4 criminal charges arising out of your activities while
5 you were at HUD and your activities after you left HUD?

6 A Yes, sir.

7 Q What were the charges that you pled guilty to, sir?

8 A The first charge was false statements to Congress.

9 Basically I said that the program, Mod Rehab program was
10 being run in a proper manner, and it wasn't, and I knew
11 it wasn't. That was the first misdemeanor violation.
12 The second was I received an unsecured loan
13 from a person that was my mentor for -- that brought me
14 to HUD and he was still doing business with the
15 department.
16 And the third was I was working for that same
17 mentor and prepared a false receipt and I knew it was
18 not a real receipt, and that receipt was used to say*
19 that somebody paid for the use of a condominium when in
20 fact they had not, and that was also a violation, a
2 misdemeanor.

2 Q We'll get into more of the details later on, but
2 you mentioned a mentor. Who are you referring to?

2 A Philip Winn.

2 Q Now, Mr. DeBartolomeis, are you guilty of those

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1 charges to which you pled?

2 A Yes, sir.

3 Q Have you been sentenced on those charges as yet?

4 A No, sir.

5 Q why are you testifying today, sir?

6 A I've agreed to cooperate with the Independent

7 Counsel and the -- telling the truth here today.

8 Q sir, are you presently employed?

9 A Yes, sir.

10 Q How are you employed?

11 A I am a real estate broker, I'm self-employed in the

12 State of Colorado. I sell houses.

13 Q Now, you mentioned previously your stint at HUD.

14 when did you join HUD?

15 A About in February of 1981 I was brought on by my
16 mentor Phil Winn as Special Assistant to the Assistant
17 Secretary for Housing, Federal Housing Commissioner.

18 Q And, again, how did you know Phil Winn?

19 A He was the chairman of the Colorado Republican
20 party. I had worked for him in Colorado and when he was
21 appointed as the Assistant Secretary for Housing he
22 asked me to come and I was glad to come to Washington.

23 Q Now, what was your position when you started at
24 HUD?

25 A I was Special Assistant to the Assistant Secretary

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1 for Housing, Federal Housing Commissioner.

2 Q And who was the Federal Housing Commissioner, just
3 for the record?

4 A Philip D. Winn.

5 Q what did you do for him?

6 A Basically answer phone calls, take a look at
7 projects that may have run into trouble during the
8 course of development, and kind of troubleshooting, if
9 you will, more so than anything else.

10 Q Mr. DeBartolomeis, how long did you remain in that
11 position?

12 A A couple of months. I then -- Phil Winn made an
13 opportunity for me with Philip Abrams who was the
14 General Deputy Assistant Secretary for Housing to go and
15 work for him as the Executive Assistant to the General

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16 Deputy Assistant Secretary for Housing.
17 Q At this time I would refer to Government's Exhibit
18 One, Mr. DeBartolomeis. I have a feeling since you held
19 several positions it might be confusing with a few of
20 the names.
21 Mr. DeBartolomeis, I direct your attention --
22 are you able to see that from here?
23 A Only the large type. I'm sorry.
24 Q I'd ask you, with the Court's permission, to you
25 come down.

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1 A May I?

2 THE COURT: All right.

3 BY MR. O'NEILL:

4 Q In going over your background could you stand next
5 to it away from the chart, so that the jury could see
6 it?

7 when you first started at HUD where were you?

8 A I was working for the Assistant Secretary for

9 Housing-FHA Commissioner, sort of as a Special Assistant
10 in this office, for this person. Later I was working
11 for this person, the General Deputy Assistant Secretary
12 as the Executive Assistant. Then later I went to work
13 for the secretary of HUD as a Special Assistant. Then
14 later I went to work for HUD as the Deputy Assistant
15 Secretary for Multi-family Housing, and then I went
16 to -- got a job as General Deputy Assistant Secretary
17 for Housing, but at that time this person wasn't there
18 and so I was acting as the Assistant Secretary for
19 Housing-FHA Commissioner.

20 Q Now, Mr. DeBartolomeis -- you can return to the
2 witness chair, thank you.

2 A Thank you, sir.

2 Q Mr. DeBartolomeis, does that pretty much summarize
2 the different positions you held at HUD?

2 A Yes, sir, it does.

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1 Q Now, are you familiar with the defendant
Page 451

2 Deborah Gore Dean?
3 A Yes, sir, I am.
4 Q And how are you familiar with her, sir?
5 A Both professionally and personally.
6 Q When you say professionally, what are you referring
7 to?
8 A We both worked together at the Department of Housing
9 and Urban Development.
10 Q When you say personally, what are you referring to?
11 A We dated.
12 Q Now, Mr. DeBartolomeis, when did you first meet the
13 defendant?
14 A When she first came to work in the department.
15 Sometime in 1982.
16 Q And how did you first meet the defendant, if you
17 recall?
18 A It was in a staff meeting.
19 Q Now, at that time when you first met the defendant,
20 what was her position at HUD?
2 A Executive Secretariat.
2 Q And do you recall how long she stayed at that
2 position?
2 A Not the precise time but roughly until the time
2 that I was General -I'm
sorry, Deputy Assistant

1 Secretary for Housing in the Multi-family Housing
2 Office.
3 Q Are you familiar with the next position she
4 received at HUD after Executive Secretariat?
5 A Yes, sir.
6 Q And what was that?
7 A Executive Assistant to the Secretary.
8 Q And who was the Secretary during this period of
9 time?
10 A Samuel Pierce.
11 Q How would you characterize the management style of
12 Samuel Pierce?
13 A Very hands off or laissez-faire, if you will. He
14 let others run the office.
15 Q During the time that you were at HUD, who ran the
16 Department of HUD?
17 MR. WEHNER: Objection.
18 THE COURT: I think he can talk to his
19 experience. I'll overrule the objection.
20 BY MR. O'NEILL:
2 Q Based on your experience, Mr. DeBartolomeis, who
2 ran HUD?
2 A The Executive Assistant to the Secretary.
2 Q And during the timeframe that you were at HUD who
2 would that have been?

815

1 A There were two during my tenure. One was
2 Lance Wilson. The other was Deborah Dean.
3 Q Now, do you know when Lance Wilson left the

4 department?

5 A Yes.

6 Q when was that?

7 A I think it's right around the time that I went -

8 I'd have to say somewhere around 1985.

9 Q And is that to the best of your recollection now?

10 A At this point, yeah.

11 Q Mr. DeBartolomeis, returning to the defendant, did
12 the defendant Deborah Gore Dean have any involvement in
13 the Moderate Rehabilitation Program?

14 A Yes, she had.

15 Q what if anything was her involvement in that
16 program?

17 A She basically directed how the funding was going to
18 happen.

19 Q when you say she directed how the funding was going
20 to hapen, what are you referring to?

2 A The funding of specific public housing authorities
2 that were to receive funds for projects, mod Rehab
2 projects.

2 Q Did the defendant Deborah Gore Dean ever make any
2 statements to you regarding the Mod Rehab program?

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1 A Yes.

2 Q what if anything did she say?

3 A On different occasions she would say she wanted
4 this funded, and documents were prepared and I was
5 directed to sign them.

6 Q Now, Mr. DeBartolomeis, let's go back a second.

7 Did you ever speak to the defendant about how she got
8 her job at HUD?

9 A Yes.

10 Q And what if anything did she tell you in that
11 regard?

12 A She told me -13

MR. WEHNER: Objection. Relevance.

14 THE COURT: All right. Overruled. I think

15 ifsi relevant.

16 BY MR. O'NEILL:

17 Q what did she tell you?

18 A She told me that John Mitchell had talked to

19 Lance Wilson and gotten her the position.

20 Q Now, do you know where Deborah Dean worked prior to
2 coming to HUD?

2 A The Department of Energy.

2 Q Did she ever tell you how she got the job at the
2 Department of Energy?

2 A Yeah, she told me that John Mitchell had talked to

817

1 a person by the name of Rob Odle, I believe, in the
2 Department of Energy.
3 Q Now, you mentioned the name John Mitchell on two
4 occasions. Who was John Mitchell?
5 A John Mitchell was the former U.S. Attorney General
6 under President Nixon.
7 Q Did you ever have an occasion to meet
8 John Mitchell?
9 A Yes.
10 Q When did you meet him?
11 A I believe it was at a reception or a party at some
12 place, Global -I
13 can't remember the exact name of the
14 company. It was Global Research or Funding.
15 Something. I can't remember the exact name of the
16 company. I remember Global.
17 Q And why were you at this business Global?
18 A Deborah took me to the reception.
19 Q And who, if anyone, did you meet there?
20 A Mr. Mitchell. Governor Louie Nunn. I also
21 remember Michael Karam was there. He was also from
22 Kentucky, as was Governor Nunn.
23 Q Did you know Michael Karam at that point?
24 A Yes, I did. When I first came to the Department of
25 Housing and Urban Development he was the first person to
26 be appointed as Deputy Assistant Secretary for

818

1 Multi-family Housing Programs in the Reagan
2 Administration.
3 Q To your knowledge what was John Mitchell's
4 relationship to the defendant?
5 A Based on conversations that I had with her she told
6 me that he was like her stepfather. Although he wasn't
7 actually married to her mother, he was her stepfather
8 and she referred to him as such.
9 Q In those conversations did the defendant ever tell
10 you why her mother and John Mitchell had not gotten
11 married?
12 MR. WEHNER: Judge, objection. That's at best
13 prurient.
14 MR. O'NEILL: Not to me, Judge.
15 THE COURT: Why don't you come up here a
16 minute?

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17 (Bench conference)

18 THE COURT: what's the relevance of it? I know
19 that he's going to say because of economic concerns and
20 watergate history.

2 MR. O'NEILL: we're not going to go into

2 watergate history but that's exactly what it was.

2 Miss Dean told Mr. DeBartolomeis her mother did not
2 marry her stepfather because he was in terrible debt.
2 we think that's completely relevant to our claim that

819

1 she directed funding of awards to him so that he could

2 make \$250,000.

3 MR. WEHNER: I'll grant you the arguable

4 relevance of that, Judge, even given the sparseness of

5 the probative evidence that he knew John Mitchell was

6 involved in that, but I think the probative value is

7 outweighed by the prejudicial value and I'm frankly

8 quite proud that this is the first time I've mentioned

9 it at this trial.

10 THE COURT: As long as he doesn't say because
11 of watergate history, et cetera. If he says because of
12 severe debt and private matters, she did not want to get
13 her family money involved in that --

14 MR. O'NEILL: would Your Honor allow me to lead
15 him a little bit?

16 THE COURT: Yes. I'll overrule the
17 objection. The probative value outweighs the
18 prejudicial aspect.

19 (Bench conference concluded)

20 BY MR. O'NEILL:

2 Q Mr. DeBartolomeis, did the defendant ever tell you

2 that her mother did not marry John Mitchell because of
2 his poor financial situation?

2 A Yes, sir.

2 Q Now, to your knowledge did John Mitchell do any

820

1 consulting work at HUD while the defendant was the
2 Executive Assistant to Secretary Pierce?

3 A Yes, sir.
4 Q And how do you know that?
5 A He called me on some issues.
6 Q Do you recall what he called you on?
7 A As I recall, one in particular was a Florida
8 property.
9 Q With the Court's permission, Mr. DeBartolomeis, I
10 will be showing you a document previously marked
11 Government's Exhibit 16 for identification.
12 THE COURT: All right.
13 BY MR . O'NEILL:
14 Q I show you this. It's not in evidence, so I'd ask
15 you j ust to read to it yourself and I ask you if you
16 recognize that?
17 A Yes, sir, I do.
18 Q Okay. And the handwriting on top, is that your
19 handwriting?
20 A It's my handwriting, it says, "DD" -
2 Q well, you can't read it.
2 A I*m sorry.
2 Q Do you recognize it?
2 A Yes, sir, I do.
2 Q Is that your handwriting?

821

1 A That is my handwriting at the top of the page.
2 Q Do you recall writing that note?
3 A Yes, sir, I do.
4 Q Do you recognize the handwriting at the bottom?
5 A Yes, sir.
6 Q And whose handwriting is that?
7 A Deborah Dean's.
8 MR. O'NEILL: Your Honor, I would move this
9 into evidence as Government's Exhibit 16.
10 MR. WEHNER: No objection for those portions
11 of the handwriting, Judge. There is one extraneous
12 portion on there that he can't identify.
13 THE COURT: All right, 16 will be admitted,
14 subject to the agreement of a portion of the the
15 document being redacted.
16 (Government's Exhibit 16
17 received into Evidence)
18 BY MR. O'NEILL:
19 Q Mr. DeBartolomeis, at this time I will publish it
20 with the Court's permission to the jury on the
21 television screen and I'd ask you, do you recall
22 Marbilt?
23 A Yes, I do.
24 Q What was Marbilt?
25 A It was a company that - I think Mr. Martinez had a

822

1 company that built multi-family housing projects.
2 Q Do you recall ever giving the defendant any
3 information on the Marbilt project?
4 A Yes.
5 Q Now, Mr. DeBartolomeis, did either John Mitchell or
6 Louie Nunn ever come to the HUD building to transact
7 business with you?
8 A Yes, sir. Mr. - former Governor Louie Nunn did.

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9 Mr. Mitchell never did.
10 Q Did there come a point in time during your career
11 at HUD that you became involved in the Mod Rehab funding
12 process?
13 A Yes, sir.
14 Q Mod Rehab process?
15 A Yes, sir.
16 Q And when did that occur?
17 A When I became the Deputy Assistant Secretary for
18 Multi-family Housing.
19 Q And did you have an actual role in the funding
20 process?
2 A My role at that time was more administrative. I
2 would be asked to sign a portion of the rapid reply
2 documents which - do - a funding document that said
2 yes, there were funds available to be spent, and I was
2 also in charge of the overall personnel. That sort of

823

1 thing.

2 Q And did there come a point in time where you

3 actually signed 185's?

4 A Yes, sir.

5 Q When did that occur?

6 A When I became the General Deputy Assistant

7 Secretary for Housing.

8 Q Mr. DeBartolomeis, what was your understanding as

9 to how the Mod Rehab process was supposed to work?

10 A It was supposed to work based on a formula, what
11 they called a fair funding formula. HUD staff would
12 develop a program that would fund the individual
13 projects based on need and a number of other factors and
14 there was -- 85 percent of the funds would go out that
15 way and the other 15 percent was held back in terms of
16 discretionary funding made by the Assistant Secretary.

17 Q Did there come a point in time when that funding
18 process changed?

19 A Yes, sir.

20 Q When did it change?

2 A It was -- as the Reagan budget cuts were going

2 through, the level of funding for the Mod Rehab Program
2 was cut enough that the funding, the fair funding
2 formula would kick out maybe like 12 or four and a half
2 units for each Public Housing who normally got it and,

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1 there were some discussions on whether this was
2 officially done away with or not, and I don't know
3 enough to tell you about that. You may have to talk to
4 some other people. But the belief was that it all
5 became discretionary funding. There was no funding
6 formula specifically.

7 Q Now, the jury has heard evidence of project
8 specific awards. First of all, are you familiar with
9 project specific awards?

10 A Yes, sir.

11 Q What is referred to by that?

12 A That's where you fund a specific apartment or
13 complex or project rather than just to fund a Public
14 Housing Authority.

15 Q While you were involved in the Moderate
16 Rehabilitation funding process, were awards being made
17 project specific?

18 A Yes.

19 Q How were they being made project specific?

20 A I guess the best way to really say it is that
2 projects were - funding decisions were made at the

2 Department of Housing and Urban Development that sent
2 out units there that would exactly resemble one
2 particular project. For example, it would be for 152
2 units such as -- for example. I don't know one specific

825

1 project. So it would go out in that form. And there
2 really only would be one project that would mean that it
3 was in that Public Housing Authority.

4 Q Did you ever discuss project specific awards with

5 the defendant Deborah Gore Dean?

6 A Yes, sir.

7 Q what did you say to her and what did she say to

8 you?

9 A There was one big particular block that I recall,
10 and it was -- I remember coming back from being away on
11 travel and there were a pile of documents in my in box
12 and the documents were for my signature, which meant
13 that I was not involved in the process. I hadn't
14 ordered the documents up. It was for funding specific
15 Public Housing Authoritys* specific projects. I
16 wouldn't sign them and I was asked by my Assistant that
17 I had been asked to sign them and I said no.
18 So finally one day I was called up to Deborah
19 Dean's office and I went up there with Susan Zagame who
20 was my DAS for Policy and Budget and was basically
2 yelled at, that I would sign those documents. And I
2 said no, I don't want to sign them. You can't tell me
2 how to do the funding for this program. I'm the General
2 Deputy. And I was basically told that I was an Acting
2 Assistant Secretary and that I was trying to become the

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1 assistant Secretary and basically that if I wanted to be

2 a team player and be part of their team that I was going

3 to sign it and I was directed to sign these documents,

4 and I remember words to the effect, well, I was --

5 looked over at Susan Zagame and said you're my witness,

6 and I signed the documents.

7 Q who directed you to sign those documents?

8 A Deborah Dean.

9 Q why had you refused to sign those documents?

10 A I guess I was worried that -- that we'd probably
11 end up in something like this some day, quite frankly.
12 I just felt that it would -- you know, the funds were
13 being sent out in a political manner and there was

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14 really no staff input or anything like that and, you
15 know, I was worried about it.
16 Q Did there come a time when you agreed to cover up
17 what you were doing and what the other people at HUD
18 were doing? *
19 A Yes, sir.
20 Q And can you relate to the ladies and gentlemen of
2 the grand jury what you did?

2 THE COURT: No, the regular jury.
2 MR. O'NEILL: Excuse me, Your Honor.
2 THE COURT: You keep going back to the grand
2 jury.

827

1 MR. O'NEILL: Petit jury.

2 BY MR. O'NEILL:

3 Q Let me repeat that, sir. Can you relate to the
4 ladies and gentlemen of the jury what you did in an
5 attempt to cover up what was going on at HUD?

6 A Yes. There was an opportunity when I first became
7 the General Deputy Assistant Secretary for Housing, and
8 this is after I had been DAS at Housing for awhile, two
9 Congressmen, Congressman Nowack and La Falce, both from

10 New York, had written letters to the Department and they
11 didn't like the way the Mod Rehab Program had been
12 running and they basically were the first people, my
13 recollection, that really caused a political stink about
14 what was really happening with the funds and I was -- I
15 met with them and told them I would look into the issue
16 and I remember coming back to the Department and talking
17 to Deborah and others about this problem with them and
18 we worked to -- I told the Congressmen that I would
19 write a notice to the field saying I was going to clean
20 up whatever problems there were and I would look into
2 it.

2 And the staff people prepared a notice that
2 went out to the field that basically reminded the career
2 people what they were supposed to do. You know, in
2 terms of how the funding process would work or how the

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1 actual administration of the projects would be
2 accomplished, and when the letters came up from the
3 career people to -- through the political people in the
4 Department, documents were changed. Where it said don't
5 do a couple of things, all of a sudden those things sort
6 of disappeared from the final text of the conversation
7 or text on the notice to the field and also my letter
8 that went out to the Congressmen saying don't worry, the
9 program is being handled right, and everything is being
10 done the way it's supposed to, when in fact it wasn't.
11 And that was really the basis of one of my charges.
12 Q Did you purposely cover up what you had been doing?
13 A Yes, sir.
14 Q Now, with whom did you do that, sir?
15 A With Deborah Dean.
16 Q What was her involvement in the cover-up of how the
17 Mod Rehab process was operating?
18 A Well, one of the conversations I remember having
19 with her was when I was getting ready to go see
20 Congressman La Falce was her admonition to me that we
2 had to protect Senator D'Amato from New York because his
2 brother, I think his name was Armand, was the attorney
2 on the project that they called in on and he was really
2 mad, the Congressman was really mad, and we didn't --
2 you know, based on what my conversations with Debbie

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1 Dean were, to protect the Senator, make sure that he was
2 okay.
3 Q Mr. DeBartolomeis, I want to go into a different
4 subject for a moment. Are you familiar with a project
5 known as Baltimore Uplift One?

6 A Yes, sir.

7 Q And how are you familiar with that project?

8 A It's a project in Baltimore, it's a scattered type

9 multi-family project that had trouble getting finished.

10 I think it just had problems with getting the project

11 finished.

12 Q Did the defendant Deborah Gore Dean have any
13 involvement in that project?

14 A Yes, sir.

15 Q And how do you know about that?

16 A She talked to me about it.

17 Q Are you also familiar with a project known as
18 Patriot in Maryland?

19 A Yes, sir.

20 Q How are you familiar with that project, sir?

2 A Well, I remember talking to Debbie Dean about it

2 along with Jim Lomenick and Janice Golec.

2 Q You mentioned some names there. Who is Lomenick?

2 A Jim Lomenick was a guy that was dating

2 Janice Golec.

830

1 Q Who is Janice Golec?

2 A Janice Golec was a Special Assistant to the

3 Secretary, another one.

4 Q To your knowledge did the defendant Deborah Gore

5 Dean have any involvement in the Patriot project?

6 A Yes.

7 Q And what was her involvement?

8 A Directing the level of funding to the project.

9 Q Now, Mr. DeBartolomeis, to your knowledge was the

10 defendant interested in Mod Rehab units goi he
11 State of Maryland?

12 A Yes, sir.

13 Q And why do you say that?

14 A Because she told me that she had a g: ertest
15 in what was going to happen in Maryland, tnau ± wanted
16 to become the Congresswoman for that district some day.

17 Q Mr. DeBartolomeis, at this time I will show you an

18 Exhibit previously marked for identification as

19 Government's Exhibit 220A.

20 THE DEPUTY CLERK: Government's Exhibit 220A

21 marked for identification.

2 (Government's Exhibit 220A

2 marked for Identification)

2 BY MR. O'NEILL:

2 Q With the Court's permission, Mr. DeBartolomeis, I

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1 would show you what's previously been marked for

2 identification purposes as Government's Exhibit 220A.

3 And, again, I'd ask you -- you can't read that out loud

4 but I'd ask you to look at it. Have you seen it before?

5 A Yes, sir.

6 Q And what is it?

7 A This is the yellow portion of a correspondence

8 package that comes up for final signature and ultimate

9 distribution to the field.

10 Q Have you ever seen that document before?

11 A Yes, sir.

12 Q And when have you seen that document?

13 A When I was going through the process of, you know,
14 the decision making process on this, sort of final
15 sign-off process actually is what I should say.

16 Q And did you sign off on this document?

17 A Yes, sir, I ultimately did.

18 MR. O'NEILL: Your Honor, at this time, I'd move

19 it into evidence as Government's Exhibit 220A.

20 THE COURT: This is just a sample form or is

21 this a particular one that was dated?

22 BY MR. O'NEILL:

23 Q Mr. DeBartolomeis, did you hear the Court's

24 question?

25 THE WITNESS: Your Honor, this is a document

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1 that shows how -from
when it was originally started
2 how it was actually changed and it shows that there are
3 certain portions in this document that were struck from
4 the way that the career people had intended it to go.
5 THE COURT: This is the draft or the final -
6 THE WITNESS: Yes, sir, yes, sir, this is a
7 draft and it shows -
8 THE COURT: It's the draft that you testified
9 about earlier which was prepared and circulated. You
10 testified about this already.
11 THE WITNESS: Yes, Your Honor.
12 THE COURT: All right. 220A, any objection?
13 MR. WEHNER : No objection, Your Honor.
14 THE COURT: All right. 220A will be admitted.
15 (Government 's Exhibit 220A
16 received into Evidence)
17 MR. O' NEILL: Your Honor, if we may publish it
18 briefly? *
19 THE COURT: All right.
20 MR. Of NEILL: That should be sufficient.
2 THE COURT: All right.
2 MR. O'NEILL: I have no further questions of
2 the witness.
2 MR. WEHNER: Your Honor , I can start this
2 evening.

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1 THE COURT: Do you want to start for a few
2 minutes?
3 MR. WEHNER: I can start for a few minutes.
4 It will be extensive tomorrow.

5 THE COURT: I realize that •
6 CROSS-EXAMINATION
7 BY MR . WEHNER:
8 Q Mr. DeBartolomeis, how long did you date
9 Miss Dean? Approximately one year?
10 A I would say less than that, sir.
11 Q Approximately six months, eight months, ten months?
12 A Six to eight months, somewhere in that range, sir.
13 It's been a long time, so I can't - I don't remember
14 exact dates.
15 Q Your recollection is based upon events occurring
16 back in what, 1983, '84, '85, '86?
17 A Yes, sir, it is.
18 Q And that's seven years ago now?
19 A Yes, sir.
20 Q So your recollection may not be entirely accurate
2 or consistent with things you've said in the past,

2 today , is that right?
2 A No, I couldn't quite characterize it as being

2 entirely inaccurate. I may not have a hundred percent
2 recollection of the exact words but, again, I do

834

1 remember dating Deborah Dean. We were on and off, so,
2 you know, a couple of times, and so, maybe if you take a
3 look at the time from when I first dated Deborah to the
4 time that I never dated her again the last time, I mean
5 you could – I don't know the exact timeframe, that's
6 what I'm trying to say.

7 Q You had close conversations with her, I mean
8 personal close conversations with her when you dated

9 her, did you not?

10 A Yes, sir, I did.

11 Q And certainly you never expected to be in a
12 position where you would repeat those conversations in
13 this kind of public circumstance, did you?

14 A I never did anticipate that, sir, no.

15 Q And you have testified today to some of those very
16 personal conversations that you had with her, haven't
17 you?

18 A Yes, sir, I have.

19 Q And all of those conversations are as consistent as
20 you can make them with your recollection of truth, isn't
2 that correct?

2 A Yes, sir.

2 Q Now, there was a time when you weren't that honest
2 in a public forum, isn't that correct?

2 A What do you mean by that, sir?

835

1 Q Well, there was a time when you lied about your
2 activities at HUD, isn't that correct?

3 A Yes f sir

4 Q And you lied about that several times, did you not?

5 A Yes r Six

6 Q And you lied about that publicly, did you not?

7 A Yes, r sir

8 Q And you lied about that on television, didn't you?

9 A I don't remember television. What do you mean
10 sir?

11 Q Did you testify in front of the House of
12 Representatives?

13 A Yes, sir •

14 Q And was that testimony tape recorded?

15 A Yes. sir •

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16 Q And did you lie when you testified in front of the
17 House of Representatives?
18 A I don't remember specifically lying there, but the
19 items that I have pled guilty to weren't really involved
20 in that, sir.
2 Q Did you lie when you testified to the House of
2 Representatives?
2 A Yes. If saying that the program is being run
2 properly and knowing that the program was not being run
2 properly, I guess I did lie.

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1 Q I don't judge whether you're lying or not.
2 A Okay.
3 Q I need to know from you did you lie to the House of
4 Representatives when you testified in front of them?
5 A I do not remember specifically lying to the House
6 of Representatives when I testified.
7 Q Because you were put under oath before you
8 testified there, were you not?
9 A Yes, sir, I was.

10 Q And at that time do you recall remembering that the
11 same words were used there that were used here, that you
12 solemnly swear to tell the truth, the whole truth and
13 nothing but the truth?
14 A Yes, sir.
15 Q And your testimony today is that you do not recall
16 lying after you were put under oath in your testimony
17 before the House of Representatives?
18 A Yes, sir, that's my recollection, that I did not
19 lie to the Congress when I testified under oath.
20 MR. WEHNER: Your Honor, I think we can break.
2 THE COURT: All right.
2 Ladies and gentlemen, it's 4:20. We'll take
2 our evening recess. Be back tomorrow at 9:30 and be
2 ready to go for a full day tomorrow. This coming Friday
2 it will be only a Friday morning in this case again.

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1 You'll be out Friday afternoon because I have another
2 matter in another case I have to hear that's set for
3 Friday afternoon. So otherwise we're here on the
4 standard times all week.
5 Have a pleasant evening.
6 Remember please the admonitions particularly

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7 as you go into this case, and it goes on for awhile, not

8 to talk about the case among yourselves or anyone else.

9 No casually mentioned detail in the way home or the
10 hallway. Don't let anybody talk to you about it or

11 listen to it or read it in the media.

12 See you back tomorrow morning at 9:30.

13 Remember, try to be awake and alert tomorrow when you

14 watch the Monday night game. You've got a long day

15 tomorrow. All right.

16 (Jury dismissed)

17 THE COURT: Thank you, sir. You can step down.

18 I need to know your schedule tomorrow.

19 (Bench conference)

20 THE COURT: He'll be on a couple of hours in the

2 morning.

2 MR. O'NEILL: Steve said he's going to be

2 long. It's really -- the issue is he doesn't know how

2 long he's going to be. We have four witnesses lined up,

2 Judge.

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1 THE COURT: Nunn, is he up tomorrow?

2 MR. O'NEILL: No, he's supposed to be

3 Thursday, but we'll have more information tomorrow.

4 MS. SWEENEY: He's supposed to be seeing a

5 doctor tomorrow and then we'll be hearing.

6 THE COURT: You'll be all morning.

7 MR. WEHNER: I would think I'd be all morning

8 with Mr. DeBartolomeis.

9 MR. O'NEILL: Then we have a full day

10 tomorrow.

11 MR. WEHNER: Because Mr. Sankin is another

12 witness that you advised me you're going to put on, and

13 Mr. Sankin is going to be long as well.

14 Your Honor, if I could raise one additional

15 matter. We have tapes of Mr. DeBartolomeis' testimony

16 up on the Hill that we intend to play portions of. We

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17 clearly don't intend to play it all, but we intend to
18 play portions during cross-examination. I simply wanted
19 to alert the Court, Mr. O'Neill and Miss Sweeney to that
20 because frankly I didn't think it was going to happen
2 this early that he would testify the way he testified

2 about his Hill testimony, but I think there are clearly
2 going to be inconsistent, to put it kindly, inconsistent
2 statements between what he testified to this morning or
2 earlier on direct and what he testified to up on the

1 Hill.
2 he did
3
4
5
6
7
8

He simply did

on the Hill.
THE COURT:
You've seen
MS. SWEENEY
MR. O'NEILL
THE COURT:

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not give the same story today that

All right.

these tapes?
: No, Your Honor.
: No, Judge.

Have you got copies of them?

MR. WEHNER: I'll be more than glad to give

9 you copies, Mr. O'Neill. I find that amusing that you
10 say you haven't seen them.
11 MR. O'NEILL : Never saw them. The only one I
12 have seen was Dubois Gilliam because everyone said how
13 much thinner he was. I thought it would be interesting.
14 MR. WEHNER: Maybe you'll withdraw him as a
15 witness after you see the tape. You have the
16 transcript, the transcript is the same thing.
17 MR. O'NEILL : well, is it recorded from
18 C-Span? Has it been edited? Those are things we
19 would -
20 MR. WEHNER: I would be more than glad to give
2 you the tapes to look at them this evening. We have
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2 edited them, yes.
2 THE COURT: Do we have a machine up here?
2 THE DEPUTY CLERK: I don't think so, Your
2 Honor.

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1 MR. WEHNER: We brought a videotape in and I
2 think we can hook it up to the same system.
3 THE COURT: We have a training one that's
4 available.
5 THE DEPUTY CLERK: Yes, but the Clerk sent a
6 memo around saying it wasn't going to be available. On
7 occasion I have asked for it.
8 THE COURT: Who is the engineer that sets all
9 this up?
10 THE DEPUTY CLERK: This equipment right here?
11 The gentleman sitting in the back.
12 MR. O'NEILL: Agent Kevin Whelan, Your Honor.
13 THE COURT: You might ask him if it's possible
14 to hook up a video or not. It should be. There are a
15 lot of wires.
16 MS. SWEENEY: Your Honor, we had heard that
17 you were the expert on the equipment.
18 THE COURT: That's right.
19 I'll see you in the morning then at 9:30 and
20 we'll be ready to go.
2 MR. O'NEILL: Thank you, Your Honor.
2 MS. SWEENEY: Thank you, Your Honor.
2 (Proceedings recessed at 4:25 p.m. to resume September
2 21, 1993 at 9:30 a.m.)
2

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CERTIFICATE OF OFFICIAL REPORTER
IT IS CERTIFIED BY THE UNDERSIGNED OFFICIAL
COURT REPORTER OF THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA THAT THE FOREGOING IS THE
OFFICIAL RECORD OF THE PROCEEDINGS INDICATED.

SANTA THERESA ZIZZO

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1 UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

2
3 UNITED STATES OF AMERICA, Criminal No. 92-181-01

4 vs. Washington, D.C.

5 September 21, 1993

6 DEBORAH GORE DEAN, 9:30 a.m.

7
8 Defendant.

9
10 TRANSCRIPT OF JURY TRIAL
11 BEFORE THE HONORABLE THOMAS F. HOGAN
12 UNITED STATES DISTRICT JUDGE

13
14 VOLUME VII

15
16 APPEARANCES

17
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26 Washington, D.C. 20002

27
28 ALSO PRESENT: MARK BATTS

29
30 OFFICIAL COURT REPORTER: ANNELIESE J. THOMSON

31 6814 U.S. Courthouse

32 20 3rd and Constitution, N.W.

33 Washington, D.C. 20001

34 2 (202)842-5069

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36 2 (Pages 846 - 1000)

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38 2 COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

39
40 3 WITNESSES ON BEHALF OF
41 THE GOVERNMENT

42 4 Silvio DeBartolomeis

43 5 (Resumed)

44 8 DEFENDANT'S:

45 9 NO. 73

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P R O CEEDING S
2 (Defendant present, Jury out.)
3 THE CLERK: Criminal No. 92-181, United States of
4 America v. Deborah Gore Dean. We have Robert O'Neill and Paula
5 Sweeney for the government, Stephen Wehner for Ms. Dean.
6 MR. WEHNER: Good morning, Your Honor.
7 THE COURT: All right. Is there a preliminary matter
8 this morning? Good morning.
9 MR. WEHNER: Yes, sir. with regards to logistics -
10 THE COURT: All right.
11 MR. WEHNER: -
12 about five minutes ago, delivered to me
13 were Gialio productions on Susan Zagame; Cleofe Rubi,
14 C-1-e-o-f-e, last name R-u-b-i; Andrew Sankin; and Thomas
15 Broussard. Judge, I cannot prepare to use this information
16 before they are scheduled to testify today. That is simply an
17 impossible task. I was here in this courtroom last night until
18 6:00 and was here at 7:00, 7:15 this morning, and this just came
19 to me.
20 Now I understand there was some effort made to deliver
21 to my office last night. I wasn't there. I was preparing to try
22 the case.
23 THE COURT: How much material are you talking about?
24 MR. WEHNER: I'll hand it to the court. It's probably,
<j 24 I don't know, 50 pages. I haven't looked at it yet. But I
25 haven't had the opportunity to even see what it is, Judge. It

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1 may be totally insignificant, and it may be significant.
2 THE COURT: we've got Mr. DeBartolomeis this morning,
3 all morning.
4 MR. WEHNER: Yes, sir.
5 THE COURT: we'll have to see what the schedule is this
6 afternoon.
7 I mean, I don't know if they're going to call
8 Mr. Broussard, who there is only one page of Giglio materials
9 on, or if they're going to call someone else who may be 20 or 30
10 pages.
11 MR. WEHNER: I mean, my understanding of the witnesses

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12 today were going to be Ms. Rubi and who else, Mr. O'Neill?

13 MR. O'NEILL: It's going to be Mr. Rubi, Mr. Sankin,
14 and Mr. Broussard.

15 THE COURT: Zagame is not coming in today?

16 MR. O'NEILL: No, Your Honor.

17 THE COURT: All right.

18 MR. O'NEILL: If we have to, I guess we could try. We

19 don't anticipate that we'll get that far.

20 THE COURT: Rubi, there's a considerable amount of
2 information, although is lot of redacted. Sankin, there's,
2 basically it looks like grand jury testimony of another witness
2 that reflects upon him, an immunity order or agreement, and an
2 interview.

2 well, let me see where you are, and I'll see where we

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1 are at lunchtime. I recognize you want to review these.

2 Mr. Sankin is a very important witness for you as well as

3 Mr. Broussard if he comes. Let's see where we are at lunch. I

4 don't know how fast you're going to get through these and who's

5 next. It may be the government may have to change their order

6 somewhat so that we have ones in here that you can review over

7 lunch at least the Giglio materials.

8 Is there a way to get these out a little bit earlier to

9 Mr. Wehner?

10 MR. O'NEILL: Judge, as I told Mr. Wehner, we were

11 trying. Just so the record's clear, we asked Mr. Wehner when he

12 would be at the office, and he said until 7:00 last night, so an

13 FBI agent went, and there was, obviously, maybe miscommunication,

14 but Ms. Sweeney called up his office before six. There was no

15 answer. An FBI agent went there a little before six to deliver

16 the Giglio, and it was closed. So Mr. Wehner has told us he

17 was here, and -

18 THE COURT: Yes, he was here, because when I was

19 leaving, I could hear him, I think, his voice down the corridor

20 around 6:30 or so.

2 MR. WEHNER: Sorry, Judge.

2 THE COURT: All right.

2 MR. O'NEILL: So clearly, Judge, that was the problem

2 there,

2 Mr. Wehner has said that he expects to take all morning

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1 with Mr. DeBartolomeis, and that will slow matters up, so the

2 Giglio probably will be a little quicker in coming. As you

3 know, we've gone through a lot of witnesses in the last several

4 days, and we just haven't been able to keep up with turning over

5 all the additional Giglio.

6 THE COURT: All right. Well, let's see where we are at

7 lunch hour. I don't want to suspend the trial, so let's see what

8 we can do and see what witnesses can be ready for this afternoon

9 if Mr. DeBartolomeis is finished. He may finish earlier. Then

10 we'll have to see where we are at that point.

11 MR. WEHNER: Your Honor, the problem is is that one of

12 the reasons that we've been moving so quickly is because we have

13 been spending the appropriate and necessary amount of time the

14 evenings before reviewing the transcripts and preparing our cross

15 and getting our documents in order.

16 THE COURT: All right. Well, let's just -

17 MR. WEHNER: So I don't want to see us because we have

18 not asked for any prior short breaks, I don't want to see us

19 prejudiced in terms of a short delay to allow us to use the

20 Giglio material.
 21 THE COURT: All right.
 22 MR. WEHNER: I think we've been very, frankly,
 23 aggressive in moving the trial along and in being prepared for
 24 the various witnesses.
 25 THE COURT: All right, I've got no complaints about how

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1 the trial is moving on either side. Neither counsel have been
 2 wandering far afield in their questions; that's for sure.
 3 All right, we'll just take it up as we go and see where
 4 we are with Mr. DeBartolomeis and see where we are this
 5 afternoon.
 6 All right, I'll take a short break to get the jury
 7 organized and be right back.
 8 MR. O'NEILL: Judge, we have your unredacted Jencks.
 9 THE COURT: I'll read that over the next five-minute
 10 recess. All right.
 11 (Recess from 9:45 a.m., to 10:00 a.m.)
 12 THE COURT: Are we ready to go? I see that there's
 13 counsel for, I assume, various witnesses are present. We have a
 14 rule on witnesses, so I'm going to bind counsel not to discuss
 15 the testimony they hear in court with their clients before they
 16 come and testify.
 17 All right, bring the jury in. :
 18 THE DEPUTY MARSHAL: Yes, Your Honor.
 19 (Jury in.)
 20 THE COURT: All right, Ladies and Gentlemen, good
 2 morning.
 2 THE JURORS: Good morning.
 2 THE COURT: We're ready to proceed. Thank you for
 2 getting here promptly on a rainy morning.
 2 We're going to continue again with the examination -

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where is the witness? would you tell him we're ready for him to

come back in at this time, please? Mr. Silvio DeBartolomeis.

MR. O'NEILL: I found him, Judge.

THE COURT: All right, thank you. Ladies and

Gentlemen, as you'll recall, he had begun his cross examination.

We'll continue with that now.

All right, Mr. Wehner.

MR. WEHNER: Thank you, Your Honor.

Good morning, Ladies and Gentlemen.

THE JURORS: Good morning.

SILVIO DE BARTOLOMEIS, GOVERNMENT'S WITNESS, RESUMED
CROSS EXAMINATION (Cont'd.)

BY MR. WEHNER:

Q. Mr. DeBartolomeis, when Mr. O'Neill questioned you yesterday, I believe that he testified -- you testified to some basically general conclusions about the various roles that were played in the Modern Rehabilitation Program. Do you recall generally that area and those questions and answers?

A. Yes, sir.

Q. Okay. What I'm going to do now is we need to become specific regarding what your role was, what others' roles were, and who precisely did what to whom for what project and when, and you understand to give us, that you need to give us your absolute best recollection of precisely the conversations you recall and precisely the actions you recall.

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1 Do you understand that?

2 A. Yes, sir. To the best of my ability, sir.

3 Q. Now I'm going to direct your attention to 1983, and I'd like
4 you to repeat to the jury, if you would, what your position was
5 in September of 1983.

6 A. I believe I was deputy assistant secretary for multi-family
7 housing programs at that time.

8 Q. That was in this position; is that correct?

9 A. Yes, sir.

10 Q. And who was Phil Winn at that time?

11 A. Phil Winn was a private individual.

12 Q. Okay. And who was Lance Wilson at that time?

13 A. I believe Lance at that time was executive assistant to the
14 secretary.

15 Q. Okay. Lance Wilson was executive assistant to the
16 secretary, which was the job that Ms. Dean ultimately held,
17 correct?

18 A. Yes, sir.

19 Q. Okay. And you were general deputy assistant secretary; is
20 that correct?

2 A. No, sir.

2 Q. I'm sorry, you were general, I'm sorry, you were assistant
2 secretary for housing?

2 A. No, sir.

2 Q. Which one were you? This is confusing.

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A. I know it is.

2 Q. I'm sorry, deputy assistant secretary for multi-family
3 housing, correct?

4 A. Yes, sir.

5 Q. All right. Did Lance Wilson give you instructions about how
6 you were to operate the Moderate Rehabilitation Program at that
7 time?

8 A. I don't recall Lance giving me instructions on how to run
9 the program, because at that time when I was DAS for multi-family
10 housing programs, there was an assistant secretary for that, and,
11 you know, he -- so I don't have --

12 Q. You don't have any recollection of that?

13 A. At this point, I really don't.

14 Q. Okay. I'm going to show you what's been marked for
15 identification as Dean Exhibit No. 73.

16 THE CLERK: Dean Exhibit 73 marked for identification.

17 (Defendant's Exhibit No. 73 was

18 marked for identification.)

19 MR. WEHNER: Which just for the record is dated
20 9-1-1983.

21 Q. I'm going to ask you to take a look at that memo now that
22 you've testified that you can't recall receiving any
23 instructions, and tell me if that refreshes your recollection as
24 to whether you received instructions from Mr. Lance Wilson about
25 how to operate the Mod Rehab Program?

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A. Did you say this was from Phil Winn?

Q. No, sir.

A. Okay.

Q. I said that was from Mr. Lance Wilson.

A. Yes. And the Phil you're referring to?

Q. No, no.

A. Because that was Phil Abrams there at that time.

8 Q. Your -- does this refresh your recollection as to whether
9 Lance Wilson gave you instructions on how to run the Mod Rehab
10 Program?

11 A. It's not telling me how to do it, but unless I'm reading it
12 wrong, this is more of an informational thing. It's not telling
13 me what to do, sir.

14 Q. It's an informational thing. Isn't it true that you were
15 told by Lance Wilson, the executive assistant to the secretary,
16 in September of 1983 that public housing authority letters to HUD
17 headquarters should be for the particular project? Weren't you
18 told that?

19 A. That's what that letter says, sir.

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20 Q. Weren't you told that?

21 A. I would have to say since I read the letter, the answer

22 would be yes, because he had said that in that letter.

23 Q. Now you considered that letter informational?

24 A. Yes, sir.

25 Q. As opposed to giving you instructions on how to run the

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1 program?

2 A. Yes, sir. I wasn't really running the program at the time

3 in terms of the funding. In terms of the funding, the assistant

4 secretary was in charge of that.

5 Q. But you did receive informational, would you call it

6 informational information about the program?

7 A. Yes, sir.

8 Q. In September of '83?

9 A. That's what that letter says, yes, sir.

10 Q. You on occasion, would you not, discussed with Lance Wilson

11 moderate rehabilitation fundings? Isn't that correct?

12 A. Yes. I was his special assistant, yes.

13 Q. And would you tell the jury generally what those discussions

14 consisted of, please?

15 A. I can't remember any particular instance, but what generally

16 would have happened then would have been Lance would have talked

17 about a specific consultant and an area that they were working

18 in, sometimes a particular number of units for a public housing

19 authority.

20 Q. And this would have been all the way back in 1983?

2 A. I believe so, sir. It could have even been earlier, when I

2 was special assistant to the secretary, sir.

2 Q. And where was Ms. Dean employed in 1983?

2 A. In the department.

2 Q. Where?

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1 A. I think executive secretariat or special assistant to the

2 secretary.

3 Q. Executive secretary? What is the executive secretary?

4 A. Since I'm not really the expert on that, I could just tell

5 you from my perspective.

6 Q. Well, I'm asking you.

7 A. Okay. A person that handles the correspondence as it comes

8 in to the secretary.

9 Q. And that is the position that Ms. Dean held?

10 A. Yes. I think she did some other things as special assistant

11 to the secretary, but I, I'm not precisely sure what her role

12 was, but that of executive assistant -- I'm sorry, that of

13 executive secretariat, the main job is to handle the flow of

14 correspondence and track the letters that come into the

15 department.

16 Q. Did you have a habit of taking notes at the time you would

17 have these meetings with Mr. Wilson?

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18 A. I would guess I did, yeah.

19 Q. You took notes on occasions of your meetings, did you not?

20 A. Sometimes I did, yes, sir.

2 Q. And sometimes when Mr. Wilson would tell you to transfer

2 units to a certain place or tell you that certain projects had to
2 be funded, you'd write that down; isn't that correct?

2 A. Sure.

2 Q. And on occasion after you would write that down, then you

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1 would take the necessary steps to see that the project was
2 funded; is that correct, sir?

3 A. Yes, sir.

4 Q. Okay. How often did this happen with Mr. Wilson?

5 A. I don't know.

6 Q. Well, how often would he give you instructions as to what --

7 A. He would give me instructions a lot, and they weren't just
8 on mod rehab. They would relate to 202 programs, directed loans,
9 any aspect --

10 Q. This trial only concerns with mod rehab, so let's limit it
11 to mod rehab.

12 MR. O'NEILL: Objection, Your Honor. The answer is
13 what the answer is.

14 THE COURT: All right, let him answer the question.

15 THE WITNESS: All I'm trying to say is that Lance would
16 contact me to handle a number of different projects, and it just
17 wasn't mod rehab. Most of the projects that I would handle for
18 Lance really would be in, as it related to transfers of physical
19 assets, perhaps a troubled project had problems, you know, they
20 had problems in the area office, and it got bumped to
2 headquarters, and so I would be the person who ended up working

2 on it, or if it needed a rent sub.

2 Most of them were really troubled projects more so than
2 mod rehabs, which would be a really small part. That's why it's
2 tough for me to say how often I dealt with those, because I dealt

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1 with Lance on a lot of stuff almost every day, and the number of
2 mod rehabs, I just don't remember what the numbers were.

3 BY MR. WEHNER:

4 Q. It's true, is it not then, that the executive assistant
5 dealt with many more projects, including Ms. Dean, many more
6 areas of responsibility than mod rehab?

7 A. Yes, sir.

8 Q. And that practice came to you from Lance Wilson, correct?

9 A. Sure.

10 Q. Okay. Now Ms. Dean was not involved in those mod rehab
11 decisions in 1983; isn't that correct?

12 A. Not to my knowledge.

13 Q. Okay. And the system essentially that was in place at that

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14 point was you would have discussions with Lance Wilson about what
15 particular projects to fund; is that correct?

16 A. Not always, no.

17 Q. Okay.

18 A. A lot of times, you know, in 1983, please recall that
19 Maurice Barksdale was the assistant secretary. He was in charge
20 of the funding for the Mod Rehab Program, while I was deputy
21 assistant secretary, and so a lot of my role was more of the

22 administrative role that would make sure that the paperwork was
23 there for the PHA requests, and I think that that's kind of what
24 that letter, the one that you showed me, the memorandum --

25 Q. Yes, sir.

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1 A. -- I think that basically says that, you know, when a public

• 2 housing authority comes in, they've got to have the letters, you
3 know, organized, and they have to have certain documentation, and
4 that's why I was saying I thought it was more informational than
5 specific projects. I did not have any authority to put any
6 project on the list when I was the DAS for multi-family housing
7 programs.

8 Q. I'm not suggesting you did.

9 A. Okay. I'm sorry, because I understood you then.

10 Q. I'm suggesting thou dost protest too much, methinks. I'm
11 not asking you to take responsibility here. Far be it from
12 anyone, including Ms. Dean, to have any of these witnesses take

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13 responsibility for anything they did.

14 MR. O'NEILL: Objection.

15 THE COURT: All right, I'll sustain the objection.

16 Just ask the question.

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i 17 BY MR. WEHNER:

3 18 Q. What you call informational is what, an exchange of

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5 19 information?

20 A. Yes, sir.

21 Q. You discussed projects with Mr. Wilson?

22 A. Yes, sir.

23 Q. With regard to the mod rehab?

24 A. Yes, sir.

#

25 Q. And he would tell you, he would say words to you about mod

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1 rehab projects?

2 A. Yes.

3 Q. And you would say words to him about mod rehab projects?

4 A. Yes. But I, I think --

5 Q. No, I'll let you explain in a minute.

6 A. Thank you, sir.

7 Q. You exchanged words with Mr. Wilson about mod rehab?

8 A. Yes, we talked about mod rehab, not just projects, but also
9 programs.

10 Q. Absolutely. You had a lot of discussions with him?

11 A. Sure.

12 Q. But this trial deals with mod rehab, so let's limit our
13 responses to mod rehab.

14 A. I am referring to mod rehab.

15 Q. Okay.

16 A. I'm saying that there is a really fine distinction between
17 mod rehab projects and mod rehab programs, and maybe in a way
18 that some person like myself might be sloppy in talking about it,
19 mod rehab program versus a mod rehab project, it is, when you
20 really look at it from a fine perspective, there is a difference
2 between programs and projects, sir.

2 Q. Well, let's look at it from a fine perspective. I want to
2 make sure that you understand precisely the questions I'm asking.
2 with regard to the funding of specific units with moderate
2 rehabilitation funding, what do you call that?

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1 A. I say that that's funding of mod rehab programs.

2 Q. Okay. You, did you discuss with Lance Wilson the, quote,
3 funding of mod rehab programs, end quote?

4 A. Yes, sir.

5 Q. Okay. And during those discussions, the information which
6 was exchanged between you and Mr. Wilson would include sometimes
7 the number of units?

8 A. Yes, sir.

9 Q. The consultant's name?

10 A. Yes, sir.

11 Q. The developer?

12 A. Yes, sir.

13 Q. The public housing authority?

14 A. Yes, sir.

15 Q. The field office?

16 A. Yes, sir.

17 Q. What have I left out?

18 A. Regional office.

19 Q. Okay. Anything else?

20 A. Actual number of units, dollar amounts. I don't know what
2 else you may have left out.

2 Q. Is that a pretty good summary of what you discussed with
2 Mr. Wilson?

2 A. At certain times, one or more of those aspects that we just
2 delineated would be discussed. Sometimes, I mean, not every time

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1 would it, would a discussion have every aspect of what you've
2 talked about. Sometimes it would just be blank PHA, 150 units,
3 without any discussion as to whether it was a consultant, whether
4 there was a developer, anything more specific than that.

5 Q. Now how long from September 1983 forward did you continue to
6 have these conversations with Lance Wilson?

7 A. I'd say until he had, he had gone. I don't remember his
8 exact date that he left. Was it '85 or was it -- I don't
9 remember, it might have been '86 that he left. I don't remember
10 the exact date. Maybe you can help me with that.

11 Q. So that --so your conversations with Mr. Wilson continued
12 until he left the executive assistant position?

13 A. Yes, sir.

14 Q. And as far as you were concerned, you didn't have
15 responsibility for the program, but you had a role in
16 administering it, correct?

17 A. Yes, sir. I didn't have the responsibility for the funding

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18 decisions, but I did have responsibility for the ongoing

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19 administration of the Mod Rehab Program.

20 Q. Do you recall an individual during your administration of
2 the program by the name of Mel Adams?

2 A. Yes, sir, I do.

2 Q. Mel Adams, in fact, was the director of the Metropolitan
2 Dade County, Florida, Housing and Urban Development Authority,
2 was he not?

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1 A. I believe that was his title, yes, sir.

2 Q. And he was fairly well known within HUD as a hard-working,
3 decent public servant, correct? Is that right?

4 A. Yes.

5 Q. Okay. Did you have occasion to correspond with Mr. Adams on
6 occasion regarding various projects?

7 A. Yes.

8 Q. Do you recall corresponding with him regarding a project
9 called Arama?

10 A. Yes, sir, I do.

11 Q. And do you recall who told you to correspond with Mr. Adams
12 on that project?

13 A. I believe I talked to Debbie about it. I don't know if I
14 specific, specifically what the details were, but what I recall
15 more so about Arama was a rent increase issue. So a project
16 maybe had gotten a certain number of funding to a program, and a
17 project was selected, and maybe it needed some additional rents
18 in order to make it, to sort of work out so they could afford to
19 pay their bills, and so they needed higher rents. Or maybe
20 they started the renovation and there was more work to be done.

2 Q. Well, I really don't want to talk about the rent increases,

2 because that's really not too important right now.

2 A. But, sir --

2 THE COURT: I think the question was do you remember
2 who directed you to write correspondence to Arama.

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MR. WEHNER: That's correct, Your Honor.

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• 2 Q. Do you recall who directed you to write the correspondence
3
to Arama?
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THE COURT: Or to Abrams about Arama, I guess, is a
5 better way to say it.

6 BY MR. WEHNER:

7 Q. Do you?

8 A. Basically what I recall is talking to Debbie about a rent
9 increase. That's what I'm remembering.

10 Q. Okay. Well, I need to be more specific about that, and I
11 need to ask you the question, and I'll ask it to you this way:

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12 Isn't it true that Lance Wilson in 1983 -- remember where you
13 were then and where Ms. Dean was then, you already testified to
14 that, and where Lance Wilson was then, and this is 1983.
15 Do you recall you testified that as far as you knew,
16 Ms. Dean had nothing to do with mod rehab decisions at that
17 point? That's your testimony to that? »
18 A. I'm not trying to change my testimony.
19 Q. Let me, let me finish. And I want you to recall that isn't
20 it true that Lance Wilson told you to write to Mel Adams to get

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from him the application for the Arama project?

2 A. I don't recall that at this time. Perhaps if you have a

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document you can show me, show me that Lance told me to call Mel

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Adams, but also I'd like to say that what I do recall related

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more to what, what I talked to you about was a rent increase, and

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1 so the point that I recall about Arama, I can't tell you the
2 exact date that I talked about Arama. It's a project that
3 probably took a long time, rather than just one piece of
4 correspondence.

5 Q. I appreciate that you want to talk about rent increases and
6 Arama. I would further appreciate it if you would simply listen
7 to my questions and give me the most honest answer that you can,
8 because otherwise it is a waste of everybody's time. Do you
9 think you can do that?

10 A. I'll do my best, sir.

11 Q. Very good. Do you know an individual by the name of Stu
12 Davis?

13 A. Yes, sir.

14 Q. What position did he hold at HUD in 1983?

15 A. Different parts of 1983, I think he had different jobs.

16 When he was -- before I came to the office of multi-family
17 housing programs as DAS, he was the executive assistant there,
18 and when I first got there, he was executive assistant until a
19 few weeks, month maybe, and then he went to work for Maurice
20 Barksdale as the executive assistant to the assistant secretary
2 for housing.

2 Q. Do you recall that he was the executive assistant to
2 Mr. Wilson?

2 A. No, sir.

2 Q. Do you recall having any discussions with Mr. Davis

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1 regarding Arama?

2 A. Not -- I don't remember any specific conversations with him
3 at this point in time. Perhaps if you have a document or
4 something you could help me out, I'd appreciate it.

5 Q. Do you recall approving and having sent a project to Miami,
6 Florida, for Arama?

7 A. I just don't remember it, sending it and approving it.

8 Q. I'll show you what I've marked for identification as Dean

9 Exhibit 88.

10 THE CLERK:

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13 BY MR. WEHNER:

Dean Exhibit 88 marked for identification.
(Defendant's Exhibit No. 88 was
marked for identification.)

14 Q. I'm going to ask you if that refreshes your recollection as
15 to you sending the Arama units to Miami?

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16 A. Well, sir, that's not my handwriting. I guess I just don't
17 remember this document here. What do you mean by that?
18 Q. You have no recollection of this document at all?
19 A. I just don't remember it, sir.
20 Q. You have no recollection of any involvement in sending Arama
2 units to Miami?

2 A. Sir, it's been almost ten years. I can't remember
2 everything, but when you showed me that document, I don't
2 remember that handwriting, and I don't remember that sending of
2 that specific units on Arama.

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1 Q. Let me show you what I've marked for identification as Dean
2 Exhibit 85.
3 THE CLERK: Dean Exhibit 85 marked for identification.
4 (Defendant's Exhibit No. 85 was
marked for identification.)

BY MR. WEHNER:

7 Q. A letter of August 25, 1983, addressed to you, and ask you
8 if that refreshes your recollection at all regarding
9 conversations you may have had about Arama?
10 A. That does help, yeah, and that shows that Mel Adams is
11 sending, kind of like what that informational copy was that you
12 showed me, the memorandum, making sure that there's an
13 application coming through the department.
14 Q. Okay. So you now recall that you what, wrote to Mr. Adams
15 or called Mr. Adams or what?
16 A. Probably called him.
17 Q. And what would you have said to him?
18 A. "For your funding package, you have to make sure you have
19 the letter requesting the units, maybe a letter from a local,
20 like, governing body, like the mayor's office supporting it or
2 something like that, to come in on a package."
2 Q. Okay. And you would have made sure to Mr. Adams that the
2 telephone -- that the papers that were coming in were in proper
2 order; isn't that correct?
2 A. Basically that's correct, yes, sir.

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1 Q. Okay. So you now recall having that conversation with
2 Mr. Adams during which you asked him to send you the application?
3 A. I don't remember the exact conversation.
4 Q. Generally you remember the conversation?
5 A. Yes, sir.
6 Q. Now that we've refreshed your recollection?
7 A. I appreciate that. Thank you.
8 Q. Okay. Now let's back up for a second, and let's talk about
9 who directed you to make that telephone call to Mr. Adams. Now

10 Ms. Dean was not in any position of authority at that point, was
11 she, over mod rehab, because you've already testified that in
12 1983, she didn't have anything to do with it; isn't that correct?
13 A. Yes, sir.
14 Q. Okay. Now this is August of 1983, regarding the Arama-Miami
15 project. I'll ask you again do you recall Lance Wilson directing
16 you to make the telephone call to Mel Adams to ask him to send

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17 you the application for that project?

9 18 A. I don't remember an exact conversation. I don't remember

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1 19 him telling me that.

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20 From this document that you show me, it indicates that

2 I have talked to Mel Adams. I don't remember who told me to talk
2 to Mel Adams to get that letter. It may have been Lance,- it may
2 have been Maurice Barksdale. I'm just telling you to the best of

• 2 my ability, I don't remember.

2 Q. So to your best recollection, it was either Lance Wilson or
4/93

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871

Maurice Barksdale?

A. Yes.

3 Q. Now in fact, those Arama units were funded, were they not?

4 A. Yes.

5 Q. And those units were sent to Miami, were they not? There
6 were 293; is that correct?

7 A. I don't remember the exact number, but yes, they ultimately
8 were. The reason that I worked on that is because I worked on
9 the rent increase. That's what I remember.

10 Q. Mr. O'Neill can ask you about the rent increase if he wants
11 to, that's fine. I'm sure if it's important, he will. Okay.

12 So we've established that in 1983, Ms. Dean was not,
13 did not have any involvement in the mod rehab process, that you
14 talked to Mr. Adams about that application, that Lance Wilson
15 and/or Maurice Barksdale told you to talk to Mel Adams about that
16 application; is that correct?

17 A. Yes, sir.

18 Q. I believe you testified that you were in this position in
19 1983; is that correct?

20 A. Yes, sir. That's DAS multi-family, right?

21 Q. When did you move from that position, approximately? A
22 month and year is fine or season of the year.

23 A. I think up to general deputy assistant secretary, it was,
24 like, 1986. It may have been the end of '85, kind of on an
25 acting basis. But I think it was, like, beginning of 1986, right

1 after Janet Hale left, I went up to the general deputy slot, so
2 it probably was, like, January or February, but I might have been
3 acting.

4 I might have been acting general deputy at that time,

5 and then I went on to become the full general deputy.

6 Q. So you left the deputy assistant, and you became general
7 deputy?

8 A. Yes, sir.

9 Q. Whose place did you take?

10 A. Janet Hale's.

11 Q. She was your immediate predecessor?

12 A. Yes, sir.

13 Q. Now your role changed with regard to the administration of
14 the Mod Rehab Program at that point, did it not?

15 A. Yes, sir.

16 Q. Okay. Briefly, would you describe what your role became
17 when you, what you did when you became assistant secretary --I'm
18 sorry, general deputy assistant secretary?

19 A. A general deputy is supposed to be the top deputy of all the
20 deputy assistant secretaries in the office. For example, the
2 general deputy assistant secretary for housing handles all the

2 responsibilities for the assistant secretary in lieu of an
2 assistant secretary.

1 2 At the time, there wasn't an assistant secretary, so
2 the general deputy position that I filled, I was then the acting

1 assistant secretary for housing, so I was responsible for
2 anything that had to do with anything in housing.

3 Q. And that included, did it not, the Moderate Rehabilitation
4 Program?

5 A. Yes, sir.

6 Q. And you continued to have discussions with individuals at
7 that time regarding the funding of various projects; is that
8 right?

9 A. Yes.

10 Q. Okay. Now the jury has heard testimony previously that
11 sometime in or around 1984, the Congress passed some legislation
12 which took the fair share requirements of the Moderate
13 Rehabilitation Program away and replaced it with basically a
14 discretionary program.

15 Are you familiar with that change?

16 A. I'm familiar with that.

17 Q. Okay. Now in 1983, when you were having the discussions
18 with Mr. Wilson and/or Mr. Barksdale about the project-specific
19 funding based on a consultant and a developer, that was still
20 under fair share, was it not?

2 A. I don't remember the exact time that it was deleted, so --

2 Q. Well, the jury has heard testimony it was in 1984.

2 A. Okay.

2 Q. You would agree that 1983 is before then?

2 A. Sure.

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1 Q. Okay. So you had those discussions with Mr. Wilson and/or
2 Mr. Barksdale regarding project-specific discussions,
3 project-specific allocations even when fair share was in effect;

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4 isn't that correct?

5 A. Program-specific funding, yes. Sometimes there were
6 projects, so the answer is both yes to program and projects.

7 Q. Okay. And that's true because even when there were fair
8 share allocations of these projects, that there were still
9 discretionary funds that were available to the secretary; isn't

10 that right?

11 A. Yes, sir.

12 Q. And these discretionary funds, notwithstanding the fair
13 share, discretionary funds the secretary could give where he
14 wanted to give them; isn't that correct?

15 A. Yes, sir.

16 Q. And isn't it true that during fair share, that was a certain
17 small percentage of the total units that were available?

18 A. Yes, sir.

19 Q. For example, if there were 15, let's say 50,000 units
20 available for the whole country, the secretary would distribute
2 maybe 10 percent of those, or 5,000, anyplace he wanted; isn't

2 that correct?

2 A. Yes.

2 Q. And of course, as part of the Reagan cutbacks in the budget,
2 the number that were available for the whole country dropped

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1 considerably, did they not?

2 A. Yes, sir.

3 Q. And they went from, like, 50,000 a year down to about 5,000
4 a year, didn't they?

5 A. I don't remember the exact number of allocation, but I do
6 remember it dropped.

7 Q. But you at least had some informational information about
8 the program at the time. It dropped considerably, didn't it?

9 A. Yes.

10 Q. And it dropped way down, didn't it?

11 A. Yeah.

12 Q. And it went from approximately 50,000 down to no more than
13 10,000, did it not?

14 A. I don't remember the exact unit numbers.

15 Q. It did drop considerably, you would agree with that?

16 A. Yes.

17 Q. And at that point in time, isn't it true that HUD made a
18 decision that all the units that were now available would be
19 funded by the secretary on a discretionary basis?

20 A. They would be funded on a discretionary basis, and the
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statutorily-delegated authority to fund those units was delegated
2 to the assistant secretary for housing, federal housing
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commissioner. So what you had said was the secretary, as opposed
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to the assistant secretary for housing. It was delegated to the

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assistant secretary for housing/federal housing commissioner.

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1 That's my understanding.

2 Q. Isn't it true that HUD, whether it's the secretary or the
3 assistant secretary, had the authority after 1984 to put 100
4 percent of the units where they chose to put them?

5 A. I've already testified yes on that.

6 Q. Okay. And the jury's already heard testimony from

7 Mr. Barksdale that that was, in fact, the case.

8 when you took over the general deputy assistant

9 secretary's position, did you send out a memo about how the PHAS

10 should provide funding?

11 A. It wasn't immediately as I took over, but after I took over,
12 there was time when I went to meet with Congressman Nowack and
13 Congressman LaFalce relating to a Buffalo project.

14 Q. Let's talk about that meeting for a moment. That really
15 wasn't a meeting, was it? That was testimony, wasn't it?

16 A. No, sir, it was not.

17 Q. You were not put under oath, and you didn't testify to them?

18 A. No, sir.

19 Q. Did you give them an interview?

20 A. I went over to their office, and they complained about a
2 problem with the Mod Rehab Program in Buffalo, New York. I told

2 them that I would look into it and if there was a problem, that I
2 would rectify it.

2 Q. There wasn't really a problem in Buffalo, New York, was it?

2 A. Yes.

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1 Q. Wasn't it a fact that a -

2 MR. O'NEILL: Objection. That's two questions with no
3 answer.

4 THE COURT: All right.

5 BY MR. WEHNER:

6 Q. Isn't it a fact that the moderate rehabilitation funding for
7 Buffalo, New York, had occurred because Jack Kemp had asked that
8 those be funded in that location?

9 A. That was not my recollection, sir.

10 Q. And isn't it further a fact that these two other congressmen
11 were upset about the fact that he had managed to get credit for
12 this allocation?

13 A. That's not my recollection, sir.

14 Q. And isn't it a fact that they were simply trying to get
15 moderate rehabilitation units for themselves and take credit for
16 getting those in their district?

17 A. That's not my recollection, sir.

18 Q. After your meetings with these two congress people, as you
19 put it, did you, in fact, send a memo out to the field regarding
20 how PHAS should apply for the moderate rehabilitation units?

2 A. Yes, sir.

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2 Q. And didn't you essentially simply take the one that Janet
2 Hale had sent out previously and send that one out again?
2 A. The notice to the field, is that the one you're talking
2 about?

1 Q. Yes.

2 A. That's also the document that I had agreed was a document
3 that Mr. O'Neill gave me yesterday?

4 Q. Yes.

5 A. Yeah. That was not something that Janet Hale had, had sent
6 out previously. That's not, to my recollection, that was a fresh
7 product from the office down in multi-family housing and the mod
8 rehab office.

9 Q. And you had no knowledge that Janet Hale had sent a similar

10 memo out previously?

11 A. I did not recall that.

12 Q. Okay.

13 A. I thought it was a fresh document. To this day, I still do.

14 Q. Who initially drafted that document for your review?

15 A. Someone in the mod rehab office. I don't know if it was

16 Maddie Hastings or one of her assistants.

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17 Q. And you don't have any recollection as to specifically who

18 that was?

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4 19 A. I'm just not sure of the exact person that may have actually
a j 20 started the document. I remember Maddie signed off on it, and
2 maybe Hunter signed off on it. We got it to my office, and I
2 don't remember if I specifically sent it up to Debbie's office
2 before it went out or whether it was, whether it was Pam
2 Patenaude that took it up to see, for her to see it before it
went out.

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1 Q. Now let's talk, you've mentioned a number of names, and I'd
2 like to talk about each of them.

3 A. Sure, okay.

4 Q. Hunter Cushing is who?

5 A. When I was general deputy, he was the deputy assistant
6 secretary for multi-family housing programs.

7 Q. What generally was his educational background?

8 A. Attorney.

9 Q. So he was a lawyer?

10 A. Yes, sir.

11 Q. Was he involved in the drafting of those regulations, as you
12 testified?

13 A. The document we're talking about was not a regulation. It
14 was merely a notice to the field.

15 Q. Was he involved in drafting the notice to the field?

16 A. I don't know. I know that he had signed off on it.

17 Q. Well, if he signs off on it, what does that imply?

18 A. It means that he concurred with what had been written
19 before.

20 Q. Does that not mean he was involved in the drafting of it?

2 A. My view is no, he was not involved in the drafting of it
2 unless he actually wrote it himself. When I consider someone

2 that's drafting it, I consider someone that is actually the

2 author of the work, and if someone merely concurs with it, I

2 don't look at that as being a person that is actually a drafter.

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1 Perhaps my perception is wrong. If you'd like to educate me on
2 that, I'd be willing to listen.

3 Q. He did concur, to use your word, in the document?

what about Pamela Patenaude Did she concur in the
document?

6 A. I think she may have initialed off on it.

7 Q. Well, now doesn't that mean concur?

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8 A. Yeah.

9 Q. Okay. That's your word.

10 A. Yes, sir.

11 Q. Okay. I'll try to use your language.

12 A. Okay. I'll do my best.

•

13 Q. She concurred in the document.

14 And what was her position at that time?

15 A. I think she was still working in the office of the assistant
16 secretary of housing, the DAS for multi-family housing. I think
17 at that time she might have been Hunter's executive assistant:

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© 18 Q. Now both Hunter Cushing and Pam Patenaude made changes to

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19 that document; isn't that true?

20 A. I don't know that to be true.

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Q. Did you receive the document back down after you sent it, as

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you put it, upstairs?

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A. Yes.

2 Q. Did it have things marked out?

2 A. Yes.

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1 Q. Do you have any knowledge as to who marked those things out?

2 A. I believe Deborah did those.

3 Q. On what possible basis do you believe that? Who told you
4 that?

5 A. I think I had a conversation with Deborah on it.

6 Q. And she told you that she had marked those out?

7 A. There were some changes that she wanted to make, yes, sir.

8 Q. You have no recollection of Hunter Cushing or Pam Patenaude
9 making those changes?

10 A. I don't.

11 Q. I'll show you what I've marked as Dean Exhibit 93.

12 THE CLERK: Dean Exhibit 93 marked for identification.

13 (Defendant's Exhibit No. 93 was

14 marked for identification.)

15 BY MR. WEHNER:

16 Q. And ask you if that refreshes your recollection as to

17 whether or not Pam Patenaude and Hunter Cushing made changes in

18 your, in that document?

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19 A. Could you restate the question? I was reading the document.
20 Q. Does that refresh your recollection as to whether they made
2 changes in the document?

2 A. No, it does not, because what that shows me is that they
2 found things there that they thought that Deborah might find
2 objectionable. So it doesn't show me that they changed it, just
2 shows that they were red-flagging things that Deborah might not

like.

2 Q. You know who an individual is by the name of Tom Casey?

3 A. Yes, sir, I do.

4 Q. What was his position at HUD?

5 A. He had a number of different positions. At this time --

6 Q. Let's talk about in 19-, 1985.

7 A. I think he might have been in Congressional relations.

8 Q. Do you recall an individual by the name of Larry Goldberger?

9 A. Yes, I do.

10 Q. And who is Larry Goldberger?

11 A. Larry Goldberger was the office director in the office above
12 the mod rehab office.

13 Q. What was his role in the Mod Rehab Program?

14 A. He was a career employee, and he handled mod rehab and 202
15 and a couple other programs.

16 Q. Do you recall having discussions with Mr. Goldberger
17 regarding the procedures that should be followed for the Moderate
18 Rehabilitation Program?

19 A. Vaguely, on numerous occasions I did.

20 Q. And do you recall that Mr. Goldberger on occasion would give
21 you specific advice down to and including a checklist that you
22 should use to determine the, whether or not mod rehab projects
23 were appropriately funded?

24 A. Vaguely. Perhaps if you have a document you can show me?

25 Q. I'll show you what I've marked for identification as Dean

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Exhibit 94.

2 THE CLERK: Dean Exhibit 94 marked for identification.

3 (Defendant's Exhibit No. 94 was

4 marked for identification.)

5 THE WITNESS: I do recall this document, and maybe I'll
6 show you what I think the document does.

7 BY MR. WEHNER:

8 Q. No, you need to respond to my questions.

9 A. Okay. Could you please restate your question?

10 Q. Having looked at the document, do you recall receiving
11 information -- I'll try to use your language -- information
12 regarding a checklist that should be used in funding the Moderate
13 Rehabilitation Program?

14 A. Yes, sir.

15 Q. Now do you recall that that checklist had been run through
16 the office of general counsel?

17 A. I don't remember that it actually had gone through the

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18 office of general counsel, but it could have. Just because I
19 don't recall doesn't mean it didn't.
20 Q. Do you recall having discussions with Laurence Goldberger
21 regarding the checklist?
22 A. I don't have, remember specific discussions.
23 Q. Do you remember -- you do, however, remember that the memo
24 came?
25 A. I, when I looked at that document, it looked familiar to me,

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yes, sir.

Q. what position did you have when you received that memo?
A. I'm pretty sure I was DAS in multi-family housing. Was it '85?
Q. Yes. And at that time, did you then begin to use the
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checklist in terms of making moderate rehabilitation decisions?
A. I don't believe that I actually used that form, because I don't believe that at that time I was actually making the mod rehab funding decisions.
Q. Do you recall whether the funding, whether the form was ever used?
A. I do not recall that, sir.
Q. Did you ever use the form at any time during your tenure at HUD?
A. I just don't remember seeing that form and doing that, using that specific form. I don't.
Q. Okay. Do you remember using any form to substantiate the moderate rehabilitation funding decisions that were made?
A. Not really.
Q. Okay. So in fact, there was no form; isn't that right?
A. That's my belief.
Q. And in fact, you received the memo that said, "Maybe we ought to be using a form," and you never did use a form, did you?
A. I personally didn't.
Q. Well, do you know of anybody else that did?

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1 A. I don't know if they did, and I don't know if they didn't.
2 Q. And did you use one after you moved up the ladder?
3 A. No.
4 Q. Okay. And yet you had received the memo receiving
5 information about the use of the form; isn't that right?
6 A. Yes.
7 Q. In 1986, you were deputy -- general deputy assistant
8 secretary and federal housing commissioner; isn't that correct?
9 A. Yes, sir.

10 Q. And there came a point in time when you were asked certain
11 questions by Congress regarding how the program was administered;
12 isn't that correct? I believe you previously testified that that
13 was as a result of some inquiries from a Congressman Gonzales?
14 A. Are you referring to a letter? Because I don't remember any
15 direct testimony on the Hill about the Mod Rehab Program
16 unless --
17 Q. No, no. Was there a time when you were asked to testify?
18 A. I don't remember a specific time that I personally was asked
19 to testify. I may have been told that, that I might be asked to
20 testify, but I don't think I was specifically asked to testify.
2 I think there were discussions about having the secretary come in

2 to testify, and I may have gone in his stead.
2 Q. Let me ask the question another way to see if we can cut
2 through it.
2 A. Okay.

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1 Q. Was testimony prepared for you to go up to the Hill and
2 testify?
3 A. It may have been.
4 Q. Okay. I'm going to show you an exhibit which I'll mark as
5 Dean Exhibit 121 and ask you if this refreshes your recollection
6 as to whether testimony was prepared for you to go up to Capitol
7 Hill and testify in 1986?

8 (Defendant's Exhibit No. 121 was
9 marked for identification.)

10 MR. WEHNER: Your Honor, could we come to side bar for
11 a second?

12 THE COURT: Sure.
13 (Bench conference on the record.)

14 MR. WEHNER: I have no objection if the Court wants to
15 instruct Mr. DeBartolomeis to please answer the questions or if
16 the Court wants Mr. O'Neill to take Mr. DeBartolomeis aside and
17 ask him to please answer the questions or his own attorney to
18 take him aside, because if this goes on like this, it's going to
19 take a very long time. He's a very important witness. What I'm
20 showing him is the testimony that was prepared for him, and it's
2 not a big secret. There's nothing wrong with him admitting the

2 testimony was prepared.

2 THE COURT: He's reading it all in detail.

2 MR. WEHNER: Yes, sir. If we go on like this, it's
2 going to take a very long time. So if Your Honor wants to have a

1 talk with him with his lawyer present and I'll talk to him and
2 say this is what I'm going to show him, that will speed this
3 along, because I'm afraid this is going to take two days if we go
4 on like this.

5 THE COURT: I have not interfered. Obviously, I
6 thought you may want the impression that he was not cooperating
7 with your questions.

8 MR. WEHNER: Well, I think that's clear.

9 THE COURT: But I'd be happy to tell him to try to look

10 at things quickly and use his best recollection.

11 MR. O'NEILL: Judge, I would object to that, and I
12 think maybe Steve's idea is better, to maybe tell the lawyer at
13 the break to say, "Here are the things, so you can review them
14 outside of the Court's presence," but quite frankly, I wouldn't
15 answer if I was a witness without reading a document.

* 16 MR. WEHNER: On that?

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17 THE COURT: He doesn't need to do quite the perusal
18 that he's been doing in these last couple of documents.

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19 MR. O'NEILL: He probably was told that by counsel, I

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3 20 would surmise.

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21 THE COURT: In detail, reading every single line. All
22 you're asking is if it refreshes his recollection. He can answer
23 yes or no.

24 MR. WEHNER: I'm not going to slip something in that's
25 going to trip him up more than that he's going to trip himself

1 up.

2 THE COURT: All right, we'll take a break and have
3 counsel talk to him.

4 MR. O'NEILL: Yeah.

5 THE COURT: Do you have a lot more documents to show
6 him?

7 MR. WEHNER: Yes, sir. I mean, he was there for the
8 whole tenure of this, and his lack of knowledge is, in my
9 judgment, the primary impeachment as to what he was saying about

10 Ms. Dean. .

11 The same thing was with Janet Hale, although she was a
12 little bit more cooperative in terms of identifying documents and
13 refreshing her recollection as to what she did, but this is going
14 to take a while with Mr. DeBartolomeis.

15 THE COURT: who is his counsel?

16 MR. WEHNER: Bob Ogren, O-g-r-e-n. He's with Pettit &

i 17 Martin. He used to be the chief of the fraud section of the
18 Department of Justice.

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19 THE COURT: All right. we'll take a recess, and I'll

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3 20 talk to his counsel then.

1 2 MR. WEHNER: Thank you, Your Honor.

2 (End of bench conference.)

2 THE COURT: All right, we're going to take our morning

2 break and come back. we hope we can speed things up a bit. So
2 we'll take a 15-minute recess, and remember the admonition of the

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1 Court not to talk about this case among yourselves or with anyone

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2 else during the break, please. We're going to give you 15
3 minutes, and we'll come back.
4 (Jury out.)
5 THE COURT: All right, I'd ask the witness if he could
6 consult with his counsel a few minutes and perhaps with
7 Mr. Wehner, if we can review these documents in a more
8 expeditious fashion rather than sitting around while we read
9 apparently the documents in great detail and with great scrutiny.
10 You're really being just asked whether or not it
11 refreshes the witness' recollection. I think to answer that, you
12 can look at it and say yes or no, as opposed to this minute
13 scrutiny of each line of every page shown. Otherwise, we'll be
14 here for three days.
15 So talk to your counsel about it, will you, please?
16 All right.

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a. 17 (Recess from 11:00 a.m. to 11:35 a.m.)
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18 THE COURT: All right, we're ready to go?
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g 19 MR. WEHNER: We'll give it a try, Your Honor.

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THE COURT: All right. Take the stand again, please.

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Q.
21 Thank you.
22 Did you get a chance to look at some documents?
23 THE WITNESS: Yes, sir, I did. Thank you very much. I
24 appreciate that.
25 THE COURT: All right.

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1 (Jury in.)
2 THE COURT: All right, Ladies and Gentlemen, we're
3 ready to go. I think we're going to speed things up a little
4 bit. We had a chance to review some documents, which should save
5 the time of looking at them again. So we're ready to go.
6 MR. WEHNER: Thank you, Your Honor.
7 Q. Mr. DeBartolomeis, I gave you and your counsel the
8 opportunity to look at probably, what, 30 or 40 pieces of paper
9 during the break?

10 A. Yes, sir.
11 Q. And you had the opportunity to review those?
12 A. Yes, sir.
13 Q. Okay. Now the one I showed you while you were on the
14 witness stand which we previously marked as 121 you had the
15 chance to review, did you not?
16 A. Yes. That's the one that was my testimony that was prepared
17 that I never did deliver.
18 Q. Okay. Your testimony was prepared. Who prepared the
19 testimony?

20 A. Normally I think Congressional relations would prepare that.
2 Q. And the name?

2 A. Probably Tom Casey.

2 Q. And as far as you know, was this testimony correct as it was
2 written?

2 A. Again, it's, quite frankly, I think part of it's a bit of a

1 coverup, saying that the program is fine and there's really no
2 problem when, in fact, it wasn't.

3 Q. So your testimony is that this testimony which was prepared
4 for you by Tom Casey was part of your coverup?

5 A. No.

6 Q. Part of his coverup?

7 A. An overall departmental cover up, talking about getting away
8 from the fact that the projects were funded politically, that
9 there wasn't really a systematic funding of the program.

10 Q. Not everyone that's been involved in this project has denied
11 that the program was political, have they?

12 A. Could you restate that question?

13 Q. I said, not everyone who was involved in this program at HUD
14 has denied it was political, have they?

15 A. At this time, I think for the most part, people are talking
16 about it as being a political process.

17 Q. This testimony was written for you in 1986; isn't that
18 correct?

19 A. Yes.

20 Q. And that's when you were being called up to the Hill by two
2 congressmen who wanted to ask you about how the Mod Rehab Program

2 was being funded, correct?

2 A. Yes, sir.

2 Q. And at that point in time, isn't it fair to say that
2 everyone in the entire HUD building with any knowledge about the

1 program knew that it was a political process?

2 A. I don't want to characterize what other people would say. I
3 would characterize the way I would say it, and I would say yeah,
4 it was political.

5 Q. And isn't it a fact that everybody, to your knowledge,
6 everybody you dealt with in the program knew it was political?

7 A. When you talk about everyone that I dealt with, I mean --

8 Q. Everybody you dealt with on the Mod Rehab Program --

9 A. Knew that it was --

10 Q. It was political.

11 A. Yes, sir.

12 Q. Because you were receiving letters from congress people,
13 weren't you?

14 A. Yes.

15 Q. And you were receiving calls from consultants, and you were
16 receiving letters from senators, and you were even receiving
17 instructions from the white House; isn't that correct?

18 A. I personally didn't receive letters from the white House.

19 Q. HUD as an entity was receiving political instructions as to
20 where these funds went; isn't that true?

2 A. Yes, sir.

2 Q. And your testimony is that you were going up to the Hill to
2 conceal that it was being run in a political fashion?
2 A. What I'm saying is they were trying to put the best spin on
2 it they possibly could, make it look like everything was fine.

a i Q. To conceal -- but you also testified that it was being done

2 to conceal it was being run in a political fashion.

3 A. Right.

4 Q. Is that correct?

5 A. That's correct.

6 Q. How could you conceal from the United States Congress that
7 it was being run in a political fashion when they were writing
8 the very letters requesting that you fund the projects? Projects
9 were funded for senators, were they not?

10 A. Sure.

11 Q. They were funded for congressmen, weren't they? And these
12 people called your office, didn't they?

13 A. Mine and others.

14 Q. And they'd said, "We need 152 units to 2020 Perm. Street,"
15 didn't they?

16 A. I don't remember that specific request.

17 Q. That's a hypothetical.

18 A. Okay.

19 Q. This was the political process at work when these units were
20 funded, was it not?

21 A. It was political.

22 Q. And all of these units went out at the discretion of HUD for
23 innumerable reasons, whether they were consultants, whether they
24 were politicians, whether they were the President of the United
25 States? It was a political process, and that's how the funds

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1 were distributed; isn't that correct?

2 A. Yes, it is.

3 Q. You had looked previously at Exhibit No. 121, which was your
4 draft testimony?

5 A. Um-hum.

6 Q. And I would like to direct your attention particularly to
7 the next-to-the-last sentence in regard to some of your prior
8 testimony, and I'll let you read that again.

9 A. Okay. Now I --

10 Q. Not out loud.

11 A. Okay. I didn't actually testify on this. Isn't that what
12 you're

13 Q. No, no, no, I'm not suggesting you actually testified. This
14 was prepared testimony. You never gave this testimony.

15 A. Okay.

16 Q. I'm not suggesting you gave the testimony, all right?

17 A. Okay.

18 Q. Would you read the next-to-the-last sentence to yourself?

19 A. Okay.

20 Q. Now does that refresh your recollection as to where -- when

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2 the fair share requirements for mod rehab were changed --

2 A. Yes, it does.

2 Q. --to being totally discretionary?

2 A. In 1982.

2 Q. Okay. So from 1982 forward, it was strictly HUD's

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discretion as to where these funds went; isn't that correct?

A. Yes.

3 Q. Now in 1986, when that testimony was prepared -
and you

4 didn't give it, but it was prepared for you -

your testimony is

5 that everybody at HUD knew that it was being run by a political
6 process?

7 A. For the most part, yeah.

8 Q. For the most part?

9 A. Yeah. Anybody that was involved in the program. We've
10 already discussed that.

11 Q. Anybody that was involved in the program knew it was a
12 political project. And this was in 1986?

13 A. Yes, sir.

14 Q. Okay. And you believe that that testimony that was drafted
15 for you was a part of a coverup to concealing the political
16 nature of the process?

17 A. Could you restate that again? *

18 Q. You believe that the testimony that was drafted for you was
19 a part of a conspiracy to conceal that it was political?

20 A. Yes, sir.

21 Q. Okay. Now was that testimony run through the general
22 counsel at HUD?

23 A. I don't know. It may have been.

24 Q. who did, who wrote the testimony for you? You've testified
25 you didn't write it.

a 1 A. I don't know for sure. Perhaps Tom Casey wrote it. I don't
2 know.

3 Q. who looked at the testimony before you saw it?

4 A. My guess is that Tom saw it. Maybe my assistant saw it.

5 Q. who?

6 A. Either Pam Patenaude or Nancy Murray, my executive
7 assistant.

8 Q. who else?

9 A. Maybe Hunter Cushing. Again, I'm speculating on what I

10 don't know for sure.

11 Q. I certainly don't want you to speculate. I just want you to
12 say what you know for sure.

13 Did you sit with these people, with whoever saw this
14 testimony, and just say, "well, we're going to conceal the
15 political nature of the process"?

16 A. I don't remember any discussion like that, no.

17 Q. There were times, were there not, during your tenure at HUD
18 when Ms. Dean was executive assistant to Mr. Pierce that you and
19 she would disagree on various issues,- isn't that correct?

20 A. Yes.

2

Q. And on occasion -- so we understand what disagree means, you

2 would take one position and she would take another?

2 A. Yes, sir.

2 Q. Did you have occasion to ever talk to Secretary Pierce about

2

some of these issues?

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1 A. I think I may have.

2 Q. And on occasion, one specific occasion, a group called the

3 National Baptist Convention sent in 20 applications for some

4 funding, did they not?

5 A. Yes, sir.

6 Q. And you took the position that they should not be funded;

7 isn't that correct?

8 A. The appropriate response would be that I adopted the staff

9 position --

10 Q. I'm sorry, the what response?

11 A. The appropriate response should be that I adopted my career
12 staff employees' position that those applications should not be
13 accepted.

14 Q. Okay.

15 A. Based on a -- that was based on a technicality, one, that

16 I'm not the most experienced or expert in testifying about.

17 Perhaps you could talk to the individual career employees that;

18 recommended against that. I adopted the staff position.

19 Q. Okay. You adopted the staff position, which was because of
20 a technicality, the application should be rejected; isn't that

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correct?

2 A. That is correct, sir.

2 Q. And that decision was overruled, was it not?

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A. I guess it was.

2 Q. Well, don't guess. The decision was overruled, was it not?

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1 A. I don't remember specifically.

2 Q. Okay. Do you recall that Secretary Pierce overruled the
3 decision?

4 A. He would have had to.

5 Q. And do you recall that Ms. Dean had talked to him about that
6 decision?

7 A. Yes.

8 Q. And that Ms. Dean took the opposite approach to the problem,
9 that she believed they should be funded?

10 A. Yes.

11 Q. Did you have the opportunity to present your views on that
12 to the secretary?

13 A. I don't remember specifically talking to him about that.

14 Q. Okay. Well, you don't remember specifically. Do you

15 remember generally talking to him about that?

16 A. No, sir.

17 Q. Do you remember talking to the secretary about various ;
18 matters?

19 A. I didn't talk to the secretary all that much. I mean, there
20 were very few times that I was to go talk to the secretary.

2 There were times that would be in a staff meeting. There would

2 be other times maybe in a budget meeting. Very few one-on-one
2 meetings that I had with the secretary.

2 I mean, one particular meeting was when I was trying to
2 get Hunter Cushing fired, and I went up to the secretary with

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1 Hunter and told the secretary why I felt that Hunter should be
2 fired, and the secretary told me that I was just in an acting
3 position and that we will wait to see who got to be the assistant
4 secretary, and that assistant secretary could decide what would
5 happen with Hunter.

6 That's one, one very specific time that I remember
7 meeting with the secretary.

8 Q. Okay. That's one specific time you remember meeting with
9 the secretary, when he gave you specific instructions about a

10 personnel matter?

11 A. Yes, sir, that's correct.

12 Q. And told you that you couldn't fire Hunter Cushing?

13 A. Yes, sir.

14 Q. Did you also attend Tuesday meetings with the secretary?

15 A. Yes, sir.

16 Q. And were these generally scheduled every Tuesday?

17 A. Yes, sir.

18 Q. And did you attend most of those meetings on Tuesdays?

19 A. To the extent that I was able to, yes, sir.

20 Q. Well, during most of your tenure, you would be in the same
2 room with the secretary on every Tuesday, would you not?

2 A. Right.

2 Q. And did you have the opportunity during those meetings to
2 speak?

2 A. Yes.

1 Q. And the secretary had the opportunity to speak to you?

2 A. Yes.

3 Q. So you did exchange words with the secretary during those

4 regular Tuesday meetings?

5 A. Yes, sir.

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6 Q. Okay. Let me show you what has been marked for

7 identification as Dean Exhibit 96.

8 THE CLERK: Dean Exhibit 96 marked for identification.

9 (Defendant's Exhibit No. 96 was

10 marked for identification.)

11 BY MR. WEHNER:

12 Q. And this is the same, part of the same documents you looked

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13 at during the break.

14 A. Um-hum.

15 Q. Do you recognize it?

16 A. Yeah, I do.

17 Q. Do you recall reading it?

18 A. Yes, sir, I do.

19 Q. Now does that refresh your recollection as to whether the

20 office of general counsel at HUD reviewed your testimony prior to

the final preparation of that testimony?

2 A. Um-hum.

2 Q. And did they, in fact, review it?

2 A. Yes.

2 Q. And they, in fact, made comments about it, did they not?

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A. Yes.

2 Q. Now were you ever told by the office of general counsel at
3 HUD that you couldn't say what you were going to say up there
4 because it was a coverup?

5 A. No.

6 Q. As a matter of fact, any suggestions that the office of
7 general counsel made to you were basically confirming that the
8 testimony was accurate; isn't that correct?

9 A. That's right.

10 Q. Was the general counsel a part of the coverup?

11 A. I don't know for sure, but I think they were speaking to the
12 actual, you know, letter of the law. I was talking more about
13 when I said my testimony, it said, I thought it was being done in
14 a political manner. When the testimony really said that it was
15 not being done in any way other than an appropriate legal manner,
16 my view is that it was being done in a political way.

17 Q. I'm sorry, I didn't catch that. ;

18 A. Okay.

19 Q. Your testimony describes how the program operated.

20 A. Yes, sir.

21 Q. Was that accurate within the letter of the law?

22 A. Within the letter of the law, it may have been, yes.

23 Q. Okay. So within the letter of the law, it's your view that
24 it was accurate?

25 A. Right.

1 Q. Because certainly the general counsel wouldn't ask you to go

2 up there and lie.

3 A. No, sir, I don't believe he would.

4 Q. Okay. Now I want to direct your attention to a project

5 that's become known to the jury as Baltimore Uplift, the

6 Baltimore Uplift project. I want to direct your attention to

7 1983 and ask if you recall receiving information from Lance

8 Wilson with regard to that project?

9 A. Yes, sir.

10 Q. And do you recall receiving a note from him on or about June

11 15, 1983, in which he asked you to check on the recapture of

12 certain funds for Baltimore?

13 A. Yes, sir.

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14 Q. And did you, in fact, check on that recapture?

15 A. Yes, sir.

16 Q. As a result of your checking on that recapture, did you

17 determine that funds could be recaptured?

18 A. Yes, sir.

19 Q. Now in laymen's terms, in my kinds of terms as a non-

20 housing expert, what does recapture mean?

A. Funds had been sent to an area, to a region, and the funds
2 never got used.

2 Q. So --

m 2 A. And so that you could take those funds, recapture those

2

funds and use them for another project that could actually use

them.

2 Q. And Mr. Wilson, in fact, asked you to find these funds for
3 Baltimore; isn't that correct?

A. Yes, sir.

Q. And what was Mr. Wilson's position at the time?

A. Executive assistant to the secretary.

Q. And Ms. Dean was where?

8 A. Probably in the executive secretariat.

9 Q. And that was in charge of correspondence, is that right?

10 A. Yes.

11 Q. Over here someplace?

12 A. Yes, sir.

13 Q. So Mr. Wilson asked you to check on the recapture, and you
14 do so. You find out there are funds available; is that correct?

15 A. Yes, sir.

16 Q. Okay. Did you have conversations with Mr. Wilson about to
17 what purpose he wanted to put the recapture?

18 A. I believe I did.

19 Q. And what did Lance Wilson say to you, and what did you say
20 to him?

21 A. It was dealing with the Baltimore Uplift project. As I
22 recall, it was not only Baltimore Uplift One, but there was an
23 Uplift One and Uplift Two is my recollection.

24 Q. Let's call them Uplift.

25 A. Yeah, okay.

Q. Okay. So Lance Wilson discussed Uplift with you.

A. Yes, sir.

Q. And he asked you to find out if funds were available to fund it.

5 A. Yes, sir.

6 Q. This was in what year, 1983?

7 A. I believe that's correct.

8 Q. Okay.

9 A. This project went on longer than 1983.

10 Q. I'm not suggesting it didn't. Listen, we're going through

11 this step by step.

12 A. Okay, sure.

m 13 Q. We'll get to the end. It may take a few minutes.

14 MR. O'NEILL: Judge, I thought I opened first.

15 THE COURT: All right, let's just go ahead.

16 MR. WEHNER: You thought you opened first?

17 MR. O'NEILL: For closing.

18 BY MR. WEHNER:

19 Q. Now do you know who was involved as the owners of Baltimore

20 Uplift?

21 A. I believe one of the people was Mr. Tuttle.

22 Q. Mr. Tuttle. Do you remember a first name? Bob Tuttle?

23 A. I think it's Bob Tuttle, yes, sir.

24 Q. And do you remember who Bob Tuttle was at that time?

25 A. He was a consultant.

I guess I also later found out that some of the people that worked in the White House. There was another Bob Tuttle that used to work in the White House.

4 Q. But this isn't the same Bob Tuttle?

5 A. I don't believe it is.

6 Q. But were there people involved in the White House in that

7 Project Uplift?

8 A. From what I understand, yes.

9 Q. One of them was Lynn Nofziger; is that correct?

10 A. Yes, sir.

11 Q. Who was Mr. Nofziger at that time?

12 A. I don't remember what his exact title was, but he was

13 special assistant to the President or something like that.

14 Q. He was actually working with the President in the White

15 House, was he not?

16 A. Yes, he was.

17 Q. At the same time he was investing in a part of Baltimore

18 Uplift?

19 A. Yes, sir.

20 Q. Did you have discussions with a person by the name of Ken
21 Finlayson about Baltimore uplift?
22 A. Yes.
23 Q. Who is Mr. Finlayson?
24 A. Ken Finlayson was the regional administrator of Region 3,
25 and he was basically in charge of the region.

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1 Q. So he was in charge of what in terms of funding Baltimore
2 Uplift?
3 A. He'd be responsible for whatever happened in the field, so
4 if funding came in, it first went into the region, and then it
5 was allocated to an area office and then ultimately would be
6 either allocated to a specific project or public housing
7 authority or something like that.
8 Q. Now in July of 1983, who was federal housing commissioner or
9 assistant secretary for housing?

10 A. I believe Maurice Barksdale was.
11 Q. Was that true for the entire year 1983, or isn't it true
12 that Mr. Phil Abrams took over that position?
13 A. In '83?
14 Q. Yep.
15 A. Well, Phil Abrams was the assistant secretary, but I don't
16 remember the exact time that Phil Abrams went to become under
17 secretary and then, and then Maurice Barksdale went to become
18 assistant secretary, and I went down to become deputy assistant
19 secretary. So there's, I think it's sometime in '83.
20 Q. I'll show you Exhibit No. 108.
2 (Defendant's Exhibit No. 108 was

2 marked for identification.)

2 BY MR. WEHNER:

2 Q. Does that refresh your recollection as to when Philip Abrams
2 was assistant secretary for housing and federal housing

commissioner?

A. Um-hum.

3 Q. In fact, it was in July of 1983, was it not?

4 A. Yes.

5 Q. And it's true that Phil Abrams made a decision to fund
6 Baltimore Uplift One, did he not?

7 A. Yes.

8 Q. Now who was Phil Abrams before he came to the Department of
9 HUD?

10 A. He was a developer from the Massachusetts area.

11 Q. Was he politically involved?

<m 12 A. Probably, yes.

13 Q. Well, yes, he was, wasn't he?

14 A. Yes.

15 Q. As a matter of fact, he was very close to the Reagan
16 campaign, was he not?

17 A. Yeah, I believe he was.

18 Q. He was, wasn't he?

19 A. I wasn't involved with him in the --

MR. O'NEILL: Judge, how many times does he have to
21 answer the same question?

22 THE COURT: All right, I'll sustain it. Move ahead.

23 BY MR. WEHNER:

24 Q. Now do you remember a person by the name of Stu Davis?

25 A. Yes, sir.

Q. And who was Stu Davis?

2 A. Stu Davis was at one point executive assistant to the DAS
3 for multi-family housing and then ultimately executive assistant
4 to the assistant secretary for housing, federal housing
5 commissioner.

6 Q. And was he assistant secretary to the federal housing
7 commissioner when Mr. Philip Abrams was in that position?

8 A. No.

9 Q. No?

10 A. He was, he worked in the office of multi-family housing
11 during the time that Philip Abrams was in the office of housing.

12 Q. Okay. Who is Mary Burke?

13 A. Mary Burke was Philip Abrams's executive assistant.

14 Q. And this is the same Philip Abrams that was close to the
15 Reagan campaign, correct?

16 A. Well, he was -- this is Phil Abrams, the same Phil Abrams
17 that is the general deputy assistant secretary of housing, later
18 to become the assistant secretary for housing/federal housing
19 commissioner.

20 Q. And it's the same person you previously described as being
21 close to the Reagan campaign, correct?

22 A. You're the one that really characterizes him as being close
23 to the Reagan administration, not myself.

24 Q. You agree?

25 A. I agree that he had to be politically oriented in order to

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1 get a politically appointed position.

2 Q. Fair enough.

3 And you know that Lynn Nofziger had some involvement
4 with Baltimore Uplift One?

5 A. Yes, sir, I do.

6 Q. And that Lynn Nofziger worked in the White House?

7 A. Yes, sir, I did.

8 Q. Okay. Now do you recall being instructed to fund Baltimore
9 Uplift One?

10 A. Yes.

11 Q. And who instructed you to do it?

12 A. Initially it was Lance.

13 Q. And who -- Lance Wilson?

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14 A. Lance Wilson, correct.

15 Q. And what was his position?

16 A. Executive assistant to the secretary.

17 Q. Okay. Were you subsequently instructed to do it, to fund

18 it?

19 A. Yes.

20 Q. And who instructed you to fund it?

2 A. Phil Abrams.

2 Q. And describe to the jury how Phil Abrams instructed you to

2 fund Uplift.

2 A. Really worked through the region to find recapture section 8
2 mod rehab funds to make it available for funding of Baltimore

1 Uplift One.

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2 Q. I'm going to show you what's marked for identification as
3 Dean Exhibit 112.

4 THE CLERK: Dean Exhibit 112 marked for identification.

5 (Defendant's Exhibit No. 112 was

marked for identification.)

BY MR. WEHNER:

8 Q. And ask you if this is the funding document funding

9 Baltimore Uplift.

10 A. This is the rapid reply letter. This is not the ultimate
11 funding document. This is one of the preliminary documents.

12 Q. And a preliminary document indicating to the field office
13 that a particular project is going to be funded?

14 A. Well, rapid reply says this is what they, what other people
15 wanted -- people wanted fund money for this, and this is a
16 document that certifies that funds are available.

17 Q. Okay.

18 A. And this then becomes a backup document to 185, which is the
19 actual funding document.

20 Q. Okay.

2 A. So this is --

2 Q. we'll call this a certification that funds are available.

Is that fair?

2 A. Yes, sir, that is.

2 Q. Is this a certification that funds are available for

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1 Baltimore Uplift?

2 A. Yes.

3 Q. And you, in fact, signed the certification for Baltimore

4 Uplift, did you not?

5 A. Yes.

6 Q. And this was on specific instructions from Lance Wilson?

7 A. Yes.

8 Q. Phil Abrams?

9 A. Yes.

10 Q. With the knowledge of Mary Burke?

11 A. Yes.

12 Q. Stu Davis?

13 A. Yes. And others are signed on there, too, like Janet Hale.

14 Q. Let me show you all the documents, and just refresh your

15 recollection as to everybody that's shown on here, and I'd like

16 you to tell the jury everybody that's shown.

17 A. Well, the easiest way is to look at the rapid reply letter

18 and --

19 MR. O'NEILL: One second. Judge, if he wants to put it

20 into evidence, that's fine.

2 THE COURT: All right. Yes, I think you're going to

2 have to either put it in evidence or have him recall it.

2 MR. WEHNER: Judge, I'd just -- okay.

2 Q. I'd like you to use those documents to refresh your

2 recollection as to who knew at the time.

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1 A. Okay, I'm sorry.

2 Q. Do those documents refresh your recollection as to who knew?

3 A. Yes, they do.

4 Q. Who knew?

5 A. Jim Hammernick, myself, Hunter Burke -- I think Bourne is

6 his name.

7 Q. Please speak up and slow down a little bit.

8 A. Hunter Bourne.

9 Q. Hunter Bourne?

10 A. Yeah, I believe that's his last name. I can't remember

11 exactly, but I believe it's Hunter Bourne, B-o-u-r-n-e.

12 Q. B-o-u-r-n-e?

13 A. Yes. And I believe it's Stu Davis.

14 Q. Stu Davis?

15 A. I can't be sure if that's his handwriting.

16 That's basically the people that were aware of it.

17 Q. And that includes the people you named previously just a few
18 minutes ago?

19 A. And Shirley Wiseman, too.

20 Q. Shirley Wiseman?

2 A. Yes, sir.

2 Q. Okay. So all of those people were aware that this project

2

was being funded?

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A. Yes, sir.

2 Q. Correct? Okay. Now there was another funding for Baltimore

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Uplift, wasn't there?

2 A. I believe later there was, yes, sir.

3 Q. As a matter of fact, that occurred sometime in or about May
4 of 1984, did it not?

5 A. Maybe if you have a document, you can help me out with that.

6 Q. Well, I'll show you again Dean Exhibit 112.

7 A. Isn't that the same exhibit you just showed me?

8 Q. Yes.

9 A. Yeah.

10 Q. Does that refresh your recollection that the final funding
11 for Baltimore Uplift was in May of 1984?

12 A. Yes. That's, you showed me another document that we made
13 certificates available for the people that were moving out of
14 Baltimore Uplift One, Section 8 certificates. That's -- what's
15 this mean (gesturing)?

16 Q. No, I understand.

17 A. Okay.

18 Q. I'm just trying to keep you close to the subject at hand,
19 okay? And that being was this the final mod rehab funding for
20 Baltimore Uplift?

21 A. It wasn't -- well, for the actual Baltimore Uplift One, this
22 was a document that says this is funding for it. This gives
23 Section 8 mod rehab funds available for it. I cannot tell you
24 specifically that this was the last dollar that this Baltimore
25 Uplift One ever got.

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1 Q. Not that no, no, no, not that it was the last dollar
2 that it ever got. Was this the last funding decision that was
3 made?

4 A. I can't tell you that.

5 Q. Okay. Do you know of any other funding decisions?

6 A. No, sir, I do not.

7 Q. You cannot recall any other funding decisions that were
8 made?

9 A. There were, I believe there were subsequent funding
10 decisions that were made on, I believe, rent increases.

11 Q. Okay. But with regard to moderate rehabilitation funding,
12 to your knowledge, is this the last funding for moderate
13 rehabilitation funds to Baltimore Uplift?

14 A. Yes, sir.

15 Q. Now in May of 1984, Ms. Dean was employed at HUD, was she
16 not?

17 A. Yes, sir.

18 Q. And what was her position at that time at HUD at that time?

19 A. I believe she was the executive assistant to the secretary
20 at that time. I don't remember the exact date.

2 Q. Is that your recollection?

2 A. I don't remember the exact date that she became executive
2 assistant to the secretary. Perhaps you can enlighten me.

2 Q. In fact, she did not become executive assistant to the
2 secretary until June 24 of 1984; isn't that correct?

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A. If you say so. I don't know the exact document.

Q. Well, let me show you her personnel file that the
government's previously introduced into evidence, and you can
look at that and see if maybe that refreshes your recollection.

A. Thank you, sir.

MR. WEHNER: May I have the personnel file, please?

I show the witness what's previously been admitted as
Government's Exhibit 256.

THE COURT: All right.

BY MR. WEHNER:

Q. I ask you to look at that and see if that refreshes your
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12 recollection as to what Ms. Dean's position was in May of 1984
13 and when, in fact, she became, she left her job from the
14 executive secretariat?

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15 A. '84, executive assistant to the secretary.

16 Q. What date?

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17 A. I believe this is 5-24-84. I just want to make sure that

© 18 I'm being accurate, that's all.

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19 Q. Look through the whole personnel file.

20 A. No, I don't necessarily want to do that. Is it not 5-24-84,

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that's the effective date, to executive assistant to the

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secretary?

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Is that not correct?

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Q. No, that's not correct. You're reading that "5" maybe

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intentionally, but it's a "6."

1 A. 6, okay.

2 MR. WEHNER: Could we have a stipulation to that

3 effect?

4 MR. O'NEILL: I'd have to look at that.

5

6

THE WITNESS:

it looks like a 5.

The carbon didn't go all the way over, so

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MR. O'NEILL: Do you expect me to know the date off the

top of my head?

It looks like a 6.

10

11

THE WITNESS:

BY MR. WEHNER:

Okay, then it's a 6.

12 Q. So it was June 24 of 1984, was it not?

13 A. That's correct.

14

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16

Q. You were involved in certain fundings of moderate

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rehabilitation units during your tenure, were you not?

A. Yes.

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Q. And I've heard the word used, "rounds" for the funding process. Is it true that the fundings would occur regularly but not every week?

A. I would characterize them more as irregularly, but they would occur.

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Q. Okay. About once every six months?

A. I don't know that I can say once every six months. Maybe it would be more frequently, maybe it would be less frequently.

Q. Do you recall that one was held on May 22 of 1986?

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A. I believe there was one.

2 Q. And what was your position at that time?

3 A. General deputy assistant secretary for housing.

4 Q. And would you tell the jury again what your role was in the Moderate Rehabilitation Program in May of 1986?

6 A. Well, I was in charge of all of housing.

7 Q. You were in charge of what?

8 A. All of housing at that point in time.

9 MR. WEHNER: Okay, you were in charge of all of that.

10 Your Honor, I've marked for identification Dean Exhibit

11 62, and I've previously shown this to the Independent Counsel,

12 which is a chart of the funding decisions that were made on or

13 about that date. As I told Your Honor yesterday, I could write

14 them on a chart as we discuss them and refresh his recollection,

15 but it would speed things along considerably if I can use the

16 chart.

17 THE COURT: All right. The jury should understand this

18 is not evidence, but it's just an aid to help the witness be able

19 to recall and testify about it.

20 You can display it.

21 BY MR. WEHNER:

22 Q. Now in 1986, prior to May of 1986, what was the general

23 situation with regard to mod rehab dollars that were available?

24 Did you have a lot? Did you have a little? Do you recall?

25 A. I don't recall the exact amount.

m Q. Now do you recall a general amount?

2 A. 300 million maybe.

3 Q. Okay. Do you recall that the Moderate Rehabilitation

4 Program was funded for fiscal year 1986 for approximately \$923

5 million?

6 A. No, I don't recall it, but I'm sure you have a document you

7 could show me.

8 Q. I'll show you what's been marked for identification as Dean

9 Exhibit 117.

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10 THE CLERK: Dean Exhibit 117 marked for identification.
11 (Defendant's Exhibit No. 117 was

12 marked for identification.)

13 BY MR. WEHNER:

14 Q. And ask if this refreshes your recollection as to the amount
15 of mod rehab funding that was available fiscal year 1986?

16 A. Yeah, um-hum.

17 Q. It was how much?

18 A. 923 million --

19 Q. Okay.

20 A. --in budget authority.

21 Q. \$923 million in budget authority.

22

would you describe what that means fiscal year 1986?

23 what time period could you spend that money?

24 A. FY, fiscal year 1986 would be from, I think, September of
25 '85 through September -- I mean, October 1 of '85 through

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1 September 30 of 1986.

2 Q. Okay. So May 22, 1986, fell within that fiscal year?

3 A. Yes, it did.

4 Q. And the amount of funds available was \$923 million in budget
5 authority?

6 A. Yes.

7 Q. Now as of December 1985, before this funding round, it's
8 correct that you had used up about 100 million of that money; is
9 that right?

10 A. If you say so. I don't remember.

11 Q. It's not my say-so, sir.

12 A. Sir, you're asking --

13 THE COURT: All right, if you can't remember, just say
14 you don't remember.

15 THE WITNESS: I don't remember.

16 BY MR. WEHNER:

17 Q. I'll show you again Dean Exhibit No. 117 and ask isn't it
18 true that you had approximately \$103 million, had already
19 assigned about \$103 million out to the field?

20 A. Yes.

21 Q. That's correct, isn't it?

22 A. Um-hum.

23 MR. O'NEILL: Objection, Judge, to the manner in which
24 documents not in evidence are being used.

25 THE COURT: All right. Just show it to him and ask him

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1 to refresh his recollection rather than reading, the document to
2 him.

3 MR. WEHNER: Very well, Your Honor.

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4 Q. Now this was at a time, was it not, when there were a big
5 series of budget cuts occurring in the Reagan Administration; is
6 that correct?

7 A. That is true.

8 Q. And there was a huge battle going on as to whether the
9 Reagan administration could cut back -- could not spend funds
10 that had been allocated by Congress; is that right?

11 A. That was one of the many discussions at that time.

12 Q. And it's true, is it not, that ultimately you ended up with
13 about \$800 million to spend in mod rehab in fiscal year 1986; is
14 that correct?

15 A. Yes.

16 Q. So after all these machinations, you ended up with about

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17 \$800 million?

18 A. Yes.

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19 Q. Not \$300 million, correct?

20 A. Yes.

21 Q. Okay. So as of approximately May of 1986, you had \$800
22 million to spend, correct?

23 A. Yes.

24 Q. And this is your first -- is it your first opportunity to be
25 involved in the funding process?

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A. Yes.

2 Q. Because you had just become involved in it a few months
3 prior, isn't that correct?

4 A. Yes.

5 Q. Okay. Now we went through in some detail with Janet Hale
6 her recollection of the funding process and the projects that she
7 funded, and I'm afraid we're going to have to do the same with
8 you, and I know that it's a long time ago, but your specific
9 recollections are very important to this case, so if you would
10 like to see the funding documents, I will be glad to show you
11 those to refresh your recollection.

12 Directing your attention to Springfield, Massachusetts,
13 do you recall sending approximately 150 Section 8 moderate
14 rehabilitation units to Springfield, Massachusetts?

15 A. No, sir.

16 MR. WEHNER: Okay. I'll marked for identification Dean

17 Exhibit No. 118.

18 THE CLERK: Dean Exhibit 118 marked for identification.

19 (Defendant's Exhibit No. 118 was

20 marked for identification.)

21 BY MR. WEHNER:

22 Q. I ask if that refreshes your recollection as to the sending
23 of 100 units to Springfield, Massachusetts?

24 A. Sir, my signature is not on this document. Susan Zagame's
25 signature is on this document. The date this was signed, I

1 believe that I was not at HUD in the department or even in the
2 country. I believe at that point I may have been out of the
3 country. Perhaps I am wrong. Perhaps you have a copy of my, my
4 calendar.

5 So if I wasn't there and I didn't send it, I didn't
6 sign it, then I did not send money to Springfield.

7 Q. So this --so you didn't participate in the funding round of
8 May 22, 1986?

9 A. I don't believe I did.

10 Q. Do you know a person by the name of Jim Watt?

11 A. Yes.

12 Q. And in May of 1986, who was Jim Watt?

13 A. I think he was a private citizen at that time.

14 Q. And he'd been in the cabinet for a while, hadn't he?

15 A. He had been.

16 Q. Secretary of the interior?

17 A. That's right.

18 Q. And isn't it true that you worked with James G. Watt to fund
19 312 mod rehab units to the Maryland DCA in that May '86 funding
20 round? And isn't it true that Mr. Watt wrote a letter to
2 Secretary Pierce thanking him for your help in getting those 312

2 units to Baltimore? Now aren't those facts, Mr. DeBartolomeis?

2 A. The fact is that --

i 2 MR. O'NEILL: Judge, which one of those are we asking?

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MR. WEHNER: Both.

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1 THE COURT: Let's start with the first question here.

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2 THE WITNESS: The first question with me meeting with
3 Mr. Watt was that he was sent down from the office of the
4 secretary, and I basically gave him information on how the
5 program was working, told him about PHAs needed to apply to the
6 department, that it would help to have letters of support, and
7 that they needed to come in, and that he has already talked to
8 the secretary, and basically it was Mod Rehab 101 for Mr. Watt.
9 MR. WEHNER: Okay. Could you read back my first
10 question, please?
11 (First portion of question read.)
12 MR. O'NEILL: Are the other two withdrawn, Your Honor?
13 Because that question goes on.
14 THE COURT: Let him answer that first, and then he can
15 answer the next one.
16 THE WITNESS: Okay. I did talk to him about how the
17 projects were funded. I did not talk to him specifically by ;
18 about the funding of his project. My reading of that letter is
19 that he talked to Secretary Pierce about the funding of the
20 Maryland DCA for 312 units, not me, sir.
2 BY MR. WEHNER:
2 Q. Did you fund it?
2 A. No, sir, I did not.
2 Q. Let me show you what's been marked for identification as
2 Dean Exhibit No. 119.

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THE CLERK: Dean Exhibit 119 marked for identification.
(Defendant's Exhibit No. 119 was
marked for identification.)

BY MR. WEHNER:
5 Q. And ask you if that refreshes your recollection as to
6 whether you funded that 312 units?
7 A. No, sir, it does not, because it's still Susan Zagame.
8 THE COURT: All right, as long as he says it doesn't, I
9 don't need to hear --

10 BY MR. WEHNER:

Q. Isn't it true you signed the funding documents for those 312
n

12 units?

13 MR. O'NEILL: Objection, Your Honor.

14 THE COURT: I'll sustain the objection.

15 THE WITNESS: No, sir, that's not my signature.

i 16 MR. O'NEILL: May we approach?

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17 MR. WEHNER: Judge, it's cross examination.

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3 18 THE COURT: He testified it's not his.

5 19 MR. O'NEILL: May we approach for one moment?

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20 THE COURT: Sure.
21 (Bench conference on the record.)
22 MR. O'NEILL: Judge, simply the problem with that is if
23 you look at the document, he didn't sign it. So then he asks,
24 "Didn't you sign it? Isn't it a fact you signed it?" There's
25 not a good faith basis for that.

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MR. WEHNER: That's fair.

2 THE COURT: Absolutely. He said he didn't do it, and
3 unless you have a document to hand him that showed he did it -
4 MR. WEHNER: Yes, Your Honor. My apologies.
5 THE COURT: Do you want to take a break, or are you
6 going to keep going a while?
7 MR. WEHNER: We can break now, Judge. It's going to be
8 a while. We've got three funding rounds to go through.
9 THE COURT: Okay. I think you're going to have a while
10 to get to your other witnesses.
11 MR. O'NEILL: well -
12 THE COURT: You can let some of them go.
13 MR. O'NEILL: How much will you have left, Steve,
14 without holding you to it, obviously?
15 MR. WEHNER: It's hard to say, but I would say it would
16 be at least two hours additional.
17 MR. O'NEILL: we'll cut some loose.
18 THE COURT: Just keep one or so around here.
19 MR. O'NEILL: Yes.
20 THE COURT: Okay, I'll go to lunch then.
21 MR. O'NEILL: All right.
22 (End of bench conference.)
23 THE COURT: All right, Ladies and Gentlemen, we're
24 going to take our luncheon recess. There's going to still be
25 some more cross examination for a while, so we'll go to lunch

now. Come back after lunch and resume. We'll be at lunch until

2 1:30. Be back at that time, please, 1:30.
3 Remember the admonition of the Court, please. Don't
4 talk about the case among yourselves, with anyone else, or let
5 them talk to you about it during the break.
6 (Jury out.)
7 THE COURT: All right, you're excused until 1:30.
8 (Recess from 12:25 p.m. to 1:30 p.m.)
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2 (1:45 p.m.)

3 THE COURT: All right, you can bring the jury in.

4 (Defendant present, Jury in.)

5 THE COURT: All right, we're ready to resume with the
6 continued cross examination.

7 MR. WEHNER: Thank you, Your Honor.

8 Good afternoon.

9 THE JURORS: Good afternoon.

10 SILVIO DE BARTOLOMEIS, GOVERNMENT'S WITNESS, RESUMED

11 CROSS EXAMINATION (Cont'd.)

12 BY MR. WEHNER:

13 Q. Mr. DeBartolomeis, who is Susan Zagame?

14 A. Susan Zagame was the deputy assistant secretary for policy,
15 financial management, and administration.

16 Q. In May of 1986, did she work for you?

17 A. Yes.

18 Q. And did she have involvement in the Mod Rehab Program?

19 A. Yes. ^

20 Q. Okay. And directing your attention to the May 1986 funding
21 round that we've illustrated here, she ultimately, Susan Zagame
22 signed off on the funding decisions that were made; is that
23 correct?

24 A. Yes.

25 Q. And she signed off and she signed your name to those; is

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that correct?

2 A. No, she signed her name for Silvio DeBartolomeis.

3 Q. Okay. But it's clear that she signed those documents for

4 you, correct? She signed those documents for Silvio

5 DeBartolomeis?

6 A. Correct, but not at my direction.

7 Q. I'm not suggesting your direction. She's just signed them

8 for you.

9 Now directing your attention to the time period

10 immediately before the May 22, 1986 funding round, you had

11 conversations with Ms. Dean about those projects, did you not?

12 A. I don't recall specific discussions with her about those

13 projects.

14 Q. You recall no specific discussions with Ms. Dean wherein she

15 suggested, requested, argued, told, begged you to fund those

16 projects?

17 A. I don't recall any. Perhaps you can help me. Do you have a

18 document? I just don't recall any discussions.

19 Q. You know, I wish I did have a document.

20 THE COURT: All right, let's just go ahead and ask

21 questions.

22 BY MR. WEHNER:

23 Q. You don't recall any such discussions, do you? Well, you

24 don't have any such document that shows such a document, do you?

25 A. No, sir, I do not.

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1 Q. You previously told us, I believe, that Joe Strauss -- who

2 Joe Strauss was?

3 A. Joe Strauss worked as a special assistant to the secretary,

4 later went on to be a consultant.

5 Q. All right. And in fact, he became a consultant for

6 something called the Phoenix Group, did he not?

7 A. Yes, sir.

8 Q. And when Springfield, Massachusetts, was funded, wasn't that

9 funded as a result of Mr. Strauss' intervention?

10 A. I'm not 100 percent sure of that, sir.

11 Q. I'm sorry, I need you to speak louder.

12 A. I'm sorry. I'm not sure.

13 Q. You're not sure. You have no recollection today as to

14 whether Joe Strauss had anything to do with the funding of the

15 Springfield, Massachusetts project?

16 A. At this point, I do not recall.

17 Q. Is there anything that would refresh your recollection as to

18 whether he had anything to do with it?

19 A. I don't know.

20 Q. Okay. Let's talk about Maryland briefly again. James Watt,

2 Maryland DCA, 312 units, did James Watt have anything to do with

2 the funding of that project?

2 A. I think subsequently I found out that he did. I don't

2 recall talking to him about any, about Maryland. I do recall

2 having a conversation with him where I was directed by the

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1 secretary to meet with, with Jim watt to talk to him about how
2 the Mod Rehab Program was funded and how one would go about
3 getting funded as a consultant.

4 Q. And you had -- as -- the secretary told you to meet with
5 James watt and talk about how the Mod Rehab Program would be
6 funded to a consultant?

7 A. Maybe not in so many words. I believe I got a call from
8 Starr Eckart, who said, "He's met with -- the secretary has met
9 with Jim watt. He'd like you to talk to him about mod rehab."

10 Q. That's not what you said, sir.

11 A. I know. what I said was what I talked to him about.

12 MR. WEHNER: would you please repeat, could we have
13 read back what Mr. DeBartolomeis said about his conversation with
14 Secretary Pierce, please?

15 (Answer read.)

16 BY MR. WEHNER:

17 Q. Are you aware that Secretary watt sent a letter to the
18 secretary of HUD thanking you for your assistance in that
19 project?

20 A. Yes.

2 Q. Let's do the next one, Philadelphia, Pennsylvania. Do you
2 recall that that was funded for Senator Heinz?

2 A. No, sir.

2 Q. Beaver County, Pennsylvania, do you recall that that was
2 funded for Senator Heinz?

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1 A. No, sir.

2 Q. Pittsburgh, Pennsylvania, do you recall that that was funded
3 for Senator Heinz?

4 A. No, sir.

5 Q. Allegheny County, Pennsylvania, do you recall that that was
6 funded for Senator Heinz?

7 A. No, sir.

8 Q. Roanoke, Virginia, do you recall anything about 94, I
9 believe, units to Roanoke, Virginia?

10 A. At this point, I do not, sir.

11 Q. Do you recall that the developers on that project were
12 people by the name of Gaultney, Quill and Linigan?

13 A. No, sir.

14 Q. Have you ever heard any of those names before?

15 A. I don't believe so.

16 Q. You don't believe so.

17 who's Rick Shelby?

18 A. He was a consultant, housing consultant.

19 Q. And he worked on HUD projects, did he not?

20 A. Yes. That's how I met him.

2 Q. what did you talk about when you met him?

2 A. well, he was working with a company called the Keefe Company
2 or -- I think that's the name of it, and there were a number of
2 different projects that he'd been working on. I mean, that's how
2 I first met him.

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1 Q. Do you recall discussing with Mr. Shelby a Prince George's

2 County, Maryland project in the amount of 172 units?

3 A. I don't remember specifically talking to him about Prince
4 George's 172 units.

5 Q. Okay. Do you remember talking to him about Prince George's
6 County?

7 A. No, sir.

8 Q. Isn't it a fact that you visited that mod rehab project in
9 Prince George's County personally?

10 A. I don't remember going to that specific project. I have
11 visited projects in Prince George's County.

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12 Q. Well, what projects in Prince George's County do you recall
13 visiting?

14 A. I don't remember the names of them. I remember going to a
15 lot of projects over the course of time that I was at HUD. I

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16 don't today remember what the names of those projects were.

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17 Q. How many -- then how many projects do you recall visiting in

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o 18 Prince George's County? How many projects were there?
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19 A. I don't know.

20 Q. Were there more than one?

2 A. How many projects did I visit in Prince George's County?

2 Q. Yes.

2 A. I've visited many projects in Prince George's County.

2 Q. On the Mod Rehab Program?

2 A. No.

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1 Q. Okay.

2 A. I don't remember --

3 Q. Let's just limit this to the Mod Rehab Program.

4 A. Okay.

5 Q. What projects did you visit in Prince George's County on the
6 Moderate Rehabilitation Program?

7 A. I don't remember.

8 Q. Okay. And you have no recollection of visiting Foxglenn
9 project?

10 A. I may have visited Foxglenn project.

11 Q. Okay. Is Shelby one of the individuals who talked to you
12 about the Foxglenn project in Prince George's County?

13 A. I don't recall.

14 Q. Do you know who Andy Sankin is?

15 A. Yes, sir.

16 Q. Is Andrew Sankin one of the individuals who talked to you
17 about Foxglenn in Prince George's County?

18 A. I believe he may have talked to me about Foxglenn.

19 Q. Okay. What do you recall him saying to you about Foxglenn,
20 and what do you recall saying to him?

2 A. I think he talked to me about when do they get funding for

2 Foxglenn, and I believe I told him that I wasn't the person that
2 would make the final decisions or make the decisions on funding
2 for mod rehab.

2 Q. And what did he say?

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1 A. "Who would make that?"

2 And I told him that it would be the office of the
3 secretary, not myself. Deborah Dean.

4 Q. Did you have any further conversation with Mr. Sankin about
5 Foxglenn?

6 A. Not that I recall.

7 Q. Do you know anything about the Georgia RFA 50-unit
8 designation?

9 A. No.

10 Q. You have no recollection of that being funded at all?

11 A. It doesn't have any, it doesn't ring any bells. I don't
12 remember it, sir.

13 Q. Who's John McNeal?

14 A. I don't remember that name.

15 Q. Have you ever seen that name before?

16 A. I may have. I don't remember it, sir.

17 Q. Have you ever written that name on a piece of paper before?

18 A. I may have. I don't remember it.

19 Q. Let me show you what I've marked for identification as Dean
20 Exhibit 122.

2 THE CLERK: Dean Exhibit 122 marked for identification.

2 (Defendant's Exhibit No. 122 was
2 marked for identification.)

2 BY MR. WEHNER:

2 Q. And I'll ask you if you recognize the handwriting on the

1 piece of paper?

2 A. Yes, sir.

3 Q. It's your handwriting, isn't it?

4 A. I believe it is.

5 Q. And in your handwriting is the name John McNeal, is it not?

6 A. John McNeal, yes.

7 Q. Now does that refresh your recollection as to whether you
8 know who John McNeal is?

9 A. No.

10 Q. Do you have any recollection whatsoever about what John
11 McNeal's involvement was with the Georgia RFA project?
12 A. I don't recall.
13 Q. Shreveport, Louisiana, do you recall that that project was
14 funded for Congressman Henson Moore?
15 A. No, sir, I do not.
16 Q. Lake Charles, Louisiana, do you recall anything about that
17 project?
18 A. No, sir, I do not.
19 Q. Omaha, Nebraska, do you recall that that project was funded
20 for Senator David Carnes?
2 A. No, sir, I do not.

2 Q. Ogden, Utah, do you recall a person by the name of Siegal
2 who acted as a consultant for HUD-related projects?
2 A. Yes, sir, I do.
2 Q. Do you recall -- and what was the first name of Siegal?

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1 A. Judith Siegal.
2 Q. Do you recall that she spoke with you about that project?
3 A. I remember having several discussions with Judith Siegal.
4 Q. Well, in fact, you talked about that project with her,
5 didn't you?
6 A. I remember discussing with her an Ogden, Utah project,
7 related to whether or not I was going to give a rent increase to
8 a project that had already been funded. We had, as I recall, a
9 heated discussion. She was mad because I didn't want to do it.

10 And, and I went to -- if this is the schoolhouse
11 project that was ultimately funded, I remember going to Ogden,
12 Utah, to this schoolhouse, which was just an abandoned, old brick
13 schoolhouse built back in the 1800s that they wanted to convert
14 into housing, and, I mean, so I remember a lot about Ogden, Utah,
15 because it was the only time I had ever been there.
16 And I remember that she was involved in the project, and I
17 remember that she even talked to some congressman and told some
18 congressman that I wasn't doing my job because I wasn't funding a
19 rent increase for Ogden, Utah, and I remember seeing her at a
20 reception over on the Hill and told her that I didn't like the
2 way that she went to a congressman to tell him that I wasn't

2 doing my job, and then, I'd say, a rather heated discussion

2 ensued.
2 Q. The question, I believe, was do you recall discussing the
2 funding of that project with Judith Siegal?

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1 A. May I ask a point of clarification?
2 Q. I'll rephrase the question. Do you recall prior to May 22,
3 1986, discussing the funding of that Moderate Rehabilitation
4 Project with Judith Siegal?
5 A. No, sir.

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6 Q. Okay. who's Joe Queenan?

7 A. Joe Queenan is a consultant. He used to work for HUD in the regional office, and then he later went on to join Philip Winn.

9 Q. Now didn't you join the Winn Group after you left HUD?

10 A. I went to work there and -

11 Q. And isn't that the same Phil Winn that Joseph Queenan worked for?

13 A. Yes, it is.

14 Q. So we're talking about the same Phil Winn and the same Joseph Queenan?

16 A. Yes, sir, we are.

17 Q. Now didn't Mr. Queenan talk to you about 84 units going to Salt Lake City, Utah, prior to May 22 of 1986?

19 A. He may have, sir. I don't remember a specific conversation.

20 Q. Isn't it a fact that he talked to you and asked you that any help you could give him would be appreciated?

2 A. He may have.

2 Q. Well, since he may have talked to you about that project, isn't it true that he also talked to you about the Colorado HFA project for 79 units, the Clayfield Apartments?

1 A. Sir, I specifically remember talking, I think I was talking

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2 to Rick Price. He had asked me about that project or about funding for a program in Colorado HFA. Maybe I'm mistaken, but I believe that's the one. And I remember saying that he needed to deal with Deborah Dean, because they would make the decisions -- she would make the decisions, not me.

7 Q. And that's all you recall saying about the discussion? You never said, "Look, I'll do what I can. It's nice to know your interest. Thank you for calling"?

10 You said, "Oops, not me. Deborah Dean"?

11 A. I don't recall, sir.

12 Q. Where are you from originally? Where were you born?

13 A. I was born in Wilmington, Delaware.

14 Q. Okay. And your family still resides there?

15 A. Part of my family does.

16 Q. Does your mother still reside there?

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17 A. Yes, she does. Not in Wilmington.

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18 Q. In Delaware?

19 A. In Delaware.

20 Q. And you left Delaware, and where did you move to?

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2 A. I moved to Colorado.

2 Q. Okay. And where's Phil Winn from?

2 A. Colorado.

2 Q. Okay. And Mr. Queenan was from Colorado?

2 A. Yes. We all lived there.

1 Q. Did you know those other two when you lived in Colorado?
2 Did you know them?
3 A. I knew Phil Winn when I lived in Colorado, when I went to
4 school at the University of Denver.
5 Q. Right.
6 A. And then after I graduated, I met Phil Winn when I was
7 working in the state legislature there.
8 Q. Right. So you'd known Mr. Winn for a long time?
9 A. I had, yes, sir.

10 Q. Okay. Both before you went to HUD and then, of course, you
11 went to work for him after you left HUD?
12 A. That's right, sir.
13 Q. Okay. Of course, he worked at HUD for a while?
14 A. That's right, sir.
15 Q. You recall that Denver, Colorado, was funded as a result of
16 a letter to you from Senator Armstrong? Do you? Yes or no?
17 A. I remember something about Denver. I'm not sure if I got
18 letters on -- and it was, I think, a project originally with a
19 nonprofit group called about a Five --or Star Bakery, that
20 building or something like that that was being renovated. Is
2 this the project?

2 Q. You're the witness, Mr. DeBartolomeis.
2 A. Okay.
2 Q. All I know is it's 79 units.
2 A. No, I think Denver there is listed as 53 units.

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1 Q. I'm sorry, 53 units to Denver, Colorado.
2 A. Yeah.
3 Q. And that Senator Armstrong wrote to you in support of the
4 project. Do you recall that?
5 A. Not specifically, sir.
6 Q. Okay. San Diego, California, 150 units. Do you recall
7 anything about the way that project was funded?
8 A. No, sir.
9 Q. Reno, Nevada, 100 units. Do you recall that Mr. Queenan
10 talked to you about that project as well?
11 A. No, sir, I don't.
12 Q. You recall no conversations with Mr. Queenan?
13 A. Not about that project, sir. No, sir.
14 Q. Well, let's -
okay.
15 Do you recall a conversation with Mr. Queenan before
16 May 22, 1986?
17 A. I am not 100 percent sure, so I would have to say I don't
18 recall.
19 Q. Well, when did you meet Mr. Queenan?
8
a 20 A. When did I meet Mr. Queenan? I met him when he was working
I
21 in the regional office in Colorado.
22 Q. Approximately what year was that?
23 A. '83, maybe earlier.
24 Q. So between 1980 to 1986, did you have conversations with
25 him?

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1 A. Between 1980 and '86? Yeah, sure. He was. the regional
2 director of housing development, you know. He was very much
3 involved with projects that were being developed in the region,
4 and if there was ever a problem in Colorado, he was someone that
5 would be involved usually in the resolution of some development
6 of some project there.
7 Q. Do you have any recollection of discussing those units with
8 him before they were funded?
9 A. No, sir, I do not.

10 Q. Clark County, Nevada, 160 units. Do you know who the
11 developers were on that project?
12 A. I do now. At that time, I did not.
13 Q. Did Mr. Winn have anything to do with that project?
14 A. At that time, I think it was more Philip Abrams that was
15 involved.
16 Q. Well, Mr. Abrams was Mr. Winn's partner, was he not?
17 A. At this point in time of the actual funding, I don't believe
18 that Mr. Winn was a partner in this, which I found out later,
19 after I left the department.
20 Q. You found out what?
2 A. I found out that Phil Abrams was more involved in the Clark

2 County, Nevada project, not Mr. Philip Winn. And then later on
2 after I went to work at the office where Mr. Phil Abrams and Phil
2 Winn worked, they later formed a partnership on that project to
2 develop that as mod rehab, but at the time of May 22, 1986, I did

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1 not know that that was either Phil Winn or Phil Abrams1 project.
2 Q. Your testimony is that Mr. Winn never talked to you about
3 that project before it was funded?
4 A. That is correct, sir.
5 Q. But you did know Mr. Winn at the time; is that correct?
6 A. Yes, sir, I did.
7 Q. And you considered him a friend; is that correct?
8 A. Yes, sir.
9 Q. And when you left HUD, you went to work with him?

10 A. Yes, sir.
11 Q. And he worked at HUD as well?
12 A. Yes, sir.
13 Q. And Mr. Abrams also was a friend?
14 A. Yes, sir.
15 Q. And he was involved in the project?
16 A. Yes, sir.
17 Q. And you didn't discuss the project with him, either?
18 A. Yes, sir, that's correct.
19 Q. Okay. Do you have any recollection regarding the funding of
20 100 units to San Francisco, California?
2 A. No, sir.

2 Q. Do you have any recollection of -- and I'm not sure I can
2 pronounce this correctly, Clackamas County, Oregon?
2 A. No, sir.
2 Q. And do you have any recollection of the Longview projects

1 in, what, Longview, Washington?

2 A. No, sir.

3 Q. Of those that you don't have any recollection of dealing
4 with, would you agree with me that Ms. Dean told you to fund
5 those? Just dealing with the ones you don't remember.

6 MR. O'NEILL: Your Honor, I'd object on the factual
7 basis of that.

8 THE COURT: All right, all right.

9 MR. WEHNER: What's -

10 THE COURT: I'll sustain the objection. I don't know
11 how he can speculate if he doesn't remember anything about the
12 projects. I don't know how he can agree that she either did or
13 didn't tell him to fund it.

14 MR. WEHNER: I'll ask it another way.

15 Q. If the projects were funded and you today don't remember it
16 being funded, would it be your best recollection Ms. Dean told
17 you to fund them?

18 A. Sir, I've already testified that I didn't sign off on the
19 funding documents. I didn't order the funding documents to be
20 prepared. I didn't do anything on these funding documents.

2 These funding documents were put together and signed
2 when I was not even in the department, so I don't know how I
2 could say that Debbie Dean directed me to sign these things when
2 I wasn't even there.

2 Q. But that's what you said on direct. You said that Deborah

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1 Gore Dean instructed you what projects to fund.

2 A. In two funding rounds.

3 Q. Oh, so she didn't direct you to fund any of these?

4 A. No, sir, she did not, because I didn't fund them.

5 MR. O'NEILL: Judge, he didn't fund any of these.

6 THE COURT: It's all right. He can answer the
7 questions. It's cross examination.

8 BY MR. WEHNER:

9 Q. She didn't direct you to fund any of these?

10 A. I did not fund them.

11 Q. Okay. Go to September 1986. Directing your attention to
12 September 1986 now, did you sign the funding documents arising
13 out of this round?

14 A. Is that what that says at the bottom of that? I didn't see
15 the board.

16 Q. Let me show them to you, Mr. DeBartolomeis.

17 THE COURT: All right, all you've got to do is give
18 your recollection.

19 BY MR. WEHNER:

20 Q. Refer to these, Mr. DeBartolomeis.

2 A. Yes, sir, that is my signature.

2 Q. Okay. Leaf through them, will you, so we won't have to walk
2 back and forth and waste everybody's time? Please leaf through.

2 A. I'm trying not to waste time, sir.

2 Q. Good.

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1 A. I'm trying to be accurate.
2 These are my signatures, sir.
3 Q. So you funded these. You actually signed the funding
4 documents; is that correct?
5 A. Yes, sir. Do you recall the meeting where I said I was
6 called up to Debbie's office?
7 Q. Do you recall the meeting you were called to Debbie's
8 office?
9 THE COURT: wait for a question, all right?
10 BY MR. WEHNER:
11 Q. No, would you please repeat the meeting at Debbie's office?
12 I want the jury to hear everything that you have to say.
13 A. Yes, sir. These documents were prepared, the rapid replies,
14 the 185s were prepared without my direction, without my
15 authority, and arrived in my "in" box without any request from
16 me.
17 I said I wouldn't sign them, and I just let them sit in
18 my "in" box until one day I was called up to Deborah Dean's
19 office with Susan Zagame, and I was directed by Deborah Dean to
20 sign each and every one of these, and I resisted, and I was
2 ultimately told that I was to sign them, and I was ordered to
2 sign them.
2 Q. Okay.
2 A. And I remember something to the effect of looking over to
2 Susan Zagame and saying, "You're my witness," and signing them.

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1 I feel that I signed them under duress.

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2 Q. Under duress.
3 A. Yes, sir.
4 Q. Okay. Do you recall that Waterbury, Connecticut, was funded

as a result of a White House request from Rick Davis?

6 A. No, sir.
7 Q. Do you recall that Columbia, South Carolina, was funded as a
8 result of a Congressional request from Congressman Quillen?
9 A. No, sir.

10 Q. Do you recall that the Northwestern Regional Housing
11 Authority in the amount of 100 units was funded as a result of a
12 request from the regional administrator?

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13 A. No, sir.
14 Q. That Jefferson County, Kentucky, was funded as a result of a
15 funding request from the regional administrator?
16 A. No, sir.
17 Q. That Elizabethton, Tennessee, was funded as a result of a
18 funding request from a regional administrator?
19 A. No, sir.
20 Q. That Morristown, Tennessee, was funded at the request of a

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regional administrator?

2 A. No, sir.

2 Q. Do you know there were no consultants involved in those, no

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consultants whatsoever? were you aware of that?

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A. No, sir.

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1 Q. Well, you recall that Shreveport, Louisiana, was funded as a
2 result of a request from Senator Bennett Johnson?

3 A. No, sir.

4 Q. Well, you recall --do you recall that Baton Rouge,
5 Louisiana, was funded as a result of a Congressional request?

6 A. No, sir.

7 Q. Do you recall a consultant by the name of Jay Stone that was
8 involved in that project?

9 A. I'm sorry?

10 Q. A consultant by the name of Jay Stone that was involved in
11 that project?

5

12 A. No, sir.

13 Q. With regard to the Missouri 200 units, do you recall a
14 project known as Greenleaf Apartments, which the developer was a
15 person by the name of Mike Levitt and the consultant was an
16 individual by the name of Dan Hughes?

17 A. At the time of September 5, 1986, I do not remember knowing
18 that that was per Mike Levitt or anytime prior to that.

19 Q. Who's Mike Levitt?

20 A. He is the developer.

2 Q. Okay. How do you know Mike Levitt?

2 A. I know him from the department, where he had a number of
2 projects that he had had problems with, from transfers of
2 physical assets or problems on projects, and I dealt with him.

2 Q. Did you know him before September 5 of 1986?

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1 A. Yes, sir, I did.

2 Q. Okay. Did you have conversations with him before September
3 5 of 1986?

4 A. Yes, sir, I did.

5 Q. Do you recall having any conversations with him regarding
6 that development?

7 A. No, sir.

8 Q. Who's Sandy Sanders?

9 A. Sandy Sanders was a former associate general deputy

10 assistant secretary for housing.

11 Q. A friend of yours?

12 A. Not really.

13 Q. Someone you know?

14 A. Yes, sir.

15 Q. How long have you known him?

16 A. When I first came to work at the department in 1981.

17 Q. Directing your attention to St. Louis County, Missouri, do
18 you recall talking to Sandy Sanders about that project before it
19 was funded?

20 A. No, sir.

2 Q. Do you recall discussing it with a consultant by the name of

2 David Barrett?

2 A. No, sir.

2 Q. Mr. Queenan, you previously identified him as somebody that
2 you knew, I think, for a while? Have you known Mr. Queenan for a

while?

2 A. Yes, sir, from his role as the deputy -- I'm sorry,
3 regional -- Region 8's director of multi-family housing
4 development.

5 Q. Well, he's one of the people that went to work for Mr. Winn,
6 was he not?

7 A. That's correct.

8 Q. Who's also a friend of yours, right?

9 A. No, he was never a friend of mine, sir.

10 Q. Okay. Was he an associate of yours?

11 A. Yes.

12 Q. And you went to work for him after you left HUD?

13 A. I didn't work for Mr. Queenan.

14 Q. No, no, Mr. Winn.

15 A. Mr. Winn, yes.

16 Q. Mr. Winn was a friend of yours?

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17 A. Yes.

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18 Q. I'm sorry, the question was was Mr. Winn a friend of yours.

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19 A. I misunderstood you. I thought you said was Joe Queenan a
20 friend of mine.

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21 Q. Back up for a second: You knew who Joe Queenan was?

22 A. Yes, sir.

23 Q. You were a close friend of Phil Winn's?

• 24 A. Yes, sir.

25 Q. And you went to work for Phil Winn when he left -

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A. Yes, sir.

Q. When you left HUD?

And Mr. Queenan worked for Mr. Winn?

4 A. Yes.

5 Q. Did you have any discussions with Queenan regarding a Davis
6 County, Utah project for 100 units?

7 A. No, sir.

8 Q. Is it that you didn't have any or that you don't recall any?

9 A. I don't recall having any conversations with Joe Queenan

10 about that.

11 Q. Are you aware that the Riverside, California mod rehab
12 funding was done as a result of the White House requesting that
13 it be done?

14 A. No, sir.

15 Q. Are you aware that Robert Dornan, a congressman from
16 California, requested that 100 units be sent to Garden Grove,
17 California?

18 A. No, sir.

19 Q. Are you aware that Senator Laxalt requested 150 units go to
20 Reno, Nevada?

21 A. No, sir.

22 Q. Are you aware that the regional administrators requested
23 units for Lane County, Oregon; Yamhill County, Oregon; Washington
24 County, Oregon; Salem, Oregon; and that no consultants were
25 involved in those projects?

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1 A. No, sir.

2 Q. So really you don't know why these projects were funded, do
3 you?

4 A. No, sir.

5 Q. You just know that they were funded.

6 A. Yes, sir.

7 Q. So you don't know whether they were funded right, wrong, or
8 indifferently, do you?

9 A. All I know is that I was ordered to sign them by Deborah

10 Dean, thereby funding them.

11 Q. And you found, what, you found that offensive?

12 A. Yes, sir, I did.

13 Q. And you think that somehow Ms. Dean committed a crime
14 because she ordered you to fund those projects?
15 A. Sir, I'm not able to decide whether Deborah Dean committed a
16 crime. Perhaps it's something the jury is here to do and not
17 myself.
18 Q. You're here testifying pursuant to a plea agreement,
19 pursuant -- and you pled guilty to criminal offenses, did you
20 not?
2 A. Yes, sir.

2 Q. And you have a stake in the outcome of this proceeding,
2 don't you? You need to keep the independent counsel happy with
2 your testimony; isn't that true?
2 A. No, sir. I am only required to tell the truth, and that's

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1 what I'm here for.
2 Q. And are you also supposed to recall, give us your honest
3 recollection?
4 A. 100 percent, yes, sir.
5 Q. And are you giving us your honest recollection today?
6 A. Yes, sir, I'm doing my best.
7 Q. And you don't recall any conversations with any of these
8 people that you went to work for about these projects?
9 A. Yes, sir.

10 Q. You don't -- you do?
11 A. I was saying I do not recall having any conversations.
12 Isn't that what your question was?
13 Q. That's exactly what my question was.
14 A. Then the answer was I do not recall. I do not remember any
15 of those discussions.
16 MR. WEHNER: Excuse me, Your Honor.
17 THE COURT: All right.
18 BY MR. WEHNER:
19 Q. Okay. You were ordered to fund these, but you don't
20 necessarily know why they were funded. You just know that you
2 were offended because you were ordered to do it?

2 MR. O'NEILL: That's a good summary, Your Honor, but I
2 haven't heard a question yet.
2 THE COURT: All right, I'll sustain an objection to the
2 question.

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1 MR. WEHNER: I'm glad you agree with my summary,
2 Mr. O'Neill.
3 THE COURT: Let's just go ahead.
4 BY MR. WEHNER:
5 Q. September 19, 1986, do you recall signing the funding
6 documents, what I call the funding documents, which you call,
7 what, fund assignments?
8 A. Fund assignments, yes, sir.
9 Q. That resulted from this round of funding?

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10 A. Sir, I'm having trouble reading that.

11 Q. Well, that's not in evidence, so I'm just asking if you

12 recall signing the funding documents?

13 A. I remember funding a second round, but I don't remember

14 specifically if this was that round or not. Perhaps if you again

15 have a copy of the 185s that I signed, just to brief myself real

16 quick?

17 MR. WEHNER:

18 No. 181.

19 THE CLERK:

20 identification.

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2 THE COURT:

2 BY MR. WEHNER:

Marked for identification Dean Exhibit

Defendant Dean's Exhibit No. 181 marked for

(Defendant's Exhibit No. 181 was
marked for identification.)

All right.

Q. And I ask you if this refreshes your recollection as to you

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1 signing on the funding documents for the round of September 16,
2 1986?

3 A. Yes, sir, it does.

4 Q. So you, in fact, did sign off on these documents, did you
5 not?

6 A. Yes, sir, I did.

7 Q. Would you please describe the conversations you had with

8 Ms. Dean that led up to these fundings being accomplished?

9 MR. O'NEILL: Objection, Judge. Factually again.

10 BY MR. WEHNER:

11 Q. Did you have any discussions with Ms. Dean leading up to
12 these fundings?

13 THE COURT: All right. He can answer yes or no to

14 that.

15 MR. O'NEILL: If we could approach? It will take one

16 second, Your Honor.

17 THE COURT: All right, come up.

18 (Bench conference on the record.)

19 THE COURT: What's the problem?

20 MR. O'NEILL: Your Honor, the board reads Funding

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2 Decisions Made September 19, 1986, and Steve keeps referring to

2 funding decisions dated September 16, so it's not at that funding
2 round.

2 THE COURT: I thought he misstated the date, because he
2 asked sometimes the 16th, and the board said the 19th. I thought

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1 that was just a mistaken date.

2 MR. WEHNER: I'm sorry, Judge. I'll refer to it as
3 September '86.

4 THE COURT: There were two different rounds in
5 September?

6 MR. O'NEILL: There's one on September 5 and one on
7 September 19, but this was signed in the interim. It's not on
8 either one of those.

9 THE COURT: Don't they relate to those projects on the
10 board?

11 MR. WEHNER: This one was done between the two, Judge,
12 and we included it on the second chart.

13 Is that a fair characterization?

14 MR. O'NEILL: Yes, it sounds like it.

15 THE COURT: which one are you talking about?

16 MR. WEHNER: The first project on the chart was done
17 between the two rounds, and we indicated it on the second chart,
18 Providence, Rhode Island.

19 THE COURT: I think you should lead him a little bit on
20 that so we don't get so confused on this matter.

2 MR. WEHNER: Yes, sir.

2 THE COURT: Thank you.

2 MR. WEHNER: Thank you, Your Honor.

2 (End of bench conference.)

2 BY MR. WEHNER:

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1 Q. Let me show you what I've marked for identification as Dean
2 Exhibit 181 and ask if that refreshes your recollection that the
3 funding for the Providence, Rhode Island project was actually
4 authorized on September 16?

5 A. Yes, sir, that is correct.

6 Q. As opposed to September 19, is that correct?

7 A. Yes, sir, that's the date on the date stamp.

8 Q. Okay. Now do you recall any discussions with Ms. Dean prior
9 to that funding being done on September 16 about that project?

10 A. What, what I recall is that this package was once again
11 another complete package. I don't remember any specific
12 conversations about one project vis-a-vis another.

13 Q. Okay. Do you recall that that project was funded as a
14 result of a letter from Ferdinand St. Germain?

15 A. No, sir.

16 Q. With regard to -- let's talk about that generally for a
17 minute before I go through the specific projects. September 19,
18 1986, there were a number of documents signed that were fundings
19 from mod rehab decisions?

20 A. Didn't we just say it was a different date from September
2 19?

2 Q. No. Providence, Rhode Island.
2 A. Okay.
2 Q. I think we refreshed your recollection it was September 16.
2 The remainder, it was my recollection, or I hope your

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1 recollection ultimately, is that they were September 19.
2 A. Okay.
3 Q. Did you have any discussions with anyone at HUD that you can
4 recall today about any projects for which you signed the funding
5 documents on September 19?
6 A. Before I signed them, I was directed by Deborah Gore Dean to
7 sign them. That's the only conversation I remember having.
8 Q. That's it?
9 A. That's it.

10 Q. You recall no other conversations with any consultants,
11 politicians, other people in the office?
12 A. There is one there, and I think it might be the Trenton, New
13 Jersey, or -- I remember one time talking to Congressman Smith
14 about a problem in New Jersey, and I think it might be the
15 Trenton one, but -- and I'm not sure.
16 Q. Before we go through them, specific projects, do you recall
17 any other conversations with anyone at HUD about the specific
18 projects prior to signing them on September 19?
19 A. No, sir, I do not.
20 Q. You simply recall being directed to sign them?
2 A. Yes, sir, I do.

2 Q. Okay. Do you recall that Worcester, Massachusetts, was
2 funded as a result of a request from Senator Ed Brooke?
2 A. Well, yeah, I do. That's right, I do.
2 Q. Well, he wasn't a senator at that time, was he? Wasn't he a

consultant?

A. He was a consultant.
3 Q. How do you remember that it was funded as a result of
4
Senator Brooke's consultancy?
5 A. It seems to me that there was an issue as related to
6 Worcester, Mass., and units going to some location and going to a
7 different public housing authority, and I believe Worcester,
8 Mass., may have been that one.
9 Q. Did Janet Hale have anything to do with that decision?

10 A. I believe so.
11 Q. In fact, she wanted to see those units funded, did she not?
12 A. I don't know specifically if she wanted to see those units

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13 funded or not.

14 Q. Well, she used to work for Senator Brooke, didn't she?

15 A. Yes, sir, she did.

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16 Q. And did you have conversations with her about those units?

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< 17 A. I don't recall having conversations with her about those

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18 units.

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19 Q. Do you recall that she wanted them to be funded?

20 A. Not particularly, sir. I'll tell you who I do remember

21 talking to.

22 Q. Who?

23 A. Elaine Richardson, from Senator Brooke's office.

24 Q. Did you talk to her about this project?

25 A. I believe we talked not about a project, more specifically

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1 about a program and about funding for Worcester, Mass. It seems

2 to me that there was a -

3 Q. Well, this project is in Worcester, Mass.

4 A. Right •

5 Q. And Senator Brooke, that was his, his state?

6 A. So chances, I shouldn't say chances, but -

7 Q. Best recollection?

8 A. Best recollection is that this related to Senator Brooke,

9 and the conversations that I remember having were related around

10 talking to Elaine Richardson, but I think it was to correct a

11 problem that happened or maybe it was a prior promise that, or

12 commitment that Senator Brooke had received from Janet Hale.

13 Q. Well, Elaine Richardson, just so the jury is aware, is a

14 long-time special assistant to Senator Brooke; is that correct?

15 A. Yes, sir.

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1 16 Q. Like the administrative aide or --

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I 17 A. Yes, sir.

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18 Q. Okay. You've already described for us who Joseph Strauss

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o1 19 was.

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20 A. Yes.

2 Q. Jerris Leonard was associated with Joseph Strauss , was he not?

2 A. Yes, sir.

2 Q. Okay. Now who's Jerris Leonard?

2 A. He's an attorney.

1 Q. And what was his relationship -- well, I'll ask it this way:

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2 He was a consultant on mod rehab projects, was he not?

3 A. I don't remember specifically talking to him about mod rehab

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projects.

5 Q. That wasn't the question. Wasn't he a consultant on moderate rehabilitation projects?

7 A. I don't know.

8 Q. Did you ever have any discussions with Jerris Leonard about Windsor, Vermont?

9

10 A. I don't believe I did, sir.

11 Q. Are you aware that Judith Siegal was the consultant on that project?

13 A. No, sir.

14 Q. Do you recall any conversation with Judith Siegal?

15 A. No, sir.

16 Q. I direct your attention to St. Johnsbury, Vermont. Do you recall that Judith Siegal was a consultant on that project?

18 A. No, sir.

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Q. Did you ever have any conversation with Judith Siegal about that?

21 A. No, sir.

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Q. With regard to 200 units to New York, New York, do you recall a meeting with a New York delegation that came down from New York City to try to convince HUD to fund that project?

A. I remember meeting with the delegation from New York. One

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1 person I remember in particular was Al Naclerio -- not Al
2 Naclerio. Al Naclerio was from the area office or the regional
3 office. And Tony Glideman was the gentleman's name that I
4 specifically remember meeting with, and they were complaining
5 that New York had never received any mod rehab units in a long
6 time, and they wanted to get some.
7 I don't remember it being particularly going out for a
8 project. I just remember just that they wanted some units to go
9 to New York, New York.

10 Q. Do you recall meeting with a delegation from New York to
11 discuss that particular project?

12 A. No, not that particular project, sir.

13 Q. Now we've already identified who Joseph Strauss was. Do you
14 recall that he was the consultant on the Trenton, New Jersey
15 project for 100 units?

16 A. I believe I do.

17 Q. Do you recall having any conversations with Joseph Strauss
18 before those were funded?

19 A. I remember him being in a meeting with I think it was
20 Congressman Chris Smith, and we had a meeting in the department.
2 There was a complaint about a project and that Congressman Smith

2 said that he'd really like to see Trenton funded.

2 Q. And Joe Strauss was a part of that meeting as a consultant?

2 A. Yes, sir, he was.

2 Q. And this meeting took place before the funding?

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1 A. Yes, sir.

2 Q. And you were present for the meeting?

3 A. Yes, sir, I do recall that.

4 Q. Atlantic City, New Jersey, 31 units, do you recall that
5 Dubois Gilliam requested that funding be done?

6 A. No, sir.

7 Q. Puerto Rico, 90 units, do you recall that Joseph Strauss was
8 the consultant on that project?

9 A. No, sir.

10 Q. Do you recall any conversations with Joseph Strauss before

11 that was funded?

12 A. No, sir.

13 Q. Do you know who Fred Bush is?

14 A. Yes, sir.

15 Q. Have you ever met him?

16 A. Yes, sir.

17 Q. Have you ever talked to him?

18 A. Yes, sir.

19 Q. Had conversations with him?

20 A. Yes, sir.

2 Q. How about before September of 1986? Did you know him?

2 A. I may have, sir.

2 Q. Did you have conversations with him?

2 A. Yes, sir.

2 Q. Isn't it true that Ponce, Puerto Rico, was funded as a

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1 result of a request of Fred Bush?

2 A. No, sir, I don't know that to be the case. My one time that
3 I really remember meeting Fred Bush was in a dinner, just a group
4 of people getting together. I remember being there with Hunter
5 Cushing, and I remember meeting Fred Bush. I don't remember
6 talking to him about that project, sir.

7 Q. Do you know who Al D'Amato is?

8 A. Yes, sir.

9 Q. He's a senator from New York, is he not?

10 A. Yes, sir.

11 Q. Do you recall that the Puerto Rico HFC 80-unit project was
12 funded as a result of a request from Senator D'Amato, from New
13 York?

14 A. No, sir, I don't.

15 Q. Did you ever have any conversations from anyone on his staff
16 regarding that project?

17 A. I do not recall any conversations with his staff or him.

18 Q. Regarding the West Virginia projects, do you recall that
19 those were funded as a result of a request from Senators Byrd and
20 Rockefeller to fund those units in West Virginia?

2 A. No, sir.

2 Q. How about Scranton, Pennsylvania? Do you recall that those
2 were funded as a result of telephone calls from Senator Heinz?

2 A. No, sir.

2 Q. How about Altoona, Pennsylvania, 25 units? As a result of

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m 1 telephone calls from Bud Schuster, who's another congressman from
2 Pennsylvania?

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3 A. No, sir.

4 Q. District of Columbia, do you recall how those units were funded and why those were funded?

6 A. I don't see those on that list, sir.

7 Q. I'm sorry. 40 units to the District of Columbia? I'm sorry, I was on the wrong list.

9 Dekalb County, Georgia?

10 I think we've run out of lists. We have to go to the next chart.

12 THE COURT: All right.

13 BY MR. WEHNER:

14 Q. Altoona, Pennsylvania, do you recall that that was funded as a result of Congressman Schuster's intervention?

16 A. No, sir.

17 Q. With regard to the District of Columbia, do you remember who intervened on behalf of that project?

19 A. No, sir.

20 Q. With regard to Dekalb County, Georgia, do you recall who intervened on behalf of that project?

22 A. No, sir.

23 Q. Do you did you know who Congressman Quillen was?

24 A. I believe I do.

25 Q. He's a congressman from South Carolina, is he not?

A. I believe so.

2 Q. Are you aware that the program in Columbia, South Carolina, was funded as a result of a request from him?

4 A. No, sir.

5 Q. You know who Strom Thurmond is, do you not?

6 A. Yes, sir.

7 Q. And he's a senator from South Carolina, is he not?

8 A. Yes, sir.

9 Q. Do you recall that Spartanburg, South Carolina, was funded as a result of a request from Senator Thurmond?

11 A. No, sir.

12 MR. O'NEILL: Judge, just so the record is clear, did Mr. DeBartolomeis sign these documents?

14 THE COURT: All right, why don't you check and see.

15 MR. O'NEILL: As I stated, Your Honor, did

16 Mr. DeBartolomeis sign these documents?

17 MR. WEHNER: well, Judge, I'll read it. They say,

18 "From: Silvio DeBartolomeis, General Deputy Assistant Secretary of Housing/Federal Housing Commissioner," and then there's --

20 THE COURT: wait, is that document in evidence? Is that a document in evidence?

22 MR. WEHNER: No, sir, but Mr. O'Neill's --

23 MR. O'NEILL: It has a signature, Judge, that is not

24 that of Mr. DeBartolomeis.

25 THE COURT: All right, I think you've got to find out

if he signed it or not. Get it marked and show it to him.

2 BY MR. WEHNER:

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Q. I'll show -- well, let me mark this first so that it's
4 clear. I'll mark this as Dean Exhibit 123.

THE CLERK:
identification.

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8
9 MR. WEHNER:
10 original document.

Defendant Dean's Exhibit 123 marked for

(Defendant's Exhibit No. 123 was
marked for identification.)
I'm removing my numbers, nothing in the

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11 THE WITNESS: Sir, I did not sign this document.
12 BY MR. WEHNER:
13 Q. I didn't suggest you signed the document.
14 Who's Jim Nistler?
15 A. He was the deputy assistant secretary for single-family
16 housing programs and mortgagee activities.
17 Q. Did he work for you?
18 A. Yes, sir.
19 Q. Okay. And on occasion he would sign for you; is that
20 correct?
2 A. He would sign off on documents when I was not there if he
2 was the next in line of succession.
2 Q. So the answer is yes?
2 A. When you say "for me," the way I see it is I'm calling him
2 up and saying, "Sign this for me," and that was not the case. He

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1 signed it in my absence when he had the authority to sign it, not
2 myself.
3 Q. Okay. Do you recall that 300 units were sent to
4 Jacksonville Housing Authority as a result of a request from
5 Senator Paula Hawkins?
6 A. No, sir.
7 Q. Well, we'll skip some of these, because I think it's fair to
8 suggest that your testimony would be that you didn't know too
9 much about a number of these. I'll move to a couple of others
10 specifically.
11 what about Tulsa, Oklahoma? Now the 202 units to
12 Tulsa, Oklahoma, do you recall that the developers on those units
13 were Mr. Abrams, Mr. Winn, and Mr. Queenan?
14 A. I knew that after this date, sir, not before this date.
15 Q. Now this is the same Mr. Winn that you were friends with
16 before you came to Washington and you went to work for after you
17 left HUD?
18 A. Yes, sir.
19 Q. And your testimony is that you weren't aware of that at the
20 time these decisions were made?
2 A. I was not aware of his advocacy for these projects -
2 programs at the time of this. I do not recall discussing with
2 them -
2 Q. Didn't you plead guilty as a result of some of your dealings
2 with Mr. Winn?

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1 A. Yes, sir.
2 Q. And part of that dealt with the fact that he loaned you some
3 money when you were at HUD, didn't it?
4 A. He was responsible for me obtaining an unsecured loan that I
5 later paid off, yes, sir.
6 Q. Well, but you pled guilty to criminal offenses for your
7 dealings with Mr. Winn, didn't you?
8 A. That's right, sir.
9 Q. And that's the same, just so there's no misunderstanding,
10 that's the same Mr. Winn that these units are being funded for;
11 isn't that correct?
12 A. Yes, sir.
13 Q. What about Oklahoma, 161 units? That's another Mr. Winn
14 project, isn't it, along with Mr. Abrams and Mr. Queenan?
15 A. I'm not sure. Is that, do you have the name of that project
16 that was ultimately funded under that?
17 Q. Rolling Green.
18 A. Then the answer is yes, sir.
19 Q. And that's another project that was funded by or for Winn,
20 Abrams, and Queenan, correct?
2 A. Yes, sir.
2 Q. That's the same Mr. Winn that you pled guilty to criminal
2 activity with when you were at HUD; isn't that correct?
2 A. Yes, sir.
2 Q. Now Cameron County, Texas, do you recall that that was at a

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1 request of the white House?
2 A. No, sir.
3 Q. Omaha, Nebraska, do you recall that that was as a result of
4 a request from Senator David Carnes?
5 A. No, sir.
6 Q. Now did you have meetings with Ms. Dean about any of these
7 projects before they were funded, any of the September '86
8 projects? Make it cumulative.
9 A. The ones that I signed I discussed with her. I don't think
10 it was in person. I believe it was over the phone. The
11 others --
12 Q. I'm sorry, say that again. I didn't hear it.
13 A. The ones that I signed I remember discussing with her, I
14 believe it was over the phone. I don't believe it was in person.
15 Q. Okay.
16 A. The ones that I did not sign, I don't remember having any
17 discussions with her on those.
18 Q. Okay. Was that because you weren't present when those were
19 signed by your assistant?
20 A. I believe so.
2 Q. Do you recall that September 1986 was getting very close to
2 an election?
2 A. I remember that as being a time when --it was the end of
2 the fiscal year. It's also the time that Tom Demery was coming
2 in as the new assistant secretary. I think he had been named,

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1 but I don't think he had yet been confirmed.
2 Q. So you were on your way out; is that right?
3 A. Basically, yes.
4 Q. And you were headed back to Colorado with Mr. Winn; is that
5 right?
6 A. Basically, yes.
7 Q. Now --
8 A. I don't think I had actually made a decision at this time,
9 but I was thinking that since Tom Demery had been made the

10 assistant secretary and I had been vying for that position, it
11 was time for me to get out of there and let him run his show.
12 Q. So you were going to work for Mr. Winn in September of 1986?
13 A. No, sir.
14 Q. When did you go to work for him?
15 A. December of 1986.
16 Q. And this was the time in September of '86 that Mr. Demery
17 was coming in?
18 A. Yes, sir.

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i 19 Q. What did you do between September and December?
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20 A. Finished out helping, finished out, left the department. I
2 helped Tom Demery get through the first few weeks of his

2 activities in the department, finished up a couple things that I
2 was working on, like the single-family mortgagee letter,
2 finishing up the task force there. I was basically looking for
2 another place to go.

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1 Q. And that other place to go was with Mr. Winn in Oklahoma?
2 A. Yes. Not in Oklahoma, sir. It was ultimately in Denver,
3 Colorado.
4 I need to correct myself. I didn't go to work for Phil
5 Winn in December of 1986. I started in January of 1987, just for
6 purposes of clarification.
7 Q. Now it's true, is it not, that you funded 161 units to
8 Oklahoma without the permission or the advance knowledge of the
9 office of the secretary of HUD? Isn't that true? And that you

10 did that for Phil Winn?
11 A. No, sir.
12 Q. You, your testimony is that the office of the secretary
13 ordered you to fund that project?
14 A. I don't believe I signed off on that document, sir.
15 Q. When you became aware that the project was being funded,

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16 wasn't it as a result of your suggestion and your action that
17 that project was put on the list?
18 A. I don't recall that, sir.
19 Q. Do you include that in any of the projects or in all of the
20 projects that were funded by the office of the secretary?
2 A. Could you repeat that question again?

2 Q. Didn't you include that in projects that were funded at the
2 direction of the office of the secretary?
2 A. Yes, sir.
2 Q. I'll show you what I've marked for identification as Dean

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Exhibit 124.
THE CLERK: Dean's Exhibit No. 124 marked for
identification.
(Defendant's Exhibit No. 124 was
marked for identification.)

BY MR. WEHNER:
7 Q. As well as Dean Exhibit 125.
8 THE CLERK: And Dean's Exhibit 125 marked for
9 identification.

10 (Defendant's Exhibit No. 125 was
11 marked for identification.)

12 BY MR. WEHNER:

13 Q. And ask you to look at these and ask you if you recognize
14 them?

15 A. Okay, I've read these two lists. And your question, sir?

16 Q. My question is did you add a 161-unit project for

17 Mr. Winn --
18 A. No, sir.
19 Q. --to the funding round in September 1986?
20 A. No, sir.
21 Q. Do you know what involvement, if any, Susan Zagame had in
22 that funding round?
23 A. No, sir.

24 Q. Do you have any knowledge of what Deborah Dean's role was in
25 that funding round?

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1 A. No, sir. This round here that we're talking about, the ones
2 that I didn't sign?

3 Q. The ones for which Mr. Winn, who you went to work for in
4 three months, received 161 units.

5 A. Okay. There were, I think there were two projects that
6 we're talking about that ultimately received funding. One was, I
7 believe, when I was there signing it, and there was another one
8 when I was not there signing it, so I remember Debbie Dean
9 directing me to sign the one that I signed, and I don't remember
10 Debbie Dean directing anyone to sign ones that I didn't sign.

11 Q. The question is do you recall causing those 161 units to be
12 added to the list for Mr. Winn?

13 MR. O'NEILL: Objection, Your Honor.

14 THE COURT: I don't understand -

15 MR. WEHNER: I don't know what that objection is.

16 THE COURT: I don't understand the objection.

17 MR. O'NEILL: He didn't sign the document.

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THE COURT: Well, that's not the question. He didn't
state, "Did you sign a document funding it?" I'll overrule the
objection.

MR. O'NEILL: I'll withdraw the objection.

2 THE COURT: All right.

2 BY MR. WEHNER:

2 Q. Did you cause the funding of those 161 units to Mr. Winn?

2 A. No, sir.

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1 Q. Isn't it true, sir, that that project was not discussed,
2 thought of, considered, or recommended by Deborah Dean or
3 Secretary Pierce or Susan Zagame or anyone else that was involved
4 in that project and that you simply added it to the list?

5 A. No, sir.

6 Q. Now there are computer printouts generated after decisions
7 are made for funding, are there not?

8 A. Yes, sir.

9 Q. And these computer printouts have a list of the funding

10 decisions that are made, don't they?

11 A. Yes, sir.

12 Q. Okay. Do you have any recollection of a computer printout
13 that resulted from the funding round of that September 1986
14 meeting?

15 A. No, sir.

16 Q. I'm going to show you again Exhibit 124 and ask you if that
17 refreshes your recollection about the computer printout that came
18 about as a result of the September fundings.

19 A. I don't recall changing this. I don't recall generating
20 this in the first place.

2 Q. I believe you recalled you didn't have anything to do with

2 that funding round.
2 A. Right.
2 Q. Much less generating this computer --
2 A. Right. So what are you asking then?

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1 Q. The question is do you have any recollection of the computer
2 printout that resulted from the September funding round?
3 A. No, sir.
4 Q. And seeing the exhibit I just showed you, does that refresh
5 your recollection?
6 A. Not really. I didn't generate it, and I didn't change it or
7 write it or anything.
8 Q. All right. Did you make any changes at all to the decisions
9 that were made as a result of -- let me put it this way: Did you

10 make any changes at all to the list that was generated from the
11 computer for the September 1986 fundings?
12 A. No, sir.
13 Q. After you left HUD, Mr. DeBartolomeis, you were forbidden by
14 statute from dealing with the same matters you dealt with during
15 your last year at HUD; isn't that correct? You couldn't go back
16 to HUD for one year and deal with mod rehab allocations; isn't
17 that right?
18 A. Yes, sir.
19 Q. And did you do that? Did you go back to HUD and --
20 A. Deal on any projects?
2 Q. -- deal on any projects?

2 A. No, sir.
2 Q. Did you suggest that anybody else do that on your behalf?
2 A. I don't think I had anyone else do that on my behalf, no,
2 sir.

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1 Q. Did you suggest that anyone else do that on your behalf?
2 A. I did not suggest that anyone else do that on my behalf, no,
3 sir.
4 Q. Do you know if any member of your family ever did it on your
5 behalf?
6 A. My mother, I remember, called Deborah Dean at the request of
7 Al Cardenas, who called me. I told him I couldn't do that. I
8 actually had him come out to meet with Phil Winn. Phil Winn said
9 that they were going to do whatever they could on their own, told
10 Al Cardenas that they couldn't do anything.
11 Because of my mother's relationship with Deborah Dean,
12 I suggested that she on her own contact Deborah Dean.
13 Q. You suggested that your own mother contact Deborah Dean
14 about mod rehab units?
15 A. Yes, I did.
16 Q. During the first year when you had just left HUD?
17 A. Yes, sir.
18 Q. That was really because you felt like you couldn't do it
19 directly; isn't that right?
20 A. That was specifically because I could not do it directly.
2 Q. Did you ever know if Phil Winn, the person you were working

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2 for after you left HUD, came back to the department and requested
2 mod rehab units?
2 A. Would you restate that question?
2 Q. Are you aware that Phil Winn came back to HUD during the

first year after you left HUD and requested mod rehab units?

2 A. Yes, I do know that he did.
3 Q. And are you aware that he requested some on your behalf?
4 A. No, sir, I'm not.
5 Q. For you?
6 A. No, sir.
7 Q. When are you going to be sentenced?
8 A. Soon.
9 Q. When?
10 A. I don't know the exact date. It's sometime in October.
11 Q. Scheduled for sometime within the next month, is it not?
12 A. Yes, sir.
13 Q. And at that point in time, the office of the Independent
14 Counsel is going to stand up and tell the judge in your case
15 whether or not you cooperated with them; isn't that right?
16 A. I believe they will.
17 Q. And -
well, that's part of the agreement; isn't that right?
18 A. My part of the agreement was to cooperate.
19 Q. Yeah. What's their part of the agreement?
20 A. Their part of the agreement -
2 Q. Describe your cooperation, right?
2 A. I assume that that's part of the deal.
2 Q. And stand up in front of the Court and tell the Judge in
2 your • sentencing whether you cooperated in their investigation,
2 isn't that right?

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1 A. I guess that's part of the deal.
2 Q. Well, of course it's part of the deal. You don't want to go
3 to jail, do you?
4 A. No, sir.
5 Q. And part of the deal to stay out of jail is to help the
6 Office of Independent Counsel, isn't it?
7 A. The major part of the deal is to make sure that I tell the
8 truth.
9 Q. But who determines whether you tell the truth?

10 A. I guess the jury and the judge decide who tells the truth.
11 Q. Isn't it true that the Independent Counsel is going to stand
12 up and say, "Judge, he was very truthful," or, "Judge, he wasn't
13 very truthful"? This jury isn't going to be at your sentencing,
14 fortunately.
15 MR. O'NEILL: Objection, Your Honor. That's really
16 uncalled for.
17 THE COURT: It is. Ladies and Gentlemen, ignore that
18 remark. It was a facetious remark. It has no evidentiary value.
19 BY MR. WEHNER:
20 Q. Isn't it true that the Independent Counsel is going to stand
2 up at your sentencing, and you hope they're going to say that you

2 told the truth?
2 A. I do believe that that is the case.

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2 Q. And that's your desire, isn't it?
2 A. Yes, sir, it is.

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1 Q. And you want to help them by being, quote, as cooperative as
2 you possibly can; isn't that right?
3 A. Yes, sir
4 MR. WEHNER: I have nothing further.
5 THE COURT: All right, we'll take our afternoon break,
6 Ladies and Gentlemen, 15 minutes. Be back at that time.
7 Remember the admonition of the Court. Do not talk
8 about this case among yourselves or with anyone else during the
9 recess. You're excused.

10 (Jury out.)
11 THE COURT: You can step down.

* 12 Mr. Wehner, try to restrain your impulses.
13 MR. WEHNER: I apologize, Your Honor.
14 THE COURT: All right.
15 (Recess from 3:05 p.m., to 3:25 p.m.)
16 THE COURT: Some redirect?
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1 17 MR. O'NEILL : Yes, Your Honor, about ten minutes.
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18 THE COURT: That's fine. I'm going to have to recess

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1 19 today instead of 4:30 , probably 10 after or so.
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20 MR. O'NEILL : A half-hour?
2 THE COURT: Yes. I have a meeting at 4:30 I have to

2 get to which : Ls about 10 minutes away from here. So let's see
2 what we can do.
2 (Jury in.)
2 THE COURT: All right, we're ready with redirect at

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1 this time, Ladies and Gentlemen.
2 MR. O'NEILL: Thank you, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. O'NEILL:

5 Q. Mr. DeBartolomeis, you were asked questions on cross
6 examination by Mr. Wehner about the Arama project, and you
7 stated, I believe, that you talked with Ms. Dean about the Arama
8 project.

9 A. Yes, sir.

10 Q. Do you remember what you said to Ms. Dean about the Arama
11 project?

12 A. My recollection was more as it related to rent increases on,
13 on the Arama project.

14 Q. And what, if anything, did you say concerning those rent
15 increases?

16 A. There was problems in getting staff approval on getting a
17 rent increase, and she indicated that I should go back and work
18 with the staff until I got information. I came back basically
19 with an affirmative response.

20 Q. Did she ever mention to you that John Mitchell or Louie Nunn
2 were consultants on that project?

2 A. I believe she mentioned that Mr. Mitchell was involved.

2 Q. Mr. DeBartolomeis, you also mentioned on cross examination,
2 when questioned, about the number of units dropped considerably
2 during the mid-1980s, the number of mod rehab units available and

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1 the funding. what I would ask is when the number of units
2 dropped, did the competition to get those units increase?

3 A. I believe it did.

4 Q. And what do you mean?

5 A. There were always a certain number of people that are out
6 there looking for, for units, and when there are fewer units, the
7 same number of people are out there looking for them.

8 In addition, programs had been disbanded that dealt
9 with a substantial rehabilitation or new construction of Section

10 8 programs. That had been done away with, and I believe there
11 were reductions in other programs, too, that made these basically
12 the only game in town, if you will, as it related to Section 8
13 subsidized housing.

14 Q. Mr. DeBartolomeis, you mentioned a meeting with two
15 congressmen who had complained. They were out of Buffalo, and I
16 believe you said their names were LaFalce and Nowack.

17 A. Yes, sir, I did.

18 Q. Where did this meeting take place?

19 A. In a congressman's office. I don't remember if it was
20 Congressman LaFalce or Congressman Nowack.

2 Q. Prior to going to this meeting, did you talk with any of

2 your colleagues at HUD?

2 A. Yes, sir, I did.

2 Q. Who did you speak with?

2 A. There was a person from Congressional relations, and I

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1 believe his first name was Kevin. I don't remember his exact,
2 his last name, but he was the liaison officer dealing with
3 Congressmen LaFalce and Nowack. And then also Deborah Dean.

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4 Q. Now you mentioned after the meeting, there came a point in
5 time when you wrote a memo; is that correct?

6 A. Yes, sir, it is.

7 Q. Now did you deliberately misrepresent what was happening
8 with the Mod Rehab Program in that memo?

9 A. As a result of the memo, we gave the wrong impression that,

10 in fact, the program was being done in an appropriate manner. I
11 don't remember the exact language. I can point it out to you in
12 the letter. But basically it said we felt that the program was
13 being run properly and that there were no problems.

14 Q. Oh. Was that true?

15 A. No, sir.

16 Q. Now you mentioned that after the meeting, you spoke with the
17 defendant, and she suggested certain changes that she wanted to
18 make to the memo.

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I 19 A. There were certain changes that she had made, yes, sir.

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20 Q. Do you recall what those changes were?

2 A. One of the changes was that the staff recommendation that

2 came up on the notice that was to go out to the field, staff
2 recommendation came up and said regardless of whether a public
2 housing authority -- and I'm kind of paraphrasing here -- but
2 regardless of, one, whether a public housing authority had gone

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1 through the notice of funding availability process prior to
2 selection, prior to receipt of the funds, that if new funds came
3 out, all projects would have to go up for new competition, and
4 that was struck.

5 There was another aspect that dealt with a prohibition
6 against a dry NOFA, which was a NOFA, notice of funding
7 availability, subject to the availability of funds, sort of an
8 oxymoron, but what basically it means is that a public housing
9 authority could advertise for units in anticipation that they
10 would receive units so that they could develop a pipeline of, of
11 projects so, you know, A Housing Company and B Housing Company
12 and C Housing Company were ranked 1, 2, and 3.

13 That document could then be sent in to HUD to show that
14 they had a pipeline of projects that were ready, willing, and
15 able to be developed, and what ultimately happened as a result of
16 that was that when it came in, you could see with the
17 consultants, you would say, "If you'd pick, you'll know that the
18 funds would go to my project, because you'd see we've already
19 done this dry NOFA, and I'm No. 1 on the list, and so you'll help
20 me."

2 Q. This jury already heard evidence that a pipeline existed in
2 Miami. Is that what you're talking about?

2 A. Yes.

2 Q. Now, Mr. DeBartolomeis, on another topic, you mentioned
2 career employees, that term during cross examination. When you

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1 say career employees, what are you referring to?
2 A. I'm referring to a professional government employee that,
3 that is not subject to what administration is in. I'm saying a
4 person that works in the department is under the rules and
5 requirements of the department but not a Schedule C, so it would
6 not be a political person. For example, I was a political
7 person.
8 Q. You were a political person.
9 A. Yes, sir.

10 Q. Again, could you describe what a Schedule C means?
11 A. Schedule C is, it's an Office of Personnel Management
12 designation that deals with people that are politically appointed
13 and serve at the pleasure of the President.
14 Q. Now, Mr. DeBartolomeis, you were asked questions by
15 Mr. Wehner about testimony that may have been prepared for you in
16 anticipation of you testifying up on Capitol Hill. Do you recall
17 those questions?
18 A. Yes, sir, I do.
19 Q. Now why were you called up to Capitol Hill?
20 A. I -- in terms of the testimony, I never actually did get
2 called up to the Hill to testify, but the reason my name was
2 selected was because they originally wanted Secretary Pierce to
2 go and to, to testify, and so he basically tossed that hot potato
2 to me.
2 Q. Now you said you didn't testify. Was there a reason why you

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1 didn't testify?
2 A. I don't recall why. It wasn't that I declined to testify.
3 There may have been some discussions that ultimately found no
4 need for testimony, but I was not involved in that.
5 Q. Now you stated the testimony that you were going to give was
6 part of a coverup.
7 A. That's my personal view of it, yes, sir.
8 Q. Now there were some questions asked about everybody knowing
9 about the, the way the Mod Rehab Program was working. Why did
10 you think it necessary to engage in a coverup if everyone knew
11 what was going on?
12 A. Well, maybe people in the department knew or the insiders
13 knew about what was going on, but it was something that, quite
14 frankly, hadn't been on the front page of the Washington Post.
15 and my feeling was that if it ever made it, there would be a lot
16 of problems for a lot of people, and it turns out that ultimately
17 when it did make the front page of the Washington Post, that
18 there today are a lot of problems for a lot of people.
19 Q. Were your actions designed to cover up what was going on to
20 the American people?
2 A. Yes.
2 Q. And did you plead guilty to this as one of the counts you've
2 pled guilty to?
2 A. Yes, sir, I did.
2 Q. Also during cross examination, it was mentioned that you've

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1 had specific meetings with Secretary Pierce. Approximately how
2 many specific meetings did you have with Secretary Pierce?

3 A. I was there six years. Under ten meetings with Secretary
4 Pierce, individual meetings.

5 Q. There was also testimony about these Tuesday morning staff
6 meetings. Do you recall that?

7 A. Yes, sir, I do.

8 Q. How did these meetings operate? Who ran the meetings?

9 A. Usually for the secretary's meetings on Tuesday, the

10 secretary would, would be there, and he would, he would lead the
11 meeting through a topic of conversation. If he wasn't there,
12 then the under secretary there or the general counsel did it or
13 whatever.

14 His travel schedule was very, very heavy, and there
15 were a lot of days on his staff meeting that he would not be
16 there.

17 Q. Now there was some talk as to when the defendant, Deborah
18 Gore Dean, began her position as executive assistant, and I

I 19 believe you looked at a document, at first you thought it was a
8

20 May date, a "5," but then it looked like a "6."

2 A. Yes.

2 Q. Between the time that Ms. Dean was the, in the executive
2 secretariat position and then became executive assistant, did she
2 hold any other positions at HUD?

2 A. I believe she was special assistant to the secretary for a

while.

2 Q. Okay. Let me show you Government's Exhibit 256, which has
3 already been marked and placed into evidence, and I'd just ask
4 you if this document refreshes your recollection as to what
5 position she held for a period of time?

6 A. Yes, sir, it does.

7 Q. And what was that position?

8 A. Special assistant to the secretary and then later executive
9 assistant to the secretary.

10 Q. And what would the special assistant to the secretary do?
11 What were the duties and responsibilities of that office?

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12 A. It really would depend on the individual. Basically
13 whatever the secretary wanted you to do or whatever you were able
14 to convince the secretary you should be doing.

15 Q. During cross examination, you were asked questions about a
16 project called Baltimore Uplift. Do you recall that?

17 A. Yes, sir, I do.

18 Q. And you were asked as to whether you knew individuals like a
19 person by the name of Bob Tuttle and a Lynn Nofziger were
20 involved in that project.

21 A. Yes, sir.

22 Q. Were you aware that anybody else was involved in that
23 project, any other --
24 A. Another lady's name that I remembered was Helene Van Damm.
25 Q. who was she?

1 A. She was the former secretary to President Reagan.
2 Q. Any other names?
3 A. I believe Jim Lomenick was involved in that.
4 Q. And who's Jim Lomenick?
5 A. A housing consultant.
6 And he had talked to Janice Golec on that, I believe,
7 too.
8 Q. How did you learn that these people were involved in the
9 project? /''''

10 A. Well, initially Janice asked me if I could talk to Jim
11 Lomenick, who Janice Golec was a special assistant to the
12 secretary, also. She was dating him, and I don't know how the
13 conversation got around to mod rehab or whatever, but she had
14 asked if I could talk to him about, about the Mod Rehab Program,
15 and I agreed to do so.
16 Q. Baltimore Uplift, how long was that project at HUD in
17 various stages?
18 A. Boy, that, that project had legs, let me tell you. It just
19 went on and on and on for a long time. I would say several
20 years.
2 Q. Now after Baltimore uplift was initially funded, did you

2 have any additional involvement in the project?
2 A. I believe I did. I testified earlier that I think that
2 there may have been rent issues resolving around that, and I
2 think ultimately additional Section 8 certificates were being

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1 made available so that when the project was being renovated,
2 people that were currently living in those units would have
3 Section 8 existing certificates in terms of a subsidy to go to.
4 So if they were living in this unit and the owners were
5 going to renovate that unit, when these people moved, they were
6 able to get benefits through the Section 8 program which would
7 enable them to find subsidized housing basically wherever they
8 wanted.
9 Q. Mr. DeBartolomeis, you were asked questions about an

10 individual by the name of James watt.
11 A. Yes, sir.
12 Q. And I believe you said he was the former secretary of the
13 interior, I believe?
14 A. Yes, sir.
15 Q. Okay. During cross examination, you stated you essentially
16 gave James watt a Mod Rehab 101.
17 A. Yes, sir.
18 Q. What were you referring to by that?
19 A. Basically I was explaining to him the way the program worked
20 in terms of funding, telling him that you worked with the public
2 housing authority, and HUD would, if you would get a letter from
2 the housing authority that would request a specific number of
2 units and that you were able to get some additional support

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2 generated for those units, like getting a congressman to write in
2 or senator or a mayor, for that matter, or a city council,

1 saying, "Gee, this is a great thing for you to have support for
2 this project," or this program that they're funding, and then if
3 you got it in and knowing that he knew who he knew, since he came
4 from Secretary Pierce's office down, I felt that he had the
5 necessary wherewithal to secure funding for this.
6 Q. Based on your observation, did James Watt have any knowledge
7 whatsoever of the Mod Rehab Program at that time?
8 A. No, sir. I think that his level of education on that was
9 nil prior to my discussions with him.

10 Q. Now, Mr. DeBartolomeis, an individual by the name of Andrew
11 Sankin was mentioned in cross examination.
12 A. Yes, sir.
13 Q. Who is Andrew Sankin?
14 A. Andrew Sankin is a housing consultant.
15 Q. And how do you know Andrew Sankin?
16 A. Originally in growing up in Rehoboth Beach, Delaware, I knew

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17 him through my brothers, you know. He was someone that was one
© . 18 of the kids that we grew up around, and his older brother went to

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1< 19 the University of Denver, and I went to the University of Denver,

20 and I sort of met him through his older brother.

1
2 subsequently when I moved from Colorado here, I saw him
2 again, and he later became a housing consultant.
2 Q. Did you ever direct or steer the awarding of any mod rehab
• 2 units to Andrew Sankin?
2 A. No, sir, I did not. Andy had asked on several occasions.

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1 I, quite frankly, was surprised to see Andy become a housing
2 consultant, knowing that, you know, his father had done a number
3 of multi-family projects here in the Washington, D.C. area, but
4 Andy hadn't, and I was really surprised to see Andy become
5 involved in housing.
6 And so he started doing things like management of his
7 father's condominium project or whatever and originally came to
8 the department and asked me for mod rehab funding, and I said,
9 "No way. You're a friend of mine, and I'm not going to do that,

10 and I'm going to protect you by not doing this for you, and
11 you're going to protect me by not asking me for this, so forget
12 it. "

13 And he ultimately -

I said, "I can't make any
14 decisions on your behalf."

15 At that time, I believe I was dating Debbie Dean, and
16 he met Debbie Dean and later on developed a friendship with
17 Debbie Dean, and ultimately his funding came via Deborah Dean.

18 Q. How did he meet Deborah Dean?

19 A. Through me.

20 Q. Now, Mr. DeBartolomeis, you were asked a number of questions
2 about a funding round that occurred on May 22, 1986, and I
2 believe that was one in which Mr. Wehner showed you a number of
2 funding documents. Do you recall that?

2 A. I believe that was the one that was signed while I was out
2 of town.

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1 Q. Was your name on any of those funding documents?

2 A. No, sir, it was not.

3 Q. And do you recall whose name --

4 MR. WEHNER: Objection, Judge. That's a
5 mischaracterization.

6 THE COURT: It was his signature as opposed to his
7 name.

8 BY MR. O'NEILL:

9 Q. Did you sign off on any of those documents?

10 A. No, sir, I never signed off on any of those documents.

11 Q. So the record is clear, was your name on those documents in
12 a preprinted manner?

13 A. Oh, absolutely. The name was always there, because I was
14 the person that was in that position as the general deputy
15 assistant secretary for housing/deputy federal housing
16 commissioner, because there was no assistant secretaries.

17 Q. Now Mr. Wehner asked you a number of questions about your
18 discussions with Mr. Phil Winn in or around 1986.

19 A. Yes, sir.

20 Q. And you stated that you did not discuss specific projects
2 with him.

2 A. No, sir.

2 Q. Did you have any general discussions with Mr. Winn about the
2 mod rehab process while you were a HUD employee?

2 A. Well, yeah, because he had a Mod Rehab Project that had been

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1 funded, and he had trouble with it and ultimately got a rent
2 increase on a project in Indian Springs, Oklahoma, and so I had
3 worked on it at a lower staff level, you know, on the project at
4 that time.

5 It apparently was being built close to a golf course,
6 and the people in the locale didn't want the project to proceed.
7 They didn't want public housing-next to their golf course and got
8 their congressmen and senator involved, and they were writing a
9 bunch of bad letters about the project, and the director of the
10 Oklahoma Housing Finance Agency couldn't get taxes and financing,
11 because someone had gotten to them politically and said they

12 wouldn't do it.

13 So Phil Winn came into the department and asked for a
14 rent increase based on the fact that he couldn't get, couldn't
15 get taxes and financing and couldn't make the project work as a
16 result of that.

17 Q. And did you have a conversation with Mr. Winn about how the
18 mod rehab funding process was working in or around 1986?

19 A. I think I had general discussions with him and basically
20 told him that I was not in the loop in the decision-making
2 process of funding.

2 Q. Now did you, in fact, join employment with Mr. Winn after
2 you left HUD?

2 A. Yes. After I left the department in December, I made it out
2 to, out to Denver by January to work with him. I developed my

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1 own consulting company, and my only two clients were Philip D.
2 Winn & Associates and Philips Development. Philip D. Winn &
3 Associates was owned by Phil Winn, and Philips Development
4 Corporation was half-owned by Phil Winn and Phil Abrams.

5 Q. And how long did you work with Mr. Winn and Mr. Abrams?

6 A. About a year and a half, somewhere in that range.

7 Q. Now, Mr. DeBartolomeis, you talked about being ordered to
8 sign certain funding documents on September 5, 1986.

9 A. Yes, sir.

10 Q. And then later you stated you did sign some funding

11 documents on September 19, 1986.

12 A. Yes, sir.

13 Q. Why did you sign the documents on that date?

14 A. On the 19th? Those were funds that I was ordered to sign by

15 Deborah Dean.

16 MR. O'NEILL: One second.

17 Excuse me, Mr. DeBartolomeis.

18 THE WITNESS: Actually, it wasn't the 19th. It had to

19 be the earlier date, because that was Part 2.

20 BY MR. O'NEILL:

2 Q. Well, let me direct your attention, during your cross
2 examination, you testified as to signing documents on September
2 16, 1986.

2 A. Yes, sir.

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2 Q. Do you recall signing a document on that date?

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1 A. Yes, sir.

2 Q. And why did you sign a document on that date?

3 A. Because I was directed to sign the documents by Deborah
4 Dean.

5 Q. Now during cross examination, you were also shown a number
6 of documents signed by a Mr. Jim Nistler, or James Nistler.

7 A. Yes, sir.

8 Q. And they were for September 19, 1986?

9 A. Yes, sir.

10 Q. Do you know why Mr. Nistler signed the funding documents for

11 you?

12 A. He told me that he was ordered to sign them by Deborah Dean.

13 Q. Where were you on that date, September 19, 1986?

14 A. I'm not 100 percent sure. I think I might have been in

15 Colorado.

16 Q. Now there was some mention of 161 units to Colorado.

17 A. No, I think the 161 is Oklahoma HFA.

18 Q. Excuse me. On this chart right here, did you sign any

19 funding document on September 19, 1986, for 161 units to
20 Oklahoma?

2 A. No, sir.

2 Q. Do you know who did sign that?

2 A. I think Jim Nistler signed that.

2 Q. And you were asked questions concerning your cooperation

2 agreement. You've pled guilty to three criminal charges; is that

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correct?

2 A. Yes, sir.

3 Q. And you've entered into a cooperation agreement with the
4 government of the United States?

5 A. Yes, sir, I have.

6 Q. And what does that cooperation agreement call for you to do?

7 A. I have to tell the truth.

8 Q. What if you don't?

9 A. I will go to jail.

10 MR. O'NEILL: I have no further questions, Your Honor.

11 THE COURT: All right.

12 MR. WEHNER: Very briefly, Your Honor?

13 THE COURT: You've got some new area that he went into?

14 MR. WEHNER: Yes, sir.

15 THE COURT: Let me hear it. Go ahead, let me see where

16 you're going.

17 RECROSS EXAMINATION

18 BY MR. WEHNER:

19 Q. Your cooperation agreement is that you have to tell the
20 truth or you will go to jail, correct?

21 A. Well, that's right.

22 Q. Your conversation with James Watt regarding Mod Rehab 101
23 took place in 1986; is that correct?

24 A. Yes, it is.

25 Q. And he didn't know anything about the mod rehab process, did

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he?

2 A. He had a very limited knowledge of that.

3 Q. Isn't it true that he'd been involved in funding a project
4 in Puerto Rico in 1984?

5 A. I don't know that.

6 MR. O'NEILL: Objection, Your Honor. Beyond the scope.

7 THE COURT: All right, I'll allow it.

8 MR. WEHNER: Nothing further, Your Honor.

9 THE COURT: All right.

10 All right, you can step down. Thank you.

11 THE WITNESS: Thank you, sir.

12 (Witness excused.)

13 THE COURT: Let me see who you've got next, all right?

14 why don't you come up.

15 (Bench conference on the record.)

16 THE COURT: Do you have a shorter witness in time?

17 MS. SWEENEY: We don't have a 10-minute witness, Your

18 Honor. I expect that my direct of the next witness, Mr. Rubi,

19 would be about 20 to 30 minutes.

20 MR. O'NEILL: There's no way Steve will get to cross.

21 Do you want to just do it tomorrow?

22 MR. WEHNER: I'm tired, Judge.

23 MR. O'NEILL: I bet.

24 MR. WEHNER: And I need to refrain, and I refrain

25 better when I'm rested.

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1 THE COURT: You can read all the Gialio materials you
2 want to read.

3 All right then, if he can come back tomorrow without
4 any inconvenience? You may have to reschedule the governor.

5 MR. O'NEILL: Judge, let me put on the record what

6 we're doing with that. I've scheduled him for Friday morning,

7 and I think Friday morning is fine. The only problem I have is

8 last Friday morning, we went quick. I expect that Steve will be

9 some time on him. So because it's a Friday and a Jewish holiday

10 with a couple of our witnesses, he would probably be our only

11 witness for Friday morning.

12 THE COURT: No problem.

13 MR. O'NEILL: I don't think that's a problem.

14 MR. WEHNER: I'm sure I could finish him on Friday

15 morning without any problem.

16 MR. O'NEILL: Thanks, Judge.

17 THE COURT: Mr. Martinez called chambers and wished to

18 speak with me, and I did not speak with him. He wanted to know

19 if I'd acted upon his letter he had written, and I instructed my

3

20 secretary to tell him to talk to his lawyer and have him contact
2 you all and see what's going to happen.

2 MR. WEHNER: Thank you.

2 MR. O'NEILL: Thanks, Judge.

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2 (End of bench conference.)

2 THE COURT: Ladies and Gentlemen, I've just talked to

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1 counsel about the next witness, who will be not too long perhaps
2 on direct, although quite a while, some time, and then in cross
3 could be longer, so I don't think we can get the next witness in
4 today, and counsel indicated rather than start and break into it,
5 they'd rather start fresh tomorrow. So we'll start tomorrow
6 morning and just recess a few minutes early today.
7 The schedule tomorrow -- are there a couple preliminary
8 matters in the morning? Two short ones?
9 THE CLERK: Yeah, two short ones.

10 THE COURT: Okay. We can do it at 9:30 then. We'll do
11 it at 9:30, as we have been doing each morning then. We'll start

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12 as close to 9:30 as possible and have a regular day tomorrow.

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13 Over the recess again -- you have this memorized by
14 now -- you do not talk about the case, read about it, or talk
15 about it with anyone else, let anybody speak about it in your

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6 16 presence, watch it on television, or listen to it on the radio.

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5 17 we'll see you back here bright and early tomorrow
18 morning then, please, at 9:30. Thank you.
19 (Jury out.)
20 THE COURT: All right, 9:30.

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21 (Recess from 3:50 p.m., to 9:30 a.m., September 22, 1993.)

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CERTIFICATE OF THE REPORTER

2 I certify that the foregoing is a correct transcript of the
3 record of proceedings in the above-entitled matter.

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Anneliese J. Thomson

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
UNITED STATES OF AMERICA,

- VERSUSDOCKET
NO.
DEBORAH GORE DEAN,
DEFENDANT .
CRIMINAL NO. 92-181
WASHINGTON, D.C.
SEPTEMBER 22, 1993
9:50 A.M.

VOLUME VIII

TRANSCRIPT OF TRIAL BEFORE
THE HONORABLE THOMAS F. HOGAN,
UNITED STATES DISTRICT JUDGE,
AND A JURY.

APPEARANCES:

FOR THE GOVERNMENT: ROBERT O'NEILL, ESQ

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WASHINGTON, D.C. 20002

COURT REPORTERS ANNELIESE THOMSON
SANTA THERESA ZIZZO

U.S. DISTRICT COURT,
3RD & CONSTITUTION AVE., N.W.
WASHINGTON, D.C. 20001
PAGES 1001-1161

(COMPUTER-AID TRANSCRIPT OF STENOGRAPHY NOTES)

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WITNESSES:

T. Broussard
C. Rubi
J. Wilson
J. Nistler
A. Sankin

EXHIBITS:
FOR THE GOVT
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EXHIBITS: FOR IDENTIFICATION IN EVIDENCE

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1 PROCEEDINGS

2 THE DEPUTY CLERK: Criminal case number

3 92-181. United States versus Deborah Gore Dean.

4 Mr. Robert O'Neill and Paula Sweeney for the Government

5 and Mr. Stephen Wehner for the defendant.

6 MR. O'NEILL: Good morning, Judge.

7 MR. WEHNER: Good morning, Your Honor.

8 THE COURT: Good morning, counsel. Are you

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9 ready to go? who is up?

10 MR. O'NEILL: Mr. Broussard, Judge. He has to
11 meet a plane, so we're flipfopping him.
12 THE COURT: All right. I didn't bring his
13 papers out.
14 All right. Bring the jury out.
15 I take it the defendant's counsel is ready to
16 go with those Giglio materials. You've looked at
17 those?
18 MR. WEHNER: Yes, sir, thank you.
19 (Jury present).
20 THE COURT: All right.
2 Good morning. Thank you for getting here

2 again bright and early and ready to go.
2 we're ready to resume with the trial this
2 morning. As you all remember we finished with a witness
2 yesterday. so the Government will be calling an new

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1 witness this morning. I think he'll be on awhile.

2 MR. O'NEILL: Your Honor, the Government calls

3 Thomas Broussard.

4 THE COURT: All right.

5 Mr. Broussard, if you will come up, please?

6 (THOMAS BROUSSARD, WITNESS FOR GOVERNMENT, SWORN)

7 DIRECT EXAMINATION

8 BY MR. O'NEILL:

9 Q Mr. Broussard, I will be asking you a series of
10 questions. I ask you to speak loudly so that all the
11 jurors can hear you.
12 Could you please state your name for the
13 record, spelling your last name for the Court reporter?
14 A Thomas R. Broussard, B-r-o-u-s-s-a-r-d.
15 Q Mr. Broussard, for the record, are you testifying
16 today pursuant to a grant of use immunity?
17 A Yes, I am.
18 Q And, Mr. Broussard, what is your occupation, sir?
19 A I'm an attorney.
20 Q How long have you been an attorney?
2 A Since 1968.

2 Q And can you briefly describe your occupational
Page 565

2 background to the jury since the time you graduated from
2 law school?
2 A Yes. When I graduated from law school I went to

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1 work as an international tax attorney for Exxon
2 Corporation. I worked for them for three years.
3 I then became the general tax counsel for the
4 Atlantic Richfield Company which was in New York at the
5 time. We then moved the offices to Los Angeles. I
6 remained there until 1974.
7 I then became the general counsel and
8 vice-president for Technicolor Corporation. I was there
9 until 1980.

10 At that time I set up my own practice with a
11 partner initially for two years and after that I've been
12 in practice on my own since 1982.

13 Q And what does your private practice of law consist
14 of?

15 A Primarily I work in real estate areas, corporate,
16 general, international law.

17 Q Could you briefly describe your educational
18 background for the ladies and gentlemen of the jury?

19 A Yes, I attended the University of Pennsylvania
20 Wharton School of Finances, graduated with a bachelor's
2 degree, and Harvard Law School.

2 Q Did there come a point in time where you were
2 contacted by an individual named Andrew Sankin?

2 A Yes.

2 Q When did that occur, sir?

1 A Sometime in late 1984 or early 1985.

2 Q At the time you were contacted by Mr. Sankin did

3 you know this person?

4 A No, I had not met him.

5 Q And how were you contacted by Mr. Sankin on this

6 first occasion?

7 A He telephoned me.

8 Q During this telephone call, what if anything was

9 said?

10 MR. WEHNER: Objection. Hearsay. Mr. Sankin
11 is going to testify. He can testify as to what he

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12 said. I don't think Mr. Broussard should be testifying
13 at this stage as to what Mr. Sankin said.
14 THE COURT: Does this have to do with the
15 conspiracy?
16 MR. WEHNER: Yes.
17 THE COURT: I'll overrule the objection and
18 allow it in at this time, subject to the Government
19 connecting it up to the conspiracy that's alleged.
20 BY MR. O'NEILL:
2 Q I'll just repeat the question to make it easier.

2 what if anything was said during this telephone call?
2 A Mr. Sankin explained to me basically who he was.
2 That he was a young man from Washington, D.C. He lived
2 in that area. He had attended law school.

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1 He had been working some time for a former HUD
2 employee who had a consulting office in Washington and
3 he was now out on his own. He was trying to get
4 established as a consultant in the HUD area. He knew a
5 number of the top people at HUD. He was interested in
6 working as a consultant in the Mod Rehab area.
7 That it had been suggested to him that he
8 should team up with someone who had greater experience
9 than he had in HUD matters and that it had been
10 suggested that he might want to work with me.
11 Q Did he mention at that point who had suggested that
12 he work with you?
13 A Yes, Debbie Dean.
14 Q Now, Mr. Broussard, as a result of this telephone
15 conversation, what if anything did you do?

16 A In the course of the conversation I asked him
17 specifically who he knew and so forth and I told him I
18 would get back to him. I then called Debbie Dean at HUD
19 to determine, in fact, whether she had made the
20 suggestion, if she did know Mr. Sankin.
21 Q And what if anything was said when you called
22 Deborah Dean?
23 A She confirmed that she did know Mr. Sankin, that
24 she had suggested that he might want to try to work with
25 me in the Mod Rehab area.

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1 Q Now, had you known the defendant Deborah Gore Dean

2 prior to that phone call?

3 A No, I don't believe so. I may have met her once

4 before that in Los Angeles at a luncheon meeting with a

5 lot of other people, but other than that I don't believe

6 I talked to her.

7 Q During this telephone conversation did you ask the

8 defendant about receiving a sum of -- an amount of Mod

9 Rehab units?

10 A I don't recall that we had that specific discussion
11 in that telephone call.

12 Q Did there come a point in time where you did
13 discuss with her about obtaining a certain number of Mod
14 Rehab units?

15 A Yes.

16 Q And when did that occur, approximately?

17 A Sometime between that initial call and June of
18 1985.

19 Q And can you tell the ladies and gentlemen of the
20 jury what if anything occurred in this conversation?

2 A Well, Mr. Sankin had advised me that he was

2 interested in working in the Puerto Rico area because
2 there were some 600 units that had been assigned to an
2 agency in Puerto Rico sometime during the prior fiscal
2 year and those units had been held up. There were

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1 problems with them. They had been involved in

2 litigation. They were likely to be recaptured by HUD

3 and were likely to be re-assigned to other agencies in

4 Puerto Rico. So he felt that was a good area to

5 concentrate our efforts because there might be units

6 available.

7 In my conversation with Miss Dean I asked her

8 whether that was a good area to concentrate in. I gave

9 her the reasons for it. She thought it was. I asked if
10 we could find a project that was qualified for all the
11 HUD criteria for approval, an application, the other
12 criteria for approvals, was it likely that we could get
13 approval. She indicated we could.

14 I asked her how many units would possibly be
15 available, were we talking 150 units, 300 units. There
16 were a total of 600 available. And she basically
17 indicated to me an application for approximately 150
18 units, maybe as many as 200 units would be looked upon
19 favorably as long as it met the other HUD criteria.

20 Q At some point in time did you enter into an
2 agreement with Andrew Sankin to work together as

2 consultants?

2 A Yes, we did.

2 Q And was that in writing or was it oral?

2 A No, it was oral.

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1 Q Now, having been told by the defendant that you
2 could get approximately 150 units --

3 MR. WEHNER: Objection, Your Honor, both to
4 leading and to the mischaracterization.

5 THE COURT: All right. Rephrase the question.

6 MR. O'NEILL: Yes, Your Honor.

7 BY MR. O'NEILL:

8 Q Having had your conversation with Miss Dean about
9 Mod Rehab units, what if anything did you do next?

10 A I went to see Joe Monticello who was the regional
11 administrator for HUD in New York whose region included
12 Puerto Rico.

13 Q And what if anything did you say to Mr. Monticello?

14 A I explained to Mr. Monticello that I was interested
15 in working as a consultant with developers in the Puerto
16 Rico area who would be seeking to have units assigned to
17 a specific locality in Puerto Rico under the HUD Mod
18 Rehab Program.

19 I asked him if he could give me the names of
20 developers in Puerto Rico who had good track records
21 with HUD, who were established developers, who didn't
22 have any black marks against them, hadn't had any
23 foreclosures, hadn't defaulted on any HUD construction
24 provisions, and so forth, that I might contact.

25 Q You can't tell us what he said to you, but as a

1012

1 result of that conversation what if anything did you do?

2 A As a result of that conversation I contacted a

3 developer in Puerto Rico whose name he had provided me.

4 Q And who was that person?

5 A Well, there were two people actually, Cleofe Rubi

6 and Eduardo Ballori.

7 Q Now, you say two people. What were their

8 relationship to one another?

9 A Well, Eduardo Ballori, I was told at the time
10 Eduardo Ballori and Mr. Rubi were partners. There was a
11 limited partnership that they had. Mr. Ballori was in
12 public relations and had been a Government official in
13 Puerto Rico. He seemed to be well connected with the
14 local officials. And Mr. Rubi was a developer, had
15 owned a construction company, had done other
16 developments with HUD. I think he owned a HUD
17 subsidized housing project at the time.

18 Q What if anything did you say to Mr. Rubi and to
19 Mr. Ballori?

20 A Well, I told them that Mr. Sankin and I were
2 working as consultants in the Mod Rehab area, that I was

2 eager to find an application from an agency in
2 Puerto Rico, that met the HUD criteria, that could be
2 favorably approved by HUD for units, and that I wanted
2 to find a developer who thought he had a good chance at

1013

1 winning those units when they were awarded to the local

2 municipality, who was willing to hire us as

3 consultants.

4 At that time I think my suggestion was that we

5 become partners with them in a development project,

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6 seeking the HUD funds to be assigned to that locality.

7 Q Did you mention any specific amount of units to

8 Mr. Rubi and Mr. Ballori?

9 A In the course of our conversations I indicated to
10 him that I felt confident that -- once I knew about
11 his -- let me go back just a moment.
12 He described a project that he had an interest
13 in. It was a particularly attractive project from -- in
14 my view, in terms of getting HUD approvals because of
15 its location, because of its financing, because of the
16 municipality whose application was pending and because
17 of his ranking within that municipality. I indicated to
18 him that I thought we could get 150 units without any
19 difficulty based on that application.
20 Q Did you mention how you thought you could get that
2 150 units?

2 A My best recollection is I told him that we had
2 received assurances from people high up in HUD who were
2 decision makers in the administration of that program,
2 that this kind of an application would be favorably

1014

1 looked upon and there was highlighted approval for 150
2 units.

3 Q After this meeting with Mr. Rubi and Mr. Ballori

4 did you have an occasion to speak with the defendant

5 Deborah Gore Dean?

6 A Yes, I did.

7 Q what did she say to you and what did you say to

8 her?

9 A I explained to her the application which Mr. Sankin
10 and I were now promoting. I gave her the details of
11 that application, the background of it, the various
12 reasons why I felt that project should be approved, the
13 political support that it had behind it.
14 The fact that the building which would likely
15 be selected by the local agency to receive the funds was
16 one which was in a dilapidated state. There were
17 squatters living in it.

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18 It had a total of some 600 units available for
19 development. It was a project which had been foreclosed
20 upon by the local housing authority.
2 There was a HUD guaranteed bond. So HUD was

2 subsidizing this thing already and, therefore, approving
2 the Mod Rehab for it was going to help get this off the
2 HUD books.
2 Those were all the reasons for the project to

1015

1 be approved. In other words, it met all of the
2 criteria. It had political support for it. I was told
3 that Senator D'Amato's office was supporting the
4 application and this was a project that we wanted to see
5 approved. We found the project. This was the one.
6 I urged her to approve it for at least 150
7 units. Actually we'd like to get 300 units for it. And
8 she seemed to be pleased that we found a project that
9 fit everything as well as it did and she indicated that
10 when it came up for approval it would have her support
11 and that we should count on getting at least 150 units.
12 Q You mentioned 300 units. Why did you request 300

13 units?

14 A As I said, the project itself was 600 units.
15 Mr. Rubi had an option on the project. He didn't own it
16 outright. He needed to get commitments for at least 300
17 units in order to make it financially feasible for him
18 to exercise the option on the entire 600-unit project.
19 So he was looking for 300 units as a minimum.
20 He felt through his own efforts that the
2 project application from the City of San Juan would

2 probably get at least 150 units. If we could get
2 another 150 units for a total of 300 he felt confident
2 that he could get all 300 units assigned by the City of
2 San Juan for his project and that would make it

1016

1 financially feasible to him.

2 Q Did you relate this information to Deborah Gore

3 Dean?

4 A I did, yes.

5 Q What did she say?

6 A I think initially she said she would look into the

7 application. She indicated that it looked like the

8 project would be approved for 300.

9 Q How did you communicate this information to her,

10 Mr. Broussard?

11 A By telephone.

12 Q And approximately how many telephone conversations

13 did you have with her?

14 A I would say 20 to 25 telephone conversations.

15 Q Did you ever meet with her in person?

16 A Yes, once.

17 Q At any point in time during your discussions with

18 Mr. Rubi and Mr. Ballori, did you seek to negotiate with

19 any other developers?

20 A I think we did. Mr. Sankin, I believe, had contact

2 with someone before we met with Mr. Rubi and

2 Mr. Ballori. After I talked to Mr. Rubi and Mr. Ballori

2 I had conversations with some attorneys and I think an

2 accountant in Puerto Rico about possibly other

2 developers and I think I talked with one or two

1017

1 developers in Puerto Rico about the possibility of

2 working with them on other applications. Nothing came

3 of those conversations, however.

4 Q Do you know an individual by the name of James

5 Wilson?

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6 A I don't recall Mr. Wilson, no.

7 Q How about a company called Interstate General

8 Corporation?

9 A I have only a vague recollection. It may have been
10 one of the developers that I spoke with.

11 Q Now, Mr. Broussard, did there come a point in time
12 where you negotiated with Mr. Rubi and Mr. Ballori
13 concerning how much you would be paid for your services
14 as a consultant?

15 A Yes.

16 Q Could you describe those negotiations to the jury?

17 A Well, initially we suggested that we be joint
18 developers with them and take a percentage in the
19 project as limited partners. There was a limited
20 partnership already established that would purchase the
2 project and develop it, which was typical of the way

2 these projects were developed. I think Mr. Ballori was
2 a limited partner.

2 And we suggested that Mr. Sankin and I become
2 limited partners with a percentage in the partnership.

1018

1 Mr. Rubi and Mr. Ballori did not want to do that. They

2 didn't want any additional partners. They preferred a

3 cash fee. We ultimately agreed upon a contingency

4 arrangement where I was retained as an attorney for the

5 partnership and Mr. Sankin was retained as a

6 consultant. We would each receive \$100,000 contingent

7 on the granting of at least 300 units to the partnership

8 by the City of San Juan.

9 Q Did there come a point when you informed the
10 defendant that you had reached such a deal?

11 A I don't believe so. I indicated to her that we had
12 reached an agreement with the developer, but the
13 specifics I never discussed with her.

14 Q What do you recall telling her?

15 A Simply that Mr. Sankin and I had found developers
16 with whom we could work on an application and it was a
17 good application.

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18 Q Did there come a time that Mr. Rubi and Mr. Ballori
19 received units for their project?
20 A Yes.
2 Q Just so the record is clear, what was the name of

2 the project?
2 A Alameda Towers.
2 Q How many units did they receive, Mr. Broussard?
2 A well, initially I think they received 270 units

1019

1 from the City of San Juan, sometime in 1980 -'
85 or
2 '86, and I think in a subsequent year they received
3 additional units.
4 Q Now, how did you first learn that the units had
5 been awarded?
6 A I believe I learned that either from the defendant
7 or from Mr. Monticello.
8 Q Mr. Broussard, did there come a point in time
9 where you were paid for your services?
10 A Yes.
11 Q And how much money did you receive?
12 A I received a total of \$75,000. The contract called
13 for payments of \$25,000 a year over a period of four
14 years.
15 Q Now, you told us what you did in relation to
16 Alameda Towers. what if anything did Andrew Sankin do?
17 A Mr. Sankin followed up in meetings at HUD and with
18 telephone conversations at HUD, as I did, in terms of
19 promoting the application and monitoring the progress of
20 that application.
2 Q How would you describe Andrew Sankin?
2 A At that time?
2 Q Yes.
2 A He was in his twenties. He was a graduate of
2 Georgetown Law School. He had had some experience in

1020

1 real estate. His father owned a couple of buildings in
2 Washington. He had started a small company. I think he
3 was managing his father's properties. He was trying to
4 do some development in the Washington area as well.
5 Q Did you feel comfortable in working with him?
6 A I was a little uncomfortable with him because he
7 tended to be impetuous in terms of things he said and
Page 575

8 the contacts he would make.

9 Q what do you mean by impetuous, sir?

10 A I just didn't think he thought things through very
11 clearly.

12 Q Did there come a time where you worked with
13 Andrew Sankin on any other Mod Rehab projects?

14 A We -- he invited me to come to Washington and look
15 at several properties that he thought would be suitable
16 for us to acquire as developers and to seek Mod Rehab
17 funds. I looked at several of those projects and none
18 of them appeared to me to be suitable for investment and
19 so I did not get involved with those. I didn't know
20 whether I worked with him further in the Mod Rehab area.

2 Q Mr. Broussard, with the Court's permission I'll

2 show you a couple of documents. First I would show you
2 what was previously marked for purposes of
2 identification as Government's exhibits 137, and I'd ask
2 you to look at this, sir. And I'd ask you, what is

1 that?

2 A This is a note which I sent to Debbie Dean in 1985

3 MR. O'NEILL: Your Honor, I'd move it into

4 evidence as Government's Exhibit 137.

5 THE DEPUTY CLERK: It went in already.

6 MR. O'NEILL: It's in already.

7 It's in already, Your Honor, I'm sorry.

8 MR. WEHNER: No objection, Your Honor. I

9 would like the Court to see it, however, because of
10 other issues that have been raised.

11 MR. O'NEILL: Okay.

12 THE COURT: All right. Will you come up here

13 and we'll look at it?

14 (Bench conference)

15 THE COURT: All right, this is Exhibit 137 on

16 Regency Hotel stationery to -- "Dear Debbie," signed by
17 Tom.

18 MR. WEHNER: This involves the fair housing

19 campaign issue and I would intend to cross-examine this

20 witness briefly regarding that contribution. I just

21 want the Court to know that the issue is ripe.

22 MR. O'NEILL: We have no objection. We won't

23 even redact it.

24 MR. WEHNER: You filed the motion in limine

25 and I told the Court that I would bring it to the

1022

1 Court's attention first, because that's what it's about.

2 MR. O'NEILL: Just so it's clear, we did

3 mention it in a motion.

4 THE COURT: I understand, but what's your

5 purpose in introducing this if he introduces that

6 issue?

7 MR. O'NEILL: There is no purpose on that.

8 It's that Puerto Rico is mentioned and that they started

9 working. It gives us the date and it puts it in a

10 timeframe.

11 THE COURT: So you think you could redact the

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12 first paragraph so the jury doesn't read that.
13 MR. WEHNER: Mr. O'Neill said he didn't care
14 if I asked questions about that.
15 THE COURT: I just don't want to spend a lot
16 of time on an extraneous matter.
17 MR. WEHNER: It's not going to be long.
18 THE COURT: You had submitted some immunity
19 orders. Your computer, at least I think -- your
20 computer on the Order form it keeps giving me the second
2 page of the motion. I don't have the second page of the
2 Order in either of these.
2 MS. SWEENEY: We'll take care of that.
2 MR. O'NEILL: Yes.
2 THE COURT: I didn't bring it up in front of

1 him.
2 MR. WEHNER: That's okay. Judge, it's
3 interesting that it's the second time around for that.
4 It's rare.
5 (Bench conference concluded)
6 THE COURT: All right. We're ready to go,
7 ladies and gentlemen.
8 Thank you, counsel, for coming up.
9 MR. O'NEILL: Thank you, Your Honor.

10 BY MR. O'NEILL:
11 Q Mr. Broussard, I show you Government's Exhibit 137
12 in evidence.
13 THE COURT: It's admitted.
14 MR. O'NEILL: Yes, Your Honor.
15 BY MR. O'NEILL:
16 Q Did that refresh your recollection as to exactly
17 when you wrote that letter to Miss Dean, and what I
18 would do is direct your attention to a postmark on the
19 envelope •
20 A It doesn't refresh my recollection, but the
2 postmark says June the 10th, 1985.
2 Q Now, what does the date on the front of the letter
2 say?
2 A It looks like it says 1-7-85, but I would guess
2 that if s 6-7-85 because subsequently in the letter I

1024

1 said I returned from Europe on June 24th.
2 Q Now, Mr. Broussard, in that letter, and we'll be
3 publishing it to the jury at this time, it might be a
4 little difficult for you to see from there, there is
5 mention of a conversation with Mr. Joe Monticello. Is
6 that the individual you mentioned during your testimony?
7 A Yes, it is.
8 Q Now, you also mentioned -in
the letter it says -9
let me read it to you. "I spoke to Joe Monticello
10 regarding PR and he is putting us in contact with a
11 group in the San Juan"-
12 A "A group in old San Juan."
13 Q "A group in old San Juan," I'm sorry, "that is
14 working on units?"
15 A "Through Joe and Deborah?" I think -16
Q Could that D'Amato?

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17 A I can't read it from here.
18 Q I'll show it to you.
19 A Yes,"Joe and D'Amato. I think Andy S. and I would
20 do better with them than Andy's first contact. I'll
21 speak to you when I return from Europe on June 24th."
22 Q When you say Andy's first contact, who are you
23 referring to?
24 A Mr. Sankin indicated to me that he had met someone
25 on an airplane who told him that he was a developer in

1025

1 Puerto Rico and an influential Republican and Andy
2 thought that would be a great contact for us to work
3 with. I suggested to him there were better ways to find
4 developers.

5 Q Mr. Broussard, I will now show you Government's
6 Exhibit 139?

7 THE DEPUTY CLERK: Government's Exhibit 139
8 marked for identification.

9 (Government's Exhibit 139
10 marked for Identification)

11 THE COURT: All right.

12 BY MR. O'NEILL:

13 Q And I ask you, do you recognize this, sir?

14 A Yes.

15 Q What do you recognize that to be?

16 A This is a letter which I wrote to Andy Sankin on
17 October 18, 1985 confirming an agreement which we had
18 reached, which was basically -- each of us had a
19 separate agreement with Alameda Associates, and Andy was
20 concerned that they might pay me and not pay him, or
2 vice versa. One of us might get in a dispute with
2 them. So we agreed in the event there was any such
2 dispute we would jointly share the cost of collecting
2 our fees, either both our fees or either one of our
2 fees.

1026

1 MR. O'NEILL: Your Honor, I would move this
2 into evidence as Government's exhibit 139.
3 MR. WEHNER: No objection.
4 THE COURT: All right, Government's Exhibit
5 139 admitted.
6 THE DEPUTY CLERK: Government's 139 received
7 in evidence.
8 (Government's Exhibit 139
9 received into Evidence)
10 BY MR. O'NEILL:
11 Q Mr. Broussard, I now show you Government's Exhibit
12 141 for identification only.
13 THE DEPUTY CLERK: Government's Exhibit 141
14 marked for identification.
15 (Government's Exhibit 141
16 marked for Identification)
17 BY MR. O'NEILL:
18 Q And I'd ask you to look at this, if you would, and
19 do you recognize it?
20 A Yes, I do.
21 Q What do you recognize that to be?
22 A This was a retainer agreement between my law firm
23 and Alameda Associates with regard to the work that we
24 were to do in connection with the granting of Mod Rehab
25 funds from HUD to the City of San Juan.

1027

1 MR. O'NEILL: Your Honor, at this time I would
2 move that document into evidence as Government's Exhibit
3 141.
4 MR. WEHNER: No objection, Your Honor.
5 THE COURT: All right. It will be admitted,
6 141.
7 THE DEPUTY CLERK: Government's Exhibit 141
8 received in evidence.
9 (Government's Exhibit 141
10 received into Evidence)
11 BY MR. O'NEILL:
12 Q And finally, Mr. Broussard, I'll show you what's
13 previously been marked for identification purposes as
14 Government's Exhibit 143A.
15 THE DEPUTY CLERK: Government's Exhibit 143A
16 marked for identification.
17 (Government's Exhibit 143A
18 marked for Identification)
19 BY MR. O'NEILL:
20 Q And I'd ask you if you recognize this, sir?
21 A Yes, I do.
22 Q And what do you recognize that to be?
23 A This is a letter written by me to Cleofe Rubi,
24 September, 1986, indicating that I had learned that the
25 Mayor of San Juan had agreed to release Section Eight

1028

1 units to Alameda Towers.
2 MR. O'NEILL: Your Honor, at this time I would
3 move it into evidence as Government's Exhibit 143A.
4 MR. WEHNER: No objection.
5 THE COURT: All right. 143A is admitted.
6 THE DEPUTY CLERK: Government's Exhibit 143A
7 received in evidence.

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8 (Government's Exhibit 143A
9 received into Evidence)
10 MR. O'NEILL: I have no further questions.
11 THE COURT: You say the letter is from -- let
12 me just ask the witness again. 143A was a letter that
13 you wrote to your client saying that the Mayor of San
14 Juan would be releasing units.
15 THE WITNESS: That's correct.
16 THE COURT: All right. You may cross.
17 MR. WEHNER: Good morning.
18 THE JURORS: Good morning.
19 CROSS-EXAMINATION
20 BY MR. WEHNER:
2 Q Mr. Broussard, I believe it's a fair inference that
2 can be drawn from your testimony on direct that
2 Miss Dean sent units to Puerto Rico for you. Is that a
2 fair inference that can be drawn?
2 A I -- I wouldn't say that, no.

1029

1 Q That's kind of what I heard from your testimony.
2 I'd like to ask you a few questions about that. As
3 Paul Harvey said, the rest of the story, or something to
4 that effect. Isn't it true that the units were already
5 in Puerto Rico before you got involved at all in the
6 project?
7 A There had been an assignment of 600 units to an
8 agency in Puerto Rico.
9 Q So they were down there in Puerto Rico. Ignore the
10 particular housing agency for the time being. You'll be
11 free to talk about that, but they were in Puerto Rico?
12 A Yes, that's correct.
13 Q And are you aware that they had been put in Puerto
14 Rico because James Watt, the former Secretary of the
15 Interior, got a commitment from Samuel Pierce to send
16 those down to Puerto Rico?
17 A No.
18 Q Okay. Did you ever hear that?
19 A In those terms, no.
20 Q In what terms did you hear it?
2 A I was told that the 600 units had been assigned
2 there as a result of the lobbying effort by Joe Strauss
2 who was a consultant and who was -- I believe had a
2 partnership arrangement with Mr. Watt or some
2 arrangement with Secretary Watt.

1030

1 Q Very good. Joe Strauss was formerly employed at

2 HUD, was he not?

3 A That's correct.

4 Q So these units had already been assigned to Puerto

5 Rico before you became involved in the project, is that

6 correct?

7 A When you say these units, there were 600 units

8 there.

9 Q Right.

10 A Correct.

11 Q There were 600 units there and your 300 ultimately

12 came out of the 600 that were already there?

13 A I don't know that for certain, but my understanding

14 is that that's what was going to happen, yes.

15 Q Are you also aware that if those units had been

16 brought back to Washington under the law at that time

17 that money was gone, it could not be spent for Mod Rehab

18 units?

19 A No, I was not aware of that, that they had an

20 automatic recapture, no.

2 Q You weren't aware of that.

2 A No.

2 Q Were you aware that efforts were made to find

2 legitimate, appropriate developers to do those units in

2 addition to yourself?

1031

1 A Well, there were any number of municipalities that

2 were applying to get those units from HUD, and -- let me

3 go back. There were various municipalities applying to

4 get the units and behind each municipality was a

5 developer or developers pushing for that municipality to

6 get those units.

7 Q Absolutely. And were you aware that one of the

8 reasons that these units were available was because

9 Secretary Pierce and Miss Dean had determined that it

10 was wrong for 600 units to go to Puerto Rico for
11 James Watt and Joe Strauss?
12 A I was only aware that there was a dispute and
13 litigation involved in those units.
14 Q And were you aware -- are you aware today or were
15 you aware then that Miss Dean and Secretary Pierce
16 attempted to create some competition for those units and
17 that you were apart of that competition?
18 A I was certainly aware that there was competition
19 for the units and we were part of that competition.
20 Q And were you further aware that every time
21 Miss Dean talked to you she would say words to the
22 effect of it sounds like you've got something good. ,
23 this sounds like a good project?
24 A Yes, she agreed with me that this application by
25 the City of San Juan was a good application, there was a

1032

1 lot of merit to it.

2 Q And you were down there searching for an
3 application that would meet the criteria for HUD so that
4 it would be approved?

5 A I wanted the most meritorious application I could
6 find with the most political support for it and the most
7 economic support for it.

8 Q And you got Senator D'Amato's support, did you not?

9 A I didn't, but at the time I talked with Ballori and
10 Rubi they told me the Senator's office was supporting
11 the project.

12 Q And you had another Senator's office writing
13 supporting the project?

14 A I didn't.

15 Q Tribble. Excuse me.

16 A I don't recall that I did, but the developers may
17 have.

18 Q And you wanted to make sure that it met the
19 technical criteria?

20 A Right.

2 Q And you wanted to make sure that the Mayor of

2 San Juan -- who, by the way, ran the local public
2 housing authority, did he not?

2 A I think he had run the public housing authority.
2 The biggest attraction of this project to me

1033

1 when I heard about it from Mr. Rubi was that here were
2 600 units that had been built under an earlier program.
3 HUD was guaranteeing the mortgage. The project was in
4 in foreclosure. The state finance agency was collecting
5 money from HUD every year because of defaulted
6 mortgages. So it wasn't going to cost HUD money to put
7 Section Eight into this project. All it was going to do
8 was to take an old project that was in their box in
9 default and take it off default into a a profit
10 operating manner. That to me was a plus, in terms of
11 waiting for HUD approval, compared to a project that was
12 not in that state.
13 Q And throughout that process you had to work with
14 the local public housing authority, correct?
15 A I did not work with them.
16 Q Who did?
17 A Mr. Rubi and Mr. Ballori worked with the local
18 authority.
19 Q You worked with Mr. Monticciolo, the regional
20 administrator?
2 A Correct.

2 Q You worked with Washington HUD?
2 A Correct.
2 Q And ultimately the Mayor of San Juan released
2 units?

1034

1 A That's correct.
2 Q As a result of your working through every step of
3 the process from the bottom to the top as a part of this
4 project?

5 A That's correct.

6 Q There were some brief questions on direct regarding

7 Andrew Sankin. Are you aware that Andrew Sankin at one

8 time managed a piece of property for Miss Dean's family?

9 A Yes, he told me that subsequent to our obtaining
10 the funding for the project.

11 Q And did Andrew Sankin tell you whether he felt that
12 he had been done a favor by Miss Dean in terms of
13 managing that property?

14 A Yes, he did.

15 Q what did he say?

16 A Well, he was trying to get his little company
17 established as a property management company and at the
18 time he told, me the only private properties he had to
19 manage were the two buildings that his father owned, and
20 then one day he told me that Debbie had done him a favor
2 and had allowed him to act as the manager for a property

2 which her family owned, so that he could include that in
2 the portfolio of projects that he was managing when he
2 sought other projects.

2 Q Did you do anything to conceal your relationship

1035

1 with Deborah Dean?

2 A No.

3 Q As a matter of fact, you included officials at HUD,
4 including Miss Dean, on references you gave to local
5 officials?

6 A That's correct.

7 Q To show how you were involved in the consulting
8 business and how you were involved in the HUD process,
9 is that correct?

10 A That's correct.

11 Q Did Deborah Dean ever tell you you shouldn't tell
12 anybody that you talked to her?

13 A Absolutely not.

14 Q Did she ever indicate to you that she was going to
15 do anything that was not appropriate to help your
16 application?

17 A No.

18 Q Did she ever state that she was going to do
19 anything illegal?

20 A No.

2 Q Did you do anything illegal in connection with the
2 application?

2 A No.

2 MR. WEHNER: Nothing further, Your Honor.

2 REDIRECT EXAMINATION

1 BY MR. O'NEILL:

2 Q Mr. Broussard, Mr. Wehner asked you a question

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3 about whether Deborah Dean would say it sounds like you
4 have something good with this project.

5 A Yes.

6 Q When did you first speak to the defendant Deborah
7 Gore Dean about the 150 units? Was it before or after
8 you met with Mr. Rubi and Mr. Ballori?

9 A Well, when you say the 150 units, the conversation

10 which I had before I met Mr. Ballori was how many units
11 do you think we could get for Puerto Rico and the
12 indication was about 150 units. That was before we had
13 the conversation.

14 Q Did you know Mr. Rubi at that time?

15 A No, I didn't.

16 Q Did you know Mr. Ballori?

17 A No, I didn't.

18 Q Had you heard about Alameda Towers?

19 A No, I had not.

20 Q You are testifying pursuant to a grant of use
2 immunity?

2 A Yes, I am.

2 Q And you requested that in order to testify?

2 A I indicated I would not testify without it, yes.

2 MR. O'NEILL: Thank you, sir.

1037

1 THE COURT: No recross? All right.

2 Thank you, Mr. Broussard.

3 MR. WEHNER: Yes, Your Honor, briefly.

4 THE COURT: All right.

5 CROSS EXAMINATION

6 BY MR. WEHNER:

7 Q Your grant of use immunity includes discussions you
8 had with the prosecutors?

9 A Yes.

10 Q Did you tell the prosecutors under that grant of
11 immunity that you had -- that Mr. Sankin had told you
12 that Miss Dean had done him a favor in terms of the work
13 on her family's apartment building?

14 A Yes.

15 Q How many times?

16 A At least twice. I told two different people.

17 MR. WEHNER: Nothing further.

18 MS. SWEENEY: Your Honor, the Government at

19 THIS point calls Cleofe Rubi.

20 THE COURT: All right.

2 You can step down, sir. Thank you. You're

2 free to go.

2 THE WITNESS: Thank you.

2 MR. WEHNER: Your Honor, if we could take a

2 chance right now and have our monitor fixed, it seems

1038

1 not to be functioning, since we have a few minutes

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2 before Mr. Rubi comes in.

3 THE COURT: It's not turned on?

4 MR. WEHNER: It's turned on but we don't get

5 any power.

6 (CLEOFE RUBI, WITNESS FOR GOVERNMENT, SWORN)

7 BY MS. SWEENEY:

8 Q Mr. Rubi, I'm going to be asking you a number of

9 questions this morning and I'd ask you to keep your

10 voice up so the members of the jury can hear and also to
11 try to speak slowly because of the acoustics in the
12 courtroom.

13 would you please state your name for the
14 record and spelling your last name for the Court
15 reporter?

16 A My name is Cleofe Rubi. The last name, R-u-b-i.

17 Q Mr. Rubi, are you presently employed?

18 A Yes, I am president of Moore Development Corp.

19 Q And what type of company is Moore Development
20 Corp.?

2 A We are real estate developers.

2 Q Can you describe briefly what it is that you do?

2 A Well, we are involved in the construction of
2 apartment units, houses, either for sale or lease.

2 Q And, Mr. Rubi, how long have you been involved in

1039

1 that particular type of business?

2 A For the last 20 years.

3 Q Could you briefly describe your educational
4 background for the members of the jury?

5 A Yes. I am a licensed civil engineering graduate
6 from the University of Puerto Rico.

7 Q Mr. Rubi, are you testifying here today pursuant to
8 a cooperation agreement with the Government?

9 A Yes, I am.

10 Q And can you describe what your understanding is of
11 that agreement?

12 A The understanding is my – my understanding is that
13 in exchange of my cooperation and my truthful and
14 accurate testimony of the facts that I know I won't be
15 prosecuted for some political contribution and some
16 matter related to HUD.

17 MR. WEHNER: I'm sorry, Your Honor, I didn't
18 hear that last.

19 THE COURT: All right. Political contribution

20 and -2

THE WITNESS: And matters related to HUD

2 Section Eight Mod Rehab.

2 MR. WEHNER: Thank you, Your Honor.

2 BY MS. SWEENEY:

2 Q Mr. Rubi, are you familiar with a project known as

1040

1 Alameda Towers?

2 A Yes, I am.

3 Q And can you describe what that project is?

4 A It's a complex of four buildings, which three

5 buildings were developed with Section Eight Mod Rehab

6 programs and there is a project known as Alameda which

7 comprised Towers One and Two, and it's about 300 units.

8 Q Do you have any relationship with Alameda Towers

9 One and Two?

10 A Yes, we were the general partners of that project.

11 Q Now, the jurors are familiar with and have heard a
12 lot of testimony about the Mod Rehab program. Did there
13 come a time when you decided to seek Mod Rehab?

14 A Yes, my first application for a Mod Rehab project
15 was in 1984.

16 Q And to whom did you apply in 1984?

17 A I applied to the local state housing agency which
18 is Puerto Rico Housing and Finance Corporation.

19 Q Was that application successful, Mr. Rubi?

20 A No, no, it was rejected.

2 Q Had you ever done any Mod Rehab projects prior to

2 1984?

2 A No.

2 Q Had you had involvement as a developer, owner,
2 contractor in any other HUD construction programs?

1041

1 A Yes, I have done Section Eight new construction.

2 We developed several projects. We have been involved in
3 other HUD projects like 235, 203 and condominiums.

4 Q Now, in the earlier HUD projects that you did, the

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5 Section Eight new construction and the other programs
6 that you described, did you ever utilize a consultant to
7 secure HUD funding?
8 A No, we never used a consultant to secure HUD
9 funding.

10 Q Now, returning to Alameda Towers, you've testified
11 that your first application was not successful. Did
12 your interest in doing Mod Rehab at Alameda continue?
13 A Yes, my interest continued at that time and I did
14 try to pursue it through some other avenues, the
15 allocation of some Mod Rehab funds for that specific
16 project.

17 Q And at that point in time did you have an interest
18 in a particular amount of units? How did that work?
19 A Yes, we were looking for at least 300 units because
20 it was the number of units that were making feasible the
2 project.

2 Q And in 1985 did there come a time when you were
2 approached by someone about Mod Rehab units?

2 A Yes, about mid-1985 my partner, Eduardo Lopez
2 Ballori, received a called from Tom Broussard in

1042

1 relation to some units.

2 Q Now, you've said that this was in about mid-1985?

3 A Mid-1985.

4 Q And who is Mr. Broussard?

5 A Mr. Thomas Broussard was a person which I did

6 business of buying from him for about 150 units that

7 they were going to be assigned to San Juan, Puerto.

8 Q Do you know where Mr. Broussard is from?

9 A He's from L.A. He's a lawyer involved in real

10 estate development.

11 Q Now, did there come a time where you personally had
12 contact with Mr. Broussard?

13 A Yes, after we received the call we scheduled a
14 meeting in New York and Eduardo Lopez and myself met him
15 in New York in a hotel on Madison Avenue, which I don't
16 recall the name of the hotel.

17 Q Do you recall approximately when this would have
18 been, Mr. Rubi?

19 A That was around July, 1985. June, July, 1985.

20 Q Who was present at this meeting?

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2 A At this meeting were present Mr. Broussard, his
2 wife, I believe Mr. Sankin, Mr. Ballori and myself.
2 Q Could you please describe for the ladies and
2 gentlemen of the jury what was said at the meeting?
2 A The meeting was --

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1 MR. WEHNER: Objection, Your Honor. The
2 same -- if Your Honor please, if I could have a
3 continuing objection for the record on the hearsay
4 matter at least in relation to this witness?
5 THE COURT: I assume this discussion was
6 taking place between the principles and not
7 Mrs. Broussard.
8 MS. SWEENEY: Your Honor, I can rephrase the
9 question.

10 THE COURT: All right.
11 BY MS. SWEENEY:
12 Q Mr. Rubi, could you tell us what Mr. Broussard said
13 to you at this meeting?
14 A That from the 300 units that they were going to be
15 assigned, he was claiming that 150 of those units were
16 assigned to him by the Secretary's office and by
17 Mrs. Debbie Dean.
18 Q When you say the 300 units, what are you referring
19 to?
20 A I am referring that there was a number of 300 units
2 that they were going to be assigned to San Juan.

2 Q What did you say to Mr. Broussard at this meeting?
2 A That we believed that 100 of the 300 units belonged
2 to us, due to efforts that we have done directly through
2 HUD officials and through the Mayor of San Juan.

1044

1 Q Did you talk to Mr. Broussard about the Alameda

2 Towers project?

3 A I mentioned that we had a project that was about

4 300 units, that we need the units and he was looking for

5 a sort of joint venture at the time and I sent him the

6 information about the project, and later on he decided

7 to visit Puerto Rico.

8 Q You say that Mr. Broussard was interested in a

9 joint venture at this time?

10 A Yes, he mentioned in that conversation that he was
11 interested in making a joint venture with us to develop
12 a project.

13 Q Could you elaborate on what a joint venture is and
14 how this joint venture would have worked?

15 A It's a partnership, you know.

16 Q And what would Mr. Broussard have brought to the
17 partnership?

18 A The 150 units.

19 Q Now, you've testified that you said to
20 Mr. Broussard that you believed you had some units.

2 Could you elaborate on that, please?

2 A Yes, we have been, you know, trying to obtain the
2 300 units be assigned to San Juan and we have done
2 efforts by contracting the Mayor of San Juan and the
2 Mayor of San Juan talking to a person from HUD regional

1045

1 office and we have been talking with the head of the

2 Environment -- at the region, which was Mr. Monticciolo,

3 and my partner have also contacted the office of Senator

4 D'Amato to see if the units were assigned to San Juan.

5 Q And did you have some understanding as a result of

6 these contacts that you and your partner had undertaken?

7 A That 150 units were belonging to us.

8 Q Are you familiar with the use of the term paternity

9 as it relates to Mod Rehab units?

10 A Yes.

11 Q And what does that mean?

12 A That means that you are technically the father of
13 the unit because you seek that the units are being
14 assigned to a particular location.

15 Q Now, at this meeting in, I believe, June or July of
16 1985, did you reach an agreement with Mr. Broussard?

17 A No, he flew later in August to San Juan and we
18 tried to reach an agreement. We weren't successful. We
19 drafted a document and -- but we were unable to reach an
20 agreement in terms of the amount that I was going to pay
2 for those units.

2 Q What did you say to Mr. Broussard and what did he
2 say to you about the amount?

2 A He was asking for more money and I was only willing
2 to pay up to \$200,000.

1046

1 Q Just so the record is clear, did Mr. Broussard

2 indicate to you that he was working with anyone else?

3 A Yes, with Mr. Sankin.

4 Q Did you have occasion to meet with Mr. Sankin?

5 A Yes, I did.

6 Q When did you meet Mr. Sankin?

7 A I met him, I believe, in New York and in Washington

8 I met him once. I don't remember if I met him in

9 August. I don't remember it. It may be possible.

10 Q So what happened to the negotiations in August,
11 1985?

12 A Well, they were broke and I heard that
13 Mr. Broussard tried to contact several other developers
14 in town to see if he can reach an agreement with them.

15 Q What happened after that, Mr. Rubi?

16 A Well, we finalized the negotiation and the contract
17 was signed in October.

18 Q When was the contract signed?

19 A October.

20 Q October? And what year would that have been?

2 A 1985.

2 Q In October of 1985 did you enter into an agreement
2 with Mr. Broussard?
2 A Yes, and with Mr. Sankin.
2 Q And did you agree to pay Mr. Broussard?

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1 A Yes. I agreed to pay Mr. Broussard \$100,000 and
2 \$100,000 to Mr. Sankin.
3 Q What was your understanding of what you were going
4 to get as a result of these agreements?
5 A The units.
6 Q Did you have any understanding as to whether or not
7 Mr. Broussard would be doing any work for you pursuant
8 to the agreement?
9 A No.
10 Q You had an understanding or - what was that
11 understanding?
12 A That he was not going to perform any work at all,
13 that I was buying from him this.
14 MR. WEHNER: I'm sorry, Your Honor, I didn't
15 hear the last part.
16 A I was buying from him the units.
17 BY MS. SWEENEY:
18 Q Did you have an understanding as to whether
19 Mr. Sankin was going to do any work for you pursuant to
20 your agreement with him?
2 A No.
2 Q How much did you agree to pay Mr. Sankin?
2 A \$100,000.
2 Q Did there come a time that you learned that Mod
2 Rehab units had been allocated to Puerto Rico?

1 A Yes, we knew that they were going to Puerto Rico
2 and then we were notified that the units were sent to
3 Puerto Rico and received by Puerto Rico. That was -- I
4 don't remember, some date afterwards.

5 Q Do you have a recollection as to when that
6 occurred?

7 A It occurred about the time that we were doing the
8 negotiation.

9 Q Did you have any understanding as to whether this
10 allocation included the 150 units that you had been
11 discussing with Mr. Broussard and Mr. Sankin?
12 A Yes.

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13 Q And what was your understanding?
14 A My understanding was that 150 units of the 300
15 units were belonging to Mr. Broussard.
16 Q Did there come a time when you paid Mr. Broussard
17 as a result of your agreement?
18 A Yes. I started paying Mr. Broussard on certain
19 installments when I did close the project.
20 Q How much you may Mr. Broussard?
2 A The initial payment was \$25,000 and there were two

2 successive payments of \$25,000. I have paid him about
2 \$75,000.
2 Q Did you ever pay Mr. Sankin as a result of your
2 agreement with him?

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1 A Yes, every time that I make a payment to Broussard
2 I did make a payment to Sankin.
3 Q with the Court's permission I'm going to show you
4 some documents, Mr. Rubi.
5 THE DEPUTY CLERK: Government's Exhibit number
6 140 marked for identification.
7 (Government's Exhibit 140
8 marked for Identification)
9 BY MS. SWEENEY:
10 Q Mr. Rubi/ without commenting on the document, can
11 you tell us if you recognize Government Exhibit 140 for
12 identification?
13 A Yes, I do.
14 Q And what is it?
15 A That's the agreement that I signed with
16 Andrew Sankin.
17 MS. SWEENEY: Your Honor, at this time I offer
18 Government's Exhibit 140 into evidence.
19 MR. WEHNER: No objection.
20 THE COURT: All right, Government's Exhibit
2 140 is admitted.
2 THE DEPUTY CLERK: Government's Exhibit 140
2 received in evidence.
2 (Government's Exhibit 140
2 received into Evidence)

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1 BY MS. SWEENEY:
2 Q Mr. Rubi, you should be able to view the document
3 on the monitor that's located in front of you. Does
4 this agreement provide for a certain number of units?
5 A They talk about 300 units.
6 Q And what 300 units are referred to in this
7 agreement?
8 A The 300 units that we were seeking and they were
9 allocated to San Juan.
10 MR. WEHNER: I'm sorry, Your Honor, was that
11 allocated to San Juan, not to someone?
12 A San Juan.
13 BY MS. SWEENEY:
14 Q Do you have an understanding as to whether or not
15 the 300 units included the units that you said you had

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16 the paternity of?

17 A Yes.

18 Q Mr. Rubi, I show you a document that's previously
19 been marked for identification as Government Exhibit
20 144. Do you recognize that document?

2 A Yes, I do.

2 Q And what is it, sir?

2 A It's a letter that I sent to Mr. Sankin with the
2 first payment of \$25,000.

2 MS. SWEENEY: Your Honor, at this time I offer

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1 Government's Exhibit 144 into evidence.

2 MR. WEHNER: No objection, Your Honor.

3 THE COURT: All right, 144 is admitted.

4 THE DEPUTY CLERK: Government's Exhibit 144

5 marked for identification and received in evidence.

6 (Government's Exhibit 144

7 received into Evidence)

8 BY MS. SWEENEY:

9 Q Mr. Rubi, I've also handed you a document that's
10 previously been marked Government's Exhibit 145 for
11 identification. Do you recognize that document?

12 A I do.

13 Q And what is it, sir?

14 A It's a personal guarantee for the remaining balance
15 to be paid to Mr. Sankin for \$75,000, signed by myself
16 and by my wife also.

17 MS. SWEENEY: At this time, Your Honor, I offer

18 Government's Exhibit 145 into evidence.

19 THE DEPUTY CLERK: It's already in evidence.

20 MR. WEHNER: No objection, Your Honor.

21 THE COURT: 145 is admitted.

22 (Government's Exhibit 145

23 received into Evidence)

24 MS. SWEENEY: with the Court's permission I'd
25 like to publish once again Government Exhibit 141.

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1 Mr. Rubi, do you see Government's Exhibit 141

2 on the monitor?

3 A Yes.

4 Q And what is that, sir?

5 A That's the agreement that I signed with

6 Mr. Broussard.

7 Q what type of services does the agreement mention in
8 the text of the agreement?

9 A Like attorneys.

10 Q Did you have any understanding as to whether

11 Mr. Broussard was acting as your attorney pursuant to
12 this agreement?

13 A No.

14 Q what was your understanding?

15 A That I was buying him -- I was buying from him the
16 150 units.

17 Q why did the agreement say legal services?

18 A Because that's a way that he phrased the agreement
19 with my lawyer. That's what he gave to my lawyer.

20 Q Did there ever come a time after the allocation of
2 the Mod Rehab units to Puerto Rico that you had a

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2 THE COURT: All right, will the witness take the stand
3 again, please?
4 Bring the jury in.
5 THE DEPUTY MARSHAL: Yes, Your Honor.
6 MR. WEHNER: If I could approach for a second?
7 THE COURT: Sure.
8 (Bench conference on the record.)
9 THE COURT: Yes, sir?

10 MR. WEHNER: There were some Jencks redactions made on
11 this witness. I believe that they were dealing with campaign

hi

12 contributions, but I don't know. That is going to be the basis

•
13 for my cross examination of the witness in terms of campaign
14 contributions to D'Amato and Dole, et cetera, et cetera, in an
15 effort to get these projects funded.
16 I would appreciate it if the Court would review those
17 redactions to see if there are additional information that is
18 related to this case dealing with campaign contributions. That's
19 it.
20 THE COURT: I don't know --
2 MR. O'NEILL: Do you recall off the top of your head?

2 MS. SWEENEY: I don't.
2 THE COURT: I have looked briefly at his materials, but
2 these are unredacted, so I don't know if I have the redacted ones
2 to compare them to.

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MS. SWEENEY: I'll have to look and see if I have the
2 redacted ones here, Your Honor.
3 MR. O'NEILL: Is it something you could direct me to?
4 THE COURT: Do you know if the redactions covered
5 campaign contributions or not?
6 MS. SWEENEY: It's been so long since I looked through
7 them, Your Honor, I'd have to say I'd have to look again.
8 MR. O'NEILL: I wouldn't have thought so, Your Honor,
9 but I can't represent for the record with assurance.
10 MR. WEHNER: I can go ahead and I can give Mr. O'Neill,
11 Ms. Sweeney, and Your Honor the redactions, and then if you keep
CO
12 the witness here in case there's something there I need to recall
13 him on, and I'll bring him back up and finish my cross.
14 THE COURT: Is he flying out this afternoon?
15 MS. SWEENEY: Yes, Your Honor.
16 THE COURT: When is he leaving?
17 MS. SWEENEY: He has a 3:00 flight, but he's been here
18 since Sunday, Your Honor.
19 MR. WEHNER: It won't be -if
we did it under my

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20 suggestion, I would have him done by two. I mean, I just don't
21 have that much. This is not going to be a three-hour cross.
22 THE COURT: who are you going to have?
23 MR. O'NEILL: There is Jim Nistler, Judge, Mr. Nistler.
24 He's a HUD employee. Sankin after that.
25 THE COURT: we could take an early break for lunch, and

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1 you could look and have him back here at 1:00.
2 MR. O'NEILL: Are you going to be using on cross
3 examination the redacted copy? Because you could possibly give
4 it to the Court. Your Honor could just look.
5 THE COURT: Yes, because I've got them right here.
6 MR. O'NEILL: You have them right there, the
7 unredacted.
8 MR. WEHNER: Give me a second.
9 THE COURT: I'll just tell the jury.
10 (End of bench conference.)
11 THE COURT: Ladies and Gentlemen, we just want to look
12 at one thing before we get on with the cross. It won't be long,
13 but there's something I need to look at that was just brought to
14 my attention. It's all about fund-raisers.
15 (Bench conference on the record.)
16 THE COURT: There was a prosecution of his partner in
17 Puerto Rico?
18 MR. O'NEILL: Yes, Your Honor.
19 THE COURT: On campaigns?
20 MR. O'NEILL: It resulted in a hung jury, there was a
21 retrial and it resulted on in a acquittal.
22 THE COURT: really? On what was the charges?
23 MR. O'NEILL: It was illegal campaign contributions.
24 It was the first step in lengthy steps directed at a United
25 States senator which didn't work out apparently, I don't know.

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It was out of the Eastern District of New York.

THE COURT: It was?
3 MR. O'NEILL : But venue was changed.
4 THE COURT: To Puerto Rico?
5 MR. O'NEILL : To Puerto Rico.
6 THE COURT: was the regional director involved in this?
7 MR. O'NEILL : The regional director was a target of the
8 investigation
9 THE COURT: Yes, that's what I thought.
10 MR. O'NEILL : Right. So he was not a witness nor
11 involved in the case, but eventually would have been, and I don't
12 know -13
14 THE COURT: But he's not been -14
15 MR. O'NEILL : No, he had never been indicted.
16 THE COURT: I see.
17 MR. WEHNER: Amazing, Judge, I was able to find it.
18 For the record, it's March 3, 1992, at 10:15 a.m.
19 MR. O'NEILL : Grand jury, Your Honor.
20 MR. WEHNER: Grand jury testimony.
21 THE COURT: Oh, grand jury, all right.
22 MR. O'NEILL : That's it right there.
23 MR. WEHNER: And it's pages 164-A, et seq.
24 THE COURT: Maybe it's in here.
25 MR. O'NEILL : Your Honor, I think it's the first one
right on front.

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1 THE COURT: This is his testimony. This is the trial
2 testimony of his partner in Puerto Rico.
3 Here it is.
4 MR. WEHNER: There it is.
5 MS. SWEENEY: Your Honor, I do believe that those
6 redactions are colloquy between the prosecutor and the members of
7 the grand jury.
8 MR. O'NEILL: We can check.
9 THE COURT: What page numbers?
10 MR. WEHNER: 164-A, et seq. I don't know where it
11 ends, because I pulled some pages out.
12 THE COURT: 164-A. I was looking at 164. All right,
13 here it is.
14 I can see why they redacted it. Just for the record,
15 how many pages are redacted? It's 164-A through E.
16 All right, that's a colloquy with the grand jurors,
17 some various grand jurors and the prosecutor, I believe, at that
18 time, Mr. Henderson, trial attorney, Department of Justice,
19 concerning some matters about what was testimony previously by
20 some other people about some matters and how much money Mr. Rubi
2 made a year and things like that.
2 I don't see anything relevant at all to the campaign
2 contributions at all. There's nothing -2
MR. WEHNER: All right.
2 THE COURT: Thank you.

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1 MR. WEHNER: Thank you, Your Honor.
2 (End of bench conference.)
3 THE COURT: All right, we've straightened out the
4 documents, and we're ready to proceed, Ladies and Gentlemen, with
5 cross examination at this time of Mr. Rubi.

CROSS EXAMINATION

BY MR. WEHNER:

8 Q. Mr. Rubi, my name is Steve Wehner, and I represent Ms. Dean.
9 You have never met Ms. Dean before; is that correct?

10 A. No.

11 Q. Have you ever seen her before?

12 A. No.

13 Q. Have you ever talked to her on the telephone before?

14 A. No.

15 Q. You know who Senator D'Amato is, do you not?

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16 A. Yes, I do.

17 Q. You've met Senator D'Amato previously, have you not?

18 A. Yes.

19 Q. And in fact, you contributed \$10,000 to a representative of

20 Senator D'Amato for his election campaign, did you not?

2 A. No, I didn't.

2 Q. Did you not previously testify that you contributed \$10,000

2 in cash that was ultimately converted into money orders or checks

2 and was given to his campaign?

2 A. I testified that I gave \$10,000 to Mr. Eduardo Lopez Ballori

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to make contribution to Senator D'Amato.

2 Q. Thank you, sir. I think that's what I asked you.

Now Senator Dole. Do you know who Senator Dole is?

4 A. Yes, I know him.

5 Q. As a matter of fact, today he's minority leader of the

6 Senate; is he not?

A. Yes.

8 Q. Did you cause campaign contributions to be made to his

9 campaign?

10 A. Yes.

11 Q. And this was at the same time period that you were working

12 on the Alameda Towers project in Puerto Rico; isn't that correct?

13 A. I already was working on that.

14 Q. That's exactly right.

15 And you and your partner wanted Senator D'Amato to

16 intercede at HUD to get you these units; isn't that correct?

17 A. I believe my partner contacted the office of Senator Dole.

18 Q. Of course he did, because you wanted political influence to

19 get the units funded; isn't that right?

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20 A. That's right.

Q

5

21 Q. And you were told, were you not, that if you made these
22 political contributions, that would help you; isn't that right?
23 A. No.
24 Q. You weren't?
25 A. We were not told.

1 Q. What did your partner say to you as to why you should make
2 the political contributions?
3 A. We, we liked to make the political contribution.
4 Q. Of course you liked making political contributions, because
5 they helped you get what you needed to do your business; isn't
6 that right?
7 A. That's right.
8 Q. That's right.
9 And your partner and you had discussions about that;

10 isn't that right?
11 A. That's right.
12 Q. And you made political contributions through your name and
13 through other names, did you not?
14 A. Yes.
15 Q. And as a matter of fact, you would, you would come up with
16 money and hand it out to your employees and have them write the
17 check for the political contributions, wouldn't you?
18 A. Yes, I did.
19 Q. And this was true for Senator D'Amato?
20 A. Yes.
2 Q. And was it also true for Senator Dole?

2 A. Yes.
2 Q. And it was true at the same time you were doing these
2 projects in Puerto Rico; isn't that right?
2 A. Yeah, at the same time that I was doing the projects.

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1 Q. Now Monticciolo. You own a boat, do you not?
2 A. Yeah, I know him.
3 Q. And you loaned that boat to Mr. Monticciolo on occasion,
4 didn't you?
5 A. I did.
6 Q. Four or five days, did you not?
7 A. Yes.
8 Q. And you also offered to buy Mr. Monticciolo an apartment
9 that you were going to sell to him at a loss; isn't that correct?

10 A. No.
11 Q. What? Were you going to sell it to him at your cost?
12 A. At market price or at cost.
13 Q. Say that again?
14 A. At market price.
15 Q. At market price. At cost?
16 A. Or at cost. I don't remember why, you know.
17 Q. Do you recall testifying that you were going to buy
18 Mr. Monticciolo and give him the apartment at cost, not at
19 market?

20 A. No, I did not testify to that.

2 Q. How large is your boat?

2 A. It's -- at that time, it was a 55-footer.

2 Q. That's a pretty big yacht, isn't it? It's not really a
2 boat; it's a yacht?

2 A. It's a big boat.

7/93

1 Q. It's not a put-put; it's a big boat.

2 And Mr. Monticciolo used that boat for five days, did
3 he not?

4 A. He did.

5 Q. And he was the regional administrator at HUD when he used
6 that boat, was he not?

A. Yes.

8 Q. And you were doing everything you could to get these units
9 funded, giving Monticciolo your boat, contributing to Senator
10 D'Amato, contributing to Senator Dole, weren't you?

11 A. Yes.

12 Q. Did you ever give one penny to Ms. Dean?

w 13 A. No. I don't know her.

14 MR. WEHNER: Nothing further.

15 THE COURT: All right. You may redirect if you wish.

16 MS. SWEENEY: Just briefly, Your Honor.

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17 REDIRECT EXAMINATION

18 BY MS. SWEENEY:

19 Q. Now, Mr. Rubi, on cross examination, you were asked a number
20 of questions about political contributions that you had made and
2 about the use of the boat, et cetera, and you stated that you did
2 make political contributions and you did allow the regional
2 administrator to use your boat.

2 A. Yes.

2 Q. In order to get the 150 units that would allow you to have

1065

1 300 units, did you feel that it was necessary to pay

2 Mr. Broussard and Mr. Sankin?

3 A. Yes, I feel absolutely necessary.

4 Q. And why was that? why was that?

5 A. Because he was claiming the control of those units.

6 MS. SWEENEY: No further questions, Your Honor.

7 RE-CROSS EXAMINATION

8 BY MR. WEHNER:

9 Q. Did you feel like it was necessary to pay Deborah Gore Dean?

10 A. I never met her.

11 MR. WEHNER: Thank you.

12 THE COURT: All right. Anything else from the

13 government's side?

14 MS. SWEENEY: No, Your Honor.

15 THE COURT: All right. Thank you, Mr. Rubi. You can

16 step down, sir.

17 THE WITNESS: Okay, thanks.

18 (Witness excused.)

19 MR. O'NEILL: Your Honor, at this time, the government

20 would call Mr. James Wilson.

2 THE COURT: All right.

2 JAMES J. WILSON, GOVERNMENT'S WITNESS, SWORN

2 DIRECT EXAMINATION

2 BY MR. O'NEILL:

2 Q. Mr. Wilson, I will be asking you questions. I'd ask you to

1 speak loud and clear so that everyone can hear you. Sir, will
2 you please state your name for the record, spelling your last
3 name?

4 A. James J. Wilson, w-i-l-s-o-n.

5 Q. Mr. Wilson, can you briefly describe your educational
6 background to the Ladies and Gentlemen of the Jury?

7 A. Civil engineer, graduated in 1955 Manhattan College, New
8 York. I've been involved in running a construction and building
9 business since 1957.

10 Q. Are you presently employed, sir?

11 A. I hope so. Yes.

12 Q. How are you employed?

13 A. I'm the CEO of Interstate General Companies and its related
14 companies.

15 Q. When you say CEO, is that chief executive officer?

16 A. Chief executive organization -- chief executive officer.

17 Q. Does that mean you're the boss?

18 A. Could be considered that, yes.

19 Q. How long have you been a CEO of this company?

20 A. 1957.

2 Q. what type of work does your company do?

2 A. We were involved in general contracting, building, real
2 estate, and home building.

2 Q. Have you conducted any business with your business in the
2 Commonwealth of Puerto Rico?

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1 A. Yes. We -I
started in business in Puerto Rico in April of
2 1957.

3 Q. what type of business did you do in Puerto Rico, sir?

4 A. Started in general contracting and then became
5 builder/developers, and now we own and operate in Puerto Rico
6 about approximately 4,000 units of apartments and approximately a
7 half-a-million square feet of commercial space, plus we continue
8 to do land development and home building.

9 Q. when you say a building/developing capacity is your
10 business, what are you referring to? Can you describe for the
11 jury what you do as a builder/developer?

12 A. well, as a, I'm going to eliminate the contracting part of
13 it, because we got out of that in 1972, and we concentrated on
14 building and development. we'll acquire a piece of ground,
15 design a project, whether it be an office building, shopping
16 center, or apartments, to meet the market demand, finance it,
17 have it constructed by other parties. After it's finished, we
18 will own it and operate it.

19 And that is primarily our business in Puerto Rico since
20 1972.

2 Q. In relation to your business, did you have an opportunity
2 during your professional career to work with the Department of
2 Housing and Urban Development?

2 A. All of the projects that we did in Puerto Rico from 1959 up
2 to the present time involve one way or another, either in the

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1 insurance program of the --at that time we referred to it as
2 FHA, which is the Federal Housing Administration. Today it's
3 referred to as HUD.

4 But in 1959, we built Section 207s, which were market
5 rate projects. Then we built rent supplement projects, which
6 were 236s. Then we built Section 8 projects, which were low- and
7 moderate-income housing projects. And all told in Puerto Rico,
8 we built in rental housing about 6,000 units and in sale housing,
9 which were also under HUD, various programs, about 15,000 units
10 all told.

11 Q. Now, Mr. Wilson, are you familiar with a program developed
CO
12 at the Department of Housing and Urban Development known as the
13 Moderate Rehabilitation Program?

14 A. Yes. I was familiar with that program, which really came in
15 during the early 1980s.

16 Q. Did you ever do any mod rehab work with the Department of
17 HUD?

18 A. We studied it, we looked at doing some, but we never did do
19 any.

20 Q. And why is that?

2 A. The -2

MR. WEHNER: Your Honor, could we approach?

2 THE COURT: Sure.

2 (Bench conference on the record.)

2 MR. WEHNER: I would request a proffer. We don't,

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1 there was no Jencks Act on this particular witness.
2 MR. O'NEILL: Yes. We turned over one.
3 MR. WEHNER: I haven't seen it. I mean, I don't -4
maybe I got it, but I've lost it.
5 MR. O'NEILL: Okay. I can get a copy.
6 MR. WEHNER: I'm not suggesting bad conduct.
7 MR. O'NEILL: The offer of proof is Mr. Broussard tried
8 to sell this man 150 units.
9 MR. WEHNER: what's he, what's he going to testify to?
10 THE COURT: what's he going to say about why he didn't
11 do anything?
12 MR. O'NEILL: Because he didn't get any.
13 THE COURT: Did he apply for some and didn't get any,
14 or did he just never bother to apply because he didn't have the
15 contacts?
16 MR. O'NEILL: He didn't have the contacts. He could
17 not get them. Then he's going to say that he was approached by
18 Tom Broussard. Tom Broussard tried to sell him 300 units. He
19 wanted to find out more. Broussard was very secretive about the
20 nature of the 300 units, and so he decided not to purchase the
2 units from him, pay him what he wanted.
2 MR. WEHNER: Judge, that's not in furtherance of a
2 conspiracy involving Ms. Dean. Nor is it in furtherance of any
2 conspiracy they've proved so far. Conversations between this
2 gentleman and Broussard about trying to locate these -- trying to

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1 sell these units by Broussard aren't in furtherance of a
2 conspiracy with Ms. Dean.
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I mean, at this point, they don't have any evidence
linking Ms. Dean to unlawful conduct with regard to the units.
They've linked everybody else to them. But they have a
conversation where Ms. Dean says this application will be looked
on favorably. Now taken in the light most favorable to the
government, that's not a crime.
Then they have Sankin out there -10
THE COURT: Andrew Sankin is their tie.
CO
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12
MR. WEHNER: We have Sankin and Broussard out there
hawking the units based on that conversation.
13 MR. O'NEILL: May I be heard, Judge?
14 THE COURT: Yes.
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MR. O'NEILL: Judge, obviously I differ with Mr. Wehner
on that point. This is clearly in furtherance of a conspiracy in
that Ms. Dean, the government will show -- well, has already
shown -- spoke with Mr. Broussard about 150 units. He did not
have a developer at that time. He did not know Mr. Lopez Ballori

at that time. He did not know Mr. Rubi. He then went and

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peddled those 150 units for a price that is not the way the program was designed.

We've heard a lot of the political nature. We know that congressmen backed projects. We know that senators backed projects.

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1 what happened here is she promised a bunch of units, or
2 if you don't want to use that word, she said he could get 150
3 units -4

MR. WEHNER: That's not what she said.

5 MR. O'NEILL: -- for a project.

6 Andy Sankin is going to say that presumably when he
7 testifies, that the units were going to them, that then these two
8 individuals sold them.

9 Andy Sankin will say during this course of time he is
10 running the Stanley Arms Apartments. That's a family-held thing.
11 He is providing legal services to her at no cost. He is buying
12 her gifts. He is taking her out to lunch. She's a public
13 official.

14 We contend that she should have recused herself from
15 those decisions. She shouldn't have any dealings whatsoever with
16 these individuals. That's what -- Mr. Wehner may not like it,
17 but that's what the theory of the prosecution is. Obviously, he
18 doesn't agree with it.

19 THE COURT: That conversations Broussard had with
20 anyone else trying to market what he thought, this commitment he
2 had would be part of the furtherance of the conspiracy between he
2 and Sankin and then Sankin and Ms. Dean to deprive the government
2 of her best services, basically?

2 MR. O'NEILL: Well, the units mean nothing unless you
2 can do something with them.

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THE COURT: I understand.

2 MR. O'NEILL: And unless she, she gives him units. So
3 what? The units are worth something. You don't have a man like
4 Cleofe Rubi willing to pay \$200,000 when he can give the legal
5 campaign contributions to big politicians. Clearly there was a
6 market for this stuff. They cashed in on that.

7 Now admittedly, we are not going to show that Deborah
8 Dean knew exactly how much they were being paid. We don't know
9 that. We only know it from the outside. But we've already heard
10 from everybody that there was a going rate with consultants.
11 We're going to hear that again from Mr. Sankin. We're
12 going to hear that from Mr. Kitchin, that there was a going rate
13 for these, that there was market value, these units were worth a
14 certain amount, and the government contends that goes directly to
15 this conspiracy.

16 THE COURT: Go ahead.

17 MR. WEHNER: Judge, No. 1, that may go to a conspiracy,
18 but there is insufficient evidence on the record that it involves
19 Ms. Dean, and that's what this case is about.

20 THE COURT: I know. That's what you said in the
21 beginning. Ultimately we'll see where it goes.

22 MR. WEHNER: No, sir. But in rebuttal, they, that is

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23 to say, gifts and lunches and dinners and doing legal services
24 for no remuneration, those are not, those are not going to be
25 clear from the testimony, in my judgment, based on a reading of

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1 this Jencks, No. 1, and No. 2, that's exactly why this
2 bootstrapping is a problem, because I don't think Your Honor is
3 going to ultimately find that the preponderance was satisfied as
4 to these conspiracies, and we're going to be stuck with a lot of
5 co-conspirator statements on the record, and I think we're
6 getting to the point where the jury can't disregard them.
7 And this is so unrelated to Ms. Dean that I think it's
8 one of those that Your Honor should keep out at least until it's
9 connected up.

10 THE COURT: All right.

11 MR. O'NEILL: If I may say one thing, Your Honor?

12 THE COURT: All right.

13 MR. O'NEILL: Directing specifically to Mr. Rubi's
14 testimony that Mr. Broussard said the 300 units are coming from
15 Deborah Dean, I mean, yeah, clearly we haven't heard all the
16 evidence on Count 2, and there's going to be more, but that's
17 exactly what we're trying to show. She promised these units to
18 these people. Tom Broussard -19

19 THE COURT: My notes said he said he could get 150
20 units.

21 MR. O'NEILL: 150, I'm sorry. Mr. Wilson will say
22 Broussard offered him 300. Mr. Sankin will say it was 150 to
23 300.

24 MR. WEHNER: That's exactly the point. That's the kind
25 of co-conspirator statement that I submit is not properly

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1 admissible, and now we're even further afield than that.
2 THE COURT: I recognize the defendant's concern of
3 unringing a bell once rung in front of the jury, so that they
4 hear these statements even if the Court eventually decides that
5 there's no such evidence to go to the jury on these issues, but I
6 think the government has a legitimate proffer and does present at
7 least at this time to the Court a rational theory of proceeding
8 as to the conspiracy involving Mr. Sankin and Ms. Dean, assisted
9 by Mr. Broussard, that Sankin recruits to find the developers so
10 they can use promised -- looking at the evidence in the light
11 most favorable to the government at this time, so they can use
12 the promised units.

13 Otherwise, there's no effective conspiracy if that's
14 what the government alleges is what's happened. It's like
15 collecting money through some illegal scheme but there's no way
16 to use it unless you can find someone to launder it for you.
17 That's part of the conspiracy. I think the same thing would
18 apply here.

19 I'm satisfied at this time by the preponderance that
20 the government has made a sufficient proffer to allow this
21 conversation between Wilson and Broussard in as a co-conspirator
22 statement. Again, we'll await subject to connecting it up
23 whether the evidence is all tied up to the jury in this matter
24 and being able to go ahead with the trial. Mr. Wehner has
25 insisted it would have to be a mistrial. We'll wait and see.

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MR. WEHNER: Pardon me?

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2 THE COURT: I think you insisted it would have to be a
3 mistrial if I had to throw out some of these counts eventually.
4 MR. WEHNER: That's the problem, Judge, but I also
5 think I would be remiss in asking for a mistrial if I hadn't made
6 the record clear as to my objections initially.
7 THE COURT: I understand.
8 MR. WEHNER: I would just like the record to reflect a
9 continuing objection through this witness so I don't have to jump
10 up and down every 10 seconds.
11 THE COURT: Anything that he refers to that's hearsay
12 involving other alleged co-conspirators.
13 MR. WEHNER: Thank you, Your Honor. That will save
14 time.
15 THE COURT: Okay.
16 (End of bench conference.)
17 THE COURT: All right, we're ready to go.
18 Do you want to have that question read back to you?
19 MR. O'NEILL: Yes, please.
20 (Question read.)
21 THE WITNESS: No, we did not.
22 BY MR. O'NEILL:
23 Q. And were you able to obtain mod rehab units?
24 A. The process changed prior to 19--
well, when we built the
25 Section 8s, they were suggested to what they called an RFP, where

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1 HUD would say they had X number of units available for Puerto
•
2 Rico, and we'd go in and make our proposal, and under that
3 program, we were successful in bidding on them, and I think we
4 got 3,000 units.
5 There was a change in the program sometime during the
6 early 1980s, where the traditional RFP was not the way of
7 distributing the, the moderate rehab units, and we didn't
8 participate.
9 Q. Now, Mr. Wilson, directing your attention to a time, did
10 there come a point in time when an individual approached you
11 about selling mod rehab units to you?

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12 A. Yes.
13 Q. What -- can you tell us when approximately this occurred?
14 A. As I recall, sometime during the '85-'86 period, it could
15 have been a little bit earlier, at that time, I had, my residence
16 had changed to the United States, and I was living up in the

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5 17 States, and the executive vice president of Puerto Rico called me

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18 and he said, "I have a gentleman that I had lunch with today that

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19 wanted to joint venture a 300-unit Section 8 project in Puerto
20 Rico."
2

And I said to Don, I said, "How did he get 300 units of
2

section 8? I didn't know that they were, there were any units
2

available for Puerto Rico."

• 2 And Don said to me he didn't know, and he gave me the
2
fella's name, and I called him. As I remember, he was from

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1 California. And then I spoke to him on the phone, and I said to
2 him, "Obviously, we're interested in doing business on Section
3 8," because we had done a number of the units and we were
4 experienced and we knew how it worked and we knew how to make
5 them successful.
6 I had one conversation with him, and we agreed to meet
7 in Washington.
8 Q. Now you mentioned Don. Just for the record, who would Don
9 be?

10 A. Don Blakeman is our executive vice president in Puerto Rico.

11 Q. Now who is this person that you had the conversation with?

12 A. I believe his name is Broussard.

13 Q. Okay. Have you seen him since that date?

14 A. Not until yesterday and today, in the corridor. I saw him
15 coming out of the courtroom. I only met with him once, and so my
16 memory could be mistaken on that, but I think his name was
17 Broussard. I know it was the gentleman that left the courtroom.

18 Q. And did he leave the courtroom this morning?

19 A. Yes.

20 Q. Now, Mr. Wilson, can you describe this -- well, did this
2 meeting take place in Washington?

2 A. Yes. We, we set up a lunch meeting at the Madison Hotel.

2 Our attorneys were in the office building next to the Madison,
2 and I think it might have been breakfast, but it could have been
2 lunch. It would have been late breakfast. As I remember, it was

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1 a beautiful, sunshiny day.
2 And so the two of us met, and we discussed the proposed
3 300-unit project that he had for Puerto Rico, and my reason for
4 the meeting was to find out more about what he had.
5 Q. what were you able to find out?
6 A. well, the first thing that I established in meeting with him
7 was that we had been doing this kind of work in Puerto Rico, and
8 I wanted to know how he, living in California, how he could wind
9 up having 300 units in Puerto Rico and we, who are in Puerto Rico
10 all these years, didn't even know they were coming out. I wanted
11 to know how did he get him.
12 And he said, "That's my business."
13 And I'm not a shrinking violet, and I said, "Listen, my
14 friend, if we're going to do any business, I want to know the
15 details under which you have this, because I'm not interested in
16 playing games. Either this thing makes sense or it's legitimate
17 or else we're not going to do it."
18 And so he backed down a little bit, and he said, "well,
19 I have -- let me see if I remember the exact -- these were units
20 from the secretary's discretionary allocation."
2 I never heard of that, quite frankly. I didn't know
2 what he was referring to. And I said, "well, how does that
2 work?"
2 And he said, "well, it's none of your business how it
2 works."

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1 And I said, "well, if I'm going to be a partner, it
2 better damn well be my business, or else we're not going to be a
3 partner."
4 So he said, "well, we have these allocations, and our
5 company --" and I asked him about his company, and I didn't
6 really get any great encouragement that his company was
7 experienced in doing this kind of work.
8 And so the luncheon was fairly brief, because I'd come
9 to the conclusion that this so-called allocation that he had may
10 be suspect.
11 Q. Now, Mr. Wilson, you mentioned his experience. What did he
12 say was his experience in the housing area?
13 A. well, he was an attorney from, as I remember it, he was an
14 attorney from California. I don't know his, I never did check
15 into his background, but I, I think he was involved in
16 international law. So it was sort of strange for me to be
17 talking to someone about a joint venture with a Section 8 housing
18 project in Puerto Rico and, and not having been involved in that
19 kind of business. So anyway, that gave me a little bit of a
20 concern.
2 And then when we got to the discussion of how he got
2 them and where they came from, that was the reason I terminated,
2 I said, "well, I don't think we have any interest. I'd rather
2 pass."
2 As I recall, it was a very curt good-bye, and that was

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it.
2 Q. Did you tell him you were not interested in the units?
3 A. No, I said, "I'm not satisfied on the circumstances under

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4 which these units are yours." Quite frankly, at that time, I was
5 assuming that he had found out that there was going to be 300
6 units assigned to Puerto Rico.
7 MR. WEHNER: Objection.
8 THE COURT: All right, I'll sustain the objection. He
9 can't talk about what he thinks somebody --

10 BY MR. O'NEILL:
11 Q. You can't say what you assume.
12 Did he ask you for an amount of money in return for
13 these units?
14 A. No. We never did get into a discussion of him selling
15 anything. Really the conversation with him was that he wanted to
16 be a joint venture partner on a 50-50 basis. We would build the
17 project. He'd own 50, and we'd own 50.
18 Q. And how many units was he talking about?
19 A. Three hundred.
20 Q. Now based on your experience at the Department of Housing
21 and Urban Development, was that the way allocations were made?
22 MR. WEHNER: Objection.
23 THE COURT: Can you ask for a time frame on this
24 question?
25 BY MR. O'NEILL:

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1 Q. Mr. Wilson, were you doing HUD-related work in 1985-'86?
2 A. Yes.
3 Q. Based on your experience -- well, based on your experience,
4 had you ever been approached before by a private individual who
5 was interested in starting up a project with you and had stated
6 they had possession of, of government funding?
7 MR. WEHNER: Judge, I object to the leading nature of
8 the questions.
9 THE COURT: All right, I'll sustain the objection.
10 BY MR. O'NEILL:
11 Q. When he was talking about mod rehab units, what was he
12 referring to?
13 A. Well, my understanding was he had the Section 8 allocation,
14 which we were familiar with, which basically guaranteed the, the
15 government would guarantee the rent of qualified people to live
16 in units, and we do that program very, very well, and we were
17 successful in bidding on units in Puerto Rico for the previous
18 1977 up through 1982 or '83. '82, I think.
19 Q. Who determines the funding in Puerto Rico?
20 A. The normal proceeding up until that point was that there was
2 an RF-, what they call an RFP, a request for proposals, where you
2 had to pre-qualify, where you had to prove that you could, you
2 had the expertise, you had the knowledge, and you had the
2 experience in operating the units, and then you would put in a
2 proposal to the HUD local office, and your, your site, there was

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1 a criteria on which they award points for sites and amenities and
2 close to grocery stores and churches and schools and so forth,
3 and at the end, if your point score was high enough and your
4 project took X number of units, you would be awarded those units,
5 and then you would go on and build your project.
6 Q. Are you familiar with the local public housing authority in
7 Puerto Rico?

A. Yes.

9 Q. And did you work with them?

10 A. Yes. We built about 2,000 housing units for them. Not

11 Section 8, but public housing.

12 Q. Did this individual who you identified as Tom Broussard, or

•

13 at least the person you saw leaving the courtroom today, did he
14 mention whether he worked for the local public housing authority?

15 A. No, he did not.

16 MR. O'NEILL: I have nothing further. Thank you.

17 THE COURT: All right. Any cross?

18 CROSS EXAMINATION

19 BY MR. WEHNER:

20 Q. The Madison Hotel is located in downtown Washington, is it
2 not?

2 A. Well, downtown -- no, let me see. It's on 15th and L or M.

2 I guess that's M. Close to there.

• 2 Q. Did you go to HUD headquarters on that visit?

2 A. No.

1 Q. Did Mr. Broussard suggest that you should visit Ms. Dean at
2 HUD headquarters?

3 A. No.

4 Q. Do you have any recollection of ever having heard Ms. Dean's
5 name before you became involved in this trial?

6 A. I heard Ms. Dean's name mentioned before this trial, yes.

7 Q. By whom?

8 A. She was an executive at HUD.

9 Q. How do you remember the name being mentioned? Do you

10 remember it coming from Mr. Broussard?

11 A. I knew of her name around that time. I can't --it

I 12 certainly didn't come from Broussard. I remember that
13 conversation, so it did not come from Broussard.

14 Q. Have you ever met Ms. Dean?

15 A. I don't think --we might have met, but I don't think so.

16 Q. Have you ever --do you recall any conversation with

17 Ms. Dean?

18 A. I've never spoken to her, to my knowledge.

19 MR. WEHNER: Nothing further.

20 MR. O'NEILL: No redirect, Your Honor.

2 THE COURT: No redirect? All right.

2 Thank you, Mr. Wilson. You're excused.

2 (Witness excused.)

2 THE COURT: All right, Ladies and Gentlemen, let's take
2 our luncheon recess at this time, and we'll come back at 1:30 and

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2 four today for another matter I have, for your planning, so we'll
3 take a recess at this time. t
4 Remember the admonitions of the Court again over lunch.
5 Please don't talk about this case among yourselves, with anyone
6 else, or let anyone refer to it in your presence.
7 Have a pleasant lunch. It looks like a good day. And
8 then we 'll see you back here at 1:30, ready to go this afternoon.
9 (Jury out.)
10 THE COURT: Is Mr. Sankin or Ms. Zagame or Nestle -11
who's this fellow?
12 MR. O'NEILL: Nistler, Judge.
13 THE COURT: Nistler?
14 MR. O'NEILL: And Sankin.
15 THE COURT: So that would take the rest of the day at
16 least.
17 MR. O'NEILL: I would think so.
18 THE COURT: Sure. Okay.
19 YOU' ll be a while with him.
20 MR. WEHNER: I think I'll be able to finish them,
2 Judge.
2 THE COURT: Do you think you can finish them today?
2 MR. WEHNER: I think I can finish those t:wo today.
2 THE COURT: All right.
2 MR. WEHNER: I mean, we basically did the long cross

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1 examinations on the housing commissioners.
2 THE COURT: All right.
3 MR. WEHNER: Unless I'm surprised by something, I don't
4 think there's going to be any reason to go through all the charts
5 and all the findings again with these witnesses.
6 MR. O'NEILL: Not with Nistler.
7 THE COURT: All right, good.
8 MR. WEHNER: Not with Nistler. So I think we'll
9 probably finish those two today.
10 THE COURT: And Mr. Nunn is tomorrow, you think?
11 MR. O'NEILL: No, Judge, Friday morning.
12 THE COURT: Oh, he's Friday morning. You said that
13 before. All right. Thank you then.
14 MR. WEHNER: I would like to just make the record
15 absolutely clear, Judge, as to my objections to the
16 co-conspirator hearsay statements.
17 THE COURT: Particularly as to Mr. Wilson's comments
18 about Mr. Broussard or any others?
19 MR. WEHNER: Or any others, Judge. I just don't want
20 to fail to make the record clear that as to Counts 1, 2, and 3, I
2 do not believe that there has been sufficient evidence to show by
2 a preponderance of the evidence that Ms. Dean was a member of the
2 conspiracy or that the statements were in furtherance of the
2 conspiracy.
2 THE COURT: All right.

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MR. WEHNER: I don't want to fail for Your Honor to
2 understand those three counts are the ones I'm referring to.
3 THE COURT: All right. That will be preserved for the
4 record.
5 MR. WEHNER: Yes.
6 MR. O'NEILL: Thank you, Your Honor.
7 (Recess from 12:10 p.m. to 1:30 p.m.)
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1087

1 (Lunch recess, 12:10 p.m. to 1:45 p.m.)
2 AFTERNOON SESSION 1:45 P.M.
3 THE COURT: Do you have your next witness?
4 MR. O'NEILL: Yes, Your Honor.
5 THE COURT: All right.
6 THE DEPUTY MARSHAL: Yes, Your Honor.
7 (Jury present)
8 THE COURT: All right, ladies and gentlemen,
9 ready to resume.

10 THE DEPUTY MARSHAL: We have one more, Your
11 Honor. ^
12 THE COURT: Oh, there is an empty seat. I
13 missed that.
14 All right. We're ready to go back.
15 Call the witness, please.
16 MR. O'NEILL: Your Honor, at this time the
17 Government calls Mr. James Nistler.
18 THE COURT: All right.
19 (JAMES NISTLER, WITNESS FOR GOVERNMENT, SWORN)
20 DIRECT EXAMINATION
21 BY MR. O'NEILL:
22 Q Mr. Nistler, please answer all the questions that I
23 will put forth to you in a loud and clear way, so that
24 everyone can hear you.
25 Q Will you please state your name for the

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1 record, spelling your last name for the Court reporter?
2 A James T. Nistler, N-i-s-t-l-e-r.
3 Q Mr. Nistler, are you currently employed?
4 A Yes, sir.
5 Q How are you employed?
6 A I'm self-employed.
7 Q What do you do?
8 A I'm a real estate broker and mortgage broker.
9 Q How long have you been in that line of work?
10 A A real estate broker for the last 30 years. The
11 mortgage part the last couple of years.
12 Q Did there come a time when you went to work for the
13 United States Department of Housing and Urban

14 Development?
15 A Yes.
16 Q When did you go to work there?
17 A February of '84.
18 Q How long did you work at the Department of Housing
19 and Urban Development?
20 A Five years and a month.
2 Q I would direct your attention to the year 1986 and
2 I would ask you what was your position at HUD at that
2 time?
2 A Deputy Assistant Secretary for Single-Family.
2 Q If I may quickly so the jury can understand, where

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1 is that and what -I
know it's quite a distance from
2 you, but we moved it back so the jury can see the
3 bottom. Can you see it on here?
4 A Yes. I'm right there on the right.
5 Q That would be the position?
6 A Yes.
7 Q What were your duties and responsibilities in that
8 position, sir?
9 A Manage all of the insurance programs for single
10 family, the multi-family Title 10 land loans, managed
11 the servicing and property disposition, Title One,
12 manufactured housing, interstate line sales, and direct
13 responsibility for policy of the 81 offices.
14 Q Did you have any responsibility for the Mod Rehab
15 program?
16 A No.
17 Q I would direct your attention to September 19, 1986
18 and I'd ask you did there come a time when you were
19 asked to sign certain funding documents?
20 A Yes.
21 Q And can you describe what exactly happened? How
22 did you come to sign these documents?
23 A Well, I guess there's a little prelude before that
24 but -
25 Q Well, in describing it let me just admonish you,

1090

1 you cannot tell us what other people said. Just tell
2 what you did or what you saw?
3 A Well, I was told by the front office to sign some
4 papers.
5 Q And did you in fact sign the papers?
6 A Yes, I did.
7 Q How did you gain possession of them? Who brought
8 them to you?
9 A It was either Pam Patenaude or Nancy Murray, I'm

10 not sure which.
11 Q Now, when you signed these papers did you know what
12 you were signing?
13 A Not at first.
14 Q And why did you sign these?
15 A It was I guess because -- I had the duty that day.
16 So these papers needed to be signed. I reviewed them
17 and they were in proper order to sign them and I signed
18 them •

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19 Q Now , the documents you signed, how would you
20 describe them? what were they, in generic terms?
2 A Authorizations for the region to - I'm not sure
2 the word was disburse but it was authorizations for the
2 region to proceed in funding these.
2 Q Did you know whether specific projects were being
2 funded?

1091

1 A No.
2 Q To your knowledge, was any -- were any particular
3 consultants or developers involved?
4 A Not that I knew.
5 Q Mr. Nistler, at this time I'll show you a document
6 which has previously been entered into evidence as
7 Government's exhibit 42E and I ask you if you recognize
8 that, sir?
9 A That's my signature.

10 Q Do you recall signing that?
11 A Yes.
12 Q And do you recall what date you signed that?
13 A It wouldn't have been the first day. It would have
14 been the second because I only signed three of them the
15 first day.
16 Q What date is marked on that?
17 A 19th.
18 Q Of?
19 A September, '86.
20 Q Now, you mentioned you signed documents on two
2 days?
2 A I believe it was two days.
2 MR. O'NEILL: I have no further questions.
2 Thank you.
2 CROSS EXAMINATION

1092

1 BY MR. WEHNER:
2 Q Mr. Nistler, my name is Steve Wehner and I
3 represent Deborah Dean. I think you've met her before.
4 You know her?
5 A Yes.
6 Q You worked at HUD the same time she did, is that
7 correct?
8 A Yes.
9 Q The two individuals you testified about on direct
10 by the names of -I'm
11 sorry, Your Honor, could we have
12 the Exhibit removed from the screen?
13 Excuse me, the two individuals which you said
14 brought you the list, what were their names again?
15 A Nancy Murray and Pam Patenaude.
16 Q who did they work for? who was their supervisor at
17 HUD, at that time? It was Silvio DeBartolmeis, was it
18 not?
19 A I can't answer that. I'm not sure.
20 Q Did they work for Miss Dean?
21 A I don't believe so.
2 Q Now, I'm going to try to talk about some of the

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2 timing sequences on this series of events for a minute.
2 And do you recall the use of the word recission in
2 connection with various federal funds back in 1986?
2 Does that word mean anything to you?

1093

1 A Recision.
2 Q Recission, r-e-c-i-s-s-i-o-n, I think.
3 A I can't answer that. I don't know.
4 Q You don't know?
5 A No.
6 Q Do you recall a time in 1986 when the Office of
7 Management and Budget was basically forbidding federal
8 agencies from spending money that had already been
9 allocated by the Congress?
10 A Not specifically.
11 Q Do you remember generally?
12 A I remember -I
understand what it means.
13 Q What does recision mean to your understanding?
14 A Taking back what you've given.
15 Q Do you recall a time when there were certain HUD
16 funds that had been given to HUD to spend, and an effort
17 was being made by the Office of Management and Budget to
18 take those funds back?
19 A Not specifically.
20 Q Generally?
2 A Maybe.
2 Q Well, we need your best recollection.
2 A I hadn't -I
mean I was in Single-Family. I mean
2 none of that stuff happened in the Single-Family that I
recall.

1094

1 Q Okay. Fair enough. Do you recall that the day you
2 signed these forms was September 19th, the majority of
3 the forms was September 19, 1986.
4 A Yes.
5 Q And I'll show you exhibit 42E which you've already
6 seen, just to confirm that.
7 A Okay.

8 Q Now, do you recall what day of the week September

9 19th was?

10 A I'm just guessing, but I would say it was a

11 Thursday.

12 Q I'll show you a calendar for 1986 and ask you if
13 that refreshes your recollection as to what day of the
14 week September 19, 1986 was?

15 A It's a Friday.

16 Q September 19, 1986 was a Friday, isn't that
17 correct?

18 Isn't that correct?

19 A Yes.

20 Q Now, when you were told to sign the form, that was
2 on that Friday, September 19, is that correct?

2 A That piece of paper.

2 Q Did you have occasion to have any discussion with
2 anyone at HUD about Friday, September the 12th, and
2 whether certain funding decisions had been made the

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1 previous Friday that related to the document you were

2 signing?

3 A Not that I know of.

4 Q Isn't it true that the funding decisions you signed

5 had been determined a week before?

6 A I would have had no idea.

7 Q Do you have any recollection at all of when the

8 funding decisions were made?

9 A No.

10 Q That were reflected in the document you had to
11 sign?

12 A No.

13 Q September 19, 1986 was a Friday. Do you recall
14 whether Miss -- whether you saw Mr. DeBartolomeis in the
15 building on Thursday, Wednesday, Tuesday or Monday of
16 that same week in 1986? By that I mean the 18th, 17th,
17 16th or 15th?

18 A It was a Wednesday that I saw him last of that
19 week.

20 Q So he was in the building that week?

2 A On Wednesday.

2 Q Well, Wednesday before the Friday.

2 A Right.

2 Q Now, it was normally his job to sign off on these
2 funding decisions, isn't that correct?

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1 A Yes.

2 Q And you were signing for him as the appropriate

3 authority in his absence?

4 A Yes.

5 Q Did you check the funding documents that you signed

6 to determine if the Mod Rehab projects that had been

7 approved and were signed off on -- by you were the same

8 ones that had been approved by the Office of the

9 Secretary?

10 A I did not.

11 Q So you don't know, for example, if
12 Mr. DeBartolomeis stuck one in or snuck one in that had
13 not been approved by the Office of the Secretary?

14 A Everyone that I signed had been signed off by Ross
15 Kumagai, if I pronounced it right. That basically told
16 told me that the funds were there and it was okay for me
17 to sign.

18 Q Do you know -- you wouldn't know, for example, if
19 Mr. DeBartolomeis had added a project to the list for
20 you to sign in Oklahoma in which Philip Winn had a
2 financial interest in the project?

2 A No, I would not know.

2 MR. WEHNER: Nothing further, Your Honor.

2 THE COURT: Redirect?

2 MR. O'NEILL: Yes, quickly.

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1 REDIRECT EXAMINATION

2 BY MR. O'NEILL:

3 Q Mr. Nistler, on September 19th, 1986 do you know if
4 Mr. DeBartolomeis was in the office or on vacation? Do
5 you know where he was?

6 A I don't know where he was. He was not in the
7 office.

8 MR. O'NEILL: Nothing further, thank you.

9 THE COURT: Thank you, Mr. Nistler. You may
10 step down.
11 MR. O'NEILL: Your Honor, the Government would
12 next call Andrew Sankin.
13 (ANDREW SANKIN, WITNESS FOR GOVERNMENT, SWORN)
14 MR. O'NEILL: Your Honor, may we approach one
15 quick second?
16 THE COURT: All right.
17 (Bench conference)
18 MR. O'NEILL: This is one of the gentleman
19 that we handed up the immunity agreement for, Judge.
20 THE COURT: Yes, I signed them and I gave them
2 to Mr. Crowley earlier this morning.
2 THE DEPUTY CLERK: Do you need them up here
2 now?
2 MR. O'NEILL: I don't need one •
2 Steve probably needs one.

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1 MR. WEHNER: I'd like to have one. I'd just
2 like to put on the record that I asked of Mr. O'Neill
3 prior to the sessions if he knew of any particular
4 reasons, under Brady, as to why this witness had
5 requested a second immunity grant and he stated he knew
6 of none. I only asked that because I found it somewhat
7 unusual.
8 THE COURT: I've given you an extra copy of
9 the one for Mr. Sankin which includes the motion as well
10 as the Order that was attached, that I signed. There's
11 one for Mr. Nunn as well.
12 MR. WEHNER: Thank you, Your Honor.
13 MR. O'NEILL: Your Honor, I will state for the
14 record Mr. Wehner is correct. He did inquire of me, and
15 both of their attorneys had asked for it. I know of no
16 reason why, Your Honor.
17 THE COURT: Nothing new has come up that
18 you're aware subsequent to signing the first Order.
19 MR. O'NEILL: That's correct.
20 MR. WEHNER: That's why we asked.
2 (Bench conference concluded)
2 THE COURT: All right.
2 BY MR. O'NEILL:
2 Q Mr. Sankin, I'll be asking a series of questions.
2 Please respond in a loud and clear voice so that

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1 everyone can hear you.
2 will you please state your name for the
3 record, spelling your last name for the Court reporter?
4 A My name is Andrew Sankin, S-a-n-k-i-n.
5 Q I'd ask you to speak into the microphone.
6 A Andrew Sankin, S-a-n-k-i-n.

7 Q Mr. Sankin, are you testifying today pursuant to a

8 grant of use immunity?

9 A Yes.

10 Q Have you acquired an additional immunity Order so
11 that you will testify at trial today?

12 A That's correct.

13 Q Sir, what is your present occupation?

14 A I'm an attorney but I work at primarily real estate
15 finance.

16 Q When you say real estate finance, what type of work
17 do you do?

18 A I structure acquisitions of multi-family housing
19 properties and I raise equity for these acquisitions as
20 well.

2 Q Mr. Sankin, you can pull this all the way down.

2 There you go. And try to speak into it because I'm sure
2 some of the jurors are going to have trouble hearing
2 you.

2 Sir, can you briefly describe your educational

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1 background?

2 A I have an undergraduate degree in government and

3 politics from the University of Maryland. I have a law

4 degree from Georgetown University Law Center and I have

5 a master of business administration, finance and real

6 estate from the Wharton School of Finance at the

7 University of Pennsylvania.

8 Q Mr. Sankin, do you know the defendant Deborah Gore

9 Dean?

10 A Yes, I do.

11 Q How do you know the defendant?

12 A I know her both socially and professionally.

13 Q When did you first meet the defendant?

14 A I met the defendant in the early 1980's.

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15 Q And how did you first meet the defendant?
16 A I was friends with Silvio DeBartolomeis and he in
17 turn was both a friend and a co-worker of Deborah Dean.
18 Q Where did you first meet the defendant Deborah Gore
19 Dean?
20 A I don't recall specifically.
2 Q Now, sir, when did you graduate from law school?

2 A 1984.
2 Q Did there come a time after you graduated from law
2 school that you began to work as a consultant on matters
2 involving the United States Department of Housing and

1 Urban Development?
2 A Yes.
3 Q And when did that occur?
4 A That would have been for all intents and purposes
5 concurrent with my graduating from law school.
6 Q Do you know an individual by the name of
7 John Rosenthal?
8 A I do.
9 Q And who is Mr. Rosenthal?

10 A Mr. Rosenthal is a real estate developer in
11 Pennsylvania and was a client of mine.
12 Q How did you come to meet Mr. Rosenthal?
13 A Mr. Rosenthal was referred to me by another client
14 of mine, Berel Altman.
15 Q Did there come a point in time that you became
16 involved in a project of Mr. Rosenthal's known as the
17 Necho Allen Hotel?
18 A Yes.
19 Q Where is that project located?
20 A I believe it's in Pottsville, Pennsylvania.
21 Q And what if anything did you do as a consultant in
22 relation to the Necho Allen Hotel?
23 A Assembled a variety of materials into a package
24 that was presented to the Department of Housing and
25 Urban Development requesting a waiver by the Secretary

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1 in order to get special rental.
2 Q Now, you say you put a package together. To whom
3 did ; fou give that package?
4 A The package was delivered to -- if not Deborah
5 Dean , somebody on her staff.
6 Q well, who was it?
7 A I believe it was Deborah Dean that we gave the
8 package to.
9 Q Did there come a point in time that you learned

10 that the exception rents had been granted on Necho
11 Allen?
12 A Yes.
13 Q How did you learn that?
14 A I don't recall who told me, but I did receive a
15 copy of a document signed by the Secretary indicating
16 that the appropriate regs had been waived and this
17 property could move forward.

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18 Q From whom did you- get that document?
19 A I don't recall specifically.
20 Q Now, Mr. Sankin, were you paid for your services on
2 Necho Allen?
2 A Yes, I was.
2 Q What did you do on that project?
2 A What was my work product?
2 Q Yes.

1 A I discussed the project in some detail with the
2 client and tried to understand what the issues were. I
3 did economic analysis of the property because we were
4 requesting a rent level so we had to demonstrate that
5 the rent level that was permitted wouldn't work and
6 wouldn't make it viable. Assembled letters of support
7 from local politicians saying that this was worthwhile.
8 Other exhibits that may tend to further this case. And
9 then it was my job to act as an advocate on behalf of
10 the client with HUD and with Deborah Dean.
11 Q Now, you say act as an advocate. What did you do
12 at HUD?
13 A Present this package of material and tried to -14
14 Q who did you present it to?
15 A To Deborah and several members of her staff.
16 Q Was there a formal meeting?
17 A Yes, and my client was present as well.
18 Q Who did you set up the meeting with?
19 A Present at the meeting were -20
20 Q How was the meeting set up?
2 MR. WEHNER: Objection.
2 THE COURT: I think he misunderstood the
2 question. Ask him first how the meeting was set up,
2 before who was there.
2 BY MR. O'NEILL:

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1 Q How was the meeting set up?
2 A I don't recall. I suppose I called Deborah and her
3 secretary and arranged to set the meeting up.
4 Q Did you set up the meeting with anybody else?
5 A Honestly, I don't remember the mechanism of
6 establishing the meeting.
7 Q Why did you contact the defendant Deborah Gore Dean
8 on the Necho Allen project?
9 A It was my understanding that the only way we could

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10 achieve what was required in order to make this property
11 viable was to get a waiver of a particular reg by the
12 Secretary and it was my understanding that Deborah Dean
13 was the person to speak with that was in such a position
14 to, you know -
15 Q What was that understanding based on?
16 A She was the Secretary's Executive Assistant.
17 Q Why not go to the Secretary?
18 MR. WEHNER: Objection.
19 THE COURT: I'll sustain the objection as to
20 relevance.
2 BY MR. O'NEILL:

2 Q What were you seeking on Necho Allen?
2 A We were seeking a waiver of a particular reg to
2 allow us to get exception rental on this property.
2 Q And did you have an understanding who had the

1105

1 authority to waive that particular reg?

2 A The Secretary.

3 Q So I would repeat, why did you not go to the

4 Secretary to get this waiver?

5 MR. WEHNER: Objection, Your Honor.

6 THE COURT: Approach for a minute?

7 (Bench conference)

8 THE COURT: Originally I didn't see the

9 relevance but when he asked the question it seemed to

10 make it more relevant to tying into Deborah Gore Dean
11 why he went to her instead of the Secretary. Your
12 objection is?

13 MR. WEHNER: My objection is that he's about
14 to get into, I think, the same kind of hearsay maybe
15 that was previously partly recognized by the Court to be
16 with respect to the conspiracy and I don't want him to
17 be able to lead the witness into it. I haven't made a
18 lot of objections but I don't feel like he should be
19 permitted with this witness to lead him into that.

20 THE COURT: I'm going to allow the question at
2 this time and you can ask him is there any particular

2 reason he went to Miss Dean as opposed to going to the
2 Secretary.

2 MR. WEHNER: Okay.
2 (Bench conference concluded)

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1 THE COURT: All right. You can rephrase it.
2 MR. O'NEILL: Thank you, Your Honor.
3 BY MR. O'NEILL:
4 Q Mr. Sankin, was there any particular reason that
5 you went to see the defendant Deborah Gore Dean rather
6 than the Secretary of the Department of Housing and
7 Urban Development?
8 A I had a personal relationship with Deborah Dean and
9 I did not have such a relationship with the Secretary.

10 Q Did there come a time that you were paid for your
11 services on that project?
12 A Yes.
13 Q And how much did you receive?
14 A I believe it was \$10,000.
15 Q Mr. Sankin, did there also come a point in time
16 where John Rosenthal asked you for your assistance on
17 another project?
18 A Yes.
19 Q And what project was that?
20 A Regent Street Apartments in Philadelphia.
2 Q Did you contact anyone at HUD concerning this
2 project?
2 A I did.
2 Q And who did you contact?
2 A I called Deborah Dean.

1 Q What did you ask of her? What did you request of
2 her, if anything?
3 A I asked if there was any possibility of receiving
4 Mod Rehab funding for this housing authority and this
5 property.
6 Q Now, again, where was this property located?
7 A Philadelphia.
8 Q Did there come a point in time where you learned
9 that Regent Street had been awarded Mod Rehab funding?

10 A Yes.
11 Q And from whom did you learn that information?
12 A I learned that directly from Deborah Dean.
13 Q Were you paid for your services on Regent Street?
14 A Eventually. Sometime later, yes.
15 Q And how much were you paid?
16 A I believe it was ten or \$11,000 for that as well.
17 Q Now, Mr. Sankin, do you know an individual by the
18 name of Thomas Broussard?
19 A I do.
20 Q And did there come a point in time where you
2 contacted Thomas Broussard about working together on a

2 moderate rehabilitation project?
2 A Yes.
2 Q Can you tell the ladies and gentlemen of the jury

2 how you came about to contact Mr. Broussard?

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1 A well, I had known or been aware of Mr. Broussard

2 previously when I worked at another consulting firm

3 while I was in law school, the Phoenix Associates, and

4 when I started working on my own I contacted

5 Mr. Broussard and suggested -- just introduced myself

6 and suggested that maybe at some point in the future

7 something might arise which would give us occasion to

8 work together.

9 Q And why did you contact him when you wanted to work
10 on a consultant project? How did it come about that you
11 contacted Mr. Broussard at this time?

12 Do you understand the question?

13 A Yes, I think so. There came a point when I learned
14 that there was certain Mod Rehab funding that had been
15 made available for the Commonwealth of Puerto Rico that
16 had been, I forget the term of art, but had been
17 allocated for a certain housing authority but there was
18 now the possibility that it was going to be taken back
19 by the Secretary and put back again. And so it was open
20 for competition.

2 I had approached Miss Dean and asked her if

2 there might be some opportunity for me to try to solicit

2 a client and compete for this funding. She indicated to

2 me that she did not feel I was experienced enough to

2 work with this program and I asked her if -- if I worked

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1 with somebody that was more experienced, would that be
2 better, and she asked me who I had in mind, and since I
3 had already laid a foundation with Mr. Broussard I
4 suggested Tom Broussard, and she said that that would be
5 fine. And, thereupon, I contacted Mr. Broussard and we,
6 in fact, did work on this together.

7 Q why did you contact the defendant Deborah Gore Dean
8 about getting involved in this Mod Rehab funding in
9 Puerto Rico?

10 MR. WEHNER: Your Honor, could we approach?

11 THE COURT: All right.
12 (Bench conference)
13 THE COURT: Yes.
14 MR. WEHNER: Your Honor, this is the exact
15 problem. There is no testimony that Deborah Gore Dean
16 did anything unlawful or improper in this testimony.
17 And it's coming in through hearsay through the back door
18 in terms of why did you do it, and that's the evidence
19 that's trying to connect Miss Dean with criminal
20 conspiracy and, Judge, he's not going to be able to
2 testify to that. I don't want to come up to the bench
2 every time, but this is the way it's going to fall.
2 THE COURT: what do you have to say?
2 MR. O'NEILL: Maybe I'm missing something.
2 what is the hearsay, Your Honor?

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1 MR. WEHNER: well, the hearsay is what did she

2 say to you.

3 MR. O'NEILL: That's not hearsay.

4 THE COURT: That's the defendant's statements.

5 MR. WEHNER: Judge, when he follows that with

6 saying why did you do it the response to that, is by

7 definition hearsay. You can't get around it. Because

8 there's no source for the information.

9 THE COURT: well, let's see if you can follow
10 it up with that question. I think he's talking now
11 about what he talked to Miss Dean about and then he's
12 talking to Mr. Broussard and getting back to Miss Dean
13 about the projects. I don't follow the objection right
14 now. I followed it before but I don't follow it now.

15 MR. WEHNER: I'll try to be more specific.
16 when Mr. O'Neill says did you talk to Deborah Gore Dean
17 and he responds to what she said, and that is in my
18 judgment a strictly neutral statement on her part. In
19 other words, it can't be inferred in the light most
20 favorable to the Government to mean criminal activity.

2 THE COURT: I'm going to overrule the

2 objection.

2 MR. WEHNER: That the follow up as to why he
2 did a certain act is hearsay as to Miss Dean.

2 THE COURT: Let me see if we get to that, but

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1 right now I think he's talking about what Miss Dean said
2 to him. That's the context of the questions. It's
3 overruled.
4 MR. WEHNER: Okay.
5 (Bench conference concluded)
6 THE COURT: All right. Go ahead, sir.
7 MR. O'NEILL: would you read back the
8 question, please?
9 (Question repeated by the reporter)
10 THE COURT: I'll allow it. Overruled.
11 A It was my understanding that she was a decision
12 maker in the Mod Rehab process and she was the highest
13 ranking official of the department that I knew.
14 Q what if anything did you tell Thomas Broussard -15
MR. WEHNER: Excuse me, Your Honor, just for
16 the record, I'd like to renew my previous objection.
17 THE COURT: All right. It's overruled.
18 BY MR. O'NEILL:
19 Q what if anything did you tell Mr. Broussard
20 about -- well, withdrawn? what if anything did you tell
21 Thomas Broussard during this telephone call?
22 A I had a series of conversations with him. I'm
23 afraid I can't point to a particular telephone call and
24 say it was discussed during a particular call.
25 Q Let me ask you this, how many telephone calls did

1112

1 you have?

2 A A great many.

3 Q Can you tell the ladies and gentlemen of the jury

4 what was discussed during these telephone

5 conversations? what did you say to Mr. Broussard?

6 A would you like me to try to summarize?

7 Q To the best of your recollection as to what was

8 said by you during these conversations.

9 A Mr. Broussard and I discussed the amount of funding
10 available in total. we discussed the amount of funding
11 we thought was possible for us to get. We discussed the
12 identification of clients. we had discussed roles that
13 each of us would take. There came a time when we
14 actually traveled to Puerto Rico together. We discussed
15 that. A great many things.

16 MR. WEHNER: Objection, and I move to strike
17 it for the reasons previously stated.

18 THE COURT: All right. It's overruled at this
19 time based upon the rulings I've made.

20 BY MR. O'NEILL:

2 Q Now, you mentioned during those discussions with

2 Mr. Broussard about the amount of funding that you
2 expected to get.

2 A Yes.

2 Q You just stated that.

1113

1 A Yes.

2 Q what are you referring to?

3 A The number of Mod Rehab units.

4 Q From whom did you learn you could get Mod Rehab

5 units?

6 A I'm not sure I understand the question. From whom

7 did I learn that the department had funding available or

8 from whom did I learn that I specifically would be able

9 to work towards getting some.

10 Q Let's start with the former and then go to the
11 latter. From whom did you learn that the Department had
12 funding available?

13 A With regard to the former, my recollection is that
14 it was common knowledge that -- I think that there was a
15 lawsuit that had been filed. This was something that
16 was quite well known, that there was a controversy
17 regarding this funding for Puerto Rico, and that was the
18 root of my approaching Miss Dean in the first place to
19 ask her if it was possible to compete for it.

20 Q Now, individually, did there come a point in time
2 where you learned that you could get funding?

2 A Well, in the initial conversation with Miss Dean
2 that I already mentioned, I asked if it were possible to
2 do that, and she said yes. If -- based on working with
2 Mr. Broussard.

1114

1 Q Did there come a point in time in your
2 conversations with the defendant Deborah Gore Dean that
3 a specific amount of Mod Rehab units were mentioned?

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4 MR. WEHNER: Your Honor, I object to the
5 leading nature of the question.
6 THE COURT: I'll overrule it at this time.
7 It's all right
8 A My recollection is that 150 units of funding were
9 discussed.
10 Q Now, when these conversations were taking place,
11 did you have a client?
12 A No.
13 Q Did there come a point in time where you did get a
14 client?
15 A Yes.
16 Q How did you go about getting a client?
17 A As I recall, we did two things. We -18
18 Mr. Broussard and I obtained lists from the local
19 housing authorities in Puerto Rico of developers and
20 properties who had made application for units
21 previously, and this is a ranking of properties, and my
22 understanding is that if the funding was reallocated it
23 had by regulation to go to one of the properties or
24 2 developers -- one of the properties, to be specific, who
25 2 had already been ranked by a particular housing

1115

1 authority in Puerto Rico. So we examined the lists and
2 contacted developers whose properties appeared on this
3 list to see whether they desired representation. And
4 I'm sorry, the other method was, I believe, that
5 Mr. Broussard contacted the HUD regional director who I
6 think was Joe Monticciolo and inquired of him whether he
7 could recommend anybody.

8 Q Did there come a time when you spoke with possible
9 developers in Puerto Rico?
10 A Yes.
11 Q who did you speak to?
12 A The only developers that I remember were the ones
13 that ended up being our client, although I know we spoke
14 with other people as well, but that's long gone and --
15 which was -- the name of the developer was Cleofe Rubi.
16 Q Now, you mentioned Cleofe Rubi and others you don't
17 remember. What if anything did you tell these
18 individuals?
19 A We told them that we could help get Mod Rehab for
20 them for their properties. That working with us they
21 had a good chance of doing this.

2 Q Did you ever tell them the specific amount?

2 A Yes, we did.

2 Q What was it?

2 A In fact, we wrote a contract with them based on 300

1116

1 units.

2 Q How did you come to the figure of 300 units?

3 A I think that they had indicated that they thought
4 they could get 150 units and Tom and I, Tom Broussard
5 and I felt that we could get 150 units as well. That's
6 where the 300-unit number came from and, in fact, the
7 150 units would not have worked for them because they
8 needed 300 units to complete this project.

9 MR. WEHNER: I'll object for the reasons
10 stated previously.

11 THE COURT: I'll allow it. Overruled.

12 BY MR. O'NEILL:

13 Q Mr. Sankin, you mentioned that agreement. What did
14 that agreement provide for in terms of a consulting
15 fee?

16 A Let me clarify this with you, Mr. O'Neill. There
17 were actually two agreements. Two separate agreements.
18 One with Mr. Broussard and one with myself. Do you want
19 me to answer collectively or individually?

20 Q Well, let me ask it again. As to the attorney
2 agreement, who signed that agreement?

2 A Mr. Broussard.

2 Q As to the consultant agreement, who signed that?

2 A I did.

2 Q What was the amount of money that you were to be

1117

1 paid pursuant to the contract?

2 A Pursuant to my consultant agreement, \$100,000 in

3 four installments over five years with I think it was a

4 five percent residual interest in any refinancings of

5 the property for sale.

6 Q What was the amount of money that Tom Broussard was

7 to be paid on the project?

8 A It was identical, I believe.

9 Q Was there a separate agreement as well entered into
10 between yourself and Mr. Broussard?

11 A Yes, there was.

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12 MR. WEHNER: Objection, Your Honor. Leading.
13 THE COURT: All right. I'll allow it. It's
14 overruled.
15 You may continue.
16 BY MR. O'NEILL:
17 Q what if anything was that agreement?
18 A Our agreement was -- was that any default on one
19 would be viewed as a default against the other and that
20 in the event that less than the full amount of both
2 contracts was paid, that we would share any fees

2 equally, and that if it was necessary to spend money on
2 collection, that we would share that expense.
2 Q what was the name of the project that Mr. Rubi and
2 Mr. Ballori had?

1118

1 A Alameda Towers.
2 Q Did there come a point in time where you were paid
3 for your services on the Alameda Towers project?
4 A We received a partial payment of our contract.
5 Q How much did you receive?
6 A I believe it was \$75,000.
7 Q Do you know how much Tom Broussard was paid?
8 A The same amount.
9 Q Did there come a point in time, Mr. Sankin, that
10 you worked as a consultant on additional HUD matters?
11 A Yes.
12 Q what was the next project in terms of time that you
13 worked on?
14 A I could tell you what they were. The chronology of
15 them is fuzzy. We -I
worked on Foxglenn Apartments,
16 also known as Kennedy Woods, and Eastern Avenue
17 Apartments. With respect to the Mod Rehab program. I
18 also did other things unrelated to the Mod Rehab
19 program.
20 Q Let's begin with the Foxglenn project. Did you
2 work with anyone on that project?
2 A I did.
2 Q With whom did you work?
2 A Rick Shelby.
2 Q who is Rick Shelby?

1119

1 A Rick Shelby is a political consultant in
2 Washington.
3 Q How did you come to work with Rick Shelby?
4 A I was referred to him by Miss Dean.
5 Q what did the defendant say about Rick Shelby?

6 A She said he was a quality person.

7 Q Did you, in fact, contact Mr. Shelby?

8 A I did.

9 Q What if anything did you say to him?

10 A I told him that I had been working with HUD but
11 that I wanted to work with another person so that his --
12 I wanted to limit my direct involvement. Number one.
13 And I wanted to limit my direct involvement, number one,
14 and number two, I wanted to increase my chances of
15 helping my clients, and Mr. Shelby was well respected

16 and well established and I felt his involvement would do

17 that.

18 Q What was the reason for wanting to limit your

19 involvement?

20 A Principally my relationship with Silvio
2 DeBartolomeis.

2 Q Who is Silvio DeBartolomeis?

2 A Silvio DeBartolomeis was a political appointee of
2 the Department of Housing and Urban Development and he
2 had been a close friend have mine from when we were

1120

1 teen-agers.

2 Q What do you mean you wanted to limit your

3 involvement with Silvio DeBartolomeis?

4 A I think we both felt that direct dealings between

5 Silvio and I would give an appearance of impropriety.

6 Q At the time you contacted Mr. Shelby, were you

7 working on any particular project?

8 A I think -- I believe I started working on the

9 Foxglenn Apartments at that time.

10 Q You mentioned the Poxglenn Apartments. Where are
11 they located?

12 A In Prince Georges County, Maryland.

13 Q Did you have a client who was the developer of that
14 project?

15 A I did, and they had been my client for sometime
16 prior to that.

17 Q Who was that client?

18 A It was Altman Brothers Realty.

19 Q Did you contact anyone at HUD headquarters
20 concerning the Foxglenn project?

2 A Yes, I did.

2 Q who did you contact?

2 A I spoke with Miss Dean.

2 Q What was your reason for speaking to the defendant?

2 A As I discussed, she was the highest ranking

1 official at HUD that I knew. She wasn't

2 Mr. DeBartolomeis. And it was my understanding she was
3 a decision maker in the Mod Rehab funding.

4 Q How many times did you speak with the defendant on
5 the Foxglenn project?

6 A I don't recall.

7 Q Is it more than once?

8 A I think so, but it's important to understand what
9 the dynamics of the relationship between Mr. Shelby and

10 I was. It was my job to work with the developer, with
11 local housing authorities in any real estate related or
12 lower tier matter, if you would. Whereas Mr. Shelby's
13 primary function would have been to deal with HUD
14 Central and Miss Dean, among other people. We -- there
15 was some overlap, so --

16 Q Did your contacts with the defendant Deborah Gore
17 Dean -- withdrawn. As to your contacts with the
18 defendant Deborah Gore Dean, were they business,
19 social? How would you describe them?

20 A Both.

2 Q To your knowledge, was the defendant Deborah Gore

2 Dean aware of your involvement in the Foxglenn project?

2 A Yes.

2 Q How do you know that?

2 A If nothing else, she certainly knew that I was

1 working with Rick Shelby and Mr. Shelby would ask her

2 about this property and I'm certain I discussed it with

3 her from time to time as well.

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4 Q Did there come a point in time where you learned

5 that the Foxglenn project in Maryland had been funded?

6 A Yes.

7 Q How did you learn that?

8 A I believe Mr. Shelby told me.

9 Q Were you ultimately paid for your services on the
10 Foxglenn project?

11 A Yes.

12 Q How much did you receive?

13 A I think it was \$110,000.

14 Q After the Foxglenn project, did you have an
15 opportunity to work on another project with a

16 consultant?

17 A Yes.

18 Q And what was that project?

19 A Eastern Avenue Apartments.

20 Q And with whom did you work as a consultant?

2 A I continued to work with Mr. Shelby with the same
2 client.

2 Q Where are the Eastern Avenue Apartments located?

2 A It physically straddles the line between the
2 District of Columbia and Prince Georges County, on

1123

1 Eastern Avenue.

2 Q Did you have any contact with anyone at HUD

3 headquarters concerning Eastern Avenue?

4 A The identical series of contacts as with Foxglenn

5 Apartments.

6 Q With whom did you have contact at HUD headquarters?

7 A Rick Shelby, and through Rick Shelby to Deborah

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8 Dean, and I'm certain I mentioned it to her a couple of

9 times but --

10 Q Who was your client on Eastern avenue?

11 A It was Altman Brothers Realty.

12 Q Did there come a point in time where you were paid
13 for your services on this project?

14 A In part.

15 Q How much were you paid?

16 A I think it was 20, \$21,000.

17 Q During your work on the Eastern Avenue project, did
18 you and Mr. Shelby have a disagreement?

19 A I don't think we had a disagreement.

20 Q Did there come a point in time where you and
2 Mr. Shelby did not do any work together again?

2 A Yes, that's correct.

2 Q And what precipitated that?

2 A The client, Altman Brothers, was upset with a
2 conversation that I had with the head of the Prince

1124

1 Georges County Housing Authority.

2 Q Without telling us what the head of the Prince

3 Georges County Housing Authority said, what did you say

4 to that person?

5 A I told the head of the housing authority what I had

6 been hired to do which was to get Section Eight Mod

7 Rehab funding for her housing authority.

8 Q Now, to your knowledge was the defendant Deborah

9 Gore Dean aware of your involvement in the Eastern
10 Avenue project?

11 A I think so.

12 Q Now, during this period that you were engaged in
13 the business of being a consultant, were you also
14 engaged in the business of property management?

15 A Yes.

16 Q What is property management? How would you
17 describe that?

18 A For a commercial property, a property manager is
19 responsible for collecting rents, for paying all the
20 bills, for making sure that the physical upkeep of the
2 property is being done, and for running the business of

1 managing that real estate.
2 Q When did you first become involved in the business
2 of property management?
2 A Well, I had been -- my grandfather and my father

1125

1 had both been in the real estate business, in the
2 apartment business, so I had -- and I had worked in that
3 from time to time. Independently, it would have been
4 1984 when I established my own firm.
5 Q Aside from the family businesses what is the first
6 property that you managed?
7 A Stanley Arms Apartments.
8 Q What is the Stanley Arms Apartments?
9 A The Stanley Arms Apartments is a 40-unit apartment
10 building at 1125 12th Street in the District, Northwest.
11 Q Who owned the Stanley Arms Apartments?
12 A At the time the apartments were owned by the H.
13 Grady Gore estate.
14 Q And how did you come to manage the Stanley Arms
15 Apartments?
16 A By virtue of discussions I had with Deborah Dean.
17 Q What did you say to her? What did she say to you?
18 A My best memory is that -- that I had known that
19 this apartment building belonged to her family and we
20 had discussed it.
2 Through those discussions I learned something
2 about how the building was being managed and who managed
2 it. I told her that -- that I thought they were doing
2 things poorly and -- and -- I don't remember whether I
2 said why don't you let me manage this or whether she

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1 said -- if she said, Andy, if you can do better why
2 don't you do it, but we came to a meeting of the minds
3 and it was agreed that I would take over management of
4 this building.
5 Q When was that decision made?
6 A I think it was 1984.
7 Q How long did you manage the Stanley Arms
8 Apartments?
9 A Until the property was eventually sold which I

10 think was 1989.

11 Q what type of work did management of the Stanley

12 Arms Apartments entail?

13 A All the things I just described. The property was,
14 in my view, in substandard condition in many ways and
15 so - and not financially well off, so it was - it was
16 a difficult property management job to bring the
17 property up physically and to improve the financial
18 conditions on it.

19 Q Did you manage the property by yourself?

20 A Well, I had staff. There was a maintenance person
2 on site. I had a bookkeeper. I had other property

2 management maintenance staff that would go from time to
2 time. I was primarily responsible.

2 Q Now, you stated it was a problem property. With
2 whom would you deal when confronted with problems in the

1127

1 management of the building?

2 A My primary contact in this case would have been
3 Miss Dean.

4 Q When you did not deal with Miss Dean who
5 your next contact?

6 A I dealt with -- with General Mitchell, a:
7 from time to time with Miss Dean's mother, he
8 Jamie Gore. I think that's about it.

9 Q Mr. Sankin, was there a written property management.
10 contract?

11 A No, I don't believe we ever had a written
12 management contract.

13 Q what type of contract did you have?

14 A I had an oral agreement.

15 Q With whom was this oral agreement?

16 A With Miss Dean.

17 Q what was the nature of this agreement? What were
18 the terms?

19 A The terms were standard really for any property
20 management agreement in an apartment building. We were
2 paid a flat percentage of the rents that we collected.

2 I think it was six percent. Standard, standard fee.

2 Q Where did you get the funds to operate the
2 building?

2 A Through - through the rents that were collected

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1 and occasionally from security deposit accounts when it
2 was necessary to do so.

3 Q Can you please define that answer? What do you
4 mean by from the security deposits when it was necessary
5 to do so?

6 MR. WEHNER: Objection to the leading and the
7 relevance, Your Honor.

8 THE COURT: The relevance? All right. I'll
9 overrule the first part. I'll accept a proffer from you
10 at the bench.

11 MR. WEHNER: Sorry, Your Honor, if it's going
12 to be relevant?

13 THE COURT: If it's going to be relevant, I'll

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14 wait.

15 MR. WEHNER: Thank you, Your Honor.

16 A When I first took over the management of the
17 building, the property was frequently run at a deficit

18 from month to month and there weren't enough money

19 available to pay the heating and maintenance bills.

20 There was -- we had a separate account that was
2 established for security deposits and, when necessary,
2 we took money from this account to pay utility or
2 maintenance bills and then repay the security deposit
2 account when it became available in a surplus amount.

2

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1 Q. To your understanding, is that against local law?

2 MR. WEHNER: Objection, Your Honor.

3 THE COURT: I'm going to sustain it, unless you come to
4 the bench and give me a proffer of what the relevance is.

5 MR. O'NEILL: Judge, I'll do it right now at the bench
6 if you'd like.

7 THE COURT: All right.

8 MR. WEHNER: And move to strike.

9 (Bench conference on the record.)

10 MR. O'NEILL: He's running the Stanley Arms Apartments
11 and violating local law by taking tenant security deposits and
12 applying them to operating expenses. The defendant was aware of
13 that. He'd asked the defendant. He notified her on numerous
14 occasions about it, as is detailed in the Jencks material.

15 And it's another -- he's doing things for her and for
16 the family's property that another management company would not
17 do.

18 THE COURT: How would that relate, how does that relate
19 to conspiracy? I understand the theory that he did her services
20 that were below cost or something -2

MR. O'NEILL: Right.

2 THE COURT: -- and he didn't charge her enough money,
2 but I don't understand the theory how if he went and dipped in
2 the security deposits against local law, that that is part and
2 parcel of furtherance of the conspiracy.

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MR. O'NEILL: The benefits that accrued to the
2 defendant by giving the units to him are he would do things,
3 whatever necessary to run the building, and another management
4 company might not do that, and he, but basically, Judge -- you
5 don't like it, I can tell.

6 THE COURT: It's more prejudicial than probative in any
7 event, so I'll strike it.

8 MR. WEHNER: Would Your Honor instruct the jury?

9 THE COURT: Yes.

10 (End of bench conference.)

11 THE COURT: All right, Ladies and Gentlemen, I've

12 sustained the objection, and I'm striking any reference about

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13 it's against local law about security deposits as not relevant to
14 any concern of the Court as to Mr. Sankin's testimony, so you'll
15 strike that from the evidence. You're not to refer to it later
16 on at any time in the case in your deliberations.

17 MR. O'NEILL: Thank you, Your Honor.

18 Q. Mr. Sankin, did there come a time when the Stanley Arms
19 Apartments began to run at a profit?

20 A. Yes.

21 Q. And when did that occur?

22 A. 1985, 1986, a year or so after I took over.

23 Q. Are you familiar with something called a hardship rent
24 increase?

25 A. Yes.

CO

1 Q. What is that?

2 A. Under the rent control law of the District of Columbia, an
3 apartment building is entitled to earn a certain minimum, what's
4 called a return on equity, which I think, I think the law allows
5 you, allows a building owner to earn 12 percent, 12 percent
6 return on the assessed value of the building less any debt that
7 the building may have.

8 Q. Did there come a point in time when you filed a hardship
9 rent increase petition for the Stanley Arms Apartments?

10 A. Yes, we did.

11 Q. When did you do that?

12 A. Well, we began it immediately after taking over management.

13 Q. How long did it take to prepare?

14 MR. WEHNER: Objection to the leading, Your Honor.

15 THE COURT: Okay. I'll allow it just to move the case
16 along. That's all right. Go ahead.

17 THE WITNESS: It took a while. It was a lengthy
18 proposal.

19 BY MR. O'NEILL:

20 Q. Can you describe the document that was ultimately prepared?

2

A. It's a very thick package of materials. What you had to
2 show was that the building was not operating at a profit or not
2

operating at the levels that you were allowed to make over a
2

period of time, a couple or few years, and you had to prepare
2

financial statements.

1 Then you had to back up the financial statements with,
2 with your receipts and your bills and your checks going back to
3 support everything in detail.

4 Q. At that time, were you familiar with the prevailing market
5 rate for filing such a hardship rent increase petition?

6 A. Yes.

7 Q. What was it?

8 A. My understanding that, that these things were prepared based
9 on either an attorney's hourly rate or professional's hourly rate

10 or, in the alternative, based on a, a percentage of the first
11 year's rent increase obtained. I think the prevailing number was

I 12 50 percent of the first year's rent increase.

13 Q. What would that have worked out to in the case of Stanley
14 Arms Apartments?

15 A. I think twenty-some-odd-thousand dollars would have been 50
16 percent of the rent increase that was obtained.

17 Q. Did there come a point in time when you asked any of the
18 owners of the Stanley Arms Apartments to be paid for preparing
19 this hardship rent increase petition?

20 A. I discussed it with them.

2 Q. With whom did you discuss it?

2 A. I discussed it with, with both Deborah Dean and, and at a
2 later point discussed it with Jamie Gore.

2 Q. Were you paid for preparing the petition?

2 A. No.

1 Q. Did you request payment for the petition?

2 MR. WEHNER: Objection to the leading nature of the
3 question.

4 THE COURT: Okay. It's overruled. Go ahead.

5 THE WITNESS: I, I did ask if they'd consider
6 compensating us for the work.

7 BY MR. O'NEILL:

8 Q. Did there come a point in time when the Stanley Arms
9 Apartments were sold?

10 A. Yes.

11 Q. And do you recall when that occurred?

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12 A. I think it was 1989.

13 Q. Now prior to the sale of the Stanley Arms Apartments, did
14 you ever attempt to procure any buyers for the apartment?

15 A. Yes. My memory is that for some time, the family
16 collectively had been interested in selling it, and when I was
17 able to, I tried to find a buyer for them.

18 Q. Do you recall any potential buyers that you solicited to
19 purchase the Stanley Arms Apartments?

20 A. I was in the real estate business, and so from time to time
2 I'd meet people in the business and mention it to them, so there

2 were probably several people who I don't remember, but I was
2 actually under contract to Altman Brothers to try to find real
2 estate opportunities for them in this area, and I did suggest it
2 to Berel Altman that he might be interested in purchasing this

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1 building.

2 Q. Approximately how many employees did you have that worked on
3 the Stanley Arms Apartments?

4 A. Well, at various times, I had, I think the high-water mark
5 was aside from myself, three full-time people in the property
6 management office, responsible for other things besides the
7 Stanley Arms, too.

8 There was a full-time on-site maintenance person who
9 was employed by the Stanley Arms. Additionally, I had, I don't

10 know, four or five other maintenance people that swung among
11 properties that on occasion would go to the Stanley Arms.

12 Q. As to your employees, did you have one employee who is
13 basically the day-to-day property manager of the Stanley Arms
14 Apartments?

15 A. Yes. It would have been William Morgan.

16 Q. And how did you pay Mr. Morgan?

17 A. He was given a salary.

18 Q. Did you ever pay him any bonuses?

19 A. Yes.

20 Q. When would you pay Mr. Morgan bonuses?

2 A. When, when my firm received a lump sum fee payment.

2 Q. What lump sum fee payments were you making at that time?

2 A. I was making lump sum fee payments in connection with my
2 consulting work at HUD.

2 Q. What was the reason for paying Mr. Morgan bonuses when you

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1 received lump sum payments from your work relating to HUD?

2 A. Well, No. 1, because those were the times that I had money
3 available. I gave, you know, my secretary a bonus as well. But
4 also because I felt that the property management work that he was
5 doing on the Stanley Arms was, was connected to and was important
6 with the consulting work I did at HUD, because it, it, I felt it
7 demonstrated a quality of work product and a, and a skill level
8 that gave me credibility in discussing real estate problems with
9 the agency.

10 Q. Now you stated you graduated from law school, I believe, in
11 1984?

12 A. Yes.

13 Q. Did there ever come a point in time when you provided legal
14 services to the defendant, Deborah Gore Dean?

15 A. I provided advice to her. I'm uncomfortable in saying legal
16 services, because I'm not admitted to practice law in the
17 District of Columbia or Maryland.

18 Q. So you were a lawyer but not yet admitted at that time?

19 A. Yes.

20 Q. What legal advice did you give to the defendant, Deborah
2 Gore Dean, and on what occasions?

2 A. When she purchased her condominium at the Towers Complex, I
2 sat with her at the, at the closing table to see whether there
2 was anything I could add to it. At another point, she had a
2 dispute regarding condominium fees with the condominium

1 association, and I assisted her on that.

2 Q. During this course of time that you were acting as a HUD
3 consultant, did you have an occasion to purchase meals for the
4 defendant, Deborah Gore Dean?

5 A. Yes. We went out to lunch or dinner from time to time.

6 Q. During this period of time that you acted as a HUD
7 consultant, did you have an occasion to buy gifts for the
8 defendant, Deborah Gore Dean?

9 A. Yes, I did.

10 Q. During this period of time that you were working as a HUD
11 consultant, did you have an occasion to make political
12 contributions at the defendant, Deborah Gore Dean's request?

13 A. Yes, I did, at her suggestion.

14 Q. And who did you make political contributions to?

15 A. I'm not sure I can remember all, but I remember making a
16 contribution to a campaign for Linda Chavez, United States
17 Senate, in Maryland. I made a contribution to the American Red
18 Cross here in Washington. There was a charity called Food for
19 Africa that I contributed to. I believe I made contributions to
20 both the Philadelphia and Los Angeles Fair Housing Committees.

2 Q. So the record is clear, you mentioned Food for Africa. At

2 whose request did you do that?

2 A. It was at Ms. Dean's.

2 Q. Are you certain of that?

2 A. I think so.

1 Q. Did there come a point in time when Ms., Ms. Dean expressed
2 an interest -- let me withdraw that.

Did you have a conversation with the defendant, Deborah
4 Gore Dean, about the campaign of Linda Chavez?

5 A. Yes, yes.

6 Q. What, if anything, did she, did she talk to you about?

7 A. Well, she told me that Linda Chavez was running for Senate
8 in Maryland and said she was a good candidate, said that she was
9 having a big affair in, in Baltimore and asked if I would

10 contribute to that and also told me that, I think, if I raised
11 enough money for a, for a table -- this was a big dinner -- that

12 there may be an opportunity to, to meet and have my picture taken
13 with the President of the United States at that dinner, who was
14 speaking for her.

15 Q. At any time, did the defendant, Deborah Gore Dean, express
16 an interest to you in Maryland politics?

17 A. Yes.

18 Q. What, if anything, did she say in that regard?

19 A. You know, remembering specific comments is difficult, but
20 clearly she had an interest in Maryland politics. Her family had
2 been involved in Maryland politics, and I, my, my impression was

2 that she was interested in some point at, at running for Congress
2 in Maryland.

2 Q. Mr. Sankin, with the Court's permission, at this time, I
2 would like to show you a number of documents. At this time, I

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1 would show you what's previously been marked for identification
2 purposes as Government's Exhibits 11C and 11W.

3 THE CLERK: Government's Exhibit 11C and 11W marked for
4 identification.

5 (Government's Exhibit Nos. 11C and 11W
6 were marked for identification.)

7 THE COURT: All right.

8 BY MR. O'NEILL:

9 Q. Mr. Sankin, I would first direct your attention to

10 Government's Exhibit 11C and ask you if you recognize that, sir?

11 A. It's my signature on an American Express receipt for, for
12 lunch at an area restaurant.

13 Q. And does it bear handwriting as well?

14 A. Yes, it does.

15 Q. And whose handwriting is that?

16 A. It's my handwriting.

17 MR. O'NEILL: Your Honor, at this time, I'd move 11C

18 into evidence as Government's Exhibit 11C. There's a prior

19 stipulation, Your Honor, as to the underlying business record.

20 THE COURT: All right, 11C will be admitted then.

2 MR. WEHNER: No objection, Your Honor.

2 (Government's Exhibit No. 11C was
2 received in evidence.)

2 BY MR. O'NEILL:

2 Q. Mr. Sankin, I would show you this, since it's now in

evidence. How much is that bill for?

2 A. \$157.97.

3 Q. And where is the bill? What occasion?

4 A. It's a restaurant called La Pavilion.

5 Q. And who did you go to that restaurant with?

6 A. The annotation says, "HUD officials."

7 Q. Do you recall who it was?

8 A. No, I don't.

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9 Q. On that specific day, you don't?

10 A. No, sir.

11 Q. Mr. Sankin, I would now show you a document that's

s 12 previously been marked for identification as Government's Exhibit
13 11D and ask you if you recognize that?

14 THE CLERK: Government's Exhibit 11 -- B or D?

15 MR. O'NEILL: D.

16 THE CLERK: D marked for identification.

17 (Government's Exhibit No. 11D was

18 marked for identification.)

19 THE WITNESS: It's an American Express slip for \$70 at

20 Duke Ziebert's, with my signature and with my handwriting that

21 says, "Andy -- that's me -- and HUD official. Discussed mod

22 rehab."

23 MR. O'NEILL: Your Honor, I would move this into

24 evidence as Government's Exhibit 11D.

25 MR. WEHNER: Your Honor, I object, not because it's not

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1144

1 an authentic business record, but because there's no connection
2 between that document and Ms. Dean.

3 THE COURT: All right. Well, let's see if they can tie

4 it in in some way. I'll hold it open to see if it's tied in.

5 BY MR. O'NEILL:

6 Q. Mr. Sankin, at this time, I'd show you Government's Exhibit

7 HE.

THE CLERK: Government's Exhibit HE marked for
identification.

10 (Government's Exhibit No. H E was

11 marked for identification.)

12 BY MR. O'NEILL:

13 Q. And ask you if you recognize that?

14 A. Yes.

15 Q. And what do you recognize that to be?

16 A. This is an American Express slip with my signature in the

17 amount of \$24 at the Dubliner Restaurant, and it says in my

18 handwriting, "Lunch with Rick Shelby of the Keefe Company."

19 MR. O'NEILL: I move this into evidence, Your Honor, as

Q 20 Government' s Exhibit HE.

UJ

a

2 MR. WEHNER: Objection as to relevancy, Your Honor.

2 THE COURT: All right, I'll overrule that, HE, and

2 allow it in. It's overruled. It's admitted, HE.

• 2 (Government's Exhibit No. H E was

2 received in evidence.)

1145

BY MR. O'NEILL:

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2 Q. At this time, Mr. Sankin, I'd show you Government's Exhibit
3 11F for identification.
THE CLERK: Government's Exhibit 11F marked for
identification.
(Government's Exhibit No. 11F was
marked for identification.)
8 BY MR. O'NEILL:
9 Q. And I'd ask you if you recognize this?
10 A. Yes. Once again, this is American Express, my signature,
11 \$14 at the Child Harold, and it says, "Andrew and Deborah.
12 Discussed HUD."
13 MR. O'NEILL: I'd move it into evidence, Your Honor, as
14 Government's Exhibit 11F.
15 MR. WEHNER: Can I have the date and the amount?
16 THE COURT: The date?
17 MR. O'NEILL: 5-9-86, \$14.
18 MR. WEHNER: \$14?
19 THE COURT: All right, it's admitted, HP.
20 MR. WEHNER: No objection, Your Honor, to that.
21 THE COURT: Thank you.
22 (Government's Exhibit No. 11F was
23 received in evidence.)
24 BY MR. O'NEILL:
25 Q. At this time, Mr. Sankin, I'm showing you what's previously

1146

1 been marked for identification purposes as Government's Exhibit
2 11G.
3 A. Mr. O'Neill, I can't hear you.
4 THE CLERK: Government's Exhibit 11G marked for
identification.
(Government's Exhibit No. 11G was
marked for identification.)
8 BY MR. O'NEILL:
9 Q. At this time, Mr. Sankin, I'm showing you what's previously
10 been marked for purposes of identification as Government's
11 Exhibit 11G, and I'd ask you if you recognize that?
12 A. Yes. It's an American Express slip in the amount of \$64.16.
13 Under my signature, it's dated -- I don't see the date.
14 Q. If I may?
15 A. Thank you. 5-9-86.
16 And in my handwriting, it says, "Andrew with HUD
17 executive assistant to the secretary. Discussed stuff."
18 Q. Do you recall at this time who you were referring to?
19 A. The only executive assistant to the secretary who I knew
20 was, was Deborah Dean.
21 THE COURT: All right. You're offering 11G then?
22 MR. O'NEILL: Yes, Your Honor, I'm sorry.
23 MR. WEHNER: No objection, Your Honor.
24 THE COURT: All right, 11G is admitted.
2

1147

1 (Government's Exhibit No. 11G was
2 received in evidence.)
3 BY MR. O'NEILL:
4 Q. At this time, Mr. Sankin, I'm showing you what's previously
5 been marked as Government's Exhibit 11H for identification.
THE CLERK: Government's Exhibit 11H marked for
identification.
(Government's Exhibit No. 11H was
9 marked for identification.)
10 THE COURT: Are you going all the way through to w, or
11 do you jump some numbers here?

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12 MR. O'NEILL: We're all the way through W, Your Honor.
13 THE COURT: We're never going to be able to get
14 finished with cross. We'll see where we go here. All right.
15 THE CLERK: Government's Exhibit 11H marked for
16 identification.
17 MR. O'NEILL: Your Honor, there are more after this.
18 There are more.
19 THE COURT: After this one?
20 MR. O'NEILL: Yes.
2 THE COURT: Let me just take a break. We won't finish
2 this afternoon.
2 All right. We're going to take an afternoon recess,
2 Ladies and Gentlemen. I don't want to do it too long, because I
2 have to leave a little early this afternoon, too, but we'll take

our afternoon recess at this time.
2 It's about 6 minutes past. I want to try to be back
3 here at 17, 18 minutes past three o'clock so we can get going
4 again. I have to leave here shortly before four.
5 MR. WEHNER: Before four?
6 THE COURT: Yes. So you won't make it this afternoon.
7 MR. WEHNER: No, sir.
8 THE COURT: Because he's not finished.
9 All right, we'll take a recess. Remember the
10 admonition about not talking about the case, please.
11 (Jury out.)
12 (Recess from 3:07 p.m. to 3:20 p.m.)
13 THE COURT: Bring the jury in, please.
14 (Jury in.)
15 THE COURT: All right, we're ready to resume, Ladies
16 and Gentlemen, at this time. We're at 11H, I believe.
17 MR. O'NEILL: Your Honor, I'll even -I've
taken some
18 of these out. I'll go to a few others.
19 Q. Mr. Sankin, for the record, I'm showing you what's
20 previously been marked for identification purposes as 11J, UK,
21 11L, 11M, UN, 110, IIP, 11Q, 11V, and 11W, and I'd ask you just
22 to look at all of those, please, if you would.
23 THE CLERK: Government's Exhibits 11J through W marked
24 for identification.
25

1149
(Government's Exhibit Nos. 11J thru 11Q,
and 11V were marked for identification.
)
4 THE WITNESS: I'm going to do these in reverse order,
5 Mr. O'Neill. Is that all right?
6 BY MR. O'NEILL:
7 Q. Whichever order you'd like, I'd ask you to look at them.
8 A. I have from September 1987 under my signature for \$72 at an
9 establishment called Floom's (phonetic). The notation is,
10 "Entertained Deborah Dean, HUD. Discussed HUD personnel."
11 THE COURT: Is that 11W?
12 THE WITNESS: Sir?
13 THE COURT: 11W?
14 THE WITNESS: Is it marked on here? Yes, 11W.
15 THE COURT: All right.
16 MR. WEHNER: Your Honor, can we have a date on that,
17 please?
18 THE WITNESS: September 1987.
19 MR. WEHNER: September what?
20 THE WITNESS: September 29.
21 MR. WEHNER: Thank you.

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22 THE WITNESS: This one is dated May 16, 1987, \$42, my
23 signature, Tia Queta Restaurant, in Bethesda. "Lunch with
24 D. Dean, assistant secretary at HUD. Discussed mod rehab."
25 This is dated December 24. That's December 24, 1986.

1150

1 It's for \$168.54 at Georgetown Leather, and it says, "Business
2 gift. HUD assistant to secretary." That was Q.
3 This is IIP, dated December 23, 1986. It says \$300,
4 one, God, Sayres (phonetic) or Simms (phonetic) cup and saucer.
5 Krupsaw Antiques. It says, "Business gift, Deborah Dean."
6 This is \$140, Old Anglers Inn, December 19, 1986. It
7 says, "Dinner --" I think it says, "Dinner with staff assistant
8 to secretary at HUD. Discussed new tax bill effects."
9 This is \$24. "Dinner with staff assistant to secretary
10 at HUD. Discussed mod rehab."
11 BY MR. O'NEILL:
12 Q. When you say "this," what number is it again?
13 A. I'm sorry, this is UN.
14 Q. Please proceed.
15 MR. WEHNER: what was the date of that, please,
16 Mr. O'Neill?
17 THE WITNESS: Excuse me, this was November 29, 1986.
18 This is, I can't read the exhibit marking, 11M maybe.
19 BY MR. O'NEILL:
20 Q. Yes, M.
2 A. November 14, '86, "Dinner with chief of staff at HUD.
2 Discussed mod rehab." \$71 at the China Coral.
2 This is \$61.63, dated August 17, 1986. It says, "Lunch
2 with D.D. from HUD. Discussed mod rehab funding." It's HE.
2 Q. How much money is that?

1151

1 A. It s \$61 .63 at the Potomac Restaurant.
2 THE COURT: That's L, isn't it?
3 MR. O'NEILL: Correct, Your Honor. It does look like
4 an E, Your Honor.
5 MR. WEHNER: I'm sorry, 11L?
6 MR. O'NEILL: Yes.
7 MR. WEHNER: As opposed to E?
8 THE WITNESS: This is UK. It's \$150. It says,
9 "Dinner with executive assistant and chief of staff of secretary
10 of HUD,' 1 at, there's no marking for the -- oh, 219 Restaurant
11 maybe. I think that's right, 219.
12 MR. WEHNER: Do you have a date, Mr. O'Neill, please?
13 THE WITNESS: I'm sorry. This is July 23, 1986.
14 This is \$17. It's Exhibit 11J. It's dated July 18,
15 1986.]Ct says, "with Debbie Dean and Hunter Cushing, both of
16 HUD. Discussed mod rehab." Gangplank Restaurant.
17 MR. O'NEILL: Your Honor, at this time for the record,
18 I would move into evidence Exhibits 11J. K. L. M. N. O. P. O. V.
19 and W.
20 MR. WEHNER: No objection, Your Honor.
2 THE COURT: All right, those exhibits as identified
2 will be admitted.
2 (Government's Exhibit Nos. 11J thru 11Q
2 11V, and 11W were received in
2 evidence.)

^

BY MR. O'NEILL:

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2 Q. Mr. Sankin, at this time, I will show you a copy of a
3 document previously marked for identification as Government's
4 Exhibit 104.

THE CLERK: Government's Exhibit 104 marked for
identification.
(Government's Exhibit No. 104 was
marked for identification.)

BY MR. O'NEILL:

10 Q. I'd ask you if you recognize this, sir?

11 A. Yes. This is a letter dated December 12, 1984, from myself
12 to my client, John Rosenthal, at Pennrose Properties, confirming

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7/93

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BAYONNE, NJ 07002 LASER BOND-A

13 our \$10,000 contingency fee agreement for the Necho Allen
14 project.

15 MR. O'NEILL: Your Honor, at this time, I would move
16 Government's Exhibit No. 104 into evidence.

17 MR. WEHNER: Judge, I'm sorry, could we have the
18 monitor clear unless the witness is talking about a particular
19 exhibit?

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o 20 THE COURT: All right. Unless he's using it, then
s

21 we'll take it off.

22 All right, 104 will be admitted, no objection.

23 (Government's Exhibit No. 104 was
24 received in evidence.)

25 MR. O'NEILL: well, Your Honor, I'd might as well sit

1153

1 here for a while. I'm trying to speed it up.

2 MR. WEHNER: Judge, I appreciate trying to speed it up.

3 THE COURT: I understand.

4 You're just going to display to them these American
5 Express bills he talked about?

6 MR. O'NEILL: Yes, Your Honor.

7 (Exhibits displayed.)

8 THE COURT: All right, I think that's the last one.

9 You can go on.

10 BY MR. O'NEILL:

11 Q. Mr. Sankin, at this time, I would show you a government's
12 document marked for identification purposes as 111A.

13 THE COURT: Did you say 101A?

14 MR. O'NEILL: 111A.

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15 THE CLERK: Oh.

16 (Government's Exhibit No. 111A was
17 marked for identification.)

18 BY MR. O'NEILL:

19 Q. I'd ask you to look at this, but do not read it out loud,
20 since it is not in evidence. Do you recognize that, sir?

2 A. You have to give me a minute.

2 The question was do I recognize it?

2 Q. Yes.

2 A. I certainly recognize the subject matter of it. I don't
2 remember the document specifically.

en

1 Q. Did you draft that?

2 A. I think so, because it looks like it was done on my word
3 processor. I'm not certain.

4 Q. Having looked at it, did you or did you not draft it, do you
5 know?

6 A. I, I think I did, but I couldn't say for certain.

7 Q. Mr. Sankin, at this time, I'm going to show you a document
8 I've previously marked for purposes of identification as
9 Government's Exhibit 111B.

10 THE CLERK: Government's Exhibit 111B marked for
11 identification.

12 (Government's Exhibit No. 111B was
13 marked for identification.)

14 BY MR. O'NEILL:

15 Q. And I'd ask you, do you recognize this?

16 A. Again, I'm going to tell you I recognize the subject matter.
17 I think I drafted this letter for the signature that's on here.

18 That's as strong as I can be on it.

19 Q. Mr. Sankin, I will show you Government's Exhibit 115 for

20 identification.

2 THE CLERK:

2 identification.

2

2

2 BY MR. O'NEILL:

Government's Exhibit 115 marked for

(Government's Exhibit No. 115 was
marked for identification.)

1155

1 Q. And I'd ask you if you recognize this, sir?

2 A. Yes, I do.

3 Q. And what is that? Yes, what is that document?

4 A. This is a letter that I wrote to, to Ms. Dean on behalf of
5 my client, John Rosenthal, asking her to review enclosed
6 information on the Regent Street property in Philadelphia.

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7 MR. O'NEILL: Your Honor, at this time, I'd move it
8 into evidence as Government's Exhibit No. 115.
9 MR. WEHNER: We object, Your Honor. I don't think

10 there's any evidence that letter was ever sent.
11 THE COURT: Is there any evidence that this wasn't
12 sitting in his files the whole time?
13 MR. O'NEILL: This is his copy, Your Honor. We would
14 not know what happened to the other side.
15 THE COURT: No, but I mean, let me ask this: Do you
16 know if you delivered or mailed this, the original of this
17 letter?
18 THE WITNESS: I don't know, Your Honor.

19 THE COURT:
20 for what it's worth.
2 MR. WEHNER:
2 he didn't sign it.
2 THE COURT:
2 MR. WEHNER:

I'll admit it in any event. It can come in
He says he wrote it.
Your Honor, he may have said he wrote it;

He said he wrote it.
Very well, Your Honor. Just so Your Honor

understands it's not signed.

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3 Honor.
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5

THE COURT:
MR. WEHNER:

THE COURT:
MR. WEHNER:

This is a copy from his files.
Actually, it's not even a copy, Your

All right.
It appears to me to be an original. It

6 doesn't look like it was ever signed.
7 THE COURT: If you want to ask him some voir dire about
8 it, I'll let you do that.

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9 MR. WEHNER: Could I, Your Honor?
10 THE COURT: Yes. Go ahead.
11 VOIR DIRE EXAMINATION
12 BY MR. WEHNER:
13 Q. Mr. Sankin, this is an original letter, is it not?
14 MR. O'NEILL: Objection to the leading, Your Honor.
15 It's voir dire. He has to ask non-leading questions.
16 THE COURT: All right. You can just ask him what it
17 is.
18 BY MR. WEHNER:
19 Q. Would you please examine that letter?
20 A. This is not a photocopy. It's, it's certainly on original
2 stationery.
2 Q. And how can you tell us it's on original stationery?
2 A. Well, because it's -- the letterhead is embossed. It's
2 possible this was either a draft or a computer-generated copy
2 from my files.

1157

1 Q. Did you send that letter to Deborah Gore Dean?
2 A. I don't know.
3 Q. Where did that original come from?
4 A. It came from my files.
5 END OF VOIR DIRE EXAMINATION
6 MR. WEHNER: I renew my objection to the document, Your
7 Honor.

THE COURT: I'll allow it in. It's overruled.

(Government's Exhibit No. 115 was
10 received in evidence.)
11 MR. O'NEILL: Your Honor, at this time, I would show
12 the defendant -- excuse me, the witness a document previously
13 entered into evidence as Government's Exhibit 128 pursuant to a
14 stipulation from defense counsel.

15 THE CLERK:
16 identification.
17
18
19 BY MR. O'NEILL:

Government's Exhibit 128 marked for

(Government's Exhibit No. 128 was
marked for identification.)

20 Q. Mr. Sankin, I'd ask you to look at this and tell the jury
2 what that is.
2 A. This is a check from Tri-Rose Associates Regent
Street,
2 dated December 25, 1985. The amount of the check is \$10,000, and
2 it's made out to Andrew C. Sankin, Esq., and -- excuse me, it's
2 \$1,000, not \$10,000.

1 Q. What was that check for, sir?
2 A. It was a fee in connection with the Regent Street
Page 651

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3 Apartments.

4 Q. At this time, I would show you a document previously marked
5 for identification as Government's Exhibit 131.

THE CLERK: Government's Exhibit 131 marked for

identification.

8 (Government's Exhibit No. 131 was
9 marked for identification.)

10 BY MR. O'NEILL:

11 Q. Mr. Sankin, please look at Government's Exhibit 131 for
12 identification. Do you recognize that? Sir, do you recognize
13 it?

14 A. Hold on, sir.

15 All right. Yes, this is a draft of a letter that I
16 wrote to John Rosenthal in December of 1985 requesting a fee for
17 Regent Street Apartments.

18 MR. O'NEILL: Your Honor, at this time, I'd move it
19 into evidence as Government's Exhibit 131.

20 MR. WEHNER: Voir dire, Your Honor?

2 THE COURT: All right.

2 MR. WEHNER: Could you read back the last answer,
2 please?

2 (Answer read.)

1159

BY MR. WEHNER:

VOIR DIRE EXAMINATION

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7

Q.

A.

Did you send the letter?

Mr. Wehner, this letter was definitely sent.

END OF VOIR DIRE EXAMINATION

MR. WEHNER: Thank you. Nothing further.

No objection.

8 THE COURT:

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THE COURT:

BY MR. O'NEILL:

All right, 131 is admitted.

(Government's Exhibit No. 131 was
received in evidence.)

I can do one more before I have to leave.

13 Q. That last exhibit that I showed to you, Mr. Sankin, what was
14 the purpose of that letter to Mr. Rosenthal?

15 A. The purpose of that letter was to request a fee for Regent
16 Street Apartments. Because of the circumstances involved in it,
17 we hadn't, we hadn't reached a fee agreement prior to funding.

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18 Q. At this time, I would show you Government's Exhibit 134,
19 already admitted in evidence pursuant to a stipulation.
20 Do you recognize that?
21 A. Yes, I do.
22 Q. And what is that?
23 A. It's a check to me personally for \$10,000. The date on the
24 check is December 19, 1988, deposited a month later, in January
25 of 1989, the 17th, and it's Regent Street Associates, and it was

1160

1 the fee that I had requested in 1985 for this property.
2 THE COURT: All right, I'm going to have to recess,
3 Ladies and Gentlemen, at this time. I've got another matter I
4 have to take up not involving this case.
5 Ladies and Gentlemen, we'll be back tomorrow at 9:30, a
6 full day tomorrow, a half a day Friday. Tomorrow we'll be able
7 to start at 9:30. I have one very short matter at nine. I
8 expect to be ready to go at 9:30, so I'd ask you to be prompt and
9 be here by then.
10 I keep giving you the admonition. We smile about it,
11 because you have it memorized, but the rationale or the
12 background, the reason for the admonition not to talk or listen
13 or watch or read anything about this case obviously is you can't
14 learn anything about this case except what you see and hear in
15 this courtroom what the evidence is, and additionally, it would
16 be very unfair and could possibly cause a mistrial, that is, we'd
17 have to start the trial over again, if some of you got together
18 and talked about this case on the way home or during breaks or
19 anything like that.
20 So we can't have you talking with each other or with
2 anyone else about the case or with the parties to the case or the
2 witnesses or about anything at all. So please remember that
2 admonition.
2 we'll see you back here tomorrow morning then at 9:30
2 in the morning, please. Thank you.

1161

1 (Jury out.)

2 THE COURT: we'll have to get you back tomorrow morning

3 at 9:30, all right?

4 THE WITNESS: Yes .

5 THE COURT: Thank you. All right, we'll stand in

6 recess until 9:30. '

7 (Recess from 3:55 p.m., to 9:30 a.m., September 23, 1993.)

8

9 CERTIFICATE OF THE REPORTERS

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10 we certify that the foregoing is a correct transcript of the

1 record of proceedings in the above-entitled matter.

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1162

I UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

2

UNITED STATES OF AMERICA, Criminal No. 92-181-01

3
VS. Washington, D.C.
4 September 23, 1993
DEBORAH GORE DEAN, 10:00 a.m.
5
Defendant.
6

7
TRANSCRIPT OF JURY TRIAL
8 BEFORE THE HONORABLE THOMAS F. HOGAN
UNITED STATES DISTRICT JUDGE
9

VOLUME IX

10
APPEARANCES:

11
FOR THE GOVERNMENT: ROBERT O'NEILL, ESQ.
12 PAULA SWEENEY, ESQ.
Office of Independent Counsel
13 444 North Capitol Street, N.W.
Washington, D.C. 20001
14

15 FOR THE DEFENDANT: STEPHEN VINCENT WEHNER, ESQ.
513 Capitol Court, N.E., Suite 200
16 Washington, D.C. 20002

17

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ALSO PRESENT: MARK BATTS
18

19 OFFICIAL COURT REPORTER: ANNELIESE J. THOMSON
SANTA THERESA ZIZZO
20 U.S. District Courthouse
3rd and Constitution, N.W.
21 Washington, D.C. 20001
(202)842-5069
22

23
(Pages 1162 - 1340)
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25
COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

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1 INDE X
2 DIRECT CROSS REDIRECT RECROSS
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5
WITNESSES ON BEHALF OF
THE GOVERNMENT-
Andrew C. Sankin
(Resumed)
1166 1185 1271
BereI Altman 1294 1304
Nicholas Bazan 1305 1317 1321 1323
8 David westcott 1324 1327
9 Claude Dorsy 1330 1335

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GOVERNMENT'S:
NO. 11U
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144B
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146C

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15 8A
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EXHIBITS
EXHIBITS (Cont1 d.)
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EXHIBITS (Cont'd.)

GOVERNMENT•S MARKED RECEIVED
3 15 9A 1177 1178
4 162 1178 1179
5 163 1179 1179
6 166 1180 1180
7 171 1181 1181
8 173A 1181 1182
9 505 1183
10
11 DEFENDANT'S:
12 NO. 126 1254
13 127 1258
14 128 1260
15 129 1262
16 130 1266
17 131 1269
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PROCEEDING S
2 (Defendant present, Jury out.)
3 THE CLERK: Criminal No. 92-181, United States of
Page 656

allbinders as word for experiment.txt
4 America v. Deborah Gore Dean. We have Paul O'Neill and Paula
5 Sweeney -- sorry about that, Robert O'Neill -
6 THE COURT: we'll change them around.
7 THE CLERK: --for the government, Stephen Wehner for
8 Ms. Dean.
9 MR. WEHNER: Good morning, Your Honor.
10 THE COURT: All right, are you ready to continue with
11 Mr. Sankin?
12 MR. O'NEILL: Yes, Your Honor.
13 THE COURT: All right.
14 MR. WEHNER: Your Honor, before I forget, I had asked
15 whether or not next Friday was going to be an off day, not this
16 Friday, but next Friday. Are you going to take the entire day
17 off next Friday? I'm trying to do some scheduling.
18 THE COURT: It looks like I'll have to now. The FBI
19 fairness hearing we had moved -- that's not next Friday. No, I
20 put that later in the month. I moved that, because I thought we
21 were -22
MR. O'NEILL: I believe it's the 8th, Your Honor.
23 THE COURT: Yes, that's the one.
24 No, I think next Friday -- I've got so many. This
25 Friday is the death capital case, and then Friday the 2nd, I'll

1 have to look at the calendar. I'll let you know.
2 MR. WEHNER: Thank you, Your Honor.
3 THE COURT: I'll just look at the calendar and see
4 what's on the 2nd.
5 MR. O'NEILL: Judge, initially you had said on Friday
6 the 1st we would be off after 3:00.
7 THE COURT: Yes, yes. Let me check. I think that
8 Friday is a half a day next Friday. I don't think it's all, I
9 don't think the whole day is canceled.
10 MR. WEHNER: Okay.
11 THE COURT: I'll check on it.
12 (Jury in.)
13 THE COURT: All right, Ladies and Gentlemen, good
14 morning. We're ready to proceed with the continuation of the
15 testimony at this time of Mr. Sankin.
16 You may resume the stand, please.
17 ANDREW C. SANKIN, GOVERNMENT'S WITNESS, RESUMED
18 DIRECT EXAMINATION (Cont'd.)
19 BY MR. O'NEILL:
20 Q. Mr. Sankin, I would just state for the record you're still
2 under oath, as you were yesterday.
2 A. Yes, sir.
2 Q. At this time, Mr. Sankin, I'm showing you what has
2 previously been marked for purposes of identification as
2 Government's Exhibit 135.

1167

1 THE CLERK:
2 identification.
3
4
5 BY MR. O'NEILL:

Government's Exhibit 135 marked for

(Government's Exhibit No. 135 was
marked for identification.)

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6 Q. I'd ask you if you recognize it?

7 A. It's a deposit slip for \$10,000, dated January 13, 1989, and
8 that's my bookkeeper's handwriting on it, says, "Regent Street
9 Project, Consulting."

10 Q. And for what account is that?

11 A. This is my personal bank account.

12 MR. O'NEILL: Your Honor, I'd move this into evidence
13 as Government's Exhibit 135.

14 MR. WEHNER: No objection, Your Honor.

15 THE COURT: All right, 135 is admitted.

16 (Government's Exhibit No. 135 was
17 received in evidence.)

18 BY MR. O'NEILL:

19 Q. Mr. Sankin, at this time, I would show you what's previously
20 been marked for purposes of identification as Government's
2 Exhibit 139.

2 THE CLERK: Did you say 131?

2 MR. O'NEILL: 139.

2 THE CLERK: Government's Exhibit 139 marked for
2 identification.

THE COURT: All right.

2

1

MR. O'NEILL: And I believe it already has been entered
3 into evidence, Your Honor. I'm sorry. I apologize for that.

4

THE COURT: All right.

5 BY MR. O'NEILL:

6 Q. Mr. Sankin, do you recognize that?

7 A. Yes. This is the letter agreement dated October 18, 1985,
8 between Tom Broussard and myself, the fee agreement we discussed
9 yesterday, where it's our cross-collateral, if you will.

10 Q. And for which project is this document concerned?

11 A. Alameda Towers.

12 Q. At this time then, I would show you what's been previously

(0 13 entered into evidence as Government's Exhibit 140, and I'd ask
14 you, sir, to tell the jury what that is.

15 A. This is my consulting contract with Alameda Associates and
16 Cleofe Rubi for the Alameda Towers property.

17 Q. And how many units do you agree to try to obtain for him?

18 A. The contract is a contingency contract, and the amount of
19 funding desired in the contract was 300 units.

20 Q. Mr. Sankin, I would now show you what's previously been
21 entered into evidence -- I will show you what's previously been
22 marked for identification purposes as Government's Exhibit 143B.

23

THE CLERK: Government's Exhibit 143B marked for
24 identification.

25

1169

(Government's Exhibit No. 143B was marked for identification.)

BY MR. O'NEILL:

4 Q. And I'd ask you, do you recognize this document?

5 A. This is a letter I wrote in September of 1986 to Cleofe Rubi
6 regarding the Alameda Towers property. It discusses some of the
7 things that, that we had gone through together with the local
8 housing authority, and it also requests a payment, first payment.
9 Q. And what would that first payment be, sir?

10 A. \$25,000.

11 MR. O'NEILL: Your Honor, at this time, I would move it
12 into evidence as Government's Exhibit 143B.

13 MR. WEHNER: No objection, Your Honor.

14 THE COURT: All right, 143B is admitted.

15 (Government's Exhibit No. 143B was received in evidence.)

17 BY MR. O'NEILL:

18 Q. Mr. Sankin, I would show you what's previously been marked
19 as Government's Exhibit 144A.

20 THE CLERK: Government's Exhibit 144A marked for
21 identification.

22 (Government's Exhibit No. 144A was marked for identification.)

24 BY MR. O'NEILL:

25 Q. I'd ask you if you recognize this, sir?

1 A. It's a check from Mora Development Company to me for
2 \$25,000, dated December 1, 1987, and I guess this would be the
3 first installment as requested in the previous letter.

4 MR. O'NEILL: At this time, Your Honor, I'd move that
5 into evidence as Government's Exhibit 144A.

6 MR. WEHNER: No objection.

7 THE COURT: All right, 144A is admitted.

8 (Government's Exhibit No. 144A was received in evidence.)

10 BY MR. O'NEILL:

11 Q. At this time, Mr. Sankin, I show you what's previously been
12 marked as Government's Exhibit 144B. 41 13 THE CLERK: Government's Exhibit
144B marked for

14 identification.

15 (Government's Exhibit No. 144B was marked for identification.)

17 BY MR. O'NEILL:

18 Q. Do you recognize that, sir?

19 A. Yeah. This is a deposit slip, I think, yeah, into my
20 corporate money market account for \$25,000, and the date is
21 December 4, '87. I don't recall what the date on the previous
22 check was, but I believe it corresponds.

23 MR. O'NEILL: At this time, I'd move it into evidence,
24 Your Honor, as Government's Exhibit No. 144B.

25 MR. WEHNER: No objection, Your Honor.

1171

THE COURT: It's admitted.
(Government's Exhibit No. 144B was received in evidence.)

BY MR. O'NEILL:

5 Q. At this time, Mr. Sankin, I'm showing you what's previously6

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been marked as Government's Exhibit 146 for identification.
THE CLERK: Government's Exhibit 146 marked for
identification.
(Government's Exhibit No. 146 was
10 marked for identification.)
11 BY MR. O'NEILL:
12 Q. Do you recognize this, sir?
13 A. This is a check also from Mora Development Company also for
14 \$25,000 from March of 1990, and a corresponding deposit slip to,
15 this looks to be the corporate checking account. I don't know
16 which installment this is. I suspect it's the third.
17 MR. O'NEILL: I'd move it into evidence, Your Honor, as
18 Government's Exhibit 146.
19 MR. WEHNER: No objection, Your Honor.
20 THE COURT: It's admitted.
21 (Government's Exhibit No. 146 was
22 received in evidence.)
23 BY MR. O'NEILL:
24 Q. Mr. Sankin, I'm showing you Government's Exhibit No. 146C
25 for purposes of identification.

1172

1 THE CLERK: Government's Exhibit 146C marked for
2 identification.
(Government's Exhibit No. 146C was
marked for identification.)
BY MR. O'NEILL:
6 Q. Again, sir, I'd ask you, do you recognize this?
7 A. This is a deposit slip also from, this is from December of
8 1990 into my personal account for \$25,000. It's marked in my
9 bookkeeper's handwriting "Mora Development." I presume we
10 transferred money from the corporate counsel to my personal
11 account.
12 Q. And what is the date on that?
13 A. It's December of 1990.
14 MR. O'NEILL: I move this into evidence, Your Honor, as
15 Government's Exhibit 146C.
16 MR. WEHNER: No objection, Your Honor.
17 THE COURT: All right, 146C will be admitted.
18 (Government's Exhibit No. 146C was
19 received in evidence.)
20 BY MR. O'NEILL:
2 Q. Mr. Sankin, I would show you a document marked as
2 Government's Exhibit No. 149.
2 THE CLERK: Government's Exhibit 149 marked for
2 identification.
2

1173

1 (Government's Exhibit No. 149 was
2 marked for identification.)
3 BY MR. O'NEILL:
4 Q. I'd ask do you recognize this, sir?
5 A. This is a contract that I drafted, dated May 1986, between
6 Richard Shelby and Altman Properties. It's a contingency
7 contract providing for a fee of, a total fee of \$220,000 based on
8 172 units of mod rehab funding to Prince George's County Housing
9 Authority. I'm not a party to this contract, but I am a
10 third-party beneficiary.
11 MR. O'NEILL: At this time, Your Honor, I'd move this
12 into evidence as Government's Exhibit No. 149.
13 MR. WEHNER: No objection, Your Honor.

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14 THE COURT: All right, 149 will be admitted.
15 (Government's Exhibit No. 149 was
16 received in evidence.)
17 BY MR. O'NEILL:
18 Q. Mr. Sankin, I would show you a document that's been marked
19 Government's Exhibit 155 for identification purposes.
20 THE CLERK: Government's Exhibit 155 marked for
2 identification.
2 (Government's Exhibit No. 155 was
2 marked for identification.)
2 BY MR. O'NEILL:
2 Q. I'd ask if you recognize this, sir?

1174

1 A. This appears to be a microfiche copy of my bank statement
2 on, I think this is my personal bank account. It's dated August
3 12, 1986.
4 MR. O'NEILL: At this time, Your Honor, I'd move it
5 into evidence as Government's Exhibit 155.

6 MR. WEHNER:

7 THE COURT:
8 admitted.

9
10

11 BY MR. O'NEILL:

No objection, Your Honor.
No objection, all right, 1! a

(Government's Exhibit N s
received in evidence.)

12 Q. Mr. Sankin, I would direct your attention to August 7. Did
13 you make a deposit on that date, sir?
14 A. So it appears, yes.
15 Q. And how much did you deposit in your account on that date?
16 A. \$107,000.
17 Q. Mr. Sankin, I would show you a document previously marked as
18 Government's Exhibit 156 for identification.
19 THE CLERK: Government's Exhibit 156 marked for
20 identification.
2 (Government's Exhibit No. 156 was

2 marked for identification.)

2 BY MR. O'NEILL:

2 Q. I would ask you if you recognize that, sir?

2 A. Yes. This is a, a cashier's check from American Security

1175

1 Bank and ACS & Associates, Ltd.

2 Q. What is ACS & Associates?

3 A. It was my corporation.

4 And it's for \$53,000, and it's to the order of Richard

5 Shelby, dated August 12, '86.

6 MR. O'NEILL: Your Honor, at this time, I'd move it

7 into evidence as Government's Exhibit No. 156.

8 MR. WEHNER: No objection, Your Honor.

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9 THE COURT: All right, 156 is admitted.
10 (Government's Exhibit No. 156 was
11 received in evidence.)
12 BY MR. O'NEILL:
13 Q. And what did that payment constitute, Mr. Sankin?
14 A. That would have been Mr. Shelby's portion of the previous
15 deposit of \$107,000.
16 Q. At this time, Mr. Sankin, I would show you a document
17 previously marked as Government's Exhibit 158A.
18 THE CLERK: Government's Exhibit 158A marked for
19 identification.
20 (Government's Exhibit No. 158A was
2 marked for identification.)
2 BY MR. O'NEILL:
2 Q. Do you recognize that, sir?
2 A. Yes. It's a personal check from me to the, Linda Chavez for
2 Senate campaign. It's in the amount of \$3,000. It's dated

1 October 23, my birthday, 1986. "Political contribution," it's
2 marked.
3 MR. O'NEILL: Your Honor, I'd move it into evidence as
4 Government's Exhibit No. 158A.
5 MR. WEHNER: No objection.
6 THE COURT: All right, it's admitted.
7 (Government's Exhibit No. 158A was
8 received in evidence.)
9 BY MR. O'NEILL:

10 Q. Mr. Sankin, do you recall a time when you received a \$1,000
11 return on that check?
12 A. Yes. In fact, I think it's noted on that as well.
13 Q. At this time, Mr. Sankin, I show you Government's Exhibit
14 No. 159 for identification.
15 THE CLERK: Government's Exhibit 159 marked for
16 identification.
17 (Government's Exhibit No. 159 was
18 marked for identification.)
19 BY MR. O'NEILL:
20 Q. I'd ask you if you recognize this, sir?
2 A. Actually, I don't. It's a check for \$110,000. It's made

2 out to S&S Associates. Possibly that was ACS. I can't read the
2 signature, and there's no title on the check, so I'm not sure I
2 can identify this properly.
2 Q. I'd ask you, sir, to look at the back. Did you endorse it?

1177

1 A. Yes. This is my signature, and this was deposited in my
2 account, but I can't, I can't see who generated the check from
3 this.
4 MR. O'NEILL : Your Honor, pursuant to a stipulation,
5 the government would move this into evidence as Government's
6 Exhibit No. 159.
7 MR. WEHNER: No objection, Your Honor.
8 THE COURT: All right. Being no objection, it will be
9 admitted.
10 (Government's Exhibit No. 159 was
11 received in evidence.)
12 BY MR. O'NEILL:
13 Q. Now so the record is clear, Mr. Sankin, who is that check
14 made out to?

15 A. It's made out to S&S Associates.

16 Q. What

17 A. ACS

was the name of your company?
& Associates , Ltd.

18 Q. Mr. Sankin, I'd

19 Government's Exhibit

20 THE CLERK:

2 identification.

2

2

2 BY MR. O' NEILL:

2 Q. And I'd ask you

show you what's previously been marked as
159A for identification.
Government's Exhibit 159A marked for

(Government's Exhibit No. 159A was
marked for identification.)

if you recognize that, sir, and what is it?

1178

1 A. This is a \$110,000 deposit slip into ACS & Associates
2 account. I'm not sure which particular account this is. I
3 suspect it might be the money market account.

4 MR. O'NEILL: Your Honor, I'd move this into evidence
5 as Government's Exhibit 159A.

6 MR. WEHNER: No objection, Your Honor.

7 THE COURT: 159A is admitted.

8 (Government's Exhibit No. 159A was
9 received in evidence.)

10 BY MR. O'NEILL:

11 Q. Mr. Sankin, I would show you Government's Exhibit 162 for

12 identification.

13 THE CLERK:

14 identification.

15

16

17 BY MR. O'NEILL:

Government's Exhibit 162 marked for

(Government's Exhibit No. 162 was
marked for identification.)

18 Q. I'd ask you if you recognize this, sir?

19 A. Yes. This is a letter from April 1987 from myself on behalf
20 of ACS & Associates to Richard Shelby, and it's, it sets forth
2 the agreement between Mr. Shelby and myself regarding fee
2 sharing.

2 MR. O'NEILL: Your Honor, I'd move this into evidence
2 as Government's Exhibit 162.

2 MR. WEHNER: No objection, Your Honor.

a THE COURT: All right, 162 is admitted.

2 (Government's Exhibit No. 162 was
3 received in evidence.)

4 BY MR. O'NEILL:

5 Q. Mr. Sankin, I'll show you Government's Exhibit 163 for
6 identification purposes.

7 THE CLERK: Government's Exhibit 163 marked for
8 identification.

9 (Government's Exhibit No. 163 was
10 marked for identification.)

11 BY MR. O'NEILL:

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13

Q. I'd ask you if you recognize this, sir?

A. This is a contract between ACS & Associates and Eastern
14 Avenue Apartments, Limited Partnership. It's a contingency
15 contract for 88 units of mod rehab funding to be delivered to the
16 Prince George's County Housing Authority.

17 MR. O'NEILL: Your Honor, at this time, I'd move it
18 into evidence as Government's Exhibit 163.

19 MR. WEHNER: No objection, Your Honor.

20 THE COURT: All right, it's admitted.

21 (Government's Exhibit No. 163 was
22 received in evidence.)

23 BY MR. O'NEILL:

24 Q. At this time, Mr. Sankin, I will show you what has
25 previously been marked as Government's Exhibit No. 166 for

identification.

THE CLERK: Government's Exhibit 166 marked for
identification.

(Government's Exhibit No. 166 was
marked for identification.)

BY MR. O'NEILL:

7 Q. I'd ask you what is this, sir?

8 A. This is a summary and assessment of the events surrounding
9 the delivery of the mod rehab funding to Prince George's County
10 Housing Authority for Eastern Avenue Apartments.

11 Q. Who drafted it?

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13

A. I drafted this, and this was sent to Mr. Shelby, and it was
also a memo to my file.

14 MR. O'NEILL: Your Honor, I'd move it into evidence as
15 Government's Exhibit No. 166.

16 MR. WEHNER: No objection, Your Honor.

17 THE COURT: All right, the memo to the file will be
18 admitted, 166.

19 (Government's Exhibit No. 166 was
20 received in evidence.)

21 BY MR. O'NEILL:

22 Q. Mr. Sankin, at this time, I would show you Government's
23 Exhibit No. 171 for identification purposes.

24 THE CLERK: Government's Exhibit 171 marked for
25 identification.

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(Government's Exhibit No. 171 was
marked for identification.)

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BY MR. O'NEILL:

4 Q. What is this, sir?

5 A. This is a check from Richard Shelby to me marked,

6 "Consulting fee," September 29, '87, \$23,750.

7 MR. O'NEILL: At this time, I'd move it into evidence,

8 Your Honor, as Government's Exhibit No. 171.

9 MR. WEHNER: No objection, Your Honor.

10 THE COURT: All right, 171 is admitted.

11 (Government's Exhibit No. 171 was

12 received in evidence.)

13 BY MR. O'NEILL:

14 Q. At this time, Mr. Sankin, I will show you what's been marked

15 as Government's Exhibit 173 (sic) for identification.

16 THE CLERK: Government's Exhibit 173 marked for

17 identification.

18 (Government's Exhibit No. 173A was

19 marked for identification.)

20 BY MR. O'NEILL:

21 Q. I'd ask if you recognize that, sir?

22 A. It's a deposit slip to ACS & Associates, Ltd., 23,750,

23 marked, "Richard Shelby, consulting fee," October 1, '87.

24 MR. O'NEILL: Your Honor, I'd move it into evidence as

25 Government's Exhibit No. 173A.

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1 THE COURT: All right. No objection, 173A is admitted.

2 MR. WEHNER: No objection, Your Honor.

3 (Government's Exhibit No. 173A was

4 received in evidence.)

5 BY MR. O'NEILL:

6 Q. Mr. Sankin, did there come a time when you had a

7 conversation with the defendant, Deborah Gore Dean, concerning

8 how much money you were making as a consultant?

9 A. I think it may have come up once.

10 Q. What, if anything, did she say?

11 A. I don't remember the, the conversation in great detail, but

12 I think that at one point she asked what my fee on a particular

13 property was, and then before I had a chance to answer, she said,

14 "Never mind. I don't want to know."

15 And that was, that was the extent of it. Nothing more

16 than a few seconds.

17 Q. Mr. Sankin, I direct your attention to Government's Exhibit

18 IIP, which was entered into evidence yesterday.

19 THE CLERK: Which one was that, Mr. O'Neill?

20 MR. O'NEILL: American Express, IIP.

2 THE CLERK: IIP?

2 MR. O'NEILL: Yeah.

2 THE CLERK: Government's Exhibit IIP marked for

2 identification.

2 BY MR. O'NEILL:

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1 Q. This is an American Express receipt, and what have you

2 written in ink on it?

3 A. It says, "Business gift, Deborah Dean."

4 Q. Do you recall what that, that gift was?

5 A. No, I don't.

6 Q. Do you recall, sir, whether you provided the defendant,

7 Deborah Gore Dean, with any other gifts during the period of time

8 that she was employed at the Department of Housing and Urban

9 Development?

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10 A. I, I think from time to time I did. To be honest with you,
11 counselor, I see it there in evidence, but I don't, I don't
12 remember that, and for the life of me, I can't figure out why I'd
13 give anybody a cup and saucer for \$300.

14 Q. Mr. Sankin, let me show you a document which I'll marked as
15 Government's Exhibit 505.

16 THE CLERK: Government's Exhibit 505 marked for
17 identification.

18 (Government's Exhibit No. 505 was
19 marked for identification.)

20 BY MR. O'NEILL:

2 Q. And I'd ask you just review it to yourself at the bottom of

2 the page and the top of the next page, and don't read it, because
2 it is not in evidence.

2 Sir, I'd ask you does that refresh your recollection

2 about whether you purchased other gifts for defendant Deborah

1 Gore Dean during the time she was employed at HUD?

2 A. You know, this, this seems accurate.

3 Q. How often did you buy her gifts?

4 A. Oh, Christmas and her birthday.

5 Q. During what period of time? What years?

6 A. During the time that, that we were, we were close. I don't
7 know, 1983 to 1988.

8 Q. Did you ever buy her any gifts before she worked at the
9 Department of HUD?

10 A. I didn't know her before she worked at HUD.

11 Q. Did you buy her any gifts after she left?

12 A. It's possible.

#

13 Q. Let me show you that same document again, and I'd ask you
14 again don't read it out loud. Does that refresh your
15 recollection as to whether you ever bought her any gifts?

16 A. Am I permitted to know what I'm reading?

17 Q. Excuse me?

18 A. Am I permitted to know what I'm reading?

19 Q. You cannot tell the jury. Read it and see if that refreshes
20 your recollection was the question.

2 A. No, no, it doesn't clarify it any further than I already

2 stated.

2 MR. O'NEILL: I have no further questions at this time,

2 Your Honor. Thank you.

2 THE COURT: Are you ready to proceed?

1 MR. WEHNER: Yes, Your Honor.

2 THE COURT: All right. You may cross-examine.

3 CROSS EXAMINATION

4 BY MR. WEHNER:

5 Q. Mr. Sankin, my name is Steve Wehner. I represent Ms. Dean,

6 and you and I have never had the pleasure of meeting before;

7 isn't that right?

8 A. Yes, sir, that's correct.

9 Q. And I've never had the chance to talk to you before; isn't

10 that right?

11 A. No, we haven't spoken.

12 Q. Okay. So I haven't prepared with you my questions and your

'v

13 answers today?

14 A. I believe you may have spoken with my counsel at one point.

15 Q. Correct.

16 A. But I don't know.

17 Q. Your counsel is?

18 A. My counsel is David Touhey at this point.

19 Q. Mr. Touhey was one time in a partnership with Mr. Plato

20 Cacheris, was he not?

2 A. Yes, he was.

2 Q. You testified yesterday, Mr. Sankin -- and I want to

2 summarize this fairly, so correct me, please, if there's any

2 misimpression, but I don't want to go through the whole thing•--

2 but a portion of your testimony yesterday was that you went to

1186

1 Ms. Dean about a Puerto Rican project, asked her if you could
2 compete as a developer or a consultant in that project.

3 You were aware at that time that units were available

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5

6

in Puerto Rico, and Ms. Dean said to you that you didn't have
enough experience to get involved in that and you would have to
work for someone else. Is that a fair characterization?

7 A. Yes, sir.

8

9

Q. Okay. Now you went on to talk yesterday about other areas,
including your relationship with Ms. Dean, and frankly, I think
10 that your testimony suggested a relationship with Ms. Dean
11 certainly vis-a-vis the credit card slips that a fair inference

#

12

13

could be drawn that you were wining and dining her on a regular
basis.

14

15

A.

Q.

I'm sorry, what's the question, sir?

Is that a fair inference?

16 A. I'm not sure it is, no.

17

18

MR. O'NEILL: Your Honor, may we approach?

THE COURT: Sure.

19

20

2

(Bench conference on the record.)

THE COURT: Have you got a witness here?

MR. O'NEILL: Ms. Dean stated there is. I assume it's

2 a defense witness.

2 THE COURT: Who is it?

2

2

MR. WEHNER: It's Bart Naylor, N-a-y-l-o-r. He was the
investigator on Proxmire's Senate Committee. We issued a

1 subpoena to him. He's represented by Claire Sylvia of the
2 Senate, General Counsel's Office, and I don't why he's here, and
3 he's certainly not a friendly witness. He's not somebody here
4 that's here in our interest.

THE COURT: Which one is he?

MR. O'NEILL: I don't know, Judge.

MS. SWEENEY: I've never seen him, Your Honor.

MR. O'NEILL: Judge, you might just issue a general
statement.

10 THE COURT: Yes. I'll just tell any witnesses here who
11 have been subpoenaed, that they have to wait outside.

12 MR. WEHNER: We didn't expect -

* 13 THE COURT: No, that's okay.

14 (End of bench conference.)

15 THE COURT: If there are any witnesses who are here

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16 through subpoena or otherwise, would they please wait outside the
17 courtroom until they're called or contacted by counsel? No
18 witnesses can be present in the courtroom if they're expected to
19 testify.
20 We'll wait a minute until the juror comes back.
2 All right.
2 BY MR. WEHNER:
2 Q. Before that break, Mr. Sankin, I asked you if it was a fair
2 inference that could be drawn from your testimony and the viewing
2 of all of these credit card receipts that you wined and dined

1 Ms. Dean on a regular basis. Is that a fair inference that can
2 be drawn from yesterday's testimony?
3 A. I'm not sure that is a fair inference, no, sir.
4 Q. Okay. Well, let's just start with Government's Exhibit No.
5 11C. Now can you see that exhibit, Mr. Sankin?
6 A. It says, "Lunch with HUD officials re mod rehab units."
7 Q. Now Ms. Dean wasn't at that restaurant at that time with
8 you; isn't that correct?
9 A. That's entirely possible, sir.

10 Q. Who were the HUD officials that you were with?
11 A. I have no idea.
12 Q. This is December 23 of 1985, two days before Christmas;
13 isn't that correct?
14 A. Yes, sir.
15 Q. And I want you right now to tell this jury whether Ms. Dean
16 was with you on December 23, 1985, when you paid for a luncheon
17 or dinner in the amount of \$157.97.
18 A. I don't know, sir.
19 Q. Who do you recall having lunch or dinner with that day?
20 A. As I stated, sir, I don't know.
2 Q. You have no recollection of who you ate with?

2 A. I think I've answered that, sir. No, sir.
2 Q. Do you have a recollection that it was not Ms. Dean?
2 A. Sir, I have no recollection of who I had lunch with on that
2 day.

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1 Q. It's really your practice -- and I ask you that up front --
2 to put something on these credit card receipts that allows you to
3 deduct them for tax purposes; isn't that right?
4 A. Yes, sir.
5 Q. And sometimes that really differs from the fact of what
6 occurred; isn't that correct?
7 A. I'm not sure I'd characterize it that way, sir.
8 Q. You've got immunity.
9 A. Yes, sir.

10 Q. And you can tell the truth, and you can't be prosecuted.
11 Now isn't it true that you put what was necessary on
12 these receipts to allow them to be deducted for tax purposes?
13 A. That is true, sir.
14 Q. And that sometimes differed from the actual fact?
15 A. No, sir, I wouldn't say that.
16 Q. Do you want to reconsider that answer?
17 A. No, sir, but I'd be happy to clarify it for you.

18 Q. Please.

19 A. I think that what I did on many occasions is that if I was
20 out and if there happened to be a few sentences during a meal
2 where something business-related was discussed, then I would

2 write it off on that basis.

2 Q. Whether or not the person you listed on your credit card
2 receipt was even there, isn't that correct?

2 A. Oh, no, sir. I don't think that's correct.

1190

1 Q. Okay. Let me get this very clear, because the one thing you
2 don't have immunity for is perjury. Do you recognize that?

3 A. Yes, sir.

4 Q. On these credit card receipts that were introduced
5 yesterday, do they accurately reflect the individual you had
6 lunch or dinner with?

7 A. Sir, if you asked me a specific question about a specific
8 receipt, I'll do my best to answer it.

9 Q. You have to look at the credit card receipts to answer that

10 question as to whether they are accurate?

11 A. If I said that I was with a HUD official, I was with a HUD
12 official.

13 Q. This is not about HUD officials; this is about Deborah Gore
14 Dean. If you said you were with Deborah Gore Dean, were you?

15 A. To the best of my knowledge.

16 Q. Did the Independent Counsel go through these credit card
17 receipts with you and ask you if they were accurate?

18 A. I don't recall, sir. I think we went through them.

19 Q. And did you tell them that they accurately reflected what
20 occurred?

2 A. I think they reflected that I had lunch at a certain date or

2 dinner at a certain date.

2 Q. No, I'm sorry, Mr. Sankin, did you tell them that they
2 accurately reflected what occurred?

2 A. I don't recall being asked that specific question, so I'll

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1 have to answer no, sir.

2 Q. Then you tell me what question they asked you about these
3 credit card receipts.

4 A. I think we went through many papers, and they asked me to
5 the extent I could to explain them. Many of them I wasn't asked
6 about.

7 Q. And did you explain to them the credit card receipts?

8 A. As best I could, which is what I'm doing now.

9 Q. And did you tell them they were accurate?

10 A. I told them what I knew about them.

11 Q. You know that Ms. Dean is on trial here partially based on
12 the fact that you and the Independent Counsel have spread on the
13 television screen credit card receipts that show that you bought

14 her expensive dinners. Do you recognize that?
15 A. Yes, sir.
16 Q. Now I want you to think real hard about whether or not those
17 credit card receipts accurately reflect the events that occurred.
18 A. Well, I will tell you this, that --
19 Q. No, please. Excuse me.
20 A. Yes, sir.
2 Q. Who is Carter Bell?

2 A. Carter Bell is a young lady who's a HUD employee who I dated
2 for a time.
2 Q. And when you dated her, did you occasionally go to
2 restaurants?

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1 A. I did.
2 Q. And did you occasionally make them a business expense?
3 A. I would be certain of that, yes.
4 Q. Of course you did. And did you deduct those as business
5 expenses?
6 A. I would have, yes.
7 Q. And did you ever write Carter Bell's name on any of your
8 credit card receipts?
9 A. I don't recall.

10 Q. Well, you saw these credit card receipts yesterday. Does
11 her name appear on any of them?
12 A. I don't remember.
13 Q. It doesn't, does it? All these credit card receipts that
14 were introduced, Carter Bell's name doesn't appear on one, does
15 it?
16 A. Not that I remember, no.
17 Q. Were you dating Ms. Dean at this time?
18 A. No, sir.
19 Q. You're considerably younger than Ms. Dean, aren't you, four,
20 five years?
21 A. How old is Ms. Dean?
22 Q. That's a good question. She was about 28 at the time she
23 was at HUD. That was seven years ago. So let's say --
24 A. I'll be 35 next month.
25 Q. Okay. So you're younger, correct?

1193

1 A. I'm younger, yes, sir.
2 Q. And you weren't dating her?
3 A. No, sir. I think we'd both be surprised to hear that
4 characterization.
5 Q. Now Carter Bell you dated through the Christmas season once,
6 did you not?
7 A. I'll take your word for it.
8 Q. No, don't take my word for it. I want you to think back.
9 This is kind of amusing, frankly, but it's so serious. On the

10 one hand, it's funny; on the other hand, it's serious.
11 You dated Carter Bell, and didn't you date her -- I'll

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12 ask the question another way: Isn't it true --

13 A. I remember dating her during basketball season.

14 Q. Well, that's in the winter. Isn't it true that you gave her
15 a gift from Georgetown Leather Design at Christmas one year?

16 A. It's possible. I really don't remember what those gifts
17 were.

18 Q. And isn't it true that you charged that, and isn't it true
19 that that didn't go to Deborah Gore Dean and that that receipt
20 from Georgetown Leather Design doesn't have anything to do with
2 Deborah Gore Dean?

2 A. May I see the receipt again, please?

2 THE COURT: 11Q.

2 MR. WEHNER: I'm sorry, Your Honor?

2 THE COURT: 11Q.

MR. WEHNER: Q?

2 THE COURT: Q.

3 THE WITNESS: It's possible, sir.

4 BY MR. WEHNER:

5 Q. No, no, no, no, no, no. It's possible. It's true, isn't
6 it?

7 A. Sir, I can't remember.

8 Q. That you gave Carter Bell a present from Georgetown Leather
9 and sat here yesterday and let this jury believe that it went to

10 Deborah Gore Dean. Now that's true?

11 A. No, sir, that is not true. What is true was that I was
12 asked to identify this. I don't believe I ever stated that I
13 gave this to Deborah Gore Dean.

14 Q. Did you tell the Independent Counsel you gave it to Deborah
15 Gore Dean?

16 A. No, sir.

17 Q. Did they ask you?

18 A. Sir, I told the Independent Counsel yesterday that many of
19 the charge slips were definitively not related to Deborah Dean.

20 MR. WEHNER: I would like, Your Honor -- Mr. Sankin,
21 you no more said that yesterday than the man in the moon.

22 THE WITNESS: Not under oath, sir. Not on the witness
23 stand.

24 BY MR. O'NEILL:

25 Q. Excuse me. You told the Office of Independent Counsel

1 yesterday that many of those credit card receipts didn't relate
2 to Ms. Dean?

3 A. Yes, sir.

4 Q. Many of the ones they introduced into evidence?

5 A. Several of them, yes, sir.

6 MR. WEHNER: Your Honor, I request the jury be excused.

7 THE COURT: All right. Ladies and Gentlemen, we'll

8 take our morning recess. Take about 15 minutes and come back.

9 Remember the admonition of the Court, please. Do not talk about

10 the case during any recess.

11 MR. WEHNER: Your Honor, I further request that

12 Mr. Sankin be admonished to talk to no one.

#

13 THE COURT: That's all right. He can wait here.
14 (Jury out.)
15 THE COURT: All right, Mr. Sankin, wait outside for a
16 second, will you, please?
17 (Witness out.)
18 THE COURT: Mr. O'Neill, do I understand his
19 characterization of his testimony correctly that he at some time
20 yesterday told you that the exhibits, some of which were admitted
2 into evidence here, some of them did not relate to Ms. Dean that

2 he said related to Ms. Dean or left the impression they were
2 Ms. Dean's, related to her?
2 MR. O'NEILL: No, Your Honor. What had occurred, after
2 Mr. Sankin testified yesterday, he came down from the stand, and

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1 when we were walking back towards the office, he said, "I can't
2 say whether all of these went to Ms. Dean or someone else. I
3 have no specific recollection as to --" like the one that Mr.,
4 the one that Mr. Wehner stated is Government's Exhibit 11C,
5 "Lunch with HUD officials re mod rehab units," he said, "I have
6 no independent recollection at this time who they were."
7 THE COURT: How about as to the others? Did he
8 specifically mention any of the others? Some had "Dean" written
9 on them, some had "chief of staff" written on them, some had
10 "staff assistant," a cup and saucer, I think, yesterday my notes
11 reflect.
12 MR. O'NEILL: That one, Your Honor, I believe is
13 Government's Exhibit No. IIP, and it says, "Business gift, Deb
14 Dean."
15 THE COURT: Right, it had "Dean" on it. And then the
16 Georgetown Leather I have a note related to Dean. I don't know
17 if it had anything on it that says that.
18 MR. O'NEILL: I don't believe there was any
19 conversation relating to the other gift at all, Judge. I don't
20 remember him saying anything specifically about any specific
2 document.
2 THE COURT: I had kept out -
not kept out, I had held
2 on one, 11D, because he couldn't say it was related. I had a
2 note to myself, 11C, I had no question asked relating it to
2 Deborah Dean, but it was admitted without objection.

1197

1 MR. O'NEILL: Well, if Your Honor recalls, as I was
2 going through them yesterday, there were a number of other ones
3 when we took a break that did not specifically say the defendant,
4 Deborah Dean, so I took most of them out, or ones that said -
5 and this was before his conversation. Let me get to these in
6 order.
7 I believe we broke at about 11G. I don't remember
8 exactly where that was.
9 THE COURT: We did. We did break at 11G.
10 MR. O'NEILL: 11G? Okay.
11 11F was Deborah Dean. 11G was, it's hard to read. It
12 looks like "Dinner with HUD executive assistant to secretary.
13 Discussed stuff." That one went on the record.
14 11H, I think that was pulled.
15 THE COURT: That was pulled.
16 MR. O'NEILL: Okay. 11I.

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17 THE COURT: That was pulled.
18 MR. O'NEILL: That was pulled. That one says,
19 "Entertaining HUD personnel. Discussed new appointment." So
20 that was pulled.
2 11J, it says, "With Debbie Dean and Hunter Cushing." I
2 believe that went into evidence.
2 THE COURT: Right.
2 MR. O'NEILL: UK said, "Dinner with executive
2 assistant and chief of staff."

1 THE COURT: Right.
2 MR. O'NEILL: 11L said, "Lunch with Debbie Dean from
3 HUD." "DD," I'm sorry, not "Debbie Dean."
4 11M says, "Dinner with chief of staff at HUD."
5 UN says, "Dinner with chief assistant --or staff
6 assistant perhaps --to secretary at HUD. Discussed mod rehab."
7 11O again looks like, "With staff assistant to
8 secretary at HUD. Discussed new tax effects." I believe that
9 was, that was put on the record.
10 HP is, "Business gift, Deborah Dean."
11 11Q is, "Business gift HUD assistant to secretary."
12 11R, was that in, Judge?
13 THE COURT: 11R is not in.
14 MR. O'NEILL: No.
15 THE COURT: Q is in.
16 MR. O'NEILL: That was pulled. That says, "Lunch with
17 staff assistant."
18 IIS says -
19 THE COURT: That wasn't put in. I have 11Q, and the
20 next one I have after Q would be V and W.
2 MR. O'NEILL: V and W, okay, Judge.
2 THE COURT: They both have "DD" on them in my notes.
2 MR. O'NEILL: 11V says, "Dinner with assistant
2 secretary of HUD. Mod rehab."
2 11W says, "Entertained Deborah Dean."

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1 THE COURT: All right. well, he has answered the
2 question on cross that he informed the Independent Counsel
3 yesterday that he said exhibits that were put in did not, he
4 could not relate to Debbie -
Deborah Dean. Independent Counsel
5 indicates he said as to 11C that he couldn't relate that to
6 Deborah Dean.
7 That was not brought to our attention before trial
8 started today. I think that counsel should have brought that to
9 the Court and to opposing counsel's attention as Brady-type
10 material at this point, where he comes off the stand and denies a
11 document is related definitely to Ms. Dean. I had a question
12 mark on that document.
13 MR. O'NEILL: Your Honor, just so the record is
14 clear -- I'm sorry to interject.
15 THE COURT: All right.
16 MR. O'NEILL: He never denied to me that it was related
17 to Ms. Dean.
18 THE COURT: All right. well, he said he couldn't
19 relate the document to Ms. Dean, as I understood it.
20 MR. O'NEILL: He said he had no specific recollection,
2 Your Honor, as to even the ones that bore her name.
2 THE COURT: As to all of them, he doesn't recall.
2 MR. O'NEILL: Correct. That's what he told me, Judge.
2 THE COURT: All right.

2 MR. O'NEILL: He just said he doesn't have any

1200

recollection.

2 I didn't --so the record is clear, I did not show
3 Mr. Sankin any of these documents in the government's case at all
4 prior to his testimony. They were shown to him, I believe, in
5 the Office of Independent Counsel several months ago, but I have
6 refused to show him any documents -

7 THE COURT: All right. You didn't review it with him
8 again before he testified?

9 MR. O'NEILL: No, Your Honor. I specifically refused
10 to allow him to see documents.

11 THE COURT: I see, okay.

12 well, do you have anything further?

13 MR. WEHNER: Judge, it's going to get considerably
14 worse. I simply want to alert the Court to that.

15 THE COURT: I don't know what you mean by worse.

16 MR. WEHNER: I'm sorry. Many of these documents
17 demonstrably do not relate to Deborah Gore Dean. I don't know
18 whether the witness will ultimately admit that or not, but there
19 are several that are just so far afield from reality that the
20 jury and the Court will be satisfied that it didn't happen
21 without any doubt.

22 THE COURT: well, do you have any relief you want? Do
23 you want me to strike documents, do you want me to give a
24 cautionary instruction to the jury, or do you just want to cross
25 him and make him look like he didn't tell the truth? I mean, I

1201

i think it's your option as to what you want to use.

2 MR. WEHNER: well, you didn't list the option I wanted,
3 Judge.

4 THE COURT: we're still here.

5 MR. WEHNER: You seem to have limited me to those
6 three. Can I have a second to consider?

7 THE COURT: Yes.

8 MR. WEHNER: May I step out for a minute, Judge? I'd
9 like to take a look at a book.

10 THE COURT: All right, I'll take a break, Then we'll
11 take our morning recess, 15 minutes.

12 MR. WEHNER: Thank you, Your Honor.

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1202

1 (Recess, 10:55 a.m. to 11:20 a.m.)

2 THE COURT: All right, resuming on the record

3 again, and Mr. Wehner, do you have anything.

4 MR. WEHNER: Yes, Your Honor, I think I'd

5 simply like to continue with the cross-examining of

6 Mr. Sankin and I'd like to remind the Court of a

7 statement that the Court made to Independent Counsel

8 before this trial even started, based on Brady, failure

9 to produce Brady material, and I believe the Court's
10 statement was that you found that the information they
11 had not provided at that point was Brady and you
12 cautioned them, frankly, very sternly that sanctions
13 would be in order if they failed to comply with Brady in
14 the future and I think I would like the Court to keep
15 that in mind as we continue the cross-examination.

16 MR. O'NEILL: Judge, I'd like to put one thing
17 on the record.

18 THE COURT: Sure.

19 MR. O'NEILL: The series of questions elicited
20 to Mr. Sankin were cross-examination and I have no
2 problem with that, but when my credibility is put at

2 issue and in a way that reveals to the jury that I may
2 have done something improper when I do not feel that I
2 did, it becomes time to fight back, Judge, and if he's
2 going to do that on the record, if gloves are going to

1203

1 be off, they're going to be off on both sides, Judge.

2 I've put up with some of the histrionics so
3 far, the head shaking, and the like. I have no problem
4 with putting up with it. I have not attacked
5 Mr. Wehner's credibility, nor do I intend to, but if my
6 credibility is at issue, that is not what this case is
7 about.

8 Mr. Sankin on direct examination identified
9 receipts. He identified his handwriting on them. Many
10 of them either said Miss Dean's name or some reference
11 to a high level HUD official. If Mr. Wehner wants to
12 cross-examine about that, to show it was not Miss Dean, 4 13 if he can prove
it was not Miss Dean, that's fine.

14 The Government did not say when it was
15 unnamed, it was Miss Dean. Mr. Sankin then later on
16 said something about not having an independent
17 recollection. How the Government is then in a position
18 of hiding Brady is beyond me. But I just want to state
19 that for the record, Judge.

20 THE COURT: I do think in fairness though,
2 Mr. O'Neill, when these documents are introduced they

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2 came in as related to Miss Dean in people's minds, if
2 not through direct testimony. I think that's why they
2 were offered. I kept out 11D because it was not
2 indicated in relation to Miss Dean, although it's a HUD

1204

1 official lunch is what it said on it, but at that point

2 someone asked, and that's what my notes recollect

3 anyway. You've got a daily transcript. My notes

4 reflect that someone raised the issue whether or not

5 that was lunch with Miss Dean and I kept that one out.

6 The American Express receipt said HUD

7 officials for lunch. That was not challenged and was

8 admitted, but in relation to all the other ones that

9 were admitted that had Deborah Dean's initials on them,

10 and the Georgetown Leather gift which had DD on it,
11 there's some relationship to her, but that as to the
12 other ones, like staff assistant, et cetera, left the
13 impression, at least to the Court if not to the jury,
14 that they're all related to Miss Dean directly, not some
15 inference that she would have been at the lunch.

16 Otherwise they're not related Miss Dean -

17 MR. O'NEILL: I agree with you, Judge, but
18 wasn't that the time to object to it?

19 THE COURT: I said the American Express
20 receipt was allowed in. It was not objected to. On my
2 own notes I have a question on it. It was not objected

2 to and it was not in my mind identified as being
2 Miss Dean's responsibility at that time, but the
2 documents that were put in the same contiguous timeframe
2 certainly impresses to the Court that they were all

12 05

1 related to meetings and lunches and gifts to Miss Dean
2 and went to her culpability as to substantial matters,
3 and if there's evidence that the witness really didn't
4 know it was Miss Dean and didn't -- couldn't say that it
5 was related to Miss Dean, I think that should have been
6 brought out at the appropriate time once the prosecution
7 learned it.

8 I don't want to see the trial degenerate.

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9 This trial has been remarkable for the excellence of

10 counsel on both sides. I have noted to myself and my
11 staff that fact and I contrasted it to the prior trial I
12 recently finished. I don't want to see it degenerate,
13 but at the same time I think Mr. Wehner is entitled to
14 raise issues with Mr. Sankin as to what he said and what
15 he recollects about these documents and, again, what
16 ones he can testify were Miss Dean's or not. It's up to
17 him how he wants to do that.
18 Mr. Sankin may remember they're Miss Dean's.
19 On the other hand, he may deny knowing that they're
20 Miss Dean's or not. I will allow him to examine him to
21 the American Express receipt and what he said about it
22 yesterday. I told him that he couldn't possibly finish
23 this examination yesterday. He said that he didn't have
24 any recollection, as I understand it, of having lunch or
25 dinner with Miss Dean precisely, but I think the

1206

1 Government had a basis to put the ones identified with
2 her name on it into evidence certainly.
3 Others which were identified, he can then
4 testify that that would refer to her as opposed to
5 somebody else he would have lunch with in a high office
6 of HUD, are legitimate. But ones where they're not
7 related to her and he can't say, I do not think they
8 should be used, regardless of no objection.
9 All right. We'll have Mr. Sankin back and
10 proceed with cross-examination.
11 I do not want to put the Independent Counsel
12 on trial, although I'm not sure it's not fair game in
13 closing argument to mention these incidents.
14 All right. Bring Mr. Sankin in.
15 (Jury present)
16 THE COURT: will someone get Mr. Sankin back?
17 All right, ladies and gentlemen, we're ready
18 to resume the cross-examination at this time.
19 BY MR. WEHNER:
20 Q Mr. Sankin, I believe that you testified yesterday
2 regarding Government Exhibit 11D.
2 We'll skip 11D, Mr. Sankin.
2 THE COURT: Yes, I kept that one.
2 MR. WEHNER: I'm sorry. I didn't recall. I
2 was trying to keep my notes straight.

1 HE, I believe, was admitted.
2 THE COURT: which one?
3 MR. WEHNER: HE.
4 BY MR. WEHNER:
5 Q Do you see HE, Mr. Sankin, on your monitor?
6 A Not real well. I think it says lunch with Rick
7 Shelby, Keefe Company at the Dubliner.
8 Q Was Miss Dean at that luncheon?
9 A No.
10 Q Was Mr. Shelby at the luncheon?
11 A Yes.
12 MR. WEHNER: 11F, I believe, is in evidence.
13 THE COURT: Yes.
14 BY MR. WEHNER:
15 Q Do you see 11F, Mr. Sankin?
16 A I think it says Andrew and Deborah/discussed HUD.

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17 Q And the Deborah that's written on there refers to
18 Deborah Gore Dean, does it not, or does it refer to
19 another Deborah?
20 A I believe so. It wouldn't have been another
2 Deborah.
2 Q Was Deborah Gore Dean present when you spent that
2 \$14?
2 A I have to rely on my notes in this case.
2 Q Was she present?

1208

1 A I believe so.
2 Q Mr. Sankin, this is dated May 9th,
3 Friday.
4 who were you dating in May of
5 A I think I was dating Kelly Joyce.

1986. That's a
1986?

6 Q And who was Kelly Joyce, just for the jury's
7 edification?
8 A A girl I was dating.
9 Q I'm looking for the truth.
10 In fact, she was a student of architecture,
11 was she not?
12 A She studied architecture. I don't know whether she
13 graduated at that point or not. ~'~
14 Q She studied architecture as opposed to being a
15 student of architecture^
16 A What I'm saying is I don't know if
17 student at that time or not.
18 Q Where did she go to school?
19 A Catholic University.
20 Q Did she graduate?
2 A I don't know.

she was a

2 Q You dated her for an extensive period of time?
2 A Yes,
2 Q You lived with her, did you not?
2 A Yes.

1209

1 Q And you were dating her in May of 1986, were you
2 not ?
3 A I think so.
4 Q And you would see her on weekends, would you not?
5 A It makes sense.
6 Q well, you would take her out to dinner and take her
7 out for drinks, wouldn't you?
8 A Yes.
9 Q Did you ever take her to the Children's -
10 A I think it says Childe Harold.
11 Q Did you ever take her to the Childe Harold?
12 A I don't remember. 4 13 Q Have you been to the Childe Harold?
14 A I have.
15 Q And is that a place that you frequented?

16 A I don't -I
wouldn't say that.
17 Q Well, it's a place where you were in May of 1986,
18 is that correct?
19 A It would so appear.
20 Q And if you were out for a drink in May of 1986,
2 isn t it logical you would be with the person you were
2 dating?
2 A Not necessarily, no, sir.
2 MR. WEHNER: I believe 11G is in evidence.
2 THE COURT: Yes, sir.

1210

1 BY MR. WEHNER:

2 Q I direct your attention to 11G. Now, you weren't

3 dating Miss Dean at this time, is that correct?

4 A At no time, sir.

5 Q Now, this is for May 9, '86 as well, is it not?

6 A Yes.

7 Q Now, that's a Friday night?

8 A Can you read the address on that? I can't read it.

9 Q Let me bring it up to you and let you read it off.

10 If I might, Your Honor.

11 THE COURT: Yes, certainly.

12 BY MR. WEHNER:

13 Q What does the notation say?

14 A The notation says Andrew with HUD Executive

15 Assistant to Secretary, and it says discussed stuff.

16 Q Discussed stuff. Now, was Miss Dean at this event?

17 A I don't believe that I would have noted that she

18 was if she wasn't.

19 Q Was she there?

20 A Sir, I don't remember the vast majority of these

2 slips. This included. I have to rely on my notes

2 whether or not she was.

2 Q This was a Friday night in 1986. Now, you know

2 Miss Dean, had a boyfriend then, don't you? Do you

2 recall?

1211

1 A I don't doubt it.

2 Q She was dating someone by the name of Richard

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3 Giegengack, was she not?

4 A She dated Richard Giegengack.

5 Q Do you recall it was in 1986?

6 A I recall she dated Silvio DeBartolomeis as well.

7 Q Fair enough. Do you recall she was dating someone?

8 A I recall she dated.

9 Q Well, she didn't date you.

10 A No, sir.

11 Q Okay. So if you saw Kelly Joyce on Friday, May 9,

12 1986 r on Friday evening did you discuss stuff with Kelly

13 Joyce?

14 A You mean if I was with Kelly Joyce on a Friday did

15 I discuss things with her?

16 Q No, no. Your writing is discussed stuff, and I

17 want to know in your own words did you discuss stuff

18 with Kelly Joyce, your girlfriend, in 1986?

19 A I'm sorry, sir, could you clarify your question,

20 please? I don't understand.

2 Q Did you discuss stuff with Kelly Joyce in 1986?

2 A On this particular date in this particular

2 restaurant?

2 Q Any time.

2 A Yes, sir, I discussed things with her.

Q You've been to the Japan Inn?

2 A I have.

3 Q Have you ever been there with Miss Dean?

4 A The record would so indicate.

5 Q No, have you.

6 A Sir, as I testified, I don't remember who I went to

7 dinner with. I have to rely on these slips. On one or

8 two instances there's something in particular that

9 sparks my memory. This is not one of them.

10 Q Well, Mr. Sankin, it's a fact, is it not, that
11 these slips are not accurate?

12 A No, sir, that's not a fact.

13 MR. WEHNER: 11H, I think, was in, Your Honor.

14 THE COURT: It was marked but never offered.

15 MR. WEHNER: 11I?

16 THE COURT: That was not admitted.

17 MR. WEHNER: 11J?

18 THE COURT: Yes.

19 MR. WEHNER: I'll put 11J on the overhead.

20 BY MR. WEHNER:

21 Q Mr. Sankin, can you read that from the projector?

22 A It says, I think, with Debbie Dean, Hunter Cushing,

23 both of HUD, discussed Mod Rehab.

24 Q Now, that 's \$17, is that not?

25 A Yes.

1213

1 Q Was Miss Dean at that \$17 meeting?

2 A Sir, I'll restate what I said again. If my notes

3 say she was there, then I must testify that she was

4 there. I do not have a specific memory of this lunch.

5 Q Mr. Sankin, you don't have to testify that she was

6 there if that's what your notes say. That's part of

7 what immunity is all about. You can't be prosecuted for

8 what you said here today unless you lie.
9 A Sir, I'm telling you the truth the best way I know
10 how.
11 Q I'll put on the overhead UK. Can you read that on
12 the monitor?
13 A It says dinner with Executive Assistant and Chief
14 of Staff, something Secretary of HUD.
15 Q Now, was Miss Dean at this dinner?
16 A Yes.
17 Q You're positive?
18 A With the qualifications I've already stated, yes,
19 sir.
20 Q Well, let's make clear what the qualifications
2 are.
2 A The qualifications are that I do not have a
2 specific memory of the dinner in 1986 but I would not
2 have written she was there unless she was there. To the
2 best of my knowledge, sir.

1 Q Her name doesn't appear on there
2 A No, sir.
3 Q As a matter of fact, that's kind of a description
4 that a Harvard graduate might assume would satisfy the
5 Internal Revenue Service, isn't it?
6 A I can't comment on what a Harvard graduate might
7 think, sir.
8 Q Where did you go to law school?
9 A Georgetown.

10 Q Sorry, I didn't mean to insult you.
11 Is that the kind of description a Georgetown
12 graduate would put on a slip to satisfy the Internal
13 Revenue Service?
14 A Well, it's the type of explanation I put on the
15 slip and it did in fact satisfy the Internal Revenue
16 Service.
17 Q Well, you wanted it to, didn't you? You wanted to
18 satisfy the tax deductibility of these expenses, isn't
19 that correct?
20 A Yes.
2 Q Did you ever think the Internal Revenue Service
2 might call up one of these people and asked if they were
2 actually there?
2 A I wouldn't know, sir.
2 Q I'll put it up, Mr. Sankin. The date on that is

1 August 17th of 1986, that's a Sunday.
2 A I can't read that, sir. Could you put it more up?
3 Q Would you like me to bring it up to you?
4 A Yes, please, that would be helpful.
5 "Lunch with DD from HUD, discussed Mod Rehab
6 funding."
7 Q That's a Sunday.
8 Who were you dating then?
9 A What was the date on it, please?
10 Q August 17, 1986.
11 A I think I was dating Kelly Joyce.
12 Q Isn't it a fact that Kelly Joyce was at that
13 luncheon on that Sunday and not Deborah Dean?
14 A I can't testify to that, no, sir.
15 Q Isn't it a fact that Deborah Dean wasn't at that

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16 lunch?

17 A No, sir, that's not a fact.

18 Q Was she there?

19 A Sir, the same answer as before. I don't remember

20 the lunch, but if I wrote that she was there -2

Q If you wrote that she was there -2

A I do not ever recall writing that somebody was

2 there that wasn't there.

2 Q Thank you, Mr. Sankin.

2 A Pardon me?

1216

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2

3

please?

MR.

Let1

WEHNER: would you repeat that

s read it back.

(Answer repeated by the reporter)

last answer

4 MR.

5 MR.

6 MR.

7 MR.

8 BY MR. WEHNER

9 Q Who was

10 THE

11 THE

12 MR.

WEHNER:

O'NEILL:

WEHNER:

O'NEILL:

•

Did you introduce 11U?

No.

11D?

Yes.

Kelly Joyce, Mr. Sankin?

COURT: He's answered that, didn't he?

WITNESS: Thank you.

WEHNER: I just wanted to bring it back to

13 the jury 's attention, Your Honor.

14 THE COURT: Answer it quickly.

15 A She was a girl I dated.

16 MR. WEHNER: Previously introduced into

17 evidence was Government's Exhibit 11V.

18 THE COURT: D or Z, I'm sorry?

19 MR. WEHNER: V as in Victor.

20 BY MR. WEHNER • •

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1 Q Could you read that please, Mr. Sankin?
2 A It says dinner with Assistant Secretary of HUD/Mod
2 Rehab.
2 THE COURT: Could I have a look at that? I
2 have V as s a different exhibit. I don't think that one

1 is introduced.
2 MR. WEHNER: The transcript reflects that it
3 was, Your Honor.
4 THE COURT: I wrote down 11V as being a May,
5 '87, \$42 luncheon.
6 All right. It looks like I just made a wrong
7 note on the amount.
8 Go ahead, sir.
9 BY MR . WEHNER:

10 Q Do you recall when Kelly Joyce graduated?
11 A No.
12 Q Do you recall that Kelly Joyce graduated on May 16
13 of 19 87?
14 A No, although I must tell you I don't think that
15 Deborah Dean was present there.
16 Q Do you recall taking Kelly Joyce to dinner the
17 night of her graduation?
18 A No.
19 Q Are you aware that on that date Miss Dean was with
20 your lawyer's partner, Plato Cacheris, with her aunt at
2 a horse race?
2 A why would I be aware?
2 Q Because you wrote on the list who -- on your
2 receipt she was having dinner with you.
2 A Are you referring to this receipt?

1218
I Q Read it, please?
2 A It says dinner with Assistant Secretary of HUD. I
3 don 't believe that refers to Deborah Dean, as I just
4 told you.
5 Q who does that refer to?
6 A I think it more than likely refers to
7 Silvio DeBartolomeis.
8 Q Was Kelly Joyce with you at that dinner?
9 A Sir, I don't remember.
10 MR. WEHNER: I• d like to put on the monitor
11 IIP •
12 I believe this was introduced, was it not?
4 13 I don't know if you can see that one.
14 There it is, I' m sorry.
15 BY MR. WEHNER:
16 Q Now, that reflects a cup and saucer, business gift
17 to Deborah Dean, correct?
18 A That's what it says.
19 Q Now, I recognize this may be painful for you,
20 Mr. Sankin, but I'm going to have to go through it any
21 way You were in a very close personal relationship
22 with Kelly Joyce, is that right?
23 A Yes.
24 Q And there came a point in time, did there not, that
25 you believed that she might be having a child, is that

1219

1 correct?

2 A Yes.

3 Q And you thought maybe it was your child, is that

4 correct?

5 MR. O'NEILL: I don't know what this has to do

6 with anything.

7 THE COURT: I'll take it up at the bench.

8 (Bench conference)

9 THE COURT: Where is this going?

10 MR. WEHNER: The reason that he gave her the

11 \$300 gift and the conversation that he had with

12 Miss Dean when he gave her that cup and saucer was he

13 wanted to thank her for being so supportive and

14 counseling to him and Miss Joyce when they were

15 determining whether or not to terminate the pregnancy.

16 THE COURT: Why don't you ask him the question

17 do you recall the reason you gave her the gift.

18 MR. WEHNER: Because I'm allowed to lead on

19 cross, Judge.

20 THE COURT: All right. Then you can ask him

21 isn't it true you gave her the gift because she

22 counseled you and your girlfriend, and don't give the

23 circumstances, I don't see any need to bring out

24 terminating the pregnancy.

25 MR. O'NEILL: That's fair.

1220

1 MR. WEHNER: Thank you.

2 MR. O'NEILL: That's fair.

3 (Bench conference concluded)

4 THE COURT: All right. You can rephrase the

5 question.

6 BY MR. WEHNER:

7 Q Isn't it true that you gave Miss Dean this gift

8 because she counseled you and Miss Joyce about a very

9 difficult personal decision?

10 A There's no question that Miss Dean counseled both

11 Miss Joyce and myself on more than one occasion.

12 Whether that's connected to this gift or not, I couldn't

13 say so.

14 Q Isn't it a fact that when you gave this gift to

15 Miss Dean you said I just wanted to thank for counseling

16 Kelly and myself and helping us through a difficult
17 time?

18 A I don't remember, but I don't have any problem with
19 that.

20 Q I don't care if you have any problem with that.

2 You wrote this off as a business gift and you

2 testified to this jury in essence that you gave this to
2 Miss Dean as a part of some scheme dealing with Mod
2 Rehab.

2 A No, sir, I don't believe I testified to that.

1221

1 Q Well, that's a pretty fair inference, isn't it?

2 MR. O'NEILL: That's for the jury to make,
3 Judge.

4 THE COURT: All right. Ask questions, don't
5 make comments. I'll sustain the objection.

6 BY MR. WEHNER:

7 Q This had nothing to do with Mod Rehab, Mr. Sankin,
8 did it?

9 A It would have been my practice if I had lunch with

10 somebody, if I had dinner with somebody, if I gave a
11 gift to somebody that had a -- any sort of connection
12 with my work, and at times that was tenuous, to write it
13 off. And this strikes me that it may be such a thing.

14 Q The fact is it didn't have anything to do with Mod
15 Rehab. It had to do with personal relationships.

16 A If you're asking me if there was a --

17 Q I'm asking you the question I asked you,
18 Mr. Sankin. Why can't you simply admit it? You've
19 gotten immunity.

20 A I'm trying to answer you to the best of my ability,
21 sir.

22 Q I want you to answer the truth.

23 THE COURT: Just ask him questions.

24 BY MR. WEHNER:

25 Q Isn't it true that this receipt, this \$300 gift had

1222

1 nothing to do with Mod Rehab and instead had to do with
2 a personal debt that you felt you owed Miss Dean for her
3 counseling at a very difficult time?

4 A I certainly felt warmly towards Miss Dean and I
5 gave her a gift and I wrote it off. It was -- this
6 certainly was not a tit for tat for Mod Rehab, in my
7 view.

8 Q Now, I believe before the break you testified
9 that -- you were talking about a receipt from the
10 Georgetown Leather design. Isn't it true you never gave
11 Deborah Gore Dean a gift from Georgetown Leather Design?

12 A Sir, I don't remember.

13 Q Isn't it true you gave it to Carter Bell?

14 A Sir, I don't remember.

15 Q And isn't it true that that's the reason you wrote

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16 it off because you felt it was somehow related to HUD?
17 A May I see the Exhibit, please?
18 MR. WEHNER: Sure.
19 THE COURT: It's Exhibit 11Q, I believe.
20 MR. WEHNER: Your organiztional skills are far
2 superior to mine, Judge. Just give me a second.
2 THE COURT: Is 11Q out there?
2 MR. WEHNER: Here it is.
2 A I can only say that I see nothing on here that
2 would indicate I gave this to Deborah Dean.

1223

1 Q Now, the question is did you give it to Deborah
2 Dean?
3 A My answer is I don't think so.
4 THE COURT: Let me see that exhibit? Thank
5 you.
6 There is some writing in the exhibit, right?
7 THE WITNESS: Yes, sir.
8 THE COURT: And that's in a different color
9 ink than on the rest of the exhibits. What does it
10 say?
11 THE WITNESS: It says HUD Assistant to
4 1213
Secretary.
THE COURT: Business gift.
14 THE WITNESS: Yes, sir, it says business gift,
15 HUD Assistant Secretary.
16 BY MR. WEHNER:
17 Q who do you believe you gave that to, Mr. Sankin?
18 A I don't know.
19 Q You didn't give that to Miss Dean, isn't that
20 correct?
2 A I don't think so because the notation is not
2 consistent with something I would have written that I
2 gave to Miss Dean.
2 Q Is this one of the exhibits you told the
2 Independent Counsel you couldn't tie to Miss Dean?

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1 A I didn't -
2 MR. O'NEILL: Objection, Your Honor, he never
3 said that to Independent Counsel.
4 THE COURT: All right, I'll sustain the
5 objection, the way it's phrased.
6 BY MR. WEHNER:
7 Q When did you first review these exhibits with the
8 Office of Independent Counsel, Mr. Sankin?
9 A I believe it was at least several years ago.
10 Q Who was present when you reviewed the exhibits?
11 A It would have been one of several people. I've had
12 several attorneys.
13 Q From the Office of Independent Counsel.
14 A Who was present from the Office of Independent
15 Counsel?
16 Q Yes.
17 A There were a variety of people from their office as
18 well.
19 Q Did you have occasion to discuss these receipts
20 with them?
2 A I believe so.
2 Q And did you go through them and talk about whether
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2 or not they were -- they accurately reflected your
2 activity with Miss Dean?
2 well, it's a rather important question, isn't

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1 it, Mr. Sankin?

2 Is this Miss Dean or not?

3 A Mr. Wehner, I think all of your questions are

4 important but you must understand that I went through

5 probably 20 boxes of documents with probably -- at least

6 a dozen persons, different personnel from the Office of

7 Independent Counsel. I had one law firm which

8 conflicted out, had another law firm which split, and to

9 be honest with you, I don't remember.

10 Q But you did go through these receipts with them,
11 did you not?

12 A I went through a lot of paperwork.

13 Q Including these receipts?

14 A Yes.

15 Q And did you tell them at that time that what was
16 reflected on these receipts as it pertained to Miss Dean
17 was accurate?

18 A I do not remember specific conversations in
19 connection with specific receipts, sir. If --

20 Q Do you remember talking to them about all of your
2 documents?

2 A I remember talking to them about documents, yes,
2 sir.

2 Q Were there agents in the room at the time you were
2 talking about the documents?

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1 A You're referring to FBI agents?

2 Q Let me back up. Who was present from the Office of
3

the Independent Counsel when you told them about these
4

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receipts?

5 A I would need to refer to my notes, sir.

6 Q Where are your notes?

7 A My attorney has them.

8 Q Do you have a recollection of anyone writing notes

9 while you were talking about these receipts?

10 A Yes, sir.

11 Q Who was in the room writing notes when you were
12 talking about the receipts?

13 A Very frequently I had my own counsel writing notes
14 and also representatives from the Independent Counsel's
15 Office writing notes.

16 Q Was an FBI agent present when you talked about
17 these receipts?

18 A I think one was present all the time, although I
19 may have been just talking with attorneys or just FBI
20 agents.

2 Q And was the agent writing about the receipts?

2 A To the best of my memory, yes.

2

MR. WEHNER: Your Honor, could we approach?

2

THE COURT: Sure.

2

THE WITNESS: Your Honor, could I be excused

1227

1 for one minute, please?

2 THE COURT: Sure.

3 (Bench conference)

4 THE COURT: What do you want to do about
5 notes?

6 MR. WEHNER: Your Honor, I would like the
7 notes to be produced in Court in camera.

8 THE COURT: I assume these were not Jencks.

9 MR. WEHNER: Well, he's testified there are
10 notes, but they're not in the Jencks material, Judge.

11 MR. O'NEILL: I have no idea what he's talking
12 about, Your Honor.

13 MR. WEHNER: Bob, just so the record is clear,
14 I don't think I'm suggesting that they were withheld.

15 MR. O'NEILL: I don't know what he's referring
16 to about notes.

17 THE COURT: As I understand it, the Government
18 some years ago interviewed at various times Mr. Sankin.

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19 At some point in time he would have gone through some of
20 these receipts.

2 MR. O'NEILL: Apparently.

2 THE COURT: The trial counsel today did not go
2 through with him about these receipts before you put him
2 on the stand.

2 MR. O'NEILL: I did not understand, Your

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Honor.

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THE COURT: Trial counsel today did not review
3

these receipts with him before he testified.
4

MR. O'NEILL: Absolutely, that's correct,
5

purposely.

6 THE COURT: So what he's talking about is

7 sometime in the past, whether or not there are any notes

8 in the FBI records, if they were taking notes about what

9 he said about these receipts, and the Independent
10 Counsel says they personally don't know anything about
11 that. I don't know if your FBI assisting agent or
12 someone could ask if there are some notes available or
13 materials. I assume you got everything together for the
14 trial that you have on Mr. Sankin.

15 MR. O'NEILL: Judge, I will say the amount of
16 Jencks on this individual is so massive an undertaking
17 that I have never even seen agents take such
18 ridiculously exact notes. The typical interview would
19 be 20 or 30 pages. I've skimmed through it.

20 THE COURT: There's nothing redacted as to
2

notes.

2

MR. O'NEILL: Oh, no, Judge.

2

MS. SWEENEY: No, Your Honor.

2

MR. O'NEILL: And if you'd want we could put

2

on an agent later at an appropriate time to say what the

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1 practice with notes are, but we can represent to the
2 Court when you first said notes I thought Mr. Wehner was
3 referring to Mr. Sankin's notes.

4 THE COURT: No.

5 MR. O'NEILL: There are no notes from the
6 agent.

7 THE COURT: He's referring to whatever agent
8 took notes when he was identifying these exhibits. All
9 I can do is accept the Government's proffer that they
10 don't have those notes.

11 MR. O'NEILL: You could call the agent.

12 MR. WEHNER: I don't think that's a fair 4 13 characterization of what was
said, and Mr. O'Neill is

14 exactly correct. I don't suggest that he saw it or he
15 did it, but I think it's clear that the witness
16 testified that notes were taken about these receipts.

17 MR. O'NEILL: Oh, notes were definitely taken,
18 but about what, only the agent could tell us.

19 MR. WEHNER: And I think I'm entitled at this
20 juncture in the cross to have Your Honor at least review
2 the notes that were taken about these receipts.

2 Mr. O'Neill doesn't have to personally say they
2 weren't -2

THE COURT: I understand from the Independent
2 Counsel they've turned over everything they had and

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1 there are no notes to review. If we want to make a

2 further inquiry of that we can have the FBI present and

3 see if those agents have any notes that they haven't

4 turned over. That's the only inquiry I can make. For

5 some reason, the notes are gone or they don't have them.

6 MR. WEHNER: I would ask you to instruct the

7 Independent Counsel to produce those notes, at least to

8 Mr. O'Neill and Miss Sweeney, if they exist because they

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9 said they haven't seen them.
10 THE COURT: I'll have them ask the agent to
11 see which were the agents at these various interviews
12 and see if there are any other notes that have not been
13 produced that these agents for some reason may or may
14 not have turned over, and that would reflect maybe
15 comments about these receipts.
16 I take it the Jencks has been turned over,
17 although it's been asked for and you reviewed it and
18 there are no comments about these particular receipts.
19 MR. WEHNER: I haven't found any about any
20 receipts.
2 MR. O'NEILL: Nor have I.

2 MR. WEHNER: There's no notes. It's an
2 absence of notes.
2 THE COURT: I'm not going to stop the trial
2 now to question all the agents at this point. First of

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1 all, you're getting into collateral issues anyway as
2 to -- he's already testified as to some of these
3 materials. All you're really asking now is did he ever

4 say these were accurate or not. You asked him about the
5 notes
6 MR. WEHNER: Judge, I think it's fair when you

7 had the issues regarding Brady, as you've had in this
8 trial, that I ask these additional questions. I mean if
9 there are notes that reflect -- these aren't accurate,

10 and they came in. That's not the fault of Mr. O'Neill.
11 But it's attributable to the Office of the Independent
12 Counsel.
13 THE COURT: I understand. I'll have the FBI
14 agent check which agents were at these interviews and
15 see if there were any notes that were turned over.
16 MR. WEHNER: Including rough notes, Your
17 Honor

18 THE COURT: Any notes reflecting these
19 receipts.
20 MR. O'NEILL: The only notes they would have
2 would be rough notes.
2 MS. SWEENEY: Your Honor, I do believe in the
2 Jencks material there are references to gifts provided
2 to Miss Dean. I just wanted that to be clear so we
2 weren't at cross purposes.

1232

1 MR. WEHNER: That's true, Your Honor. That's
2 what Mr. O'Neill refreshed his recollection on.
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3 MS. SWEENEY: And I believe perhaps social

4 occasions, lunches and dinners as well.

5 THE COURT: All right.

6 (Bench conference concluded)

7 THE COURT: Okay. We're ready to resume.

8 MR. WEHNER: Would you read back the last

9 question and answer, please?

10 (Question and answer read back)

11 BY MR. WEHNER:

12 Q Mr. Sankin, do you generally have a recollection in
13 all your dealings with the Office of Independent Counsel
14 that you told them that your records accurately
15 reflected what happened?

16 A I don't think they ever asked me that, sir.

17 Let me clarify that. It was my impression

18 that they were going to draw their own inferences from
19 my records.

20 Q And they didn't want to know if they were accurate
2 or not?

2 MR. O'NEILL: Objection.

2 THE COURT: All right. I'll sustain the
2 objection.

2 BY MR. WEHNER:

1 Q Okay, Mr. Sankin, I think you gave some testimony
2 yesterday regarding free legal services, is that
3 correct?

4 A I think I gave some testimony regarding services.

5 I think I testified that since I wasn't an attorney I
6 couldn't offer legal services.

7 Q You graduated from law school, did you not?

8 A Yes, sir.

9 Q But you were not admitted to the bar, is that

10 correct?

11 A That's correct.

12 Q Did you ever take the bar exam?

13 A I have.

14 Q Which one did you take?

15 A Pennsylvania.

16 Q Did you pass?

17 A I did.

18 Q And did you waive into the District of Columbia?

19 A No, sir.

20 Q So you're still not a member of the District of
2 Columbia bar?

2 A No, sir.

2 Q But you're an active member of the Pennsylvania

2 bar •

2 A Yes, sir.

1 Q Now, I believe you testified about performing some

services for the Stanley Arms, is that correct?

3 A Yes.

4 Q By the way, is your father a lawyer?

5 A Yes, he is.

6 Q And I believe you testified that you went to

7 Miss Dean after you were out of law school, and you

basically were looking for a job, isn't that right?

9 A No, sir, I don't think I testified to that.

10 Q What was your -- where were you employed when you

11 went to Miss Dean, right after you got out of law

12 school?

13 A I have a problem with your characterization of went

14 to.

15 Q When you talked to Miss Dean about the Stanley

16 Arms r where were you employed?

17 A I believe I was a student.

18 Q And where did you go to work after you left school?

19 A I went to work for myself.

20 Q Did you work for your father?

2 A No, sir.

2 Q Did you work for your father's company?

2 A No, sir.

2 Q Did you manage buildings that belonged to your

family?

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A I managed one building in which my father was a
minority owner of.

Q And did you not want to manage additional apartment
buildings?

A Yes, sir.

6

7

8

Q And you became aware that Miss Dean's family owned
a small apartment building, is that correct?

A Yes, sir.

9

10

11

12

Q

A

Q

A

And about how many units was that, about 20 or 30?
The apartment building?

Yes.

I think it's 40.

13

14

Q

A

40 units.

Yes.

15

16

17

18

19

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2

Q Okay. By the way, did you ever ask Miss Dean or
suggest to Miss Dean that she should get some Mod Rehab
funds

A

Q

green

A

to redo these apartments?

I may have suggested it.

And she said that there's no way on the Lord's
earth that that would be proper, didn't she?

I think that's correct, yes, sir.

MR. O'NEILL: Those exact words, Mr. Sankin?

2 MR. WEHNER: Objection, Your Honor, it's

2 cross -examination.

2 MR. O'NEILL: I'll withdraw it, Your Honor.

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1 THE COURT: All right. Go ahead.

2 BY MR. WEHNER:

3 Q Now, you were looking for additional apartments to

4 manage.

5 A Yes, sir, I was looking for business in general.

6 Q And you discussed that with Miss Dean, is that

7 correct?

8 A I'm not sure that's correct in that way, no, sir.

9 Q Well, then correct me, please.

10 A I spoke to her certainly about the Stanley Arms
11 Apartments.

12 Q That's what I'm saying. You spoke to her about
13 being a manager for Stanley Arms Apartments, isn't that
14 correct?

15 A We spoke to each other about it, yes, sir.

16 Q And you entered into an agreement, oral or
17 otherwise, to manage the Stanley Arms Apartments, isn't
18 that correct?

19 A Yes.

20 Q And you were to receive a fee for managing the
2 Stanley Arms Apartments?

2 A Yes, sir.

2 Q And that fee started at four and a half percent of
2 the gross rental income, isn't that right?

2 A I know it started at a figure below six percent.

1237

If you say four percent I accept that.

1

2 Q You tell me your best recollection) ahat the figure
3 was .

4 A I think that's correct.

5 Q Four and a half percent. Your best recollection is
6 that the rent started at 4.5 percent, is that right,
7 your fee?

8 A Yes, sir.

9 Q Now, the apartments weren't in very good condition,

10 were they?

11 A No, sir.

12 Q And they needed a lot of work to be done j didn't
13 they?

14 A Yes, sir.

15 Q But they also needed to have a rent increase, isn't
16 that correct?

17 A Yes, sir.

18 Q And a rent increase would mean that your income
19 would increase, isn't that correct?

20 A Yes.

2 Q Because you would be getting four and a half
2 percent of more money than you got before i the rent
2 increase, isn't that right?

2 A That's correct.

2 Q And not only that, once your fee went up to six

percent you also got more money, didn't you?

2 A Yes, sir.
3 Q As a result of the increase to six percent and the
4 fees going up to six percent, isn't that right?
5 So they both went up.
6 THE COURT: Relative to the increase in the
7 rents •
8 BY MR . WEHNER:
9 Q The increase in the rents and the increase in the
10 percentages, they both go up.
11 A Yes, sir.
12 Q Your fees are increased?
13 A Yes, sir.
14 Q You receive more money?
15 A Yes, sir.
16 Q That's more remuneration, more dollars go into your
17 pocket, isn't that right?
18 A Eventually, yes, sir.
19 Q I'm glad you said eventually. Isn't it true that
20 after you got the rent increase that Miss Dean
2 instructed you just to raise the rents gradually?
2 A That's correct.
2 Q As opposed to all at once?
2 A That's correct.
2 Q So the tenants wouldn't be displaced?

1 A That's correct.
2 Q So you got a little less money –
3 A Actually – let me correct you. I don't think it
4 was because the tenants wouldn't be displaced. That may

have been part of it but so that no one would -- a
6 hardship financially would be borne by the tenants,
7 becau se it was, in percentage terms, a large increase.
8 Q So it was increased \$25 every three months?
9 A I don't recall.

10 Q In fact, it was increased \$25 every three months
11 and, in fact, the rent increase that resulted from the

4 12 petition that was filed was a 30 percent increase,
13 wasn't it?
14 A I thought it was a little bit higher than that
15 but -- it's in the record.
16 Q Significant increase?
17 A Between 30 and 40 percent.
18 Q So, a significant increase in rents?
19 A Yes.
20 Q And in fact your percentage went up to six percent,
2 isn • t that right?
2 A Yes, it did.
2 Q Now, you were in a straightforward on-the-record
2 business transaction regarding this apartment building,
2 isn' tthat right?

1240

1 A I don't understand you, sir.

2 Q Was there anything unusual about this arrangement

3

with Miss Dean? wasn't it a standard property

4

management agreement?

5 A Well, it was standard with respect to the fact that

6 I was to manage property and receive a percentage of the

7 revenues as a fee. It was standard with respect to the

8 tasks I was to perform as a property manager. I'm not

9 sure what you mean by standard agreement.

10 Q Well, with your experience in the property

11 management business, was this typical?

12 A Oh, it was certainly not typical to have an oral

13 agreement rather than a written contract, for example.

14 Q But was it a typical agreement that you would

15 receive four and a half and then six percent of rents?

16 Isn't that a typical agreement for management contracts?

17 A The fee range is certainly within what you will

18 find in the marketplace.

19 Q Well, it's -- exactly. So that is a typical

20 arrangement. You receive a percentage of the rents you

2

collect, correct?

2 A I receive a percentage of the rents I collect, yes,

2

that is correct.

2 Q Now, isn't it true that you considered this

2

contract for the Stanley Arms to be a favor to you?

1241

1 Isn't that correct?

2 A It was certainly a benefit to me. I appreciated

3 it.

4 Q And, in fact, you repeated that, and you made that

5 statement that it was a favor to you, to Thomas

6 Broussard on several occasions?

7 A I certainly appreciated the business, but I think

8 that if you're going to characterize as a favor being

9 able to manage a building I think you have to

10 characterize as a favor the manner in which it was
11 managed. I think it was a mutually beneficial business
12 arrangement.
13 Q So you felt you did a good job of managing it?
14 A Yes, sir.
15 Q And you felt that you were fairly paid for managing
16 it?
17 A I felt I did a good job of managing, sir. I think
18 the record will bear that out.
19 Q Now, through all these interviews with the
20 Independent Counsel and all the discussions that you had
21 about the Stanley Arms properties, isn't it true that
22 you told them on occasion that you believed that this
23 arrangement that we've described, the four and a half to
24 six percent, and the increase in the rents, that you
25 believe that Deborah Dean believed that that was fair

1242

1 compensation for your work on the rental increase
2 petition?
3 A Those aren't the words I would have selected,
4 but -
5 Q Please give me the words you would have selected.
6 A I think that the -- our arrangement was ambiguous
7 with regard to the Stanley Arms and that -- and I think
8 that she -she
perhaps believed that -let
me start
9 over, and I will -I
will synopsise the arrangements on
10 the Stanley Arms for you.
11 As I got to know Deborah Dean I became aware
12 that she had this apartment building. We discussed it.
13 I made observations to her regarding the way the
14 building was being managed. I don't remember whether
15 she asked me to manage it or I asked her to manage it,
16 but I was certainly pleased to have the work.
17 One of the things I told her she needed to do
18 or should consider doing was to get a hardship rent
19 increase because the building was losing money, and a
20 hardship rent increase would allow her -- would allow
2 the building to receive a fair return. I think perhaps
2 she viewed my work product in preparing this hardship
2 rent increase as an incentive for my taking over the
2 business, although we never specifically discussed it.
2 so it is possible she had a belief that this

1243

1 was included, and the fact of the matter is we did not
2 have an arrangement regarding the fee for this petition
3 before the fact and I only discussed the fee with her
4 after the fact.
5 Q What was the rent rate for the Stanley Arms before
6 the rent increase was granted? Approximately.
7 A As I recall, the top rent in the building was \$163
8 a month. It was certainly under \$200 a month, I think.
9 Q And how many units were there?
10 A 40.
11 Q I think 163 times 40 is 6520.

12 If you care to check my math, Mr. O'Neill.
13 MR. O'NEILL: No, not at all.
14 MR. WEHNER: I'm not a math person.
15 BY MR. WEHNER:
16 Q 6520, four percent of that would be what, \$250?
17 I'm estimating. I think that's about \$250. What was
18 the average rent when you -- after you raised the rent?
19 A I don't remember what the average rent was but I
20 think that when -- when I stopped managing the building
2 the top rent in the building was either 315 or \$335 a
2 month. Under rent control the rents are all different
2 levels.
2 Q Well, that's a significant increase. That's about
2 double, isn't it?

1244

1 A Yes.
2 Q Well, then your fee about doubled, did it not?
3 From the beginning of the time you started with the
4 apartments until the end, on a monthly basis? Isn't
5 that a fact?
6 A No, I don't think it's a fact that it doubled. It
7 may have. I don't -- I
8 don't -- if you'd like me to
8 work out the numbers I can do that.
9 Q Well, if the rents go up by 100 percent and your
10 percentage goes up --
11 A The rents in the building did not go up 100
12 percent. They went up less than that. I told you what I
13 remembered the top rent level in the building as being.
14 Q You would agree --
15 A Rents went up also after the rent increase when we
16 had turnovers.
17 Q You would agree that your rate of compensation, the
18 dollars in your pocket, went up substantially, would you
19 not?
20 A My rate of compensation did. There was substantial
2 overhead. In my pocket is another issue.
2 Q The money you received from the Stanley Arms as a
2 percentage of rents increased substantially, did it not?
2 A Yes.
2 Q Now, I think you testified that you weren't an

1245

1 attorney, correct?
2 A Yes, sir.
3 Q And I believe yesterday you testified that one of
4 the ways that you calculated what you believed the rent
5 increase to be worth was based on an hourly rate, isn't
6 that correct?

7 A I think I said I investigated what an hourly rate

8 by an attorney would have been. That's not the way that

9 I personally calculated the value.

10 Q Did you find out what the going hourly rate was for

11 an attorney who was not a member of the bar in

12 Washington, D.C. at that time?

13 A I don't know. I would think not.

14 Q As a matter of fact, unless you're admitted to the

15 bar, you can't practice law, isn't that true?

16 A That's what they tell me, yes, sir.

17 Q Real estate or otherwise, correct?

18 A I think that's correct.

19 Q Now, we've talked about the credit card receipts

20 that show that some amounts of money, albeit very small,

2 flowed from you to Miss Dean, correct? We had a \$300

2 cup and saucer, correct? And you gave that to

2 Miss Dean. Even though it was for personal or business,

2 whatever, you delivered that to her?

2 A I don't think anything reflected money going to

#

1 Miss Dean.

2 Q No, no, \$300 worth of a cup and saucer, correct,

3 that's what you paid for it and that's what you handed

4 to her?

5 A I think that's what the record reflects.

6 Q And there were a couple of lunches or dinners that

7 you testified that went to Miss Dean, isn't that

8 correct, because that's what your records reflect?

9 A I don't recall how many there were, but -10

Q A few.

11 A Yes.

12 Q Would you say that the total entertainment and

13 gifts you gave to Miss Dean over the time you've known

14 her was what? I'm not going to suggest a number for

15 you. You just give me a number. Best estimate.

16 A I would say under \$1000, but I am very

17 uncomfortable with trying to calculate a number of what

18 I spent on entertainment over a series of years, high,

19 low, I just don't know.

20 Q Your best recollection is \$1000, as I understand

2 it.

2 Now, did Miss Dean entertain you on occasion?

2 A I think she did, yes.

2 Q And, as a matter of fact, she bought dinners for

2 you, didn't she?

1 A

2 Q

3 A

4 Q

5 A

6 Q

7 didn'
8 A
9 Q
10 A
11 Q
12 A
13 Q
14 A
15 Q
16 A
17 Q
18 that
19 card?
20 A
2 Q
2 weren
2 going
2 A
2 us.

No question about that.
And she had you over to her house, didn't she?
Yes, she did.
And you traveled together, didn't you?
Yes, we did.
And she paid for your airline tickets on occasion,
t she?
I don't remember that.
Did you ever go to an island off the coast?
We went to Bermuda together.
And you went by air?
Yes, we did.
She paid for your airline ticket, didn't she?
I don't remember that, no.
well, did you pay for your airline ticket?
I think so.
Do you recall being short on cash at that time and
Miss Dean put all those expenses on her credit

I -- I don't recall.
Now, I don't want to leave a misimpression. You
't going there alone with Miss Dean. You were

with your girlfriend, correct, at that time?
No. Actually I was with -- there were several of
My girlfriend was not among the group.

1248

1 Q But you weren't traveling there for a weekend with
2 Miss Dean?
3 A Well, I was traveling there for a vacation weekend
4 with Miss Dean and several others.
5 Q Who else was with you?
6 A Richard Giegengack.
7 Q And that's who Miss Dean was dating at that time,
8 is that correct?
9 A Not according to Mr. Giegengack.
10 Q No, according to you.
11 A Deborah Dean and Abbie Weist shared a room and
12 Richard Giegengack and I shared a room. He's not my
13 type.

14 Q And you have no recollection of Miss Dean -pardon
15 me?

16 A Nothing, sir.

17 Q You have no recollection of Miss Dean charging that
18 airline ticket on her card?

19 A I really don't, but if she did I'd be very very
20 surprised if I didn't reimburse her for it. I -- I'm
2 pretty darn sure that an airline ticket to Bermuda was
2 not a gift from Deborah Dean to me. I would remember
2 that, and I don't remember that.

2 Q Did you consider the time she entertained you to be
2 a gift from her to you? I mean the times you -

1249

1 A I never thought of it in those terms, no, sir.

2 Q well, but -- then why is what you bought for her a
3 gift? If she buys you dinner, why is that not a gift?

4 A Oh, I misunderstood your question. I thought - I
5 thought you asked me if the time we spent together was a
6 gift.

7 Q No. I don't think that was my question. When she
8 entertained you, wasn't that a gift to you?

9 A Sure, in that sense.

10 Q well, in the same sense, when you bought her dinner
11 that was a gift to her, in that sense, in a social
12 sense •

13 A Yes, sir.

14 Q You were friends.

15 A Yes, sir.

16 Q You looked up to her?

17 A We still are.

18 Q She -- when was the last time you saw Miss Dean,
19 sir?

20 A I saw her at Christmas, December of last year.

2 Q In fact, you came to her house December of last
2 year, didn't you?

2 A I didn't come to her house. I was going somewhere
2 else. I was walking down the street.

2 Q You walked by her house.

1250

1 A I walked by her house. I saw her in the window.

2 She looked at me, I looked at her, we sort of the

3 wondered what the heck to do, and she goes, so you want

4 to come in, and I came in and we chatted, and she had

5 her fiance there at that time.

6 Q And she was decorating her Christmas tree at that

7 point, wasn't she?

8 A Yes, that's right.

9 THE COURT: Are you going to be much longer?

10 MR. WEHNER: Yes, sir.

11 THE COURT: All right. We'll go to lunch.

12 MR. WEHNER: Well, a half an hour more.

13 THE COURT: We'll go to lunch.

14 Ladies and gentlemen, we'll have the fans

15 turned on this afternoon to move some air through here,

16 so you don't get too warm and tired.

17 We'll come back at 1:45 because it's going to

18 be crowded down in the cafeteria to get lunch.

19 Remember the admonitions of the Court,

20 please. Do not talk about this case among yourselves or

21 with anyone else.

2 See you back here at 1:45 this afternoon.

2 (Lunch recess, 12:30 to 1:45 p.m.)

2

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1251

AFTERNOON SESSION

2 (2:00 p.m.)

3 (Defendant present, Jury out.)

4 THE COURT: All right, why don't you bring the jury in.

5 Then I'll talk to them and see what they want to do here.

6 (Jury in.)

7 THE COURT: Ladies and Gentlemen, as you noticed this

8 morning, the air conditioning system is not working. There was

9 some construction apparently going on on our roof to fix one of

10 the systems, and they, instead of fixing it, broke it.

11 I've been told there's another courtroom on this floor

12 where the air conditioning is working. If you're uncomfortable,

13 we can move if you think it's bothering you. That requires us to

14 pack up a lot of materials.

15 So if you're bothered, just let me know. We'll start

16 here for a while, and if it gets very uncomfortable as time goes

17 on, I think we can take a break and move across the hall. It's

18 just across the hall. So I'll start here for a little bit.

19 You're welcome to take your jackets off or anything if

20 you feel it's uncomfortable for you. The main thing is you don't

21 get too tired with this kind of warmth, and if that happens, we

22 can take a break, or we'll go across the hall and use the other

23 courtroom.

24 All right, we'll resume then at this time, and then

25 we'll see how we're doing in a little while, if you'd like to

1252

move.

2 Mr. Sankin, you can resume the stand.

3 ANDREW C. SANKIN, GOVERNMENT'S WITNESS, RESUMED
4 CROSS EXAMINATION (Cont'd.)
5 BY MR. WEHNER:
6 Q. Mr. Sankin -- good afternoon.
7 THE JURORS: Good afternoon.
8 BY MR. WEHNER:
9 Q. Good afternoon to you, too, Mr. Sankin.
10 A. Thank you.
11 Q. I'd like to spend a few minutes asking you some additional
12 questions about the John Rosenthal matters that you testified to
13 about on direct, and I would like to show you Defense Exhibit 65,
14 if I might, before I ask you those questions.
15 Let me ask you, it's a very brief piece of paper, if
16 you'd just quickly read it.
17 A. Would you like me to read it?
18 Q. Not out loud, no, no. Just read it to yourself. Just to
19 get you in the right area so we don't have to waste a lot of time
20 looking at pieces of paper later.
21 Have you read it?
22 A. Yeah. I can't read the writing at the bottom.
23 Q. That's fair enough. I just wanted you to read the typed
24 part anyway.
25 who at the time of the Necho Allen work for Rosenthal

1253

1 was Kenneth Finlayson?
2 A. He was the regional director for HUD. I think it's Region
3 7.
4 Q. And that was the region that included the Rosenthal/Necho
5 Allen project; is that right?
6 A. I believe so, yes.
7 Q. Okay. Now Finlayson is a career-type official; is that
8 correct?
9 A. I don't know.
10 Q. Do you know if he had been with HUD for an extended period
11 of time?
12 A. I don't know.
13 Q. Did you talk to Finlayson about the Necho Allen project?
14 A. Not that I recall, no.
15 Q. Do you have any recollection as to whether Kenneth Finlayson
16 recommended that the rent increase be granted for that project?
17 A. I remember that memo now that you show it to me, which he
18 does indicate a recommendation.
19 Q. Well, do you have a recollection that Finlayson recommended
20 that that rent increase be granted?
2 A. Based on what you just showed me, yes.

2 Q. Okay. Now do you recall asking for a specific amount of an
2 increase in rents for that project?
2 A. I don't recall. I think there must have been, because we
2 were asking for an exception rent level, which implies we were

1 asking for some level.
2 Q. Isn't it correct that you requested a 10 percent increase in
3 rents for that project?
4 A. I don't recall, but it sounds correct.
5 Q. All right. I'm going to show you what I will mark for
6 identification as Dean Exhibit 126. It's dated 1-19-85.

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7 THE CLERK: Dean Exhibit 126 marked for identification.
8 (Defendant's Exhibit No. 126 was
9 marked for identification.)

10 BY MR. WEHNER:

11 Q. I'll ask you if you recognize that?

0)

12 A. This is my handwriting.

*

13 Q. Well, it's a note you took; is that correct?

14 A. Yes. I think it's the note from the meeting that we had in

15 Ms. Dean's office regarding Necho Allen.

16 Q. And does that note refresh your recollection that you had,

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17 in fact, asked for a 10 percent increase in rents for that

18 project?

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19 A. It's highlighted here, and it says -

20 Q. Please don't read it yet. Does it refresh your recollection
21 that you asked for a 10 percent increase?

22 A. No, sir.

23 Q. It doesn't? Does it refresh your recollection that you

24 asked for an increase larger than the one you eventually got?

25 A. No, sir.

7/93

1 Q. Hunting Cushing was at that meeting, was he not?

2 A. Yes.

3 Q. Ms. Dean was at that meeting, correct?

4 A. Yes.

Q. You were at that meeting, correct?

A. Yes, sir.

Q. John Rosenthal was at that meeting, correct?

A. Yes, sir.

Q. And Jim Lomenick was at that meeting, correct?

10 A. I think that's Jim Hammernick.

11 Q. Hammernick?

12 A. I also recall Bob Davison being at that meeting, although

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w 13 it's not reflected on the notes.

14 Q. Who is Bob Davison?

15 A. Special assistant to the secretary that was on Ms. Dean's
I 16 staff at HUD.

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17 Q. And at this meeting, you made a presentation to all these
18 people as to whether this exception rent should be granted; is

> 19 that correct?

20 A. Yes.

2 Q. And ultimately it was granted. That's correct?

2 A. Yes.

2 Q. And ultimately it was granted at least in part because Ken
2 Finlayson said it was a good idea; isn't that correct?

2 A. I'm not privy to the thought process of the decision makers,

1256

but I would assume so.

2 Q. Well, if the regional housing commissioner of Region 3
3 supports the granting of the exception rent, that certainly helps
4 the process, does it not?

5 A. I would say it does help the process, yes.

6 Q. And if the regional administrator thinks that that will
7 substantially improve a downtown hotel in Pottsville in addition
8 to providing elderly housing resources, that certainly helps the
9 process along, doesn't it?

10 A. I think I just answered that, yes.

11 Q. Now, Mr. Sankin, you testified very briefly on your direct
12 that you knew Silvio DeBartolomeis; isn't that correct?

13 A. Yes.

14 Q. Now it's true, is it not, that Silvio DeBartolomeis has been
15 a friend of yours for many years?

16 A. Yes.

17 Q. How many years? Back to childhood?

18 A. Since I was a teenager, young teenager.

19 Q. And that goes back, because you worked with him at the
20 beach, Rehoboth?

21 A. I didn't work with him, but we were friends.

22 Q. You lived there, your family had a house is there; is that
23 correct?

24 A. Yes, that's correct.

25 Q. And his family had a house there?

A. Yes.

2 Q. So you maybe grew up together enjoying your summers?

3 A. Yes, that's fair.

4 Q. Okay. Of course, that's much longer than you knew Ms. Dean;
5 isn't that correct?

6 A. Yes.

7 Q. Now I believe you testified on direct -- and please correct
8 me if I'm wrong -- that one of the reasons you were going to
9 Ms. Dean was because you didn't feel you could go to

10 Mr. DeBartolomeis; is that correct?

11 A. Yes. In essence, that's correct.

4 12 Q. Okay.

13 A. It was certainly more difficult for me to go to
14 Mr. DeBartolomeis on certain things.

15 Q. Isn't it true, Mr. DeBartolomeis -- or Mr. Sankin, that you
16 did, in fact, go to Mr. DeBartolomeis on occasion?

17 A. Go to him in what sense, sir?

18 Q. Didn't you discuss HUD projects with Mr. DeBartolomeis?

19 Isn't it true?

20 A. It's true that I discussed my work with him.

21 Q. Now just a minute. You testified on direct as to precise
22 conversations with Ms. Dean about certain projects. Now what did
23 you discuss with Mr. DeBartolomeis?

24 A. Mr. DeBartolomeis and I were friends. We were in the same
25 business, and we socialized.

1258

1 Q. What did you discuss with Mr. DeBartolomeis? It's true, is
2 it not, Mr. Sankin, that you discussed mod rehab with
3 Mr. DeBartolomeis and that you recorded those discussions in your
4 own handwriting in your own notes? Isn't that true?

5 A. If you say so. I don't recall specifically.

6 Q. Well, I'm going to mark for identification Dean Exhibit 127.

7 THE CLERK: Dean Exhibit 127 marked for identification.

8 (Defendant's Exhibit No. 127 was
9 marked for identification.)

10 BY MR. WEHNER:

11 Q. And that is in your handwriting, is it not? Mr. Sankin,

4 12

13

that is in your handwriting, is it not?

A. Yes, it is.

14 Q. Now it is true, Mr. Sankin, that you discussed mod rehab
15 projects with Mr. DeBartolomeis, isn't it?

16 A. That note indicates I discussed it with Dave Gustafson.

17 Q. And who was Dave Gustafson?

18 A. He was Silvio's special assistant.

19 Q. Well, you also discussed Tom Broussard with that person,
20 didn't you? Didn't you?

2 A. I'm not sure.

2 Q. Sir, would you please look at the exhibit again? You
2 discussed Mr. Broussard with Gustafson, didn't you? Pardon my
2 tongue. "Gustafson."

2 A. I pardon your tongue, but I don't believe this indicates

that.

2 Q. You discussed 150 units with Gustafson, didn't you?

3 A. I'm not sure that this note indicates that.

4 Q. Well, how about 610 units? Did you discuss that with
5 Gustafson?

6 A. I think it's more likely I discussed 610 units than 150
7 units.

8 Q. Do you recall discussing 610 units with him?

9 A. I think what this note indicates was that I was trying to

10 find out the funding plan for Puerto Rico that had been issued,
11 and Dave Gustafson would be able to obtain that information for

1

4 12 me.

13 Q. You didn't testify to that on direct, did you, Mr. Sankin?

14 A. I don't believe I was asked that on direct, sir.

15 Q. Sir, isn't it true that you discussed specific mod rehab
16 business with Mr. DeBartolomeis?

17 A. I don't think I ever made a request of Mr. DeBartolomeis for
18 mod rehab funding on a specific project for a specific client.

19 Q. Sir, that wasn't the question. Isn't it true that you
20 discussed mod rehab projects with Mr. DeBartolomeis?

21 A. I'm not sure that is true, no.

22 Q. Okay. Isn't it true that you called these contacts with
23 Mr. DeBartolomeis unofficial?

24 A. I'm not sure what contacts "these contacts" are referring
25 to, and I'm not sure what you're referring to at all, as a matter

1260

of fact.

2 Q. Isn't it true that you went to Mr. DeBartolotneis
3 unofficially for data regarding the Mod Rehab Program?

4 A. No, sir.

5 Q. Let me show you what I've marked for identification as Dean
6 Exhibit 128.

7 THE CLERK: Dean Exhibit 128 marked for identification.

8 (Defendant's Exhibit No. 128 was
9 marked for identification.)

10 BY MR. WEHNER:

11 Q. This is in your handwriting, isn't it, sir?

12 A. No, sir, it's not.

13 Q. You didn't write that?

14 A. I don't believe that's my handwriting, no, sir.

15 Q. Would you like to think about that answer, Mr. Sankin?

16 A. I'll have another look at it if you'd like, but I don't
17 think that's my own handwriting.

18 Q. I think you should.

19 THE COURT: Just ask questions without commentary,
20 please.

21 MR. WEHNER: Yes, sir.

22 THE WITNESS: No, sir, that's not my handwriting,
23 categorically.

24 BY MR. WEHNER:

25 Q. You're absolutely certain that's not your handwriting?

A. I am certain.

2 Q. Is it your testimony then that you never discussed the
3 particulars of mod rehab units with Silvio DeBartolomeis? Is
4 that your testimony?

5 A. Could you define "particulars," please, sir?

6 Q. Well, let's talk in generalities. Did you ever discuss the
7 Mod Rehab Program in general with Silvio DeBartolomeis?

8 A. I'm sure I did.

9 Q. Now what in particular do you recall discussing with Silvio

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10 DeBartolomeis regarding the Mod Rehab Program?

11 A. What I recall was doing my utmost to avoid discussing cases

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12 that I had been working on and specific projects and specific
13 clients.

14 Q. What would you do, talk to his assistants?

15 A. Yes, sir, on an official basis.

16 Q. On an official basis.

17 A. Yes, sir.

18 Q. And you talked to Mr. DeBartolomeis on an unofficial basis?

19 A. I don't believe I said that.

20 Q. Well, who did you talk --if you talked to his assistants on
21 an official basis, who did you talk to on an unofficial basis?

22 A. I don't believe I talked to anybody in an unofficial basis,
23 and I'm not sure what that implies.

24 Q. I don't know what it implies, either.

25

Did you ever cause papers to go to HUD in a concealed

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fashion?

A. I certainly don't remember anything like that.

Q. Did you ever cause papers regarding mod rehab programs or any other HUD program, for that matter, to be delivered to Mr. DeBartolomeis' office to have, to have somebody from that office carry those papers upstairs and have them logged in to a different office so they would not be shown to have been delivered to Mr. DeBartolomeis?

A. I don't know what you're talking about.

Q. I show you what's been marked for identification as Dean Exhibit 129 and ask you if that's in your handwriting?

THE CLERK: Dean Exhibit 129 marked for identification.

(Defendant's Exhibit No. 129 was marked for identification.)

THE WITNESS: Yes, this is my handwriting.

BY MR. WEHNER:

Q. Have you had a chance to read it?

A. I have.

Q. Now do you know who Nancy Murray is?

A. Yes, I do.

Q. Who's Nancy Murray?

A. Silvio's executive assistant.

Q. Isn't it true that you contacted Nancy Murray?

A. May I see the document again, sir?

Q. Sure.

8

4

1 A. This indicated I contacted Nancy Murray.

2 Q. Did you contact Nancy Murray?

3 A. My note says so. I'm sure I did.

4 Q. And did you have a conversation with her?

5 A. Apparently.

6 Q. And through that conversation, did you cause the memo

7 reflected in that conversation to be delivered to Ms. Wiseman's

8 office?

9 A. May I see the memo again, please?

10 well, the memo says that, this has, "Contacted Nancy

11 Murray. Memo to be logged in at Wiseman's, then to go down to

12 multi-family for investigation and approval, and then up to

13 wiseman for concurrence."

14 I'm not sure what memo this is referring to, but I

15 don't see anything surreptitious about that.

16 Q. Isn't it true that HUD had a logging-in system for

17 documents, Mr. Sankin?

18 A. I have no idea.

19 Q. Well, then -- but didn't you just testify that you wrote in

20 your own handwriting that a memo was going to be logged in with

2

wiseman? Didn't you testify to that?

2 A. That's what that says, yes, sir.

2

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Q. Okay. So there was a logging system, was there not?

2 A. I don't know if there was a system or not or whether

2

Ms. Wiseman logged in documents.

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1 Q. Why would you call Nancy Murray, Mr. DeBartolomeis1

2 assistant, to have a document logged in to Wiseman? Why not log

3 it in to DeBartolomeis?

A. I'm not sure one has a connection with the other. I had

5 been working with Nancy Murray. Perhaps I wanted to make sure

6 that a document was logged in properly. I see nothing out of the

7 ordinary with that.

8 Q. You see nothing out of the ordinary of calling Silvio

9 DeBartolomeis1 executive assistant, having a conversation with

10 her in which it is said that a memo is being logged in upstairs

11 to Shirley Wiseman, then returned downstairs for investigation

12 and approval, and then back upstairs for approval? You see

13 nothing strange about that being logged in to Wiseman's office?

14 A. It sounds to me like several people needed to approve a

15 piece of paper, and that's the path it took.

16 Q. Isn't it true that you didn't want that paper to be logged

17 in to Silvio DeBartolomeis1 office?

18 A. Sir, no, that's not true.

19 Q. Are you familiar with the Foxglenn project?

20 A. I am.

2 Q. I believe you testified on direct about that project, didn't

2 you?

2 A. Yes, sir.

2 Q. You visited that project personally, didn't you?

2 A. I did.

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1 Q. And you visited it with Silvio DeBartolomeis, didn't you?

2 A. I don't recall that.

Q. Isn't it true that you --

A. In fact, upon reflection, I don't recall visiting Foxglenn.

Q. Did you ever visit that site with Silvio DeBartolomeis?

A. Not that I remember.

7 Q. Now I'd like to talk a little bit more about your

8 relationship with Mr. Altman, and one of the things that you were

9 trying to sell to Mr. Altman was that you might be, that you

10 might be able to identify properties that were close to

11 foreclosure so that he could come along and invest in them. Is

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12 that fair?

9 13 A. What I remember is for a time, I was on retainer to
14 Mr. Altman to identify possible investment opportunities and real
15 estate in general. I don't recall whether we discussed

3

16 foreclosures. I know that we discussed single-family home
i
5 17 development sites.

18 Q. Isn't it true that you told Mr. Altman that it is possible

19 that I will be able to access information on properties that are

20 inevitably headed for the property disposition process?

1

2 A. It's possible.

2 Q. Well, let me show you what I've marked for identification as

2 Dean Exhibit 130.

2 THE CLERK: Dean Exhibit 130 marked for identification.

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1 (Defendant's Exhibit No. 130 was
2 marked for identification.)

3 BY MR. WEHNER:

4 Q. And looking at the highlighted part, see if that refreshes
5 your recollection as to whether that's exactly what you said to
6 Mr. Altman.

7 A. Yes, that's exactly correct, as a matter of fact. This
8 letter is dated October 2, 1984.

9 Q. And you did, in fact, say that to Mr. Altman, did you not?

10 A. Yes, I did.

11 Q. And it's true that you came up with that information; isn't
12 that correct?

13 A. Came up with --

14 Q. A list of properties that fit that description.

15 A. Could be.

16 Q. Well, did you or didn't you? You did, didn't you?

17 A. I have information like that. I don't recall whether I sent
18 it to Mr. Altman, but I indicated that I was going to.

19 Q. Okay. So you did come up with the information; isn't that
20 correct?

2 A. It's correct that I had information like that in my

2 possession.

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2 Q. It was in a computer printout, was it not?

2 A. Yes.

2 Q. And in fact, that computer printout came from Silvio

1 DeBartolomeis; isn't that correct?

2 A. That is not correct.

3 Q. Where did it come from?

4 A. It came from Joseph Strauss.

5 Q. It came from Mr. Strauss. Did you have a conversation with

6 Mr. Strauss as to where he got it?

7 A. I think I did, as a matter of fact.

8 Q. And what did he say?

9 A. I think he got it from HUD while he was working there, and I

10 got --

11 Q. So he walked out with it?

12 A. I think so.

13 Q. Oh.

14 A. I wouldn't know really.

15 Q. The same Joe Strauss that's been mentioned in this case?

16 A. I haven't heard him mentioned one way or the other, sir. I

17 haven't been here.

18 Q. Now of course, Mr. Strauss never inferred, thought,

19 suggested, or imagined that he got it from Deborah Gore Dean;

20 isn't that correct?

2 A. I didn't hear your question.

2 Q. He never inferred, thought, imagined, or said he got it from

Deborah Gore Dean; isn't that right?

2 A. That's correct.

2 Q. Now you on occasion would correspond with Mr. Altman; isn't

that correct?

2 A. Yes, sir.

3 Q. And on occasion, or on at least one occasion, you apologized

4 for an indiscretion you had committed with regard to HUD; isn't

5 that correct?

6 A. I don't remember, but I have a feeling I'm about to be

7 refreshed.

8 Q. Well, do you remember?

9 A. Sir?

10 Q. Do you remember?

11 A. No, sir, I don't remember.

•I

4 12 Q. It's true, is it not, that that indiscretion had to do with

13 Silvio DeBartolomeis?

14 A. Sir, I just testified I don't remember.

15 Q. Did you ever write to Mr. Altman --

16 A. Yes.

17 Q. -- and say, "I indicated I had discussed with Silvio the

18 possible conversion of vouchers to developers' contracts.

19 Unfortunately, it became immediately evident that an indiscretion

20 had been committed"? Did you ever say that?

21 A. I don't remember, sir.

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22 Q. I'll show you what I have marked for identification as Dean
23 Exhibit 131.
24 THE CLERK: Dean Exhibit 131 marked for identification.
25

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(Defendant's Exhibit No. 131 was
marked for identification.)

BY MR. WEHNER:

4 Q. Do you recall saying that to Mr. Altman?

5 A. I don't remember the letter, but it's on my letterhead,
6 although it's not signed.

7 Q. Do you remember having those, sending those words to
8 Mr. Altman or having that conversation with him?

9 A. No, I don't.

10 Q. Do you remember preparing the letter?

11 A. No.

12 Q. Do you have any recollection at all of an indiscretion with
13 Silvio DeBartolomeis?

14 A. I don't have a clue what that is.

15 Q. You don't have a clue as to what that is?

16 A. No.

17 Q. I'd like to go back to Christmas, which we talked about a
18 few, an hour or so ago, and if I recall correctly, your testimony
19 was that you were walking down the street past the place where
20 Ms. Dean lived.

21 A. Yes. There was a party in the next block that I had been
22 invited to.

23 Q. Right. And you saw her decorating her Christmas tree? You
24 saw her in the window?

25 A. I think we saw each other.

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Q. Okay. And you went in?

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2 A. I was invited.

3 Q. No suggestion you weren't. But you went into, into the

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house; is that correct?

5 A. Yes.

6 Q. And you had a conversation with her; isn't that true?

7 A. I did.

8 Q. And during that conversation, Mr. Sankin, didn't you express

9 to her that you didn't know how she could keep on fighting the

10 Independent Counsel?

11 A. I don't remember what my exact words were.

12 Q. Didn't you say she was either the bravest or the stupidest
13 person that you had ever met?

14 A. That sounds about right.

15 Q. And that's true that you said that because of the hours and
16 hours and hours you had spent with the Independent Counsel and
17 their agents?

18 A. I think it had nothing to do with me, sir.

19 Q. Going over --it had nothing to do with you? Did' it have
20 something to do with the Independent Counsel?

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2 A. No. I think it had everything to do with her.

2 Q. That she was either very brave or very stupid?

2 A. I was being empathetic with her situation. The comment
• 2 wasn't relating to me.

2 Q. Did it ever occur to you that the reason she didn't do what

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1 you did was because she's innocent?

2 MR. O'NEILL: Judge, are we going somewhere with all of
3 this?

4 THE COURT: All right. I'll sustain the objection, if
5 that's what you're making.

6 MR. O'NEILL: Yes, Judge. Sorry.

7 THE COURT: It's not relevant for questions, and the
8 jury can disregard the comment.

9 MR. WEHNER: Nothing further, Your Honor.

10 THE COURT: All right.

11 REDIRECT EXAMINATION

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12 BY MR. O'NEILL:

13 Q. Mr. Sankin, one of the first questions you were asked by
14 Mr. Wehner concerned whether you would have talked to him prior
15 to being on the witness stand today, and was your answer no?

16 A. That's correct, my answer was no.

17 Q. Then you were asked as to whether your lawyer ever spoke to
18 Mr. Wehner, and you weren't permitted to quite finish your
19 answer. What was your answer as to your lawyer speaking to
20 Mr. Wehner?

2 A. I think my lawyer had spoken with him.

2 Q. And was that on more than one occasion?

2 A. I'm not certain.

2 Q. Now you've testified you had more than one lawyer, Did more
2 than one lawyer speak to Mr. Wehner?

1 A. I just don't know without checking the records.

2 Q. Mr. Sankin, I will show you a number of documents, and with
3 the Court's permission, I would stay next to the witness.

4

THE COURT: Certainly.

5 BY MR. O'NEILL:

6 Q. Government's Exhibit 11C, is that a receipt for a restaurant
7 called La Pavilion?

8 A. Yes, sir.

9 Q. For December 23, 1985?

10 A. Yes.

11 Q. Other than what's written on that note, do you have a
12 specific recollection as to what occurred on that date?

13 A. No, sir.

14 Q. Let me show you Government's Exhibit HE, and I'd ask you
15 does that reflect an American Express receipt for the Dubliner

16 Restaurant on, it looks like, March 4, 1986?

17 A. Yes, sir.

18 Q. And do you have an independent recollection as to what

19 occurred on that date other than what's written on that?

20 A. I do, as a matter of fact, of that instance.

2 Q. What's on that one?

2 A. The -- and it's really nothing relating to HUD, but the

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recollection I have is that I remember the instance because

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Mr. Shelby made a comment that I rounded off my tip to an even

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dollar, and for some reason, that stuck in my mind.

1 Q. Was that a luncheon with Mr. Shelby?

2 A. Yes, it was.

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3 Q. Mr. Sankin, I'm showing you Government's Exhibit 11F, and
4 that reflects a receipt for a restaurant on May 9, 1986?

5 A. Yes.

6 Q. Do you recall independently what occurred on that date other
7 than what's written on that receipt?

8 A. No, I don't.

9 Q. Mr. Sankin, I'll show you Government's Exhibit 11G. Do you

10 have any independent recollection as to what occurred on that
11 date other than what's written on the receipt?

12 A. No, I don't.

13 Q. Mr. Sankin, I also have Government's Exhibits 11I, 11J, UK,
14 11L, 11M, UN, 11O, 11P, 11Q, 11R, US, 11T, 11V, and 11W. As to
15 those receipts that you've seen previously today, other than
16 what's written on those, do you have an independent recollection
17 as to what occurred on those dates?

18 A. May I see them, please?

19 Q. Surely.

20

THE COURT: A couple of those we haven't gone through

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before.

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MR. O'NEILL: Excuse me?

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THE COURT: we haven't gone through I.

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MR. O'NEILL: We have not?

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THE COURT: No, in my notes.

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THE CLERK: R.

2 THE COURT: After P, we don't have R, S, or T or U.

3 MR. O'NEILL: That's correct.

4 THE COURT: I'm sorry, Q is in there.

5 MR. O'NEILL: Q is. U is out.

6 THE COURT: U is out. R, S, and T are out.

7 BY MR. O'NEILL:

8 Q. Going one by one for the record, Mr. Sankin, please look
9 through those.

10 MR. WEHNER: Judge, can I just have them identified one
11 by one for the record just quickly?

12 MR. O'NEILL: That will be fine.

13 Q. Directing your attention to 11J, do you have any independent
14 recollection?

15 A. J, no. K, no. L, no. M, yes.

16 Q. Stop there since you have an independent recollection. What
17 is that?

18 A. "Dinner with chief of staff at HUD." It says, "Discussed

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19 mod rehab." It's the China Coral, the China Coral restaurant.
20 Q. And what is your recollection as to what occurred on that
21 date?
22 A. I recall that I discussed Ms. Dean's relationship with
23 Mr. DeBartolomeis, her personal relationship with
24 Mr. DeBartolomeis at that dinner.
25 Q. How do you know the chief of staff on that receipt refers to

1 the defendant, Deborah Gore Dean?
2 A. I remember having dinner with her there.
3 Q. Please continue with the other ones.
4 A. N, no. O, no. P, no. Q, no. V, no. W, no. No.
5

MR. O'NEILL: At this time, Your Honor, I would
6 approach the witness and show him 11U --
7 THE COURT: All right.
8 MR. O'NEILL: -- which I believe was shown to the
9 witness yesterday but was not entered into evidence.

10 THE WITNESS: The answer is no on this.
11 BY MR. O'NEILL:
12 Q. Excuse me, sir?
13 A. The answer is no on this. Same question?
14 Q. As to your recollection.
15 Now at this time, I'd ask you to look at it, since it's
16 not in evidence. What is it?
17 A. This is an American Express slip dated May 16, 1987, from a
18 Tia Queta restaurant in Bethesda, \$42. It says, "Lunch with
19 D. Dean, assistant secretary at HUD. Discussed mod rehab."
20 Q. Whose handwriting is that, sir?
21 A. That's my handwriting.

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MR. O'NEILL: Your Honor, just so the record is clear,
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since it didn't appear to be in yesterday, I would move it into
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evidence as Government's Exhibit 11U.
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THE COURT: Yes, it was identified yesterday, but it

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1 just didn't get moved.
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MR. WEHNER: Can I have voir dire on this, Your Honor?

3

THE COURT: Sure.
VOIR EXAMINATION

BY MR. WEHNER:

6 Q. I'm sorry, Mr. Sankin, but you were dating whom at this
7 time?

8 THE COURT: This was in May of '87.

9 THE WITNESS: I'm not sure.

10 BY MR. WEHNER:

11 Q. Kelly Joyce?

12 A. It's possible. It was about that time.

13 Q. Wasn't that graduation weekend for Kelly Joyce?

14 A. I told you I don't remember when her graduation --

15 Q. And isn't it true that Deborah Gore Dean didn't go to Kelly
16 Joyce's graduation, that she was at a horse race with one of your
17 lawyer's partners?

18 A. I don't know where Deborah Dean was, except as I've
19 indicated.

20 Q. But, sir, don't you know she wasn't here and that that was

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really Kelly Joyce?

2 A. I don't know that, sir.

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Q. Could it have been Kelly Joyce?

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MR. O'NEILL: Objection, Your Honor.

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THE COURT: All right, I'll sustain that. That's

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speculation.
BY MR. WEHNER:

Q. Was it Deborah Dean?
A. That's what my record indicates.
Q. Was it Deborah Dean?
A. I've testified that I don't remember other than what is stated on here.
Q. It wasn't Deborah Dean, was it?
A. I've already answered that, sir.
END OF VOIR DIRE EXAMINATION
THE COURT: Is that the voir dire?
MR. WEHNER: Yes, sir. I beg the Court's indulgence.
THE COURT: All right. That was recross, but --
MR. WEHNER: Yes, sir.
THE COURT: -- I will admit 11U that's being offered by

the government at this time. All right, 11U is admitted.
(Government's Exhibit No. 11U was

received in evidence.)
MR. O'NEILL: Excuse me, Your Honor.
THE COURT: Go ahead.

BY MR. O'NEILL:

Q. Now, Mr. Sankin, after you testified last night, did you state to me that you had no independent recollection as to many of the events that occurred on these receipts?
A. I'm sorry, could you repeat that, please?

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1 Q. After you finished testifying last night, did you state to
2 me that you had no specific recollection of many of the events
3 that occurred in these receipts?
4 A. Yes.
5 Q. Did you tell me that you had no specific recollection even
6 at times when Deborah Dean's name is written on the receipts?
7 A. I've told you that, yes.
8 Q. Now is that consistent with what your testimony was
9 yesterday?

10 A. I hope I've been consistent in all of my testimony.
11 Q. Mr. Sankin, let me ask you, if you would, I direct your
12 attention to Government's Exhibit 506 for identification purposes
13 only and ask you to begin at the bottom of that page and read on.
14 A. It says:

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15 "BY MR. O'NEILL: Question: Mr. Sankin, I would show
16 you this -- and it's referring to 11C -- since it's now in
17 evidence. How much is this bill for?
18 "Answer: 157.97.
19 "Question: And where is the bill? What occasion?
20 "Answer: It's a restaurant called La Pavilion.
2 "Question: And who did you go to that restaurant with?

2 "Answer: The annotation says 'HUD officials.'
2 "Question: Do you recall who it was?
2 "Answer: No, I don't.
2 "Question: On that specific day, you don't?

1 "Answer: No, sir.
2 "Question: Mr. Sankin, I would now show you a document
3 that's previously been marked for identification as Government's
4 Exhibit 11D and ask you if you recognize that?
5 "THE CLERK: Government's Exhibit 11 -- B or D?

"MR. O'NEILL: D.

"THE CLERK: D marked for identification.
8 "(Government's Exhibit No. 11D was marked for
9 identification.)

10 "THE WITNESS: It's an American Express slip for \$70 at
11 Duke Ziebert's, with my signature and with my handwriting that
12 says, 'Andy -- that's me -- and HUD official. Discussed mod
13 rehab."
14 Q. Did you tell this jury yesterday that you had no
15 recollection as to what Government's Exhibit 11C was other than
16 what's written on the note?
17 A. I'm sorry, I really wasn't paying attention when I was
5 18 reading. I was just reading. Did it say 11C?

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1 19 Q. Yes.
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20 A. Yes.

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2 MR. WEHNER: Your Honor, I object. That's not what the
2 testimony is, and he's now cross-examining his own witness.

2 THE COURT: No, that's all right. It's redirect.

• 2 MR. WEHNER: Very well.

2 THE COURT: He can bring that out. He's just read what

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1 the testimony was.
2 MR. O'NEILL : Was there an answer to that last
Page 722

3 question, You: • Honor?
4 THE COURT: He answered, "Yes."
5 MR. WEHNER: Your Honor, can I ask that the rest of
6 page 1143 be read?
7 THE COURT: Wait a second. You can come back.
8 Is that about D? D I didn't let in.
9 MR. WEHNER: Yes.
10 THE COURT: I didn't let D in.
11 MR. WEHNER: It's about D, as in dog.
12 THE COURT: I didn't let D in. I don't know what -13
MR. O'NEILL : That's correct, Your Honor.
14 THE COURT: well, I won't have it read.
15 MR. WEHNER: Isn't that what we just read?
16 THE COURT: No, he started it but stopped. He read C.
17 MR. WEHNER: Thank you, Your Honor.
18 THE COURT: Let's go ahead.
19 BY MR. O'NEILL:
20 Q. Mr. Sankin, you were asked questions about a woman by the
2 name of Kelly Joyce, who you dated?
2 A. Yes.
2 Q. What period of time approximately did you date her?
2 Let me withdraw that. On direct examination, you were
2 asked whether you were dating her on May 9 of 1986, and you

1 stated that you were. Do you recall that?
2 A. I, I think so. I think I was dating her during that time.
3 Q. At that time, were you socializing with the defendant?
4 A. Yes.
5 Q. Did you ever have an occasion to travel with the defendant?
6 A. I did.
7 Q. And did you, in fact, take a trip to Bermuda with the
8 defendant?
9 A. I did.

10 Q. Now you've stated that those American receipts -- during
11 direct examination, you were asked about those American

s 12 receipts -- American Express receipts, excuse me, and you stated
13 that the --
14 A. I'm sorry, sir, "those" referring to which ones?
15 Q. The ones that I've showed you that are marked into evidence.
16 That they were accurate. When were the notations on
17 those American Express receipts made?
18 A. In most cases, contemporaneous with, with the event, with
19 the charge. I notice that in a couple of instances, they were
20 done later, and that was probably when the receipt was received
2 back at the office.

2 Q. Now during cross examination, Mr. Wehner asked you about one
2 particular receipt which he stated was on a Sunday, and it stated
2 that you had lunch with Deborah Dean from HUD. Did you meet with
2 the defendant after hours or on weekends?

A. Yes.
2 Q. Now a particular receipt was that you paid \$300 for a
3 business gift to Deborah Dean. Do you recall that?
4 A. I recall the receipt.
5 Q. And did you deduct that as a business expense?
6 A. I would have to check my tax returns, but I would say yes.
7 That's why it was marked.

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8 Q. Were you doing mod rehab consulting work at the Department
9 of HUD at that time?
10 A. What was the date, please?
11 Q. That would be --

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12 THE COURT: It was 12-23-86.

13 MR. O'NEILL: Thank you, Your Honor.

14 For the record, that's IIP.

15 THE COURT: 11 --

16 MR. O'NEILL: Q, isn't it, Your Honor?

17 THE COURT: The \$300 one is IIP, the cup and saucer, at

18 least in my notes.

19 MR. O'NEILL: That's correct, Your Honor. It is IIP.

20 Q. Now you were asked questions about giving gifts to

21 girlfriends. Did you ever give gifts to other people at HUD?

22 A. I would say yes.

23 Q. And who, if anyone, did you give gifts to?

24 A. Well, I dated two different women that worked there.

25 Q. What were their names?

1 A. Carter Bell was one, and Janice Golec was another.

2 Q. And do you recall giving them gifts?

3 A. Not specifically, but I have a general recollection.

4 Q. Do you recall whether when you gave them gifts you wrote on
5 them "business expenses"?

6 A. I may have.

7 Q. And do you recall whether you deducted them?

8 A. If I annotated it, I would have, yes.

9 Q. Now you stated when you first came over to the Independent

10 Counsel with your American Express receipts, you went over them.

11 Do you recall that testimony during cross examination?

12 A. Yes.

13 Q. Can you recall when that was?

14 A. What the testimony was?

15 Q. No. Do you recall what period of time that was?

16 A. No.

17 Q. Now after going over those receipts, when was the next time
18 that you saw them?

19 A. I think, I think yesterday and today.

20 Q. Yesterday at what time? Where were you?

2 A. Here in the courtroom.

2 Q. Now, Mr. Sankin, on cross examination, Mr. Wehner asked you
2 about entering into an agreement to be the property manager of
2 Stanley Arms. Whose decision was it to manage Stanley Arms?

2 A. Whose decision was it?

1 Q. Yes. Who came to that decision that you would manage
2 Stanley Arms?

3 A. Well, both Ms. Dean and her family and myself came to that
4 decision collectively.

5 Q. Now, Mr. Sankin, Mr. Wehner asked you about when you applied
6 for this hardship rent increase, that your income went up. Do
7 you recall that?

8 A. I recall the question, yeah.

9 Q. And did the defendant's families -- family receive more

10 money when the rents went up as well?

11 A. Yes.

12 Q. You were asked questions about whether you had a standard

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13 property management contract with Stanley Arms. Do you recall
14 that?

15 A. Yes.

16 Q. Was that contract in writing?

17 A. No.

18 Q. Was that unusual for a property management contract not to
19 be in writing?

20 A. Yes, I think so.

2 Q. Why is that unusual?

2 A. Most management firms would have a written agreement.

2 Q. Was your use of security deposits to pay operating expenses
unusual?

2 A. Only within the scope of my experience. I can't comment on

1 others', sir.

2 Q. And from the scope of your experience, was it unusual?

3 A. Yes.

4 Q. Why is that?

5 MR. WEHNER: Objection.

6 THE COURT: All right, I had withheld going into that
7 before. I just think it's under an area that is not going to be
8 relevant, so I'll stay with the same ruling.

9 MR. O'NEILL: Okay. Thank you, Your Honor.

10 Q. Now you stated on cross examination that you appreciated
11 getting the business of Stanley Arms Apartments from the
12 defendant. Mr. Wehner used the word "favor." Did you consider
13 it to be a favor?

14 A. I considered it to be a mutually beneficial consideration.
15 I appreciated it.

16 Q. Was it a favor to the defendant, Deborah Gore Dean?

17 MR. WEHNER: Objection. Asked and answered.

18 THE COURT: I'll let him answer it.

19 BY MR. O'NEILL:

20 Q. Was it a favor to the defendant, Deborah Gore Dean?

2 A. I think that it was a mutually beneficial thing.

2 Q. Did she ever say to you that it was a favor to her?

2 A. Yes.

2 Q. Now you stated during cross examination that as to obtaining
2 a fee for the hardship rent increase, you only discussed a fee

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1 with her after the fact, after you drafted the petition. Do you
2 recall that testimony?

3 A. I don't think I said after I drafted it, but after the
4 petition was granted, as I recall.

5 Q. What did you say to her, sir?

6 A. I think I inquired as to whether she'd be willing to pay a
7 fee for that.

8 Q. What was her response?

9 A. She said that she had no intention of doing so.

10 Q. Did you make any additional requests for the fee?

11 A. I don't think so.

12 Q. Why not?

13 A. She had made her position clear, and I was doing work with
14 the Department of Housing and Urban Development, and I didn't
15 think this, this warranted going to battle stations over and
16 damaging the relationship.

17 Q. What do you mean, you didn't think this warranted going to
18 battle stations over since you were doing business over at the
19 Department of HUD?

20 MR. WEHNER: Objection.

2 THE COURT: It's overruled. Go ahead.

2 BY MR. O'NEILL:

2 Q. Please answer for the Ladies and Gentlemen of the Jury.

2 A. It means that Ms. Dean had indicated what her position was,

2 No. 1. It means that, No. 2, I wasn't adamantly, adamantly

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1 certain of my own position, and No. 3, that I was doing
2 considerable business with the Department of Housing and Urban
3 Development, and I didn't think it warranted a potential rift
4 with Ms. Dean over this issue.

5 Q. Did you think it would harm your relationship with the
6 defendant, Deborah Dean?

7 A. Did I think what would harm our relationship?
8 MR. WEHNER: Objection.
9 THE COURT: I think he's answered it. I'll sustain the
10 objection. He's answered.
11 BY MR. O'NEILL:
12 Q. Now Mr. Wehner asked you to try to sum up the total value of
13 the gifts that you provided Ms. Dean, and although you had some
14 reluctance, you said probably under a thousand dollars. Do you
15 recall that?
16 A. Yes.
17 Q. Does that include the \$300 business gift that we've already
18 put into evidence?
19 MR. WEHNER: Objection to the characterization of it as
20 a business gift, Your Honor.
21 THE COURT: That will be up to the jury to decide what
22 kind of gift it is. I'll allow the question.
23 THE WITNESS: I really didn't do an itemization in my
24 mind.
25 BY MR. O'NEILL:

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1 Q. Does that include flowers that you sent to her periodically?
2 A. Yes.
3 Q. And you did send her flowers periodically?
4 A. I'm not sure what you mean by periodically, but I sent her
5 flowers on, I think, more than one occasion.
6 Q. Approximately how many times did you send her flowers while
7 she was at HUD in her position as executive assistant?
8 A. I don't recall, sir. Several, I would say.
9 Q. Let me show you what's previously been marked for

10 identification purposes as Government's Exhibit 505, and I'd ask
11 you to read from the bottom of that one page and onto the next

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12 and see if that refreshes your recollection in any way.
13 A. Read from the bottom?
14 Q. Of that page and onto the next page. See if that refreshes
15 your recollection in any way as to how many times you sent her
16 flowers.
17 A. Do you want me to read this to myself, sir?
18 Q. Yes. It's not in evidence.
19 A. It doesn't refresh on how many times I gave her flowers.
20 Q. How about bottles of wine? Did you ever give her bottles of
21 wine as gifts?
22 A. Yes.
23 Q. How many times?
24 A. I don't remember how many times.
25 Q. Were there particular types of wine?

1 A. She was very fond of port.
2 Q. How much did those bottles of wine generally cost?
3 A. I would say between 50 and \$100.
4 Q. At this time, do you recall any other gifts you may have
5 purchased for the defendant, Deborah Gore Dean, during her time
6 as executive assistant at HUD?

A. No.

8 Q. Now, Mr. Sankin, you were asked on cross examination about a
9 trip to Bermuda. Do you recall when that occurred?

10 A. Honestly, no.

11 Q. Okay. Would it refresh your recollection to know if you
12 were dating Kelly Joyce at that time?

13 A. No.

14 Q. Now Mr. Wehner asked if you were particularly low on money
15 at that time you went to Bermuda. Do you recall that?

16 A. No, I don't.

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17 Q. Do you recall the question? I'm sorry.

o 18 A. I recall the question.

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19 Q. Were you low on money at that time?

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20 A. I don't think so.

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2 Q. Were you working as a consultant at HUD during that period
2 of time?

2 A. Can you identify the period of time for me?

2 Q. Well, I'm asking you, do you remember when you went to
2 Bermuda?

1 A. Late '80s at some point.

2 Q. Well, was it -- what year, approximately?

3 A. I don't remember. I mean, I can judge, but I don't
4 remember.

5 Q. Well, can you give us a year, sir?

6 MR. WEHNER: Objection. He's answered the question.

7 THE COURT: All right, I'll sustain the objection.

8 He's answered four or five times trying to remember. He said he
9 can't.

10 BY MR. O'NEILL:

11 Q. Would anything refresh your recollection, sir, about when
12 you went?

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13 MR. WEHNER: I'm sorry, what was the question?

14 (Question read.)

15 THE WITNESS: It's possible.

I 16 BY MR. O'NEILL:

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17 Q. Anything that you can think of?

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o 18 A. Yes. As a matter of fact, I recall that Mr. Giegengack's
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19 father died while we were away in Bermuda.

20 Q. And do you recall when that was?

21 A. Anything I say would be a guess. I don't know.

22 MR. O'NEILL: Your Honor, I would ask for a five-minute

23 recess on this point.

• 24 THE COURT: All right. It's redirect; we don't need to
25 go too far. I'll take more than a five-minute break. We're

1 going to take 15 minutes in the midafternoon recess.

2 Ladies and Gentlemen, when we come back, I'm going to
3 move. It's awkward with all these papers and all, but I think
4 we're going to be here another hour, hour and a half or so this
5 afternoon. You're going to be kind of tired sitting in here. So
6 I'll have the marshal bring you back to the courtroom across the
7 hall. We'll sit in the courtroom for the rest of the afternoon
8 after the recess.

9 we'll take a 15-minute recess, 3:15. The marshal will

10 bring you back to Courtroom No. 8, and we'll sit there until we
11 will end for the day.

4 12 Remember the admonitions about not talking about the
13 case with anyone or among yourselves.

14 (Jury out.)

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1 (Recess 3:00 p.m. to 3:25 p.m.)

2 THE COURT: Everybody find their way?

3 MR. O'NEILL: Yes, Judge.

4 THE COURT: All right. Thank you for your

5 patience in transferring Courtrooms. The sound is much

6 better in this courtroom, by the way, you'll notice.

7 The former Chief Judge managed to get a sound system.

8 It's always a pleasure to sit in this courtroom. We'll

9 have the jury out and continue and we'll wrap this up, I
10 hope, at least in this area of examination.

11 MR. WEHNER: Judge, do you intend to sit until

12 4:30 tonight?

13 THE COURT: Yes, at least.

14 (Jury present)

15 THE COURT: We can call the roll for you.

16 Number one will start here and we'll work that
17 way.

18 There you go.

19 All right, ladies and gentlemen, thank you for
20 your patience in getting squared away. But you'll

2 notice this Courtroom is much cooler and actually
2 there's a better sound system. It's sort of like the
2 same church but different pews. All.

2 Right, ladies and gentlemen. I'm going to

2 resume at this time. The witness stand is over at this

1 you.

2 MR. WEHNER: No recross.

3 THE COURT: All right. Thank you.

4 Mr. Sankin, you're free to go, sir.

5 THE WITNESS: Thank you very much, sir.

6 MS. SWEENEY: Your Honor, the United States

7 calls Mr. Berel Altman.

8 THE COURT: All right

9 (BEREL ALTMAN, WITNESS FOR GOVERNMENT, SWORN)

10 DIRECT EXAMINATION

11 BY MS . SWEENEY:

12 Q Mr. Altman, I'm going to be asking you a number of

13 questions this afternoon and I'll ask you to keep your

14 voice up so the members of the jury can hear.

15 would you please state your name for the

16 record, spelling your last name for the Court reporter?

17 A Berel Altman, A-1-t-m-a-n.

18 Q Mr. Altman, are you presently employed?

19 A Yes, I am.

20 Q And where are you employed, sir?

2 A In Glenside, Pennsylvania.

2 Q Can you tell us who your employer is?

2 A Altman Realty Corporation.

2 Q And what type of business is that?

2 A Real estate development and management.

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1 Q Are you a principal in Altman Realty?

2 A Yes, I am.

3 Q How long have you been involved in the real estate
4 business?

5 A All my adult life.

6 Q Do you know an individual named Andrew Sankin?

7 A Yes, I do.

8 Q Do you recall when you first met Mr. Sankin?

9 A Mid-1980's.

10 Q Did you and he ever discuss working together?

11 A Yes.

12 Q And did there come a time when you agreed to hire
13 him?

14 A Yes.

15 Q Can you describe for us what his duties were for
16 you?

17 A He was working for us as a consultant and -- to
18 open business opportunities.

19 Q When he was working for you as a consultant, did he
20 do any work on Mod Rehab projects for you?

2 A Yes, he did.

2 Q And do you recall the names of the projects in
2 specific?

2 A Foxglenn Apartments, and I think a job that did not
2 come to fruition called East State Street.

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1 Q Do you know an individual named Richard Shelby?
2 A Yes, I do.
3 Q How did you meet Mr. Shelby?
4 A Through Mr. Sankin.
5 Q Did there come a time where you entered into a
6 consultant agreement with Mr. Shelby?
7 A Yes, I did.
8 Q And was that one agreement or more than one
9 agreement, if you can recall?
10 A I recall I think there was more than one.
11 Q Did Mr. Shelby do work for you on Mod Rehab
12 projects?
13 A Yes.
14 Q What was his particular role?
15 A As a consultant.
16 Q Did you have an understanding of what he was going
17 to do for you?
18 A He was going to take us through some of the details
19 as to the Mod Rehab program and lobby to get the units.
20 Q Do you recall what projects in specific Mr. Shelby
2 worked for you on?
2 A I recall -I
think he also worked on East State
2 Street. On a project in New Orleans called Manhattan
2 Gardens. And he had some involvement in Foxglenn.
2 Q Mr. Altman, I'm going to show you a document,

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1 Government's Exhibit 163 in evidence, and I'm going to
2 ask you if you'd look at that document and see if it
3 refreshes your recollection as to a project that

4 Mr. Sankin and Mr. Shelby worked on for you?

5 A Yes, it's Eastern Avenue, not East State Street,

6 I 'm sorry.

7 Q Now, did the Foxglenn project ever get funded, to

8 your recollection?

9 A Yes, it did.

10 Q And did you pay Mr. Shelby and Mr. Sankin?

11 A Yes, we did.

4 12 Q Do you recall how the fees on that project were
13 calculated?

14 A I do not.

15 Q Did there ever come an occasion when you had lunch

16 with the defendant Deborah Gore Dean?

17 A Yes, there was.

18 Q And do you recall when that was?

19 A Sometime in, I think, around 1986.

20 Q Was the defendant employed at HUD at the time?

2 A Yes, she was.

2 Q How did this lunch get arranged?

2 A Mr. Shelby arranged for lunch. I'm sorry,

2 Mr. Sankin arranged for lunch. I beg your pardon.

2 Q And was it during the period when Mr. Sankin was

1298

1 working as a consultant for you?

2 A Yes.

3 Q Why did you have lunch with the defendant?

4 A Mr. Sankin thought it would be a good idea for me

5 to meet her. We were doing a great deal of work at HUD,

6 and with her position there he thought it would be nice

7 to at least know who she was and she would know who we

8 were.

9 MR. WEHNER: Could we approach, Your Honor?

10 THE COURT: Sure.

11 (Bench conference).

12 MR. WEHNER: I renew my objection to the
13 continued use of the question why did a person do
14 certain things which then results in a response being
15 hearsay as to Miss Dean and, again, the same back door
16 objection to asking him why and getting an answer that
17 by definition involves hearsay as to Miss Dean. It's
18 inappropriate.

19 Number two, the same objection as to the
20 co-conspirator exception to the hearsay rule. I don't
2 think it's been met. These statements have nothing to

2 do with a conspiracy by Miss Dean.
2 THE COURT: Repeat the question.
2 (Question and answer repeated)
2 MR. WEHNER: Judge, it's the question, and the

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1 response is hearsay. Because they're saying why.
2 They're giving an explanation. And it is from their
3 heads. It has absolutely no connection with the
4 defendant and it's prejudicial as to her because they
5 are clearly being told by the consultants that they need
6 to do this. This is a top official at HUD. But that
7 doesn't reflect upon the defendant. Dropping the
8 defendant's name so they can connect her to the

9 conspiracy is not a furtherance of the conspiracy in
10 which she's involved and it's continually coming in
11 through the back door through the use of the question
12 why did they do this. They did this because she was
13 important.

14 THE COURT: Do you want to say anything?
15 MS. SWEENEY: Your Honor, we believe that we
16 have connected Miss Dean to the conspiracy. Mr. Sankin
17 has testified to the benefits that he provided to
18 Miss Dean and her family and he has furthermore, Your
19 Honor, testified that among those benefits were his
20 attempts to sell Mr. Altman family property.
2 THE COURT: I'm going to overrule the

2 objection on the same grounds that I mentioned earlier.
2 On this type of statement it seems to the Court under
2 the rules of evidence it's appropriate for the
2 Government to be able to bring in as part of their case

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1 where there's been alleged, and there's some testimony
2 it's up to the jury to accept it or not, as to
3 consideration flowing from Mr. Sankin to Miss Dean and
4 Miss Dean's assisting him in obtaining these HUD

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5 projects. There's been testimony about Mr. Sankin,
6 about his work for Mr. Altman and various other projects
7 with Mr. Shelby and this is at a time when they were
8 dealing together and I don't see why it would not fall
9 into the hearsay exception.
10 I am concerned as to the defendant's general
11 objection as to asking why, because that does open up
12 speculation, if not hearsay type answers. You'll have
* 13 to be careful about asking why. Presumably you know the
14 answer they're going to give.
15 MS. SWEENEY: Your Honor, I did not know the
16 answer I was going to get to this question, but I will
17 be more careful in the future.
18 I would also say the fact that the defendant
19 had lunch with Mr. Sankin and Mr. Altman goes to show
20 that she was aware of the relationship between the two
2 individuals and I do think it bears on that and that is
2 the point that Mr. Wehner has been contesting.
2 THE COURT: All right. It's overruled.
2 MR. WEHNER: Your Honor, I'd like to make the
2 record clear. I do not believe there's sufficient

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1 evidence on the record to support Your Honor's
2 conclusion that Miss Dean did anything to cause Mod
3 Rehab units to be distributed to anyone and I think that
4 was a part of your general description of what you
5 thought the preponderance of the evidence showed.
6 I'd also, for the record, move to strike the
7 testimony of Sankin at this point because of the Brady
8 violation, and that is the basis upon which the
9 Independent Counsel suggests that the conspiracy has
10 been proven by a preponderance of the evidence.
11 THE COURT: All right. I'm going to withhold
12 ruling on that at this time. I have in chambers all of
13 the rough notes of the agency on Mr. Sankin and I'll
14 review those rough notes and determine tomorrow if
15 there's any benefit to flow to the defendant from any
16 kind of Brady exclusions or not, prejudice or not. I
17 haven't a chance to read them.
18 All right.
19 (Bench conference concluded)
20 THE COURT: All right. We're ready to
21 resume.
22 MS. SWEENEY: I'd ask the Court reporter is
23 there a question pending.

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24 THE COURT: I don't think so. I think we had
25 finished with that.

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1 BY MS. SWEENEY:

2 Q Do you recall where the lunch took place,

3 Mr. Altman?

4 A The Jockey Club.

5 Q And who was present?

6 A Mr. Sankin and an associate of his, Miss Dean, and

7 myself. I think that was all.

8 Q Do you recall who paid for the luncheon?

9 A I think I did.

10 Q Were there any other occasions on which you had
11 either lunch or dinner with the defendant?

12 A Yes, I subsequently met the defendant at the Jockey
13 Club for dinner with Mr. Shelby, his fiancée at that
14 time, I think there was a gentleman, Mr. Roistman,
15 (spelled phonetically) who worked for me at the time was
16 there, and I don't recall if there was anyone else
17 present.

18 Q Do you recall when this occurred?

19 A Not precisely. I know it was after the luncheon,
20 probably about a couple of months.

2 Q Do you recall if at this point in time Miss Dean

2 was employed at HUD?

2 A I think she was, yes.

2 Q Do you recall who paid for the dinner?

2 A I don't recall. It was either Mr. Shelby or - I

1303

1 don't recall.

2 Q Did you ever see the defendant at HUD headquarters?

3 A Yes.

4 Q And on how many occasions?

5 A A couple, I think.

6 Q Do you recall how those meetings were arranged?

7 A I don't think they were arranged. I was at HUD on
8 other business and stopped in to see Miss Dean.

9 Q When you stopped in, sir, where did you go?

10 A I believe it was her -- her office.
11 Q Can you place these meetings in time as in
12 relationship to the luncheon or the dinner?
13 A It was subsequent to the dinner.
14 Q Are you familiar with a building in Washington,
15 D.C. Known as the Stanley Arms?
16 A Only that I know the name.
17 Q How did you hear about this property?
18 A Mr. Sankin talked to me about it. I believe at the
19 time he was managing it.
20 Q Do you know who owned this Stanley Arms?
2 A I believe it was either Miss Dean or her family.
2 Q And what did Mr. Sankin say to you about the
2 property?
2 A He asked me if I thought there was anything that I
2 could do with it to develop it or -- apparently it was

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1 not doing well as an investment and knowing of my
2 background and expertise in multi-family housing, he was
3 questioning whether I had any ideas as to what could be
4 done with it.
5 Q As a result of these discussions did you take any
6 action, Mr. Altman?
7 A No, I did not.
8 Q Did you do any examination of records or anything
9 like that?
10 A I looked at some financials and some written
11 descriptions of the building.
12 Q And what was your conclusion after doing that?
13 A I couldn't come up with any thoughts or ideas as to
14 how -- what could be done with it.
15 MS. SWEENEY: That concludes our direct
16 examination, Your Honor. That's all our direct.
17 THE COURT: That's all you've got?
18 MS. SWEENEY: Yes.
19 CROSS-EXAMINATION
20 BY MR. WEHNER:
2 Q Where are you from, sir?
2 A Philadelphia.
2 MR. WEHNER: I have no questions, Your Honor.
2 THE COURT: Mr. Altman, you're free to go,
2 sir. Thank you.

1305

1 THE WITNESS: Thank you.
2 MS. SWEENEY: Your Honor, the United States
3 calls Nicholas Bazan.
4 (NICHOLAS BAZAN, WITNESS FOR GOVERNMENT, SWORN)
5 DIRECT EXAMINATION
6 BY MS. SWEENEY:
7 Q Mr. Bazan, I'm going to be asking you a series of
8 questions and I'd ask you to keep your voice up so the
9 members of the jury can hear and to also use the
10 microphone, if necessary.
11 A Okay.
12 Q would you kindly state your name for the record,

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13 spelling your last name for the Court reporter?
14 A Nicholas Gregory Bazan, B-a-z-a-n.
15 Q Mr. Bazan, are you currently employed?
16 A I'm self-employed.
17 Q And what is it that you do, Mr. Bazan?
18 A I have a landscape, maintenance and installation
19 business.
20 Q Could you briefly sketch out your employment
2 background prior to your present employment for the
2 members of the jury?
2 A Yes, I was with a company called Kaiser -first
of
2 all, I graduated from George Washington University.
2 After graduation I went to work for a company called -

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1 I went into the Air Force for four years. Served in
2 Southeast Asia. I went to work for a company called
3 Kaiser-Aetna after I got out of the Air Force. Then
4 joined a company called Johnstown American Company in
5 the property management business and then was involved
6 in acquiring low income housing properties in Atlanta,
7 and then in the landscape business.
8 Q During the 1985 to 1987 timeframe, you were
9 employed in Atlanta, is that right?
10 A Yes, I was.
11 Q And what was the name of the company that you were
4 1213
employed with?
A Johnstown American. I left Johnstown American
14 actually in 1986. So the time period you mentioned
15 1985, '87, I was with Johnstown American for one of
16 those years and then I was on my own basically after
17 that.
18 Q Did the company that you had in 1986-1987 have a
19 name?
20 A Heritage America Management Company, yes.
2 Q Do you know an individual named Lou Kitchin?
2 A Yes.
2 Q Who is Lou Kitchin?
2 A He was the individual who was -- acted as a broker
2 for me back around '86, '87.

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1 Q When did you and Mr. Kitchin enter into a business
2 relationship?
3 A It would be sometime in 1986. Towards the end of
4 1986 I was involved at that time in refinancing a small
5 52-unit apartment property that needed some Government
6 financing under the 223F program, and I was also

7 involved in rehabilitating two or three other properties

8 that I was perhaps looking for money for in the future.

9 Q Did there come a time that you and Mr. Kitchin had
10 a discussion about a program known as Mod Rehab, which
11 is familiar to the members of the jury?

12 A Yes.

13 Q And do you recall when that was?

14 A No, I don't recall exactly when that was. Sometime
15 in 1986.

16 Q Were you familiar with the Mod Rehab program prior
17 to your discussion with Mr. Kitchin?

18 A No, I was not.

19 Q What did Mr. Kitchin tell you about the Mod Rehab
20 program?

2 MR. WEHNER: Objection, Your Honor.

2 THE COURT: All right. Do you want to come
2 back up? The same grounds as before or do you want to
2 come up and give a basis?

2 MR. WEHNER: Your Honor, it's the same ground

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as before.

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(Bench conference)

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THE COURT: Okay. This is a different area, I

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take it. Mr. Kitchin has not been mentioned before.

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MS. SWEENEY: Your Honor, our proffer is that

6 Mr. Kitchin will be testifying that he obtained a

7 representation from the defendant that he could obtain

8 Mod Rehab units, that he approached Mr. Bazan and

9 offered to get those units for him. And, in addition,

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10 that he subsequently gave Miss Dean a \$4000 payment and,
11 Your Honor, we're offering this pursuant to the
12 co-conspirator hearsay exception.
13 THE COURT: This is the \$4000 count plus the
14 conspiracy count.
15 MS. SWEENEY: Yes, Your Honor.
16 MR. WEHNER: Your Honor, if I could, in none
17 of the first two counts has there been any evidence
18 connecting Deborah Gore Dean corruptly to the events*
19 that followed and I agree that the co-conspirator
20 statements would corrupt her, but they can't come in as
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evidence unless you connect Miss Dean with the
2 conspiracy, and that's the problem with this case. This
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is the third conspiracy that was charged.
2

I don't believe, as I said to Your Honor
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before, that Mr. Kitchin is going to testify the way

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1 they proffered his testimony, much the same as the other
2 witnesses have not testified. They have not said that
3 Miss Dean said I will give you Mod Rehab units. It's
4 not on the record. And you have to look at that in this
5 case very closely, Judge, because that's what the
6 Independent Counsel is trying to get you to infer, a
7 corrupt connection without the evidence that it was
8 corrupt.
9 THE COURT: The proffer in this case in this
10 instance in this count is that he told Mr. Bazan that he
11 was - Miss Dean committed him to certain number of
12 units.
* 13 MS. SWEENEY: That he would be able to get 200
14 Mod Rehab units and he intended to get this by meeting
15 with Miss Dean, that he needed a letter from the PHA to
16 hand carry to her the following week.
17 THE COURT: Does he indicate that he had a
18 conference ahead of time, prior to meeting with
19 Mr. Bazan?
20 MS. SWEENEY: Yes, and he had an understanding
2 that he could get units.
2 THE COURT: I understand defense counsel's
2 concerns. Mr. O'Neill said earlier it's a case of
2 circumstantial inferences. Whether there's enough or
2 not, I'll make the decision at the appropriate time.

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1 what I'll do at this time, as I've done before, I think
2 in the proffer at least, despite the counsel's concern
3 about it coining in subject to bring stricken, I'll allow
4 it to come in on the hearsay exception. Your objection

5 is preserved.

6 MR. WEHNER: Your Honor, yes. I would like to
7 state for the record that this could have been avoided
8 if they called Mr. Kitchin first.

9 THE COURT: He'll be here. If he's not -10

MR. WEHNER: He may, Judge, but calling him
11 first would have avoided the necessity for the proffer
12 and I think it should be considered by Your Honor with
13 regard to anything that occurs later on, if the proffer
14 is not satisfied.

15 THE COURT: All right.

16 (Bench conference concluded)

17 THE COURT: All right. We're ready to go ahead.

18 MS. SWEENEY: would the Court reporter read

19 the question back, please?

20 (Question repeated by reporter)

2 A The question was what did Mr. Kitchen tell me about
2 the Mod Rehab program?

2 Q Yes.

2 A He basically told me that it was a subsidy program
2 that was utilized for rehabilitation property. It was

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1 similar to Section Eight except that the rent levels
2 were higher and the guaranteed income under the program
3 was greater than a typical Section Eight contract.

4 Q Did Mr. Kitchin say anything about his ability to
5 obtain Mod Rehab units?

6 A Not in our initial meeting, but he did overtime
7 indicate that he would be able to obtain some Mod Rehab
8 units.

9 Q And did he tell you how he was able to obtain them?

10 A He indicated to me that he had a friend,
11 Debbie Dean, in Washington, D.C. and that he could talk
12 to her, he could basically talk to her, or that office,
13 I guess, or he knew people in Washington, and that's how
14 he'd be able to get them.

15 MR. WEHNER: Your Honor, could we have a
16 continuing objection to that response?

17 THE COURT: All right.

18 MR. WEHNER: Thank you.

19 BY MS. SWEENEY:

20 Q Do you recall if a specify number of Mod Rehab
21 units was discussed at this point in time?

22 A We talked somewhere in the neighborhood of two to
23 300 units because the property that I had at the time
24 was 452 units.

25 Q How many units would you have liked to have

1312

1 obtained, Mr. Bazan?

2 A I would have liked to have obtained 452 but we got

3 200 basically.

4 Q Did Mr. Ritchin tell you that it would not be

5 possible to obtain 242?

6 MR. WEHNER: I object to the leading nature of

7 the question.

8 THE COURT: All right. I'll sustain the

9 objection.

10 MR. WEHNER: And have a continuing

11 objection?

12 THE COURT: All right, I'll sustain the

13 objection?

14 THE WITNESS: I'm sorry?

15 THE COURT: I sustained it.

16 Q her ask you another question.

17 BY MS. SWEENEY:

18 Q Mr. Bazan, do you have any knowledge how many Mod

19 Rehab units were available nationally?

20 A I had heard that there were approximately 9000

2 units that were available nationally. There was some

2 number that came out in some conversation at that time.

2 MR. WEHNER: I'm sorry, Judge, was that

2 90,000?

2 THE WITNESS: No, 9000.

1313

1 MR. WEHNER: 9000. Thank you.

2 BY MS. SWEENEY:

3 Q For the record, do you recall when these

4 discussions were taking place?

5 A As I said, sometime towards the end of 1986.

6 Probably September, October, in that neighborhood.

7 Q Do you have any understanding about the timing of

8 the Mod Rehab decision?

9 A When we began talking about it in earnest,

10 Mr. Kitchin indicated to me that there was a window

11 apparently that was getting ready to close on the Mod
12 Rehab program and that it was important for him to
13 proceed to Washington with a letter from the city asking
14 for the Mod Rehab units on my property, and that was
15 probably a week or ten days before we actually went

16 ahead with that.

17 Q As a result of your discussions with Mr. Kitchin,
18 did you do anything?

19 A Yes. Mr. Kitchin asked me to go to see a Bob
20 Sumbry (spelled phonetically) who was at that time head
2 of the Department of Housing and Physical Development in
2 the City of Atlanta, have him sign a letter from the
2 city formally requesting these units and, I believe, the
2 property, and get that letter to him so that he could
2 then take it to Washington because he was going to be

1314

12

having lunch apparently that day or the next day with
Miss Dean.

34

Q

A

Did you, in fact, go to see Mr. Sumbry?

Yes, I did.

56

Q

A

And did you obtain a letter from Mr. Sumbry?

Yes, I did.

#

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Q How was that letter prepared, if you know, sir?

A I believe that Mr. Kitchin said he would give me
some sample language. Mr. Sumbry then took that and put
it on city stationery. I left his office after we had
talked about it. He then had it typed up on his
stationery and he signed it. It was picked up by one of
my employees and delivered to Mr. Kitchin.

Q Did there come a time that you learned that Mod
Rehab units had been allocated to Atlanta?

16 A Yes.

17 Q And when was that, sir?

18 A Less than a week later.

19202222

Q Did you have an understanding as to whether or not
this allocation included any Mod Rehab units for your
project?

A Well, it was my understanding that it was -- that
they would be for my property, Heritage Village, but as
I understood the program, the Mod Rehab units would be
2 given to the city or allocated to the city and the city

1315

1 would have to go through some process to allocate the
2 specific projects.

3 Q Did you and Mr. Kitchin had an arrangement about
4 fees for his services?

5 A Yes, Mr. Kitchin had asked for \$1000 per unit, or
6 \$200,000, for the obtaining of these units. I agreed to
7 pay him that but only on the basis that I would be able
8 to actually utilize the units for my property. I was

9 concerned that since they were going to go to the city,
10 that I didn't have that kind of political pull in the
11 city, frankly, to be able to control where those units
12 ended up going.

13 Q Did you ever get the Mod Rehab units?

14 A No, I did not.

15 Q Did Mr. Kitchin do any other HUD related work for
16 you?

17 A He introduced me to some senior officials with Bent
18 Mortgage. That particular company which was a 223F
19 co-insurer, they provided me with approximately a
20 million-two loan for another small property that I had
2 that I was working on at the time and he received a fee

2 for that of one percent of the loan amount.

2 MS. SWEENEY: No further questions at this
2 time, Your Honor.

2 MR. WEHNER: Your Honor, could we approach?

1316

1 THE COURT: Sure.

2 (Bench conference)

3 MR. WEHNER: Sorry, Judge.

4 THE COURT: All right.

5 MR. WEHNER: Judge, that entire line of
6 questioning is no more in furtherance of the conspiracy
7 involving Deborah Dean.

8 THE COURT: He mentioned he obtained through
9 Deborah Dean, he talked to her and knew other people in
10 Washington, to get the units.

11 MR. WEHNER: Judge, he didn't get them.

12 THE COURT: You can argue about that.

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13 MS. SWEENEY: The allocation, Your Honor, as a
14 result of Mr. Kitchin's actions, did go to Atlanta. The
15 Atlanta PHA ultimately chose not to use them, or to
16 award them to someone else.
17 MR. WEHNER: I thought that's the way you
18 alleged that the program is supposed to work.
19 THE COURT: There's no sense in arguing. I'm
20 not going to strike his testimony at this time. There's
2 an appropriate time to take that up, but I won't strike
2 it at this time.
2 MR. WEHNER: All right.
2 (Bench conference concluded)
2 CROSS-EXAMINATION

1317

1 BY MR. WEHNER:
2 Q Let me get this straight, sir. You talked to
3 Mr. Kitchin. You agreed to pay him some money if you
4 got some units. Mr. Kitchin said I got the units for
5 you, I'm going to see my friend Debbie. You never got
6 the units. You never paid him the money. Is that a
7 fair summary?
8 A No.
9 Q Okay. What's wrong with that summary?

10 A Well, Mr. Kitchin approached me with respect to the
11 particular program and indicated to me that he could
12 obtain these units through his influence in Washington.
13 The units were in fact brought to the city. I never got
14 them.
15 Q So you never got the units.
16 A That's correct.
17 Q And apparently the public housing authority in
18 Atlanta made some decisions that you weren't going to
19 get the units, correct?
20 A I assume so.
2 Q Do you know if the units were ever used?

2 A I don't believe they ever were.
2 Q So Mr. Kitchin's efforts to get you the units were
2 unsuccessful.
2 A That's correct.

1318

1 Q How long was this window of opportunity you
2 referred to to get these units from Washington?
3 A I really don't know. He indicated to me that there
4 was some closing of the window that was coming up fairly
5 quickly, I believe by the end of the month.

6 Q Do you recall what day of the month you had this

7 conversation with Mr. Kitchin?

8 A No, I don't.

9 Q So would you say it was a maximum of what, less
10 than 30, less than 30 days?

11 A I would say it was probably less than two weeks.

12 Q Less than two weeks. So there was some window of
13 opportunity that he had to act.

14 A That's correct.

15 Q Did that window of opportunity have anything to do
16 with Deborah Dean?

17 A I don't know. I don't assume it did. I assume it
18 had to do with the program.

19 Q And your specific recollection is that he said he
20 could get the units from Deborah Dean?

2 A He said he was going to have lunch with

2 Deborah Dean in the Secretary's office and implied, at
2 least implied -- this is seven years ago.

2 Q Absolutely.

2 A That he would be able to get the units through his

1319

1 contacts in Washington and he was having lunch with

2 Deborah Dean.

3 Q That was a clear implication. He didn't say that.

4 He didn't say Deborah Dean is going to give me these

5 units, did he?

6 A I can't recall exactly what his exact words were at

7 that time.

8 Q Now, Mr. Kitchin is a very high level Republican,

9 is he not?

10 A That was my understanding.

11 Q As a matter of fact, he ran the Southern strategy

12 for the Reagan campaign, isn't that correct?

13 A I believe that's correct.

14 Q And he raised a lot of money for the Reagan
15 campaign, didn't he?

16 A I believe that's true.

17 Q And he was politically influential in Washington,

18 wasn't he?

19 A To my knowledge, yes.

20 Q Did that have anything to do with why he said he
2 could get units?

2 A I'm sure it did.

2 Q Do you recall whether there was a Congressional
2 race going on in Georgia at -- during the year that you
2 had this conversation with Mr. Kitchin?

1320

1 A There probably was but I was not -- I'm not
2 really -- was not really involved with it.

3 Q Do you recall that Senator Mattingly was running
4 for what would have been reelection?

5 A That's correct.

6 Q At that point, in 1984?

7 A Yes. 1984? Or '87? '86, rather.

8 Q '86, I'm sorry. And do you recall that that was a
9 hotly contested Senate race?

10 A Yes.

11 Q And do you recall having conversations with
12 Mr. Kitchin that he was helping Mattingly in that race?

13 A I think he may have mentioned that, but it was not
14 a major topic of conversation.

15 Q And did he mention to you that getting units to
16 Atlanta was something that the Reagan Administration
17 would probably want to do?

18 A No, he did not.

19 Q So there was no connection between his conversation
20 about Mattingly and these units coming to Atlanta?

2 A Not to my knowledge.

2 Q But there was a connection between him being a
2 heavy weight Republican and these units coming to
2 Atlanta.

2 A That's correct.

1 Q Did

2 A No.

3 Q Did

4 A No.

5 Q Did

6 A No.

1321

you ever meet Deborah Gore Dean?

you ever pay her any money?

you ever talk to her on the phone?

7 Q So everything you know about her you learned from
8 Lou Kitchin?
9 A That's correct.
10 MR. WEHNER: Nothing further.
11 THE COURT: All right. Any redirect?
12 MS. SWEENEY: Yes, Your Honor.
13 REDIRECT EXAMINATION
14 BY MS. SWEENEY:
15 Q Mr. Bazan, I'm going to show you a document that's
16 been marked as a Government's Exhibit for identification
17 purposes only and I'm going to ask you not to read from
18 the document. It's not in evidence at this time. I'd
19 like you to read the last paragraph of the document to
20 yourself though, sir.
2 A Okay •
2 Q Does that refresh your recollection as to what
2 Mr. Kitchin told you prior to going to Washington?
2 A Yes, I believe that's correct.
2 Q You' ll have to tell us what it was that he told

1322

1 you, if it in fact refreshes your recollection?
2 A I wasn't supposed to read from this. It basically
3 says that he indicated that he would be able to obtain
4 these MRP units or the Mod Rehab units by talking to
5 Deborah Dean. That there were approximately 9000 units
6 available in the nation and -- and that's basically what
7 I testified to earlier. He was going to have lunch with
8 Debbie Dean. He was going to talk to her about
9 obtaining the MRP units.

10 Q When you and Mr. Kitchin discussed fees did
11 Mr. Kitchin propose an arrangement as to how he wished
12 to be paid that was different from that which you
13 ultimately agreed on?
14 A Yes, he felt that -
15 MR. WEHNER: Objection. Beyond the scope.
16 THE COURT: All right, I'll allow that. Go
17 ahead?
18 A He indicated that he felt he should be paid the
19 \$200,000 as soon as the units came to the city. I told
20 him that I wasn't comfortable with that arrangement,
2 that I was not willing to pay that kind of a fee without
2 assuring myself that the units would be used for the
2 benefit of the property.
2 MS. SWEENEY: No further questions, Your
2 Honor.

1323

1 THE COURT: All right. Do you have any
2 recross?
3 RECCROSS EXAMINATION
4 BY MR . WEHNER:
5 Q Are you aware that the white House directed that
6 units be sent to Atlanta, Georgia on September 12, 1986?
7 A No.
8 Q What you were reading from, what the Independent
9 Counsel showed you?

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10 A Yes.
11 Q That wasn 't something that was written by you, was
12 it?
13 A No.
14 Q That was something that was written by them, isn't
15 that correct?
16 A That ' s correct.
17 MR. WEHNER: Nothing further, Your Honor.
18 THE COURT: All right. Thank you, sir. You
19 can step down.
20 MS. SWEENEY: Your Honor, may I have one?
2 THE COURT: You have one on re-redirect? All
2 right •
2 FURTHER REDIRECT EXAMINATION
2 BY MS . SWEENEY • •
2 Q Mr. Bazan , I'm going to show you once again

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1 Government's Exhibit 506 for identification and can you
2 tell us what that document is?
3 A This appears to be a typed transcript of the
4 interview with me on April 30, 1992.
5 MS. SWEENEY: That's all, Your Honor.
6 THE COURT: All right.
7 MR. WEHNER: Judge, I can't let that go.
8 THE COURT: we've had enough.
9 MR. WEHNER: The word transcript, Judge?
10 There's a certain connotation.
11 THE COURT: All right, a transcript or a
12 summary?
13 THE WITNESS: I'm sorry, Your Honor, it was
14 not an exact transcript. It was a summary of my
15 conversation.
16 MR. WEHNER: Thank you, Your Honor.
17 THE COURT: All right, you can step down.
18 Do you have another brief witness available?
19 MS. SWEENEY: Yes, Your Honor, the Government
20 calls David Westcott.
2 (DAVID WESTCOTT, WITNESS FOR GOVERNMENT, SWORN)

2 DIRECT EXAMINATION
2 BY MS. SWEENEY:
2 Q Mr. Westcott, I'm going to be asking you a number
2 of questions and I'd ask you to keep your voice up so

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1 that the members of the jury can hear. Would you kindly
2 state your full name, spelling your last name for the
3 Court reporter?

4 A David Pierre Westcott, that's w-e-s-t-c-o-t-t.

5 Q Mr. Westcott, are you presently employed?

6 A Yes.

7 Q And where are you employed?

8 A In Atlanta, Georgia.

9 Q What is it that you do?

10 A I'm a general contractor.

11 Q During the period 1986 and 1987 were you employed
12 in Atlanta?

13 A Yes, I was.

14 Q What is it that you were doing at that time, sir?

15 A I was working for Heritage America Management
16 Company as vice-president in charge of construction,
17 working for Mr. Nicholas Bazan.

18 Q Focusing on the period of October, 1986, do you
19 recall if you had occasion to visit the local PHA in
20 Atlanta?

2 A Yes, I did.

2 Q On how many occasions?

2 A Two times.

2 Q What was the purpose of your first visit to the
2 PHA?

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1 A I delivered a draft or a letter, a rough draft of a

2 letter from Heritage America to the head of the housing

3 authority there, Bob Sumbry.

4 Q When you say a rough draft, what do you mean by

5 that?

6 A It was some pointers for Mr. Sumbry to use to draft

7 a letter that we were going to use to give to Mr. Lou

8 Kitchin to apply for Mod Rehab units in Washington, D.C.

9 Q What was the purpose of the second visit to the
10 PHA?

11 A To pick up Bob Sumbry's final draft and take it
12 back to our office, and with that letter we sent general
13 information about our organization to Mr. Kitchin.

14 Q What did you do with the letter after you took it
15 back to your office?

16 A Combined it with additional data and took it to
17 Mr. Kitchin's office in Atlanta.

18 Q Do you recall to whom you gave the package when you
19 got to Mr. Kitchin's office?

20 A It's been a few years. I would say a good
2 possibility I delivered it to Lou. Someone was waiting

2 on me at that office. It was late in the afternoon.
2 Traffic in Atlanta was hectic and I was scurrying to get
2 there by a deadline to get it to him, and I would say on
2 a percentage basis about 90 to 95 percent, I gave it to

1 Mr. Kitchin.
2 Q Did you have an understanding what the deadline
3 was? You just used the term deadline.
4 A My understanding of it was that we had to get this
5 information to Mr. Kitchin in order for him to make the
6 trip to Washington to make the presentation.
7 MR. WEHNER: Objection. The same one, Judge.
8 THE COURT: All right. I'll allow it.
9 MS. SWEENEY: No further questions at this

10 time, Your Honor.
11 THE COURT: All right.
12 CROSS-EXAMINATION
13 BY MR. WEHNER:
14 Q Did you ever meet Deborah Gore Dean?
15 A No, sir.
16 Q Did you ever talk to her on the phone?
17 A No, sir.
18 Q Did you ever hear her name mentioned by Mr. Bazan?
19 A Yes, sir.
20 Q What did he say to you?
2 A That Mr. Kitchin was going to deliver this letter,

2 this request for Mod Rehabs to Miss Dean.
2 Q What was the timeframe of this request, was it
2 October of '86, November of '86?
2 A I believe it was October, late October.

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1 Q Did you look at the letter?
2 A Yes, sir •
3 Q Do you know who it was addressed to?
4 A I don't recall.
5 MR. WEHNER: Nothing further, Your Honor.
6 THE COURT: Nothing else?
7 MS. SWEENEY: No, Your Honor •
8 THE COURT: All right. Thank you.
9 Thank you, sir. You can step down,
10 Mr. Westcott. Thank you very much.
11 Have you used up your resources or do you have
12 another one?
13 MR. O'NEILL: We're moving, Judge. If the
14 Court wishes the Government would call Claude Dorsy.
15 THE COURT: All right. Let's start it up for
16 a few minutes •
17 MR. O'NEILL: I believe I'll be rather short
18 with him.
19 THE COURT: All right. Let's bring him in.
20 MR. O'NEILL: The agent has gone upstairs to
2 get the witness, Your Honor.
2 MR. WEHNER: Judge, just not to waste too much

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2 time , if I can approach?
2 THE COURT: Sure.
2 (Bench conference)

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1 MR. WEHNER: Your Honor, I've reviewed the Jencks
2 material, April 20th and May 15th of 1992 on Claude
3 Dorsy and assuming his testimony is consistent with
4 what's contained there they will be eliciting alleged
5 co-conspirator statements from Louis Kitchin to him
6 regarding Kitchin's connections to Miss Dean.

7 MR. O'NEILL: No, I don't expect that.

8 Okay, go ahead.

9 MR. WEHNER: And if he's not going to say
10 that, then the testimony is irrelevant.

11 THE COURT: Okay.

12 MR. O'NEILL: Judge, if you want an offer of
13 proof, what I expect Mr. Dorsy to testify to is the fact
14 that he's a developer in South Florida. He met
15 Lou Kitchin. Lou Kitchin told him he could get a sum of
16 Mod Rehab units, approximately 200. They entered into
17 an agreement. He agreed to pay him once they got the
18 units down to Dade County. He received 203 units for a
19 project. He paid Lou Kitchin the money. Lou Kitchin
20 then said that if we could get more units, he never
2 mentioned Deborah Dean to Claude Dorsy, he could get

2 additional units. They paid him an additional quantity
2 of money and they never received any units.

2 THE COURT: There is some allegation that Dean
2 was involved in this?

1330

1 MR. O'NEILL: Yes, that's what we're going to
2 show through the directing of the funds. She's involved
3 in the funding of the 203 at headquarters.

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4 THE COURT: Is Mr. Kitchin going to testify

5 that he went back to her and talked about this project?

6 MR. O'NEILL: That's what his grand jury

7 testimony states.

8 MR. WEHNER: Is that what you expect his

9 testimony to state?

10 MR. O'NEILL: You read his grand jury

11 testimony.

12 THE COURT: All right, I'm accept that

13 proffer. All right.

14 (Bench conference concluded)

15 (CLAUDE DORSY, WITNESS FOR GOVERNMENT, SWORN)

16 DIRECT EXAMINATION

17 BY MR. O'NEILL:

18 Q Mr. Dorsy, I will be asking you a number of
19 questions. Please speak loudly so all the jurors can
20 hear you. State your name for the record, please,
2 spelling your last name for the Court reporter?

2 A D-o-r-s-y. The first name is Claude, C-1-a-u-d-e.

2 Q That was pretty loud.

2 Mr. Dorsy -

2 A Do you want me to move it back?

1331

1 Q That's fine.

2 What is your occupation?

3 A I'm, I guess, a real estate developer.

4 Q How long have you been in real estate development?

5 A About 20, 25 years.

6 Q Have you had any other professional occupations?

7 A Yes, I'm also an attorney at law.

8 Q How long have you practiced law?

9 A About 25, 28 years.

10 Q Sir, can you briefly describe your educational
11 background?

12 A I got a bachelor's degree in business
13 administration. I also got an juris doctor degree and I
14 got a master's in law and taxation.

15 Q Mr. Dorsy, are you familiar a company known as
16 First Florida Equities, Limited or FFE?

17 A Yes, I am. I'm vice-president of it.

18 Q When was that company formed, sir?

19 A Probably 1982.

20 Q Do you have any partners in that company?

2 A Yes, I do.

2 Q And who are are they?

2 A James Mitchell, Tom Houston and someone by the name

2 of Shepherd King.

2 Q Now, are you familiar with an individual by the

1 name of Louis Kitchin?

2 A Yes, I am.

3 Q Do you recall when you first met Mr. Kitchin?

4 A Probably late 1986 or early 1987.

5 Q Under what circumstances did you meet Mr. Kitchin?

6 A The president of the bank that we were doing

7 business in called me one time.

8 Q Now, you can't tell us what he said, but what if

9 anything happened?

10 A Well, I was told that Mr. Kitchin was a political

11 consultant and would assist us in projects with HUD.

12 Q Did there come a time when you met Mr. Kitchin?

13 A Yes, I did.

14 Q Now, subsequent to meeting him did there come a

15 point in time where you had conversations with him

16 concerning Mod Rehab units?

17 A Yes, I did.

18 Q And what if anything was said at that time by

19 Mr. Kitchin?

20 A Mr. Kitchin told me he could -2

MR. WEHNER: The same objection, Your Honor.

2 THE COURT: All right. The same objection

2 overruled.

2 A I was advised that he could procure some Section

2 Eight Mod Rehab units for us in Dade County, Florida.

1333

1 Q At that time did you know about the Mod Rehab

2 program?

3 A No, I didn't.

4 Q What if anything did you do after learning that

5 from Mr. Kitchin?

6 A I would have investigated it but one of my partners

7 knew more about it and we decided we were interested and

8 would proceed.

9 Q Did there come a point in time when you retained

10 Mr. Kitchin as a consultant?

11 A That was much later, about six months later, yes.

12 Q Had you ever used a consultant before in any

13 housing projects?

14 A No, I haven't.

15 Q Have you ever employed a housing consultant since

16 that time?

17 A No, I have not.

18 Q How much did you agree to pay Mr. Kitchin for his

19 services?

20 A \$1000 per unit, per apartment units, for Section

2 Eight Mod Rehab.

2 Q How did you reach that figure of \$1000 per unit?

2 A Mr. Kitchin said it was a standard fee.

2 Q Now, when was Mr. Kitchin to be paid?

2 A We agreed that we would pay Mr. Kitchin after he

1334

1 would give us some indication that the units would be

2 arriving from Washington to Dade County.

3 Q Did there come a point in time where you received

4 that indication?

5 A Yes, it was.

6 Q Could you describe to the ladies and gentlemen of
7 the jury what if anything happened?
8 A Mr. Kitchin met us, I believe, in a- restaurant and
9 showed me a document indicating that 203 units would be
10 coming to Dade County.
11 Q Can you describe the form of the document? What
12 did it look like?
13 A It was a one-page document and it listed 203 units,
14 Dade County. That's all I remember from that.
15 Q Did there come a point in time that you learned
16 that you had received Mod Rehab units for your project?
17 A Yes, it was.
18 Q How many units did you receive?
19 A 203.
20 Q Just for the record, what was the name of your
2 project?
2 A One was Cutlerwood Apartments, which was 161
2 units. The second was Springwood Apartments, consisting
2 of 42 units.
2 Q Mr. Dorsy, did there come a point in time where you

1335

1 paid Mr. Kitchin for being a consultant on the
2 Springwood-Cutlerwood project?
3 A Yes, we did.
4 Q How much did you pay him?
5 A \$203,000.
6 Q Did there ever come a period of time where you paid
7 Mr. Kitchen an additional amount of money?
8 A Yes, subsequent to that Mr. Kitchin told us that he
9 believed or was pretty sure that there could be
10 allocated another 400 or 440 units in the next fiscal
11 year, and we entered into a consulting agreement of
12 paying him \$10,000 per month for being our exclusive
13 consultant to get those units for apartment projects we
14 had in Dade County and in other parts of Florida.
15 Q Did you ever receive any additional units?
16 A No, I have not.
17 MR. O'NEILL: I have nothing further, thank
18 you.
19 CROSS-EXAMINATION
20 BY MR. WEHNER:
2 Q Sir, Mr. Kitchin told you who he was working with
2 in Washington, D.C. to get those units, did he not?
2 A No, he didn't.
2 Q Isn't it true that he told you that he was working
2 with Mr. Demery?

1336

1 A He told me he knew Mr. Demery.
2 Q Isn't it true that he told you -- he indicated that
3 he was working with Mr. Demery?
4 A He told me he knew Mr. Demery and Mr. Demery was
5 somebody he knew in Washington.
6 Q I show you an interview of May 15, 1992 which is
7 not a transcript but is a summary of your testimony
8 written by the Office of Independent Counsel. Do you
9 recall being interviewed by them on that date?
10 A I don't -- I remember being interviewed. I do not
11 know what date.

12 Q Do you recall that they took notes?
13 A Yes.
14 Q And do you recall telling them that Kitchin
15 represented that he had been dealing with HUD people for
16 many years?"
17 A Right.
18 Q "I believe," you, Dorsy, "believe that at some point
19 in time Kitchin indicated that he was working with
20 Mr. Demery?"
21 A Well, I don't know if working or knew Mr. Demery
22 was the correct word, but he knew - he told me the
23 people he knew in Washington was Mr. Demery.
24 Q Were they interviewing you about Mr. Demery or
25 Miss Dean at that point?

1337

1 A I have no idea. They didn't tell me.
2 Q As a matter of fact, you told them that they never
3 mentioned Miss Dean to you, didn't you? You told them
4 that Louis Kitchin never mentioned Deborah Gore Dean to
5 you, didn't you?
6 A This is correct.
7 Q And you told them that, didn't you?
8 A This is correct.
9 MR. WEHNER: I have nothing further.
10 MR. O'NEILL: No redirect, Your Honor.
11 THE COURT: All right.
12 THE WITNESS: Am I excused?
13 THE COURT: Yes, sir, you can go now. Thank
14 you.
15 THE WITNESS: Thank you.
16 THE COURT: Is that it?
17 MR. O'NEILL: That's it, Your Honor.
18 THE COURT: Your witness will be here tomorrow
19 that we discussed?
20 MR. O'NEILL: Yes, Your Honor.
21 THE COURT: All right.
22 All right. Ladies and gentlemen, I have no
23 other preliminary matters on other cases so I'll be able
24 to start at 9:30. Tomorrow will be a half day, whenever
25 we finish this witness, who is from out of town. It

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1 will be sometime at lunchtime when we finish the witness
2 and then we'll resume again Monday.
3 So overnight again remember my admonitions,
4 don't talk about it among yourselves or with anyone

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5 else, don't talk about it, read it or watch it or listen

6 to it in the media. See you tomorrow morning at 9:30.

7 You should be out of here by 12:30, one o'clock.

8 Ladies and gentlemen, go to my jury room

9 tomorrow morning. Don't come back here. Go to mine.

10 And then after we see how the courtroom is we'll either

11 come back here or go back to my regular courtroom, but

12 go to my jury room where you normally meet in the

13 morning, all right?

14 (Jury dismissed)

15 THE COURT: Do you have a schedule, Mr. O'Neill,

16 for Monday and Tuesday, that I could look at of

17 witnesses who'll be coming in?

18 MR. O'NEILL: Yes, we do, Judge. We have a

19 number of witnesses.

20 MS. SWEENEY: One witness, Your Honor, will be

2 our handwriting expert unless Mr. Wehner is going to

2 stipulate. We showed him the final report this morning

2 to see if there's any chance that we can dispense with

2 that testimony.

2 THE COURT: All right.

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1 MR. O'NEILL: Judge, it would be Jack Jaynes.

2 I'm speaking slow so Steve can get it.

3 MR. WEHNER: Thanks.

4 MR. O'NEILL: Susan Zagame, and we're

5 expecting Louie Nunn tomorrow. So he will be tomorrow.

6 Pearl Tytell, T-y-t-e-1-1, she would be the handwriting

7 expert, if necessary. Lou Kitchin, Jack Jennings,

8 J-e-n-n-i-n-g-s, Tom Demery.

9 THE COURT: That will take Monday and Tuesday

10 right there.

11 MR. O'NEILL: I would think so. Your Honor.

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12 MR. WEHNER: Your Honor, might I inquire as to
13 whether there's additional Jencks or any Jencks on
14 Tom Demery?
15 MR. O'NEILL: All Jencks has been turned
16 over. Yeah, all Jencks. There might be some Giglio.
17 MR. WEHNER: Giglio.
18 THE COURT: Plea material, things like that.
19 MR. O'NEILL: No, the plea stuff was turned
20 over pretrial. It would be any statements by other
2 witnesses talking about Tom Demery. That should all

2 have been turned over.
2 THE COURT: All right. See you tomorrow
2 morning at 9:30. We'll start in my courtroom and then
2 see how we're doing.

1340

1 MR. O'NEILL: Okay.
2 (Proceedings recessed at 4:30 p.m. to resume
3 September 24, 1993 at 9:30 a.m.)
4 Certificate of Court Reporters
5 It is certified by the undersigned Official Court
6 Reporters of the United States District Court for the
7 District of Columbia that the foregoing is the official
8 recoryd of the p^/ceedings indicated.
9
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12 Santa Theresa Zizzo
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1341

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA
3
4 UNITED STATES OF AMERICA, Criminal No. 92-181-01
5
6 vs . Washington, D.C.
7 4 September 24, 1993
8 DEBORAH GORE DEAN, 9:40 a.m.
9
10 Defendant.
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TRANSCRIPT OF JURY TRIAL
8 BEFORE THE HONORABLE THOMAS F. HOGAN

UNITED STATES DISTRICT JUDGE

9

VOLUME X

10

APPEARANCES:

11

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12 PAULA SWEENEY, ESQ.

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14

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17

MARK BATTS ALSO PRESENT:

18

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2 Washington, D.C. 20001

(202)842-5069

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(Pages 1341 - 1408)

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2 COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

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3 WITNESS ON BEHALF OF

THE GOVERNMENT:

4

Louie B. Nunn 1345 1392 1401 1403

5

EXHIBITS

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8 No. 12 1348 1349

9 13 1349 1350

10 20 1352 1352

11 29 1374

12 33 1376 1376

13 34 1379 1379

14 35 1379 1379

15 37 1380 1381

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21 56 1390 1391

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23 61 1392

24 DEFENDANT'S:

25 No. 133 1397

1343

PROCEEDING S

2 (Defendant present, Jury out.)

3 THE CLERK: Criminal No. 92-181, United States of
4 America v. Deborah Gore Dean. We have Robert O'Neill and Paula
5 Sweeney for the government, Stephen Wehner for Ms. Dean.

6 MR. O'NEILL: Good morning, Your Honor.

7 THE COURT: Good morning.

8 MR. WEHNER: Good morning, Your Honor.

9 THE COURT: Are we ready to go?

10 All right, the Court will stay in here. They're
11 getting it cooled down.

12 MR. O'NEILL: One second, Your Honor?

13 THE COURT: All right.

14 MR. O'NEILL: Just for the record, Mr. Wehner has
15 consented to stipulate to the authenticity of Government's
16 Exhibits 203, 203A, 203B. We will not have to call a custodian
17 from Crestar to establish they're business records.

18 MR. WEHNER: That's correct.

19 THE COURT: All right, good. Is there anything worked
20 out on whatever handwriting matter there was?

21 MR. O'NEILL: Yes. And he's also stipulated that there
22 are three, Government's Exhibits 202, 181, and we don't know the
23 other one right off the top of our heads, Judge.

24 THE COURT: All right.

25 MR. WEHNER: That's correct, Judge.

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1 THE COURT: Thank you.

2 MR. O'NEILL: But there is a stipulation.

3 THE COURT: Also for the record, the Court wants to say
4 it reviewed last evening in chambers the rough notes of the
5 agents that had interviewed Mr. Sankin as to whether or not there
6 were any specific references in the rough notes to receipts, such
7 as American Express-type receipts, or receipts from other stores
8 involving either whether or not they were represented to be
9 accurate or not accurate or whether or not they, he had a
10 practice of writing on "business expense" and making up someone's
11 name who really was not there or not and whether that was ever
12 gone into, and saw nothing in any of the rough notes that
13 referenced that.

14 There were some references, very slight, I think one or
15 perhaps two, to having had lunch with Deborah Gore Dean or
16 something like that or other people at HUD, but there was nothing
17 discussing the receipts and his practices and their accuracy in
18 any of the rough notes, and they are very extensive rough notes.
19 All right.

20 THE DEPUTY MARSHAL: Yes, Your Honor.

2 (Jury in.)

2 THE COURT: All right, Ladies and Gentlemen, good
2 morning.

2 THE JURORS: Good morning.

2 THE COURT: We're ready to proceed. We're back in our

1345

1 same location again. I think we'll be all right today. The air
2 system, handling system is working, as I understand it.
3 We're going to go forward with the first witness on
4 behalf of the government at this time.
5 MR. O'NEILL: Your Honor, at this time, the government
6 would call Louie B. Nunn.
7 THE COURT: All right. Will Mr. Nunn come up, please?
8 LOUIE B. NUNN, GOVERNMENT'S WITNESS, SWORN
9 DIRECT EXAMINATION

10 BY MR. O'NEILL:
11 Q. Mr. Nunn, I'll be asking you a series of questions. I'd ask
12 you to speak in a loud and clear voice so that everyone can hear
13 you.
14 A. And I'll have to ask you to speak loudly, because I'm a
15 little hard of hearing, please.
16 Q. Yes, sir, I will.
17 Mr. Nunn, are you testifying today pursuant to a grant
18 of use immunity by order of this Court?
19 A. Yes, I am.
20 Q. And did you refuse to testify without such an order?
2 A. I do.
2 Q. So for the record, did you also refuse to cooperate with the
2 government in this investigation without an order of immunity?
2 A. I did.
2 Q. Okay. And finally, did you refuse to produce records to the

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1 government that you possessed without an order of immunity for
2 those records?
3 A. I believe we furnished the records without; I'm not positive
4 about that. I turned them over to my counsel, and he sent them
5 in.
6 Q. Now, Mr. Nunn, I will be asking you a series of background
7 questions. Have you ever held elected political office?
8 A. Yes, I have.
9 Q. And what positions have you held?

10 A. Judge of Barren County, Kentucky, governor of the
11 Commonwealth of Kentucky.
12 Q. When were you the governor of Kentucky?
13 A. 1967 to '71.
14 Q. Mr. Nunn, what is your occupational background?
15 A. I'm an attorney, farmer, judge, and governor.
16 Q. Are you familiar with an individual by the name of Art or
17 Aristides Martinez?
18 A. Yes, I am.
19 Q. Are you familiar with a company known as Marbilt?
20 A. Yes.
2 Q. What, if anything, was your involvement with Marbilt and

2 Mr. Art Martinez?
2 A. My first involvement was representing Marbilt for
2 Mr. Martinez in some claims that he had against the United States

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2 government, HUD, for three projects that he was building in

1347

1 Miami, Florida, for the archdiocese, Catholic Church, sir.
2 Q. Did there come a point in time when you were paid for your
3 services by Mr. Martinez?
4 A. Yes, I was. Not adequately, but paid.
5 Q. Mr. Nunn, at that time, were you familiar with an individual
6 by the name of John Mitchell, the ex-attorney general of the
7 United States?
8 A. Yes, I was.
9 Q. How were you familiar with that individual?

10 A. I met Mr. -- you said Mr. Mitchell?
11 Q. Mr. Mitchell, sir.
12 A. I met Mr. Mitchell in 1968 at a governors' conference in
13 Cincinnati, Ohio. I knew him from that time on.
14 Q. Was he involved in any way in Marbilt?
15 A. Yes, he was.
16 Q. What, if anything, was his involvement in Marbilt?
17 A. I asked Mr. Mitchell to advise and counsel and work with me
18 on the claims or potential claims that I thought that
19 Mr. Martinez had against the United States government and against
20 HUD.
21 Q. And what was he going to do in advising you and working with

22 you?
23 A. Mr. Mitchell was, had been a learned lawyer and counselor,
24 and he was to advise me in procedures and whatever I needed him
25 to help me do as to processing the claim.

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1 Q. Mr. Nunn, at this time, I would show you after I show to
2 counsel a document previously marked as Government's Exhibit 12
3 for identification.

THE CLERK: Government's Exhibit 12 marked for

identification.
6 (Government's Exhibit No. 12 was
7 marked for identification.)
8 BY MR. O'NEILL:
9 Q. And with the Court's permission, I would approach you,

10 Mr. Nunn.
11 THE COURT: All right.
12 BY MR. O'NEILL:
13 Q. I'd ask you to look at Government's Exhibit 12. Do you
14 recognize that, sir?
15 A. Yes, I do.
16 Q. And what is it?
17 A. It's a letter from me to John Mitchell, dated March 31,
18 1983, with an attachment dated January 27, 1983.

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19 Q. Does the --

20 A. From Joseph L. Hammernick, director of multi-family housing,
2 concerning Robert Forcum Towers, St. Joseph Towers, and

2 St. Dominic Gardens, which were being erected by the archdiocese
2 in Miami, Florida.

2 Q. Does the first page of the letter bear your signature?

2 A. Pardon me?

1349

1 Q. Does the first page bear your signature?

2 A. Yes, it does.

3 Q. Is there other writing on that first page in hand?

4 A. Yes, sir, there is. It's my handwriting. It says, "See you
5 soon. My client has suffered and continues to suffer at the
6 direct results of HUD. \$5 million could be recovered in the
courts."

8 MR. O'NEILL: Your Honor, at this time, I would move
9 Government's Exhibit 12 into evidence.

10 MR. WEHNER: No objection, Your Honor.

11 THE COURT:

12 will be admitted.

13

14

15 BY MR. O'NEILL:

All right. No objection, Government 12

(Government's Exhibit No. 12 was

received in evidence.)

16 Q. Mr. Nunn, I would now show you Government's Exhibit 13 for
17 identification purposes.

18 THE CLERK: Government's Exhibit 13 marked for
19 identification.

20 (Government's Exhibit No. 13 was
2 marked for identification.)

2 BY MR. O'NEILL:

2 Q. Again, with the Court's permission, I would approach you and
2 ask you to look at Government's Exhibit 13.

2 THE COURT: All right.

1350

BY MR. O'NEILL:

2 Q. Do you recognize that, sir?

3 A. Yes, I do. It's -- well, I recognize it.

4 Q. Okay. And what do you recognize it to be?

5 A. It's a billing to Marbilt, Inc., in Miami Springs, Florida.

6 It's on my letterhead, and it shows total expense and amount

7 recovered and a division of the difference. Total amount

8 recovered was \$80,169.86, and expense incurred was \$62,941.48,

9 and I paid to, one-half of that to John Mitchell, \$8,613.94, for

10 a portion of help that he had given me in advising and counseling
11 with me on that matter.
12 MR. O'NEILL: Your Honor, at this time, I'd move
13 Government's Exhibit 13 into evidence.
14 MR. WEHNER: No objection, Your Honor.
15 THE COURT: All right, 13 is admitted.
16 (Government's Exhibit No. 13 was
17 received in evidence.)
18 BY MR. O'NEILL:
19 Q. Now, Mr. Nunn, you stated that John Mitchell consulted and
20 assisted you on that, on Marbilt. What, if anything, did he do?
21 A. Well, he advised me on procedure and whether or not that I
22 might be proceeding along the correct lines. Those three
23 projects were, the file was very voluminous on them. I guess
24 that they were 2 to 3 inches thick of material that we put
25 together trying to prove the money that HUD owed to Art Martinez,

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1 which was estimated to be in the millions or at-least a million,
2 it came down to, I think, a million and some thousand after it
3 was all calculated that they should have paid him.
4 Q. And what, if anything, did John Mitchell do on Marbilt?
5 A. Pardon me?
6 Q. What, if anything, did John Mitchell do?
7 A. He'd sit with me and advise with me and counseled with me as
8 I worked on these papers and confirmed, in essence, what I was
9 doing was the proper procedure. I sought his advice on them.

10 Mr. Martinez and I put many of them together, but I asked
11 Mr. Mitchell his opinion on them.
12 Q. Mr. Nunn, are you familiar with a project called Arama?
13 A. Yes, sir, I am.
14 Q. What, if anything, was Arama?
15 A. Arama was a housing project that Mr. Martinez put an
16 application in for in Miami, Florida, if I remember correctly.
17 Q. What, if anything, was your involvement in Arama?
18 A. My involvement was to inquire of Mr. Mitchell or HUD or
19 whomever was necessary to determine if the funds were available
20 and when they would be coming through because of the program that
21 Mr. Martinez had set up in, related to me that he had set up in

2 Florida.

2 Q. Mr. Nunn, at this time, I would show you what's previously
2 been marked as Government's Exhibit 20.
2 THE CLERK: Government's Exhibit 20 marked for

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identification.
2 (Government's Exhibit No. 20 was
3 marked for identification.)

BY MR. O'NEILL:
5 Q. And I'd ask you if you recognize that, sir?
6 A. Yes, I do.

7 Q. What is it?

8 A. It is an agreement between Art Martinez and two other
9 individuals and myself as to the payment that I would receive,

10 which was \$150,000 on 300 modern rehab units of HUD for which

11 Mr. Martinez, Arama, Ltd., had made application.

12 MR. O'NEILL: At this time, Your Honor, I move

13 Government's Exhibit 20 into evidence.

14 MR. WEHNER: No objection, Your Honor.

15 THE COURT: All right, 20 is admitted.

16 (Government's Exhibit No. 20 was

17 received in evidence.)

18 BY MR. O'NEILL:

19 Q. Does that document bear a handwritten notation by you in the

20 lower right-hand corner?

21 A. Yes, it does.

22 Q. And can you please read that out loud?

23 A. It's dated 1-25-84. It says, "In the event of my death or
24 disability, one-half of the above amount belongs to John

25 Mitchell," signed, "Louie B. Nunn."

1353

1 Q. Now, Mr. Nunn, pursuant to this contract, what, if anything,
2 were you going to do on Arama?

3 A. Whatever I was asked to do by Mr. Martinez. Mr. Martinez
4 had had a series of problems with the Jacksonville HUD office,
5 and they had brought disbarment proceedings against him there.
6 They had failed to pay him on at least three projects, and he was
7 of the opinion that if he got any more work, that it would be
8 bottled up there at the Jacksonville office or delayed and would
9 not get through.

10 Q. Mr. Nunn, what type of agreement was it that I just showed
11 you? Do you recall what services you were to perform pursuant to
12 that contract?

13 A. There's no -- I don't recall. I can look at it again. I
14 don't recall any services to be set out except to consult and

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15 advise. The document speaks for itself.

16 Q. Let me show it to you again, if I might. In what capacity
17 were you to act on Arama?

18 A. "... second party as their consultant in regard to their
19 efforts to complete 300 moderate rehabilitation units for
20 HUD ..." To complete 300 modern rehab units. That was to get
2 them through and get them to completion.

2 Q. So is it fair to say that this is a consulting contract?

2 A. Sir?

2 Q. Is it fair to say that this is a consulting contract?

2 A. It says it is a consulting contract, yes, sir.

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1 Q. Now, Mr. Nunn, how were you going to assist Mr. Martinez in
2 obtaining 300 mod rehab units for the Arama project?

3 MR. WEHNER: Objection, Judge. Mischaracterization of
4 the testimony.

5 THE COURT: All right, I'll sustain the objection.

6 Would you revise the question?

7 BY MR. O'NEILL:

8 Q. Mr. Nunn, does the contract call for -- well, let me ask you
9 to read the first paragraph.

10 A. "Witnesseth: That whereas, the first parties are desirous
11 of obtaining the services of second party as their consultant in
12 regard to their efforts to complete 300 moderate rehabilitation
13 units for HUD, and the second party agrees to assist the first
14 parties."

15 Q. And what were you going to do pursuant to that contract,
16 sir?

17 A. As I said, if there was trouble at the Jacksonville office
18 or any other office, work with HUD or whomever was necessary to
19 see that the application was not blocked because of some bias or
20 prejudice or technical reason with HUD, and that was because of
2 the experience, I think, that Mr. Martinez had already suffered
2 at the hands of HUD.

2 Q. Now you've mentioned that prejudice and bias at HUD on
2 Marbilt. Did you experience any of that in the Arama project?

2 A. Not on the Arama, but on the other three, I was never

1355

1 treated as rudely anyplace as I was at the HUD office in
2 Jacksonville on two occasions. I did experience it firsthand
3 along with Mr. Martinez.

4 Q. On Marbilt?

5 A. Yes, on the Marbilt projects.

6 Q. And now we're on to Arama, correct?

7 A. It had nothing to do with Arama, no, sir.

8 Q. So what, if anything, did you do on the Arama project?

9 A. The most that I did was to consult back and forth with

10 Mr. Martinez concerning whether or not the process that his

11 application was making through the channels in Miami on his

12 options that he had on buildings and tried to determine when and

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13 if the funds were going to be made available for building the
14 projects that were coming through.

15 Q. Now you speak about this process. What process are you
16 referring to, sir?

17 A. Well, as I understood it from Mr. Martinez, he made an
18 application in Miami for certain rehab projects, and as those
19 applications were completed and moved through the pipeline, so to
20 speak, or moved up with the Miami or Dade County project or
2 housing authority, then they would be funded as they moved into
2 line.

2 And Mr. Martinez explained to me that he had options on
2 several buildings to buy in the event that the application was
2 approved and the funds became available, so he was most anxious

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1 to be able to see if the funds were available and when they would
2 be coming through so that his, he wouldn't let options expire or
3 have to pay, or fail to renew options or to overextend options.
4 He was trying to lease or take options on the property as cheaply
5 as possible, as I understood it from him.

6 Q. We know what Mr. Martinez was going to do, because he's
7 testified.

8 MR. WEHNER: Objection.

9 BY MR. O'NEILL:

10 Q. What were you going to do?

11 A. I was going to do whatever -12

THE COURT: I'll overrule the objection. That's all

13 right, go ahead.

14 BY MR. O'NEILL:

15 Q. What were you going to do, sir?

16 A. I was to do whatever Mr. Martinez asked me to do. If he had
17 a problem in Jacksonville, then it was my problem to go to
18 Jacksonville and try to work on that, just like I worked on the
19 other three projects that he had problems with, and go to Atlanta
20 or come to Washington or do whatever is necessary to try to clear
2 it for him.

2 Q. Did he have a problem on Arama in Jacksonville -2

THE COURT: I'm going to interrupt for a second.

2 MR. O'NEILL: Sorry.

2 THE COURT: One of the jurors needs to be excused for a

1357

minute.

2 Ladies and Gentlemen, we'll take a short recess then,
3 and remember the admonition of the Court about not talking about
4 the case. We'll take a short break.

5 (Jury out.)

6 THE COURT: We have to take a recess. One of the
7 jurors, Alternate No. 2, said she'd been taken ill, the lady in
8 the back, all the way at the end, and said she had to leave on an
9 emergency basis. So as soon as we find out how she is, we'll
10 resume. So we'll take a break, all right?

11 All right, we'll stand in recess until return of court.

12 (Recess from 10:00 a.m. to 10:28 a.m.)

13 THE COURT: All right, the juror has a cold and flu.

14 She says she's feeling better. Two other jurors at least also
15 said they had problems and weren't feeling well and exhausted the
16 supply of Tylenol in our nurse's office, but I think we'll be
17 fine and ready to proceed, and we can finish the day's testimony.

18 I'm waiting for Mr. Wehner.

19 MR. WEHNER: My apologies, Your Honor.

20 THE COURT: That's all right. We're ready to go.

21 (Jury in.)

22 THE COURT: All right, Ladies and Gentlemen, we're
23 ready to resume with the testimony this morning. As you know,
24 it's a shorter day today, so hopefully you'll be able to make it
25 through today and have a weekend to recover. All right.

1358

1 MR. O'NEILL: Thank you, Your Honor. •

2 Q. Mr. Nunn, I believe we left off with a question as to
3 whether did Mr. Martinez experience any problems at the
4 Jacksonville office on the Arama project.

5 A. Not that I'm aware of.

6 Q. Now I would direct your attention once again to a
7 government's exhibit that I previously showed you, No. 20, with a
8 handwritten notation at the bottom right-hand corner.

9 A. Yes, sir.

10 Q. Okay. And does that refer to Mr. John Mitchell?

11 A. Yes, it does.

12 Q. Okay. Mr. Nunn, did you have an agreement with John
13 Mitchell as to what he was going to do on the Arama project?

14 A. Mr. Mitchell was to do whatever I asked him to do or counsel
15 with me if any problems arose as to what I should do.

16 Q. Did you ever have a conversation with Mr. Martinez in which
17 you requested bringing Mr. Mitchell into this Arama project?

18 A. I don't know that -

19 MR. WEHNER:

20 THE COURT:
21 conversations?

22 MR. WEHNER:

23 THE COURT:

24 I've already given.

25 MR. WEHNER:

Your Honor, same -- may I have the same?
Continuing objection to those

Yes, sir.

All right. I'll overrule it on the basis

All right.

1359

BY MR. O'NEILL:

2 Q. You can answer that, sir.

3 A. I don't know that I've ever had a -- state your question
4 again.

5 Q. Okay. Did you have a conversation with Mr. Martinez in
6 which you asked him to bring Mr. Mitchell into the Arama project?

7 A. I don't know that I asked him to bring Mr. Mitchell in. I
8 asked him if he had any objections if I brought Mr. Mitchell in,
9 because Mr. Mitchell had worked on the other three projects with
10 me, too.

11 Q. What was your reason for bringing John Mitchell into the
12 Arama project?

13 A. Well, there were several reasons. First, I felt that I'd
14 need his advice and his counseling, and the second reason was
15 that he had assisted me in that first project, for which we
16 received very little compensation, and the third reason was that
17 I had been using his office over there for some period of time
18 along with two other people, and I felt that I needed to retain
19 him to assist.

20 Q. You stated there were several reasons. Were there any other
21 reasons?

22 A. I don't recall any at this time.

23 Q. Mr. Nunn, I will show you a document that's not in evidence,
24 so please do not read it out loud. And I will direct your
25 attention to line 17 through line 21. I'd ask you to read it to

1 yourself.

2 Sir, does that refresh your recollection as to why you
3 wanted to bring John Mitchell into the Arama project?

4 A. For the very reasons I just enumerated to you.

5 Q. Okay. Is that what you state?

6 A. Pardon me? That's what my testimony is.

7 Q. Mr. Nunn, do you recall testifying before a federal grand
8 jury?

9 A. Yes, I do.

10 Q. And do you recall being asked the following questions and
11 giving the following answers:

12 MR. WEHNER: Objection, Judge. May we approach?

13 THE COURT: Pardon me?

14 MR. WEHNER: May we approach?

15 THE COURT: All right.

16 (Bench conference on the record.)

17 THE COURT: Okay. This is --

18 MR. WEHNER: Page 33 and 34.

19 THE COURT: -- the bottom of 33, line 17.

20 Okay. And you want to examine him about his response

2 that he brought Mitchell in for his advice and counseling?

2 MR. O'NEILL: For his Washington contacts.

2 THE COURT: You want him to talk about his Washington
2 contacts.

2 MR. O'NEILL: That's correct, Your Honor.

1361

1 THE COURT: Particularly his HUD, dealing with HUD.
2 You're saying that's not impeachment?
3 MR. WEHNER: I'm saying two things, Judge. No. 1, it's
4 not impeachment, and No. 2, if it is, Mr. O'Neill hasn't
5 established the grounds to impeach his own witness at this time.
6 THE COURT: He doesn't need to under the rules of
evidence.
8 MR. WEHNER: I know.
9 THE COURT: So you're overruled. I think it also does
10 go to impeachment. He didn't mention the grounds specifically.
11 I'll allow him to ask the question about the Washington contacts.
12 (End of bench conference.)
13 THE COURT: All right, you may go ahead with the
14 question again.
15 MR. O'NEILL: Thank you, Your Honor.
16 Q. Mr. Nunn, do you recall testifying before a federal grand
17 jury?
18 A. Yes I do.
19 Q. And do you recall being asked the following questions and
20 giving the following answers:
2 "Question: To summarize, you told Mr. Martinez that
2 you wanted to bring Mr. Mitchell into this in some form or
2 another?
2 "Answer: That is correct.
2 "Question: For his Washington contacts, correct?

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"Answer: --"

A. I didn't hear that last --
3 Q. "Question: For his Washington contacts, correct?
4 "Answer: Yes, for his Washington experience."
5 Do you recall being asked those questions and giving
6 those answers?
7 A. Yes, sir, I did. They were true then and true today.
8 Q. Does that refresh your recollection as to why you brought
9 Mr. Mitchell into the Arama project?
10 A. If you'll notice, that says "to summarize," and I had met
11 with counsel and discussed several of these issues before we went
12 to the grand jury, and I was told to answer the questions as
13 explicitly as I could in the grand jury, which I did, and when
14 she said to summarize why that I brought him in for some reason
15 or another, that was my answer, and that was what I gave.
16 Q. Now you mentioned two people in that answer. You mentioned
17 counsel. Are you referring to your counsel?
18 A. No, no. I'm talking to the lady that was interviewing me
19 prior to the grand jury testimony, when I went in, and inquired
20 of me when I was before the grand jury.
21 Q. And was that the female prosecutor who was asking you
22 questions in the grand jury?
23 A. Yes, as I best recall it.
24 Q. Now at the time, Mr. Nunn, that you became involved in the
25 Arama project, what was your experience in the area of the

1363

1 Moderate Rehabilitation Program?

2 A. I am not aware that I had any experience at all. I had
3 never heard of 515 until it was mentioned by Mr. Martinez, as far
4 as I know.

5 Q. Mr. Nunn, did you have a written or an oral agreement with
6 John Mitchell about his involvement in Arama?

7 A. The only thing I have is what I turned over to the United
8 States government. You have it all.

9 Q. Now, Mr. Nunn, you stated that you had been using the office

10 of John Mitchell; is that correct?

11 A. Yes, sir, we had.

12 Q. Are you familiar with a business or were you familiar at
13 that time with a business known as Global Research International?

14 A. Yes, sir, I was.

15 Q. And how were you familiar with that business?

16 A. Well, that was the name that I understand Mr. Brennan and
17 General Mitchell and I don't know who else were operating under,
18 Global Research.

19 Q. And since you mentioned that earlier, can you please explain
20 to the jury why you were using the offices of Global Research?

2 A. I was involved with three or four other people from

2 Lexington, Kentucky, in setting up a cellular telephone system,
2 and we were making applications for cellular telephone permits in
2 various cities around over the United States, recognized that we
2 would need counseling, perhaps people who would help fund some of

1364

1 these projects that we were working on.

2 Knowing John Mitchell and knowing of his experience and
3 background, I came to him and started talking with him about the
4 cellular telephone, what we were attempting to do and what would
5 be involved, and we started using his office on Pennsylvania
6 Avenue, and sometimes one, two, or three of us used it for I
7 don't know how long a period, but it was months, possibly a year
8 that we were there using his office.

9 Q. Mr. Nunn, you mentioned the offices located on Pennsylvania
10 Avenue. At this time, do you remember the exact address?

11 A. I do not. It seems like 17-something, but I'm not sure.

12 Q. Well, I'll show you a document that's previously been placed
13 into evidence as Government's Exhibit 19, and I'd ask you does
14 that document refresh your recollection as to what the address of
15 Global Research was?

16 A. 2828. I believe that's correct.

17 Q. Thank you.

18 what, if anything, did you ask John Mitchell to do on
19 the Arama project?

20 A. I don't recall anything that I asked him to do.

2 Q. Mr. Nunn, I would ask you -- start on 58, Steve, at the
2 bottom --if you could start reading to yourself, not out loud,
2 and onto the next page, stopping at line 9.

2 A. Through line 9?

2 Q. Yes, sir.

1365

1 A. Yes, sir.

2 Q. Okay. And does that refresh your recollection as to what
3 you asked John Mitchell to do on the Arama project?

4 A. Yes. That is exactly what I'm saying today or intend to say
5 today, that I don't recall anything specific that I did. If it
6 was --it was to ask him to check on when the funds would be
7 coming down or when they would be available --

8 Q. And where would --

9 A. --at most.

10 I don't remember him having to do it, but that would
11 have been what I would have been doing. If I did, and it's
12 possible that I did discuss it with him at some time, because
13 there were two projects. I was there over a period of time, and
14 it's quite possible.

15 Q. Where did you ask him to check on the funds coming through?

16 A. I have no idea when I asked him. If you can give me some
17 documentation, I might be able to tell you more specific, but it
18 was just general conversation, because I remember there weren't
19 any hitches on the Arama project, but I'm sure I made inquiries
20 from time to time, because Martinez would, would want to know
2 about his options.

2 Q. And did you ask Mr. Mitchell to inquire at HUD Central?

2 A. I possibly did, but I don't recall it.

2 Q. Do you recall being asked the following questions in the
2 federal grand jury and giving the following answers, sir:

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1 "Question: How many contacts did you have with John
2 Mitchell on that Arama project?

3 "Answer: There would be no way of knowing, because I
4 was there in the office during part of this time, and I may have
5 mentioned it. It never was a matter of great concern or a matter
6 which we sat down and discussed. My best memory tells me today
7 that I just asked him to check on something or inquire of
8 something to see what the status was.

9 "Question: In HUD Central?

10 "Answer: Yes. wherever we needed. Yes, in HUD
11 Central, in Washington."

12 Were you asked those questions, and did you give those
13 answers?

14 A. Yes, I did.

15 Q. Now, Mr. Nunn, are you familiar with the defendant, Deborah
16 Gore Dean?

17 A. Yes, I am.

18 Q. And how do you know the defendant?

19 A. I don't remember when I first met Ms. Dean. I remember on
20 one occasion at a regional meeting of the HUD office in Florida
2 that I think I met her in the hall and spoke to her there. I

2 think I saw her at a reception for either Lance Wilson or
2 Mr. Pierce at a reception in the Four Seasons Hotel. That was
2 over there near Mr. Mitchell's office. And I remember I may have
2 seen her casually on other occasions. I don't remember anything

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1 specific.

2 She did call me one time on the telephone concerning a
3 possible position that she was seeking, to see if I could be of
4 any assistance to her, and those are the ones that come to
5 memory, to my memory right now.

6 Q. You mentioned a reception at the Four Seasons Hotel. Do you
7 recall what the reason for that reception was?

8 A. No. There was a reception there for, as I best recall,
9 Mr. Pierce or Lance Wilson, or there may have been somebody
10 leaving, and Mr. Mitchell, I was there in his office working. He
11 said he was going down to the reception, would I like to go
12 along, and I said I would.

13 So I went down with him, and it was, there were
14 apparently many people there from HUD. Some I just went around
15 and shook hands. I couldn't hear well, and it was confusing, so
16 I left shortly.

17 Q. Do you recall, Mr. Nunn, when that was, what period of time?

18 A. No, I do not know the specific time. It was sometime during
19 that period when we were there working on the telephone system.

20 Q. Now, Mr. Nunn, did you ever have a discussion with John
2 Mitchell about his relationship with the defendant, Deborah Gore
2 Dean?

2 A. I don't recall any specific discussion. I knew after a
2 period of time the relationship between John Mitchell and
2 Deborah's mother, and I knew that he was very fond of Deborah.

1368

1 Q. How did he refer to her, the defendant, Deborah Gore Dean?

2 A. Well, I thought that he referred to her as his daughter.

3 Q. Now during this period of time that you're in Washington at
4 Global Research, were you aware of the defendant, Deborah Gore
5 Dean's employment?

6 A. No. I don't, I don't recall when she was appointed or what
7 position she was appointed to. I was only aware that she worked
8 at HUD, but what her -- there may have been one other time that I
9 met her, one time when I went over to HUD and met with a

10 Mr. Karam. He took me through the office and introduced me to a
11 lot of people, and whether she was there at that time, I don't
12 remember.

13 Q. You mentioned a person named Mr. Karam. Who is Mr. Karam?

14 A. Mr. Karam is a young man that I know from Louisville,
15 Kentucky, that had worked in a campaign of mine and was later
16 employed at HUD, and he brought Mr. Pierce down to Louisville,
17 Kentucky, for a reception one time, and I went over -- was
18 invited and went over to that reception.

19 Q. Do you know what period of time Mr. Karam was at HUD?

20 A. No, sir, I don't recall the specific time.

2 Q. Mr. Nunn, I would now show you what's previously been marked

2 as Government's Exhibit 21.

2 THE CLERK: Government's Exhibit 21 marked for
2 identification.

2 BY MR. O'NEILL:

1369

Q. That is in evidence, Mr. Nunn.

2 A. Yes, sir.

3 Q. So you can refer to it if you need to.

4 what is that, sir?

5 A. That's an agreement between Mr. Martinez and others and
6 myself concerning payment of \$225,000 for a portion of the 300
7 units.

8 Q. Is -- on what project does that agreement refer to?

9 A. I don't see on its face any except 300, 300 mod rehab units,
10 um-hum.

11 Q. And does that, does that indicate to you what project that
12 agreement refers to?

13 A. I would think that the Arama had 300 and it's my best
14 memory.

15 Q. Now in what capacity, Mr. Nunn, were you to work with Arama
16 on this agreement?

17 A. I was to advise and counsel with Mr. Martinez, it says as an
18 attorney on its face, that I was to be the attorney.

19 Q. And what were you to advise and counsel?

20 A. Whatever he might ask me to do, if it was necessary to go to
21 Miami or to whatever, if there needed to be court action. I felt
22 that I was being paid a retainer.

23 Q. And the retainer was how much money?

24 A. 225,000 if I remember. It shows on the face of the
25 document.

1370

1 Q. Mr. Nunn, did there come a point in time when the amount was
2 increased?

3 A. I didn't hear you.

4 Q. I'm sorry, did there come a point in time when the amount
5 was increased?

6 A. Yes, there was.

7 Q. Mr. Nunn, at this time, I would show you what's previously
8 been placed into evidence as Government's Exhibit 22, and how
9 much was that contract increased?

10 A. \$50,000.

11 Q. Do you have a recollection as to why that document was
12 increased for an additional \$50,000?

13 A. The amount that I had received, the amount that I had
14 received for the other work that I had done on the three towers
15 was very, very small, very limited compared to the amount of
16 time, and it was added for that amount as additional
17 compensation.

18 Q. Now did there come a point in time when you, in fact,
19 performed services pursuant to these agreements on the Arama
20 project?

2 A. I don't recall of anything specific that it was necessary.

2 As far as I knew, the application was made, the funds went
2 through, it cleared the Atlanta -- Jacksonville office, and there
2 were no problems.

2 Q. Are you telling this jury then that you basically did

1371

1 nothing on this project?

2 A. I didn't understand your question.

3 Q. Are you telling this jury then that you basically did

4 nothing on this project?

5 A. I was on a retainer. I was prepared to do whatever he did,
6 and I'm sure that he'd call me from time to time. I think that
7 you have telephone, or evidence of telephone communications back
8 and forth in which he would ask me if I had any information or
9 knew any information or told me what the status of his projects

10 were and when his options would be out and so on. So I talked
11 back and forth with Mr. Martinez.

12 Q. We will get to the telephone calls. Aside from these
13 telephone calls, do you have any recollection of doing anything
14 else on this project?

15 A. No, I don't recall at this time anything that was necessary
16 to do. I went to Miami a time or two to talk with Mr. Martinez,
17 but I don't remember any court action or procedures of any kind.

18 Q. Do you know to your knowledge what, if anything, did you ask
19 Mr. Mitchell to do on this project?

20 A. I have no memory of asking him to do anything. However, it
21 is quite possible that I may have asked him to find out when the
22 funds would be coming down, because that was the key concern that
23 Mr. Martinez seemed to have.

24 You'll have to excuse me,- I have a little problem with
25 proper names. I just had a little surgery.

1372

1 Q. Now, Mr. Nunn, did there come a point in time when you
2 learned that the funds had come down for the Arama project?

3 A. Oh, yes. Mr. Martinez advised me when they had come down.

4 Q. Let me show you Government's Exhibit 27, all right, in
5 evidence.

6 I'd ask you to look at this document, sir.

7 A. Yes, sir.

8 Q. And have you ever seen that document?

9 A. Yes, sir.

10 Q. And how did you receive that document?

11 A. I assume that I received it in the -- well, I don't assume.
12 I'm sure it must have been sent to me at Global Research. It was
13 addressed to me at Global Research, and it appears from this that
14 I did make an inquiry. I thought it was on the second project
15 that I had made an inquiry, but apparently it was Arama based on
16 this one.

17 Q. Does that refresh your recollection as from whom you learned
18 that Arama had be funded?

19 A. This says, "This will confirm a recent telephone
20 conversation with General Mitchell concerning the Arama
21 partnership request for HUD for additional mod rehab units," and

2 it refers to 293 units.

2 Q. Who's it from?

2 A. It says "the Arama Partnership requests."

2 Q. Who's it from?

1373

1 A. It has typed "Deborah Gore Dean, Executive Assistant
2 Secretary," and then there's a red S with two marks slashed by
3 it. So that's all I can tell you about where it came from.
4 Q. And I'll repeat the question, sir: Does that refresh your
5 recollection as to how you learned that the units had come down
6 for the Arama project?
7 A. Yes. I thought -- there was another project, and I'm
8 confused. I thought it was the second project, but apparently it
9 was the Arama project that I made an inquiry on for.

10 Q. Based on receiving that information in Government's
11 Exhibit 27, what, if anything, did you do?

12 A. I notified Mr. Martinez.

13 Q. Mr. Nunn, once again, I would show you a document. It's
14 been previously marked as Government's Exhibit 29 for
15 identification. I'd ask you to look at that, please.

16 A. Yes, sir.

17 Q. And do you recognize that?

18 A. I do.

19 Q. What is it?

20 A. It's a letter off of my letterhead, Nunn, Odear & Arnold,
2 and it's addressed to Mr. Art Martinez, and someone has signed my
2 name on it and put their initials after it, and I assume that it
2 was my secretary.

2 Q. And what makes you assume that it was your secretary?

2 A. Well, it's not my signature, and I don't know of anyone else

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1 that would have been sending it out.

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2 Q. Would your secretary have been authorized to sign your name
3 in that instance?

4 A. In instances where I called, yes. In just normal course of
5 business, not legal documents or things like that.

6 Q. Okay. And is this a legal document?

7 A. Sir?

8 Q. Is this a legal document?

9 A. This is, no, as far as I'm concerned, this was an

10 informative letter to tell someone something was happening.

11 MR. O'NEILL: Your Honor, at this time, I would move

12 into evidence this exhibit.

13 THE WITNESS:

14 MR. O'NEILL:

15 THE WITNESS:

16 MR. O'NEILL:

17 27, Judge.

18 MR. WEHNER:

19 THE COURT:

20 MR. O'NEILL:

21 THE COURT:

22 admitted.

23

24

25 BY MR. O'NEILL:

Sir?

I'm talking to the Court, I'm sorry.

Excuse me.

I move into evidence Government's Exhibit

No objection, Judge.

27?

Excuse me, 29.

I think it is 29. Government's 29 is

(Government's Exhibit No. 29 was
received in evidence.)

1375

1 Q. Now, Mr. Nunn, what was the purpose of that document I just
2 showed you? Why did you have that letter or cause this letter to
3 be sent out?

4 A. Well, because Mr. Martinez was calling. Some of his options
5 were expiring. He was anxious to know about his projects as to
6 whether or not they were going through, so he called me from time
7 to time wanting to know if I could find out whether or not the
8 funds, when they would be coming forward.

9 Q. Mr. Nunn, once again, I will show you a document. It's been

10 already entered into evidence, Government's Exhibit 32, and I'd
11 ask you do you recognize that, sir?

12 A. Yes, I do.

13 Q. And what is it?

14 A. It's an escrow agreement whereby Mr. Martinez was to pay to
15 an escrow agent, John Penn, at the Citizens Union Bank & Trust
16 Company, upon my performance of certain contractual obligations

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17 certain monies.

18 Q. Mr. Nunn, did there come a point in time that you were paid
19 for your services on Arama?

20 A. Yes, sir. I was paid in full for all services.

2 Q. And do you recall how much money you received?

2 A. No, I don't, but the documents show on their face. I was
2 paid the exact amount that the documents called for.

2 Q. Did there come a point in time that you paid Mr. Mitchell
2 for his involvement in the Arama project?

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1 A. Yes, sir. When I was paid, I paid Mr. Mitchell.

2 Q. At this time, Mr. Nunn, I'm showing you what's previously-
3 been marked as Government's Exhibit 33 for identification
4 purposes

5 (Government's Exhibit No. 33 was
6 marked for identification.)

7 THE WITNESS: Yes, sir.

8 BY MR. O'NEILL:

9 Q. And do you recognize that document?

10 A. I do.

11 Q. And what is it, sir?

12 A. That is a letter from my secretary to Governor John --
13 General John Mitchell in which it says that she was forwarding at
14 my request a First Security cashier's check in the amount of
15 \$75,000, a copy of out-of-pocket expenses, and a copy of the
16 agreement that I had with the people in Florida.

17 MR. O'NEILL: Your Honor, at this time, I'd move it
18 into evidence as Government's Exhibit 33.

19 MR. WEHNER: No objection, Your Honor.

20 THE COURT: All right, 33 is admitted.

2 (Government's Exhibit No. 33 was

2 received in evidence.)

2 BY MR. O'NEILL:

2 Q. Mr. Nunn, what, if anything, did John Mitchell do on the
2 Arama project, to your knowledge, for that \$75,000 fee?

1377

1 A. I think I've already explained that, and apparently I asked
2 him to make an inquiry, I don't remember. I may have discussed
3 it with him there in the office from time to time as to what
4 Martinez was doing or not doing and that sort of thing, but I
5 don't recall anything specific --

6 Q. To your knowledge --

7 A. -- other than what was pointed out in the letter.

8 Q. I'm sorry. To your knowledge, how much time did he spend on
9 the Arama project?

10 A. I have no idea how much time really either of us spent on

11 it.

12 Q. If I may, I'll show you again Government's Exhibit 507 for
13 identification, and since it's not in evidence, you cannot read
14 it out loud. I'd ask you to read that notation.

15 A. Um-hum.

16 Q. Does that refresh your recollection about how much time

17 Mr. Mitchell spent on the Arama project?

18 A. Do you want me to read this now?

19 Q. No, no. It would just be --

20 A. My testimony is no different now than it was then. That was
2 purely an estimate or put together, a question -- answer to a

2 question that was put together for me.

2 Q. well, the question would be do you know how much time he
2 spent on the Arama project?

2 A. No, I don't know. It would purely be an estimate or a guess

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1 as to how much time, as I said, either of us spent on it.

2 Q. To your knowledge, was it a great deal of time?

3 A. No, it was not a great deal of time. No, sir.

4 Q. To your knowledge, was it a very short period of time?

5 A. well, I don't know how you define short and long, but if

6 you'd give me a parameter, I'll try to get within it.

7 Q. well, would it be just a couple of hours?

8 A. It would, I would say two, three, four hours, something of
9 that nature. Since I don't remember and it was nothing unusual

10 about it, I'd have no reason to record it.

11 Q. Mr. Nunn, I would now show you -- Mr. Nunn, I would now show
12 you two documents. Let me do it one at a time. It will make it
13 a bit easier.

14 A. All right. The first is a check from Louie B. Nunn, the
15 First Security Bank, in the amount of \$75,002, and it's for a
16 cashier's check to John Mitchell. The \$2 was for check charge.
17 The check was 75,000. It was signed by my secretary, Margaret
18 Lewis.

19 MR. O'NEILL: Your Honor, at this time, I would enter
20 it into evidence pursuant to a stipulation.

2 THE COURT: what's the number again?

2 MR. O'NEILL: No. 34, Your Honor.

2 THE COURT: All right.

2 MR. WEHNER: No objection.

2 THE COURT: There being no objection, 34 will be

admitted.

(Government's Exhibit No. 34 was
marked and received in evidence.)

BY MR. O'NEILL:

5 Q. Mr. Nunn, at this time, I'm showing you --

6 A. That shows to be a First Security cashier's check in the
7 amount of \$75,000, payable to John Mitchell.

8 MR. O'NEILL: That was Government's Exhibit 35, Your
9 Honor, and I'd move it into evidence, again pursuant to

10 stipulation.

11 MR. WEHNER: No objection.

12 THE COURT: 35 is admitted.

13 (Government's Exhibit No. 35 was
14 marked and received in evidence.)

15 BY MR. O'NEILL:

16 Q. Mr. Nunn, did there come a point in time when you worked on
17 another project with Mr. Martinez?

18 A. Yes, there was.

19 Q. And what was the name of that project, sir?

20 A. I believe it was, was Florida, Ltd. I don't remember the
21 exact name, because it was four or five projects, the towers and
22 so on. It was Florida, Ltd. If you'd tell me, maybe you'd
23 refresh my memory.

24 Q. Okay. I will show a number of documents to you.

25 A. All right.

1 Q. What, if anything, were you to do on this project?

2 A. The same as I was on the previous ones.

3 Q. Was anyone else involved with you on this project?

4 A. Mr. Mitchell was involved with me, because that was of my
5 choice.

Q. I'm sorry, Mr. Nunn> I didn't catch your last answer.

A. I said it was my choice to bring Mr. Mitchell into it.

Q. Mr. Nunn, I would show you Government's Exhibit 37.

THE CLERK: Government's Exhibit 37 marked for
10 identification.

11 (Government's Exhibit No. 37 was
12 marked for identification.)

13 THE WITNESS: Yes, sir.

14 BY MR. O'NEILL:

15 Q. And do you recognize that, sir?

16 A. Yes, sir. That's a letter dated April 10, 1986, on my
17 letterhead, to Art Martinez, signed by me, which it says I had
18 enclosed the Florida, Ltd., agreement, the memorandum of
19 understanding replacing a lost one -- apparently, we'd had a
20 previously one -- and the information in regard to the trip to
2 visit your condo, with a map and instructions.

2 MR. O'NEILL: Your Honor, at this time, I'd move into
2 evidence Government's Exhibit 37.

2 MR. WEHNER: No objection, Your Honor.

2 THE COURT: All right, 37 will be admitted.

1381

1 (Government's Exhibit No. 37 was
2 received in evidence.)

BY MR. O'NEILL:

4 Q. Mr. Nunn, I would refer your attention to the attached
5 agreement.

6 A. The attachment is an agreement on, it's penciled in, South
7 Florida and initialed by Mr. Martinez and myself, and it's signed
8 by both of us, and it's where he's making an application for 200
9 mod rehab units from HUD.

10 Q. Now, Mr. Nunn, what, if anything, did you do as a consultant

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1 on the South Florida project?

1 A. The same as I did on the other. I worked with Mr. Martinez
1 in whatever capacity that he felt that my services were needed,
1 and that was the extent of it.

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1381

1 Q And what do you recall with respect to the
2 capacities that were needed on South Florida?

3 A The same as Robert Forcum Towers, options on
4 property and when they would be expiring, and if I had
5 any idea what the progress was on his application and I
6 had any idea whether HUD funds were still available, if
7 they would be coming down in any specific time or what
8 the situation was, just in general.

9 Q Do you remember contacting anyone about whether the

10 funds were coming down?

11 A I don't. I thought with your letter that it was on
12 this project, but I might have asked Mr. Mitchell or
13 Mr. Brennan or someone at Global Research to make an
14 inquiry because Mr. Martinez contacted me frequently.

15 Q Now, was Mr. Mitchell involved in this project as
16 well?

17 A Yes, sir, he was involved, in everything that I did
18 with Mr. Martinez.

19 Q What is your recollection as to what John Mitchell
20 did on this specific project?

21 A I don't remember any specific thing other than we
22 may have discussed it there in his office what the
23 progress was on it. I don't have any specific memory
24 unless I asked him to inquire or someone to inquire.

25 Q Mr. Nunn, I would show you Government's Exhibit 39

1382

1 which is already placed in evidence, and to whom is that
2 letter addressed, sir?

3 A That is addressed to Governor Louie B. Nunn, 201
4 West Vine Street. It's with regard to South Florida I,
5 Limited, and it is from Mr. Art Martinez with a copy to
6 Colonel Jack Brennan.

7 Q Do you recall ever taking any action on this
8 letter?

9 A Well, I'll have to read it to refresh my memory and
10 see what, if anything.

11 Q Please do so.

12 A I believe that at this time -- at this particular
13 time General Mitchell may have been out of the country
14 and I -- from reading this and refreshing my memory I
15 think that I probably advised Mr. Martinez to send a

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16 copy to Brennan so that he could make an inquiry as to
17 whether or not -- when the funds might be coming down.
18 That letter explains that they thought the application
19 was about to clear Dade County. I'm of the opinion that
20 we did make an inquiry to see when the funds would be
21 going down.
22 Q At this time, Mr. Nunn, I would show you what's
23 previously been marked as Government's Exhibit 43 for
24 Identification.
25 THE DEPUTY CLERK: Government's Exhibit 43

1383

1 marked for identification.
2 (Government's Exhibit 43
3 marked for Identification)
4 BY MR. O'NEILL:
5 Q And I would ask you to identify this, please?
6 A Those are copies of telephone calls that came to my
7 office from Mr. Martinez.
8 Q Have you kept those phone calls?
9 A Pardon me?
10 Q Have you kept those -- did you keep those memoranda
11 that reflect phone calls?
12 A Some of them I did and some of them I didn't. I
13 moved my office twice during this period of time, so
14 this is what I had to make available to the Government,
15 and these are calls from Mr. Martinez and one from
16 Jack Brennan.
17 MR. O'NEILL: Your Honor, at this time I'd
18 move it into evidence as Government's Exhibit 43.
19 MR. WEHNER: No objection, Your Honor.
20 THE COURT: All right. No objection to 43.
2 It's admitted.
2 (Government's Exhibit 43
2 received into Evidence)
2 BY MR. O'NEILL:
2 Q Now, Mr. Nunn, did there come a point in time where

1 you learned that South Florida had been funded?
2 A Yes, sir, there was.
3 Q And do you recall how many units of moderate
4 rehabilitation funding went to the South Florida
5 project?
6 A I did then. I don't this morning.
7 Q Did there come a point in time where you requested
8 payment from Mr. Martinez for your services on South
9 Florida?

10 A Yes, yes, I did.
11 Q Mr. Nunn, I would now show you what's been marked
12 as Government's Exhibit 44 for identification.
13 THE DEPUTY CLERK: Government's Exhibit 44
14 marked for identification.
15 (Government's Exhibit 44
16 marked for Identification)
17 MR. O'NEILL:
18 Q And do you recognize that, sir?
19 A Yes, I do. This is a letter from my office signed
20 by me to Art Martinez regarding South Florida I,
2 Limited. It says, "You will find enclosed herewith a
2 bill for services rendered in the amount of \$219,000.

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2 As per our understanding, \$109,000 of this should be
2 made payable to me by certified or cashiers check being
2 mailed to my address.

1385

1 The remaining amount should be directed to

2 John S. Penn, Escrow Agent." And the bill's attached.

3 MR. O'NEILL: Your Honor, at this time I'd

4 move it into evidence as Government's Exhibit 44.

5 MR. WEHNER: No objection, Your Honor.

6 THE COURT: All right. 44 is admitted.

7 (Government's Exhibit 44

8 received into Evidence)

9 BY MR. O'NEILL:

10 Q Mr. Nunn, as to the South Florida project, did

11 there come a point in time where you entered into a

12 memorandum of understanding with Mr. Martinez?

13 A Yes, I did. I had a memorandum on both of those

14 projects.

15 Q Mr. Nunn, I show you Government's Exhibit 45.

16 THE DEPUTY CLERK: Government's Exhibit 45

17 marked for identification.

18 (Government's Exhibit 45

19 marked for Identification)

20 MR. O'NEILL:

2 Q And I ask if you recognize that, sir?

2 A It's a letter from my office, a Federal Express, to
2 Mr. Art Martinez, and it says, "You will find enclosed
2 herewith our memorandum of understanding as to what my
2 duties and responsibilities are concerning the South

1 Florida I project." Attached to it is a memorandum of
2 understanding as to the things that I was to do. And
3 also a copy of the escrow agreement as to when payment
4 was to be made.

5 MR. O'NEILL: Your Honor, at this time I'd
6 move it into evidence as Government's exhibit 45.

7 MR. WEHNER: No objection, Your Honor.

8 THE COURT: 45 is admitted.

9 (Government's Exhibit 45

10 received into Evidence)

11 BY MR. O'NEILL:

12 Q Mr. Nunn, did there come a point in time where you
13 were paid for your services on South Florida?

14 A Yes, sir.

15 Q How much were you paid?

16 A Whatever the documents showed, \$219,000, if I
17 recall. That was paid over a period of time.

18 Q Let me show you Government's exhibit 53 for
19 identification.

20 A Yes, sir, that's a letter from my office to
2 Mr. Jack Brennan in which it says, "You will find

2 enclosed herewith my check in the amount of \$109,000
2 which constitutes payment for your consulting work in
2 the South Florida I, Limited project. Your cooperation
2 in this matter is deeply appreciated." The check is

1 made payable to Global Research, signed by me, marked
2 consultant fees, South Florida, in the amount of
3 \$109,000.

4 MR. O'NEILL: I move this into evidence, Your
5 Honor, as Government Exhibit 53.

6 MR. WEHNER: No objection, Your Honor.

7 THE COURT: All right. It's admitted.

8 (Government's Exhibit 53

9 received into Evidence)

10 BY MR. O'NEILL:

11 Q At this time, Mr. Nunn, I would show you

12 Government's Exhibit 54 for identification.

13 THE DEPUTY CLERK: Government's Exhibit 54

14 marked for identification.

15 (Government's Exhibit 54

16 marked for Identification)

17 A Yes, that's a check from Louie B. Nunn, Attorney,

18 in the amount of 109,000 payable to Global Research,

19 Incorporated for services to South Florida.

20 MR. O'NEILL: Your Honor, pursuant to

2 stipulation the Government would enter this into

2 evidence as Government Exhibit 54.

2 MR. WEHNER: No objection, Your Honor.

2 THE COURT: All right, 54 will be admitted.

2 (Government's Exhibit 54

1388

1 received into Evidence)

2 BY MR. O'NEILL:

3 Q To your knowledge, Mr. Nunn, what if anything did

4 Jack Brennan do as a consultant on South Florida?

5 A I don't know exactly what Jack Brennan may have

6 done. Perhaps since there was communications to him he

7 may have made inquiries as to when the funds would be

8 forthcoming and the course they would take. I can't

9 tell you.

10 Q To your knowledge did John Mitchell do anything on

11 the South Florida project?

12 A At this time I can't recall anything specifically

13 that he did. Now, I was in and out of the office and I

14 talked with him and it's quite possible that he may have

15 asked about the progress or something, but I don't

16 recall anything specific that he did except to - I

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17 probably went over that agreement that I had with
18 Martinez as to the other chores I was supposed to
19 perform.
20 Q With either the Arama project or the South Florida
2 project, do you recall whether you personally ever

2 contacted anyone at HUD headquarters concerning the
2 funding allocation process?
2 A I don't recall ever contacting anyone in there.
2 Q Now, subsequent to the South Florida project, did

1389

1 you have any contact with the defendant Deborah Gore
2 Dean?
3 A Other than the telephone call that I mentioned
4 which she called me.
5 Q At this time then I'll show you what's previously
6 been marked Government's Exhibit 56 for identification.
7 THE DEPUTY CLERK: Government's Exhibit 56
8 marked for identification.
9 (Government's Exhibit 56
10 marked for Identification)
11 BY MR. O'NEILL:
12 Q And I'd ask you, sir, if you recognize it?
13 A I recognize it as calls that were made to me and
14 recorded by my secretary.
15 MR. O'NEILL: Your Honor, at this time I'd
16 move it into evidence as Government's Exhibit 56.
17 MR. WEHNER: No objection, Your Honor.
18 THE COURT: All right. 56 is admitted.
19 (Government's Exhibit 56
20 received into Evidence)
2 BY MR. O'NEILL:
2 Q Mr. Nunn, do you recall what the purpose of these
2 phone calls was?
2 A Yes. Miss Dean advised that she was seeking an
2 appointment of some type somewhere in HUD that required

1390

1 Senate confirmation and that she wanted to meet with and
2 talk with Senator Proxmire about the - I believe it was
3 Proxmire, it was one Senator, I don't want to be
4 definite on that, to my best judgment this morning,
5 until my memory is refreshed, and he had refused to see
6 her and talk to her and she wanted to know if I knew of
7 anyone that might be able to get her an appointment, so
8 that she could explain her position and so forth.
9 Then she called me back later. I told her at
10 the time I knew of no one. If I did I would let her
11 know. And she called me back, i think, the second time
12 when I told her I hadn't been able to be of any
13 assistance to her.
14 Q Mr. Nunn, I will now show you Government's Exhibit
15 57 for identification. \
)
16 THE DEPUTY CLERK: -Government's Exhibit 57
17 marked for identification.
18 (Government's Exhibit 57
19 marked for Identification)
2 0 BY MR. O'NEILL:

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2 Q Do you recognize that, sir?
2 A Yes, that's a letter from – on my letterhead to
2 Mr. Martinez signed by me and it relates to the \$75,000
2 payment to the escrow agent. Attached to it is an
2 authorization for Martinez to sign permitting the escrow

1391

1 agent to give me the funds.
2 MR. O'NEILL: Your Honor, at this time, I
3 would move it into evidence as Government Exhibit 57.
4 MR. WEHNER: No objection, Your Honor.
5 THE COURT: 57 is admitted.
6 (Government's Exhibit 57
7 received into Evidence)
8 BY MR. O'NEILL:
9 Q Mr. Nunn, at this time I would show you
10 Government's Exhibit 60 for identification.
11 THE DEPUTY CLERK: Government's Exhibit 60
12 marked for identification.
13 (Government's Exhibit 60
14 marked for Identification)
15 A Yes, that's a letter on my letterhead dated the 8th
16 of March, 1989 and attached to it is an authorization
17 for payment of additional funds.
18 Q And, finally, Mr. Nunn, I would show you what's
19 previously been marked -- oh, excuse me, Your Honor, I'd
20 move that into evidence as Government's Exhibit 60?
21 THE COURT: All right.
22 MR. WEHNER: No objection, Your Honor.
23 THE COURT: 60 is admitted.
24 (Government's Exhibit 60
25 received into Evidence)

1 BY MR. O'NEILL:
2 Q Mr. Nunn, finally I'll show you what has been
3 marked as Government Exhibit 61, and what is that?
4 A That's May the 11th, 1990, a letter from me to Art
5 Martinez asking for payment for the balance of the
6 escrow funds and agreement to hold him harmless on the
7 escrow payment for any funds that were paid out.
8 MR. O'NEILL: Your Honor, at this time I'd
9 move it into evidence as Government's Exhibit 61.

10 MR. WEHNER: No objection, Your Honor.
11 THE COURT: All right, 61 will be admitted.
12 (Government's Exhibit 61
13 received into Evidence)
14 MR. O'NEILL: Your Honor, that concludes my
15 examination. Thank you.
16 THE COURT: All right. We'll have cross now.
17 MR. WEHNER: Yes, Your Honor. Thank you.
18 MR. WEHNER: Good morning.
19 THE JURORS: Good morning.
20 CROSS-EXAMINATION
21 BY MR. WEHNER:
22 Q Good morning. Governor. I'll ask you a few quick
23 questions, Governor, if I could?
24 A Speak loudly if you would, please.
25 Q Yes, sir. A few quick questions regarding your

1393

1 direct examination. Did you agree or did you enter into
2 an agreement with Art Martinez to receive hundreds of
3 thousands of dollars if you got him Mod Rehab units?

4 A No, I -- it was contingent -- my payment was
5 contingent upon the projects being completed and going
6 through to closing.

7 Q But did you enter into an agreement with Martinez
8 to get Mod Rehab units?

9 A No, not to get Mod Rehab units. To assist in

10 seeing if they came down and through the channel, which
11 is what my understanding with Mr. Martinez was to be,
12 and assist in any way that I could.

13 Q To your knowledge, did you ask Mitchell to help you
14 try to get Mod Rehab units?

15 A I have no memory whatsoever of asking John Mitchell
16 to ask anyone. The role that I thought John Mitchell
17 was to play was to find out when the funds would be
18 available, if they were available, and when they would
19 be coming down to meet the schedule that Mr. Martinez
20 had said on his options, and to see that they got
2 through and didn't get delayed in the Jacksonville
2 office.

2 Q To your knowledge, did John Mitchell go to see
2 Miss Dean about the Mod Rehab units?

2 A I have no awareness of it.

1394

1 Q Now, you had done a number of projects with HUD in

2 the past, isn't that correct? You had dealings with HUD

3 in the past, is that correct?

4 A I had dealings with HUD in the past through the

5 Moore Land Company.

6 Q The Moore Land Company?

7 A That was one of them.

8 Q And you had had dealings with HUD Central in the

9 past, had you not? Washington HUD?

10 A Yes, I had been there.

11 Q And you had had dealings with John Mitchell in the
12 past?

13 A Yes.

14 Q And you had had dealings with both John Mitchell
15 and HUD in the same circumstance, isn't that correct?

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16 A I don't understand what you're saying.
17 Q I'll try to rephrase it. You had dealt with
18 John Mitchell and HUD on projects before Arama?
19 A I dealt indirectly with HUD before I ever talked
20 with John Mitchell or with Martinez.
2 Q All right, and had you ever dealt with

2 John Mitchell and HUD on a HUD related project?
2 A No, never. The only connection I had with
2 John Mitchell were these projects that have been
2 introduced this morning. That's the only ones except

1395

1 one other with the Moore Land Company.

2 Q Do you recall that John Mitchell set up a meeting

3 for you with an individual at HUD regarding the Moore

4 Land Company?

5 A I think that John Mitchell set that meeting up.

6 Q And isn't it true that that meeting was with

7 Lance Wilson?

8 A Yes, I met with Lance Wilson.

9 Q Now, do you have any recollection as to who

10 John Mitchell was dealing with at HUD?

11 A I have no --

12 Q Excuse me. Will you let me finish the question,
13 Governor? Was dealing with at HUD regarding the Mod

14 Rehab units for Arama?

15 A I do not.

16 Q Okay. I'm going to show you what's been marked for
17 identification as Dean Exhibit 23, and ask you if
18 looking at that document refreshes your recollection as
19 to who John Mitchell was dealing with at HUD with regard
20 to the 300 Arama units?

2 A Well, all I can say on this is from -- it's for

2 Mr. M., and it's from a Lance Wilson and it has 7556517
2 on it with an X and it says 300 units processed and
2 kept - I can't tell what the word is, cleared or close,
2 talking to, it looks like Barksdale.

1396

1 Q And who was the message from?

2 A It's just what it says, all I know is what it says

3 on it.

4 Q Lance Wilson.

5 A It speaks for itself. It says it's from Lance

6 Wilson, just as I read it.

7 Q Does that refresh your recollection as to who

8 John Mitchell was dealing with visavis the 300 Arama

9 units at HUD?

10 A I have no knowledge then, I have no knowledge now
11 of John Mitchell talking with anyone concerning the work
12 that was done with Martinez except making inquiries,
13 about which I've already testified.

14 Q So he was silent to you as to whether he had any
15 conversations with Deborah Gore Dean, is that correct?

16 A He was silent as far as anyone he talked with at
17 HUD except on a - one occasion where I met with
18 Lance Wilson and I forgot that until I saw a letter
19 pertaining to it.

20 Q And on the one occasion you met with Lance Wilson,
2 approximately when was that?

2 A I don't remember the year or the date. I remember
2 the name of the project. It was a project in Lexington,
2 Kentucky with Moore Land Company and it had been there
2 for sometime and it was a good project and I brought it

1397

1 to HUD for someone that had the authority to make a
2 decision on it because time was running out, and as I
3 understood it, I didn't work directly. I was a partner
4 in the Moore Land Company, but I was a limited partner,
5 which meant that I didn't participate in the decision
6 making things. I provided other services. To determine
7 if there were funds for that project.

8 Q And you dealt with Mr. Wilson on that project?

9 A Pardon me?

10 Q You dealt with Mr. Wilson on that project?

11 A As best I recall, it was Mr. Wilson. It was
12 someone there I didn't -- at the time I knew who it was
13 but - and I think it was Mr. Wilson.

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14 Q I'll show you what I've marked for identification
15 as Dean Exhibit number 133?
16 THE DEPUTY CLERK: Dean Exhibit 133 marked for
17 identification.
18 (Defendant's Exhibit 133
19 marked for Identification)
20 BY MR. WEHNER:
2 Q And ask you if that refreshes your recollection as
2 to whether Mr. Mitchell was involved with you on that
2 project with Lance Wilson?
2 A It says Global Research.
2 Q Read the document to yourself, Governor.

1398

1 A It says Mr. William -2
Q No, sir, read it to yourself, please.
3 A Okay.
4 Yes, sir, I've read it.
5 Q Now, it is in fact true that John Mitchell was
6 involved with you on the William Moore project with
7 Lance Wilson, isn't that correct?
8 A As far as I know, John Mitchell made the appointment
9 at HUD for me to go see him. Now, I can't remember the
10 specifics but I know that I -- it was in a hurry and
11 Mr. Moore had the project and he thought it might be
12 possible for it to be funded and he asked me if I would
13 go to HUD and I did go to HUD and I met with maybe two
14 or three different people there and I ended up, in my
15 best memory, with Mr. Lance Wilson who approved the
16 project that day because time was running out on the
17 application.
18 Q And do you recall that Lance Wilson used to work
19 for Mr. Mitchell's law firm?
20 A I have been told that. I don't know that for a
2 fact. I assume it is.
2 Q Now, regarding Miss Dean -- could I have Exhibits
2 28, 29, 30, please? And I believe these have been
2 introduced, 28 and 29?
2 THE COURT: 29 is.

1399

1 BY MR. WEHNER:

2 Q I'll put on the screen Government's Exhibit 29

3 which has been introduced. And ask you to take a look

4 at that on the monitor, please, Governor. Actually I

5 think I'll bring you another copy and let you read

6 that. It might be of assistance.

7 Governor, this may help you.

8 For the record it's a xerox of the document

9 that's on the screen which is Government's Exhibit 29.

10 Have you read it, Governor?

11 A Yes, sir, I have.

12 Q The first paragraph of that letter says, "There has
13 been read to me from my Washington office a letter
14 signed by the Assistant Secretary of HUD," is that
15 correct?

16 A That's what it says.

17 Q Now, Miss Dean was not the Assistant Secretary of
18 HUD at that point, was she?

19 A I don't know what her title was over there.

20 Q Now, Lance Wilson was Executive Assistant to the
2 Secretary of HUD at that time, wasn't he?

2 A I didn't know either of their titles. I just knew
2 they were at HUD and I --

2 Q The letter says, "There has been read to me from my
2 Washington office a letter signed by the Assistant

1400

1 Secretary of HUD." Do you have a recollection as to who
2 told you or who read the letter to you?

3 A I have no idea.

4 Q Do you know whether it was Miss Dean?

5 A I know it wasn't Miss Dean.

6 Q Do you know whether it was John Mitchell?

7 A No, it wasn't John Mitchell.

8 Q Do you recall whether it was an employee of HUD?

9 A I don't --

don't remember who read the letter. I

10 could only give you possibilities or speculations, but
11 that's the best I can do.

12 Q Just your best recollection, that's what we deal
13 in.

14 A There were two other men working there with me on
15 the telephone business at Mitchell's office most of the
16 time. And it would only be an assumption or a
17 calculated guess that when there was a letter there to
18 me that I asked them to open it and read it to me,
19 wherever I happened to be, so I'd know what the contents
20 of it was, and that's purely a speculation.

2 Q And those individuals told you that they had a
2 letter signed by the Assistant Secretary of HUD.

2 A My best memory is that it was read to me. I

2 don't -- that's all I can remember. I got enough
2 information that I called my office and had this letter

1401

1 dictated to Art Martinez because he was very anxious
2 about some office options at that time.

3 Q Based on your experience in the William Moore
4 project in which John Mitchell introduced you to or made
5 an appointment for you with Mr. Wilson, was that one of

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6 the reasons that you concluded that Mr. Mitchell might
7 be helpful to you in dealing with Mr. Martinez?
8 A No, I don't know that I had any basis for
9 concluding that because he did that, no.

10 Q Did it lead you to believe that he was -- that he
11 knew people at HUD?
12 A Well, I knew that he knew people at HUD. I knew
13 that he knew people out of Washington.
14 Q And you knew that he knew Mr. Wilson.
15 A I knew -- yes, I knew that he knew Mr. Wilson and
16 Mr. Pierce and Miss Dean and a lot of other people over
17 there, I assume, because I heard him call her name for
18 time to time.
19 MR. WEHNER: Nothing further.
20 THE COURT: All right.
21 THE COURT: Do you have some redirect?
22 MR. O'NEILL: Yes, Your Honor, just briefly.
23 REDIRECT EXAMINATION
24 BY MR. O'NEILL:
25 Q Mr. Nunn, I would show you Government's Exhibit 27?

1402

1 A Yes, sir.
2 Q That's already in evidence.
3 Sir, you were asked on cross-examination
4 whether you knew who Mr. Mitchell was dealing with at
5 HUD on the Arama project and you stated you didn't
6 know. Does that refresh your recollection as to who he
7 was dealing with?
8 A Yes, yes. I thought I told you that earlier that
9 he was making calls there, or I asked him to. I don't
10 know whether he did or not. But in any event this
11 letter came confirming -- saying that he made a call.
12 That's my best information.
13 Q What is the date on that letter?
14 A The date of that letter is July the 5th, 1984.
15 Q And who is it from?
16 A I don't know who it's from. It has Deborah Gore
17 Dean's name typed down on the bottom, and then there's a
18 couple of slashes with an S in the middle, so I don't
19 know who that's from. I think that's the letter that
20 was read to me.
21 Q And then Mr. Wehner showed you Government's Exhibit
22 29 already in evidence. What is the date on that
23 letter, sir?
24 A That's July the 6th, 1984.
25 Q Do you have any knowledge as to what Lance Wilson's

1403

1 position was at the Department of HUD?
2 A Nothing more maybe than what I've read in the paper
3 at the time, and I don't even remember that.
4 Q Do you have any knowledge as to what Deborah Dean's
5 position was at HUD?
6 A No, I really didn't know what title she bore there.
7 Q To your knowledge, did Deborah Dean succeed
8 Lance Wilson in the same position at HUD?

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9 A I don't know that she did. I thought she was
10 trying to get confirmation for something, but I really
11 don't know what - what she did there.
12 MR. O'NEILL: I have no further questions,
13 thank you.
14 THE COURT: Anything else?
15 MR. WEHNER: Yes, sir.
16 THE COURT: Very briefly.
17 RE-CROSS EXAMINATION
18 BY MR. WEHNER:
19 Q Will you look briefly, quickly, Governor, at
20 Exhibits 27 and 29?
2 A Yes, sir, what about them?
2 Q Government's Exhibit 29 is a letter to Art Martinez
2 from you that you had dictated over the phone, is that
2 correct? Dictated to your secretary?
2 A I dictated that letter to my secretary.

1404

1 Q And the date on that is July 6th?
2 A July the 6th.
3 Q And on July 5th, 1984 the Government has introduced
4 an Exhibit 27.
5 A Right.
6 Q Showing a letter to you at Global Research.
7 A Yes.
8 Q Do you believe that it's possible that a letter
9 sent to Global Research on July 5th could have been read
10 to you on July 6th?
11 A I don't know. I wouldn't have - know
how I would
12 have gotten information otherwise now. I can't tell you
13 any more than -- than my best memory is that somebody
14 read the letter to me and I was somewhere and called my
15 secretary to write a letter to Mr. Martinez and tell him
16 the information had been furnished to me.
17 Q Looking at those two letters, you cannot say today
18 that one letter is what prompted the other, can you?
19 A No, I don't know what prompted anything except what
20 the letters say on their face. That's what I was acting
2 on.
2 Q And it's entirely possible, is it not -2
MR. O'NEILL: Objection, Your Honor.
2 THE COURT: All right, I'll sustain it as to a
2 possibility.

1405

1 MR. WEHNER: Nothing further.
2 THE COURT: All right. Thank you, sir.
3 That's it?
4 All right, thank you, sir. You can step
5 down. You're free to go.

6 THE WITNESS: Thank you, sir.

7 Your Honor, may I be finally excused?

8 THE COURT: Yes, you're excused.

9 THE WITNESS: Thank you.

10 THE COURT: All right. That's all we've got
11 for today, right?

12 MR. O'NEILL: Yes, Your Honor.

13 THE COURT: All right.

14 Ladies and gentlemen, the jury is going to be
15 recessed today because the trial, as I mentioned
16 yesterday, would conclude now for today. I have another
17 lengthy hearing this afternoon in another case. So
18 you're going to get a chance to take care of yourselves
19 over the weekend and get over your colds and hopefully
20 feel better and ready to go.

2 We'll be back in at 9:30 on Monday morning. I

2 want you to take care of yourselves and be refreshed

2 after a nice weekend.

2 Remember the admonitions, particularly over a

2 weekend, do not get caught up in talking about the case

1406

1 with each other if you ride home together or see each

2 other or with your friends or family over the weekend.

3 If it's carried in the newspapers, television, or

4 broadcasted or something, or a radio commentary on it,

5 or a newspaper would write about it, please don't

6 listen, read or watch anything about it whatsoever.

7 Everything that you learn about this case has to be

8 learned in this Courtroom and not outside the

9 Courtroom.

10 So, have a good weekend and be ready to come

11 back at 9:30 Monday morning.

12 Thank you.
13 THE JURORS: Thank you.
14 (Jury dismissed)
15 THE COURT: All right, you're organizing for
16 Monday then the materials to give to the defendant and
17 we'll be set to go Monday morning at 9:30. It should be
18 a regular week next week until Friday.
19 MR. WEHNER: Do you have a sense whether
20 you're going to be sitting a half a day on Friday,
2 Judge?

2 THE COURT: I'm trying to change something
2 that's been set for Friday afternoon. But it's a major
2 class action case and I have to try to see if I can call
2 everybody.

1407

1 MR. WEHNER: I was just trying to find out
2 because I have to schedule something on Friday if we're
3 going to be out all day.

4 THE COURT: All right, I've looked at that
5 matter, it's the La Shawn foster care case that we've
6 had set for sometime, plus I have an R Street Crew
7 sentencing which is scheduled for a couple of hours.
8 I'm going to have to not sit Friday in this case next
9 week. That's the fourth week of trial. You all may be
10 ready for a day out of Court anyway, but I'll not be
11 able to sit then until I get this other stuff done and
12 get some things done. So we'll take off Friday in this
13 trial, October 1st. So we'll sit four days next week in
14 this case and I'll do my other work on Friday.
15 Does it help you with your planning?
16 MR. O'NEILL: You don't hear any objections,
17 Your Honor.
18 MR. WEHNER: Squeals of joy.
19 THE COURT: All right. Have a good weekend.
20 (Proceedings recessed at 11:45 a.m. to resume September
2 27, 19 9 3 at 9:30 a.m.)

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1408

Certificate of Official Reporters
It is certified by the undersigned official Court
Reporters of the United States District Court for the
District of Columbia that the foregoing is the official
ceedings indicated.

Santa Theresa Zizzo

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA

3 UNITED STATES OF AMERICA,
4 - VERSUS5
DEBORAH GORE DEAN,
6 DEFENDANT7

DOCKET NO.
CRIMINAL NO. 92-181

WASHINGTON, D.C.
. SEPTEMBER 27, 1993

10:00 A.M.
8 VOLUME XI
9 TRANSCRIPT OF TRIAL BEFORE
THE HONORABLE THOMAS F. HOGAN,
10 UNITED STATES DISTRICT JUDGE,
AND A JURY.

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APPEARANCES:
FOR THE GOVERNMENT:
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FOR THE DEFENDANT:
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COURT REPORTER:

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ROBERT O'NEILL, ESQ
PAULA SWEENEY, ESQ.
OFFICE OF INDEPENDENT COUNSEL
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WASHINGTON, D.C. 20001

STEPHEN VINCENT WEHNER, ESQ.
513 CAPITOL COURT, N.E.
WASHINGTON, D.C. 20002

SANTA THERESA ZIZZO

U.S. DISTRICT COURT,
3RD & CONSTITUTION AVE., N.W.
WASHINGTON, D.C. 20001
2 Pages 1409-1425
2

(COMPUTER-AID TRANSCRIPT OF STENOGRAPHY NOTES)

1410

1 PROCEEDING S
2 (In chambers)
3 MS. SWEENEY: Good morning, Judge.
4 THE COURT: Good morning.
5 MR. WEHNER: Good morning, Judge.
6 MR. O'NEILL: Good morning, Your Honor.
7 THE DEFENDANT: Good morning, Your Honor.
8 THE COURT: All right.
9 Let me put this on the record. This is the
10 case of United States versus Dean.
11 We've had a request for an on-the-record
12 conference in chambers by Mr. Wehner.
13 MR. WEHNER: Yes, Your Honor, the purpose of
14 my request to see Your Honor in chambers on the record
15 was to request -I'll
16 give you some background. I've
17 been told by Mr. O'Neill this morning that Lou Kitchin
18 is their first witness, and if Your Honor recalls, as to
19 count three Mr. Kitchin is the individual who is alleged
20 to have had the financial transaction with Miss Dean.
21 THE COURT: The \$4000 loan.
22 MR. WEHNER: Yes, sir, and he's a critical
23 witness to us. I am not prepared to cross-examine
24 Mr. Kitchin this morning. For two reasons. One, I
25 received this Giglio Friday evening and have had the
26 chance to read it but have not had the chance to

1411

1 investigate it and, among other things, it appears that
2 Mr. Kitchin was in a rehab facility of some kind in
3 1992. He apparently has a history, according to the
4 Giglio, of soliciting large amounts of money from
5 developers and a history even of attempting to bribe
6 prosecutors in various cases that he may be involved in
7 criminally, and I need some additional time before I can
8 do my cross properly of Mr. Kitchin.
9 I frankly didn't think he was going to testify

10 until tomorrow. I do note that Mr. O'Neill was not
11 specific in terms of when he -- whether Mr. Kitchin was
12 going to testify today or tomorrow. I got the
13 impression it was going to be tomorrow, but I'm not
14 accusing Mr. O'Neill of misleading me because it was a
15 fair impression he could have been to on today.
16 But given the history of the case, Judge, this
17 is the first time I've ask for any consideration in
18 terms of scheduling and I would ask the Court to frankly
19 cut us a break as far as Mr. Kitchin's cross.
20 THE COURT: well, is he going to take all
21 morning or not?
22 MR. O'NEILL: I would imagine direct would
23 take about 45 minutes.
24 THE COURT: That's all? Do you have other
25 people behind him here?

1412

1 MR. O'NEILL: We have one other witness here.
2 I don't think there's any legal impediment of
3 flipflopping the two in terms of, you know, trying to
4 connect any statements or anything
5 MS. SWEENEY: well, we will withdraw the
6 objection that it's a co-conspirator statement, if we
7 put the second one on first.
8 THE COURT: It's somebody connected with
9 Kitchin's testimony that you want to put on.
10 MS. SWEENEY: Yes.
11 THE COURT: what timeframe, Mr. Wehner, are
12 you talking about? You just want to have his direct and
13 the other witness today and take an early recess and go
14 with his cross tomorrow? what are we looking at here?
15 MR. WEHNER: Yes, Your Honor.
16 THE COURT: And I don't know what -- we'll
17 have to find out what you find is relevant or not on
18 your research.
19 Does it make sense for the Government at all
20 to proceed with these two witnesses without cross of
21 Mr. Kitchin today in the sense of understanding the case
22 for the jury?
23 MR. O'NEILL: I don't see it, Judge. The
24 other problem is we'll break really early then today
25 because most of the day, I would have presumed, would

1413

1 have been taken up with cross of Kitchin.

2 THE COURT: And then you'd get into it
3 tomorrow. You'll put your other witnesses back a day,
4 if tomorrow takes half a day with Mr. Kitchin on cross.
5 MR. WEHNER: The other thing that I feel like
6 I need to bring to the Court's attention regarding
7 Mr. Kitchin is I've been through his grand jury and all
8 of his Jencks obviously, and I'm not sure what he's
9 going to say on direct and I'm not sure if Mr. O'Neill
10 knows what he's going to say on direct. He is all over
11 the block in terms of his testimony. Is that fair,

12 Bob?

13 MR. O'NEILL: He has a great wealth of prior

14 inconsistent statements.

15 MR. WEHNER: And it may be, but I doubt it,
16 that the cross would be very brief. I doubt it.

17 THE COURT: Depending on what he says.

18 MR. WEHNER: Exactly.

19 MR. O'NEILL: The problem with that, it
20 probably won't be, Judge, simply because as he testified
2 in the grand jury we could probably get on the record,

2 and Steve will know that, what we can. So Steve, I will
2 think, will be crossing him for a long time. That would
2 be my best guess.

2 MR. WEHNER: That's a fair statement except

1414

1 the grand jury was well done in terms of being leading.

2 It was well done from the prosecutive standpoint. They

3 got all the words into the question and he said yes.

4 So -

5 THE COURT: well, I'm not opposing the

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6 defendant having an opportunity to look at these

7 materials for a half a day or something and put them in

8 some organized fashion and make some quick investigation

9 if there's anything to be gained from whatever problems

10 Mr. Kitchin's had as to his credibility, or

11 investigating any bribes or any deal that they didn't

12 know before. I just don't want to mess the case up,

13 since we're going along fairly smoothly. Friday we're

14 probably going to be off on that case and we're going to

15 lose that and then we'll get on Columbus Day and lose at

16 least a day. I haven't looked at the calendar for

17 Columbus Day.

18 MR. O'NEILL: It's the following Monday.

19 MS. SWEENEY: It's fairly close to the 12th

20 this year, it's either the 11th or the 12th.

2 THE COURT: The 11th is Columbus Day.

2 MR. O'NEILL: Judge, since you're thinking

2 schedule, I was talking with Steve outside the Court

2 today, other than this issue I was thinking --

2 Miss Sweeney and myself were trying to figure it out, I

1 think the Government

2 of this week.

3 THE COURT:

4 MR. O'NEILL

5 THE COURT:

6 several counts? How

7 MR. O'NEILL

8 of count three.

9 THE COURT:

1415

would be resting around Wednesday

of this week?

: Yes.

what are you doing with the last

are they being proved?

: Mr. Kitchin forms a great deal

I'm talking about the perjury and

10 the cover-up charges.

11 MR. O'NEILL : Those witnesses are testifying

12 tomorrow.

13 THE COURT: They would be -- they're fairly

14 short obviously then. They'd just come in to say they

15 heard what it was, the question was, the answer was.

16 MR. O'NEILL : That's correct, Judge.

17 THE COURT: who do you call, the crew, the set

18 of staffers? >

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19 MR. O'NEILL : Right, to put on the record that
20 the statements were made.
2 MS. SWEENEY: That the Committee had
2 jurisdiction. Miss Dean was sworn and the Committee had
2 authority to swear.
2 THE COURT: Is this videotaped testimony?
2 MS. SWEENEY : If there is. Your Honor, we

1416

1 don't have it and I don't believe that there is. I'm
2 not aware.
3 MR. WEHNER: We've been unable to locate a
4 videotape.
5 THE COURT: In the Clair George case it was
6 videotaped.
7 MR. WEHNER: There's an audiotape, Judge.
8 MS. SWEENEY: I think this was perhaps before
9 videotaping became routine. It may have been just on
10 the cusp.
11 THE COURT: well, you don't have any problem
12 with your witnesses if they get delayed by a half a day
13 or so? We'll give him a break this afternoon.
14 MR. O'NEILL: No, Judge.
15 THE COURT: Are the witnesses scheduled for
16 this afternoon?
17 MS. SWEENEY: We have one other witness
18 scheduled for this afternoon but she's not a problem in
19 terms of putting her on tomorrow.
20 MR. O'NEILL: I guess the problem just from
2 your point of view. Judge, is if Mr. Kitchin does the
2 direct and comes back for cross, say, tomorrow morning
2 we could take one other witness this morning and we have
2 another witness not coming in until this afternoon.
2 THE COURT: Could you still use this other

1417

1 witness this afternoon and could end, without
2 Mr. Kitchin's cross?
3 MR. O'NEILL: Yes, I believe so, and that
4 witness will be really short.
5 THE COURT: You couldn't get him here before
6 lunch.
7 MR. O'NEILL: I don't think he'll be here.
8 THE COURT: Mr. Kitchin, I assume, takes an
9 hour and then your next witness 30 minutes or whatever.
10 That will probably take us through lunch and we'll
11 break, an early lunch. What time is your witness this
12 afternoon?
13 MS. SWEENEY: The other - we had two
14 witnesses scheduled possibly for this afternoon. One of
15 them probably does not make sense to call until
16 Mr. Kitchin's been crossed, and the other one might be
17 very brief. He's not here yet. So I think, Your Honor,
18 if we were to break it might be that we wouldn't get to
19 the other two witnesses before lunch and it might not
20 make sense to -
2 THE COURT: Wait and come back to them? Take
2 them tomorrow you mean?
2 MS. SWEENEY: Yes.
2 MR. WEHNER: Judge, I'd ask that we take 24
2 hours and start tomorrow.

1418

1 THE COURT: You don't do Kitchin at all today.
2 MR. WEHNER: Yes, sir, yes, sir. I'm
3 concerned that if his direct testimony comes up poorly
4 for Miss Dean that's sitting without any
5 cross-examination for 24 hours.
6 THE COURT: I expect the testimony is going to
7 come up poorly unless he doesn't agree with what the
8 prosecution thinks.
9 MR. WEHNER: Mr. O'Neill and I have exchanged
10 several interesting jokes about Mr. Kitchin, Your
11 Honor. He's that kind of witness.
12 THE COURT: well, I think he's here and we
13 should go ahead with that. I can caution a jury if
14 necessary, but I'll give you a chance to start with him
15 tomorrow and I'll hold the prosecution up for the rest
16 of the afternoon just to give you the afternoon off. I
17 think if the Government rests Wednesday afternoon or
18 however it works out, Thursday morning, we'd have to
19 alert the jurors a little bit because there would be
20 some arguments to take up that may take a little longer
2 as well. So the jury may have a quick week.
2 MR. O'NEILL: Judge, then do you think we
2 should take -
2 THE COURT: what makes more sense? You're the
2 prosecution.

1419

1 MR. O'NEILL: I know.
2 THE COURT: would you rather take the day off
3 totally and start off tomorrow? I don't know how that
4 backs up all your witnesses in the case.
5 MR. O'NEILL: From a perspective it makes more
6 sense to break for the whole day because - or to just
7 take his direct for 45 minutes. Either way everything
8 else is -- would take it out of what we planned, just
9 not that it's a great master plan, Judge. It's the way
10 we have set the witnesses up.
11 THE COURT: You're saying it would be better
12 if you have Mr. Kitchin on and off in the same timeframe
13 as opposed to breaking the testimony.
14 MR. WEHNER: Yes, sir.
15 THE COURT: Is he going to testify about the
16 third conspiracy and the loan?
17 MR. O'NEILL: Yes.
18 MS. SWEENEY: Yes.
19 THE COURT: Okay. You've got inconsistent
20 statements, you're saying, whatever he said to various
2 representatives of the Government and some perhaps
2 Giglio type materials on reliability that you want to
2 get.
2 MR. WEHNER: Yes, sir, as well as -2
THE DEFENDANT: A number of exhibits.

1420

1 MR. WEHNER: As well as, we believe, we'll be

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2 able to establish on cross through refreshment of

3 recollection his considerable contacts with others at

4 HUD, including Housing Commissioners, on the same

5 projects and other projects that Miss Dean is alleged to

6 have been involved in, and some of this is documentary

7 cross, telephone logs, for example, that we're not

8 prepared yet because we were having them charted in

9 terms of Demery telephone calls to Kitchin and back, and

10 Kitchin telephone calls to Chris Oliver, who was

11 Demery's assistant. Things of that nature that we don't

12 have - that are at the printers.

13 THE COURT: You all are not calling

14 Mr. Demery?

15 MR. O'NEILL: Yes, sir.

16 THE COURT: You are calling him.

17 MR. O'NEILL: Yes, in some of the statements

18 that clearly the defense could make argument that he's

19 dealing with Tom Demery rather than the defendant in

20 this case, and so that's where a lot of phone calls were

2 made, that's what Steve is referring to. We expected

2 Demery to testify wednesday. Now it probably would be

2 Thursday, Judge.

2 THE COURT: All right.

2 Let me make a call to the Courtroom Deputy for

1421

1 a minute.

2 All right. They're all here. All the jurors

3 are here but alternate two was ill on Friday, I guess,

4 and is still ill, she says, although she came but she's

5 not feeling good at all. I'll put it over then. I'll

6 do that for you.

7 MR. WEHNER: Thank you, Your Honor.

8 THE COURT: And as long as the Government

9 doesn't lose any witnesses or has any trouble with your

10 witnesses. I don't want you to lose Mr. Kitchin for

11 today. Where does he reside these days?

12 MR. O'NEILL: I believe Atlanta, Judge.

13 THE COURT: But he's up here.

14 MR. O'NEILL: Yes, we can tell him he has to

15 stay

16 THE COURT: I'll tell him. I don't want him

17 to disappear in the night.

18 I'll grant the defendant a one-day continuance

19 to organize these next group of witnesses, but that

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20 should get you organized for the next few days so the
2 Government can complete its case. All right?
2 THE DEFENDANT: Thank you.
2 THE COURT: All right. I'll go in and put it
2 on the record. I'll explain to the jury that there are
2 witness considerations.

1422

1 MR. O'NEILL: I would ask you to not do that,

2 Judge.

3 THE COURT: Do you think they may blame it on

4 you for not having your witnesses here?

5 MR. O'NEILL: Right.

6 THE COURT: I'll tell them that I feel it's

7 best to have an extension for one day.

8 THE DEFENDANT: Thank you, Your Honor.

9 MR. O'NEILL: Thank you.

10 MR. WEHNER: Thank you, Judge.

11 (In Courtroom)

12 THE COURT: All right. For the record, we had
13 a conference in chambers on the record and at the
14 request of the defendant's counsel because he needs to
15 prepare after being supplied recent materials for the
16 next witnesses, I'm extending -- I'm postponing the
17 trial for today only in an effort to have us be able to
18 move swiftly without a lot of interruptions in the next
19 few days. So I will grant the defendant's request for a
20 one-day postponement so that they can be prepared to go
2 forward tomorrow.

2 I'll just explain to the jury so that the
2 trial can move more swiftly and efficiently I've decided
2 I'm going to postpone the trial today and let them go.
2 Okay. You can bring in the jury.

1423

1 THE DEPUTY MARSHAL: Yes, sir.

2 Ladies and gentlemen, take your seats in the
3 jury box.
4 (Jury present)
5 THE COURT: Ladies and gentlemen, good
6 morning.
7 THE JURORS: Good morning.
8 THE COURT: Ladies and gentlemen, I have
9 decided now, and I'll tell you this, that we'll not be

10 sitting today. You all have come in and are all ready
11 to go work again, but so that the case could move a
12 little more efficiently and without delays I have
13 informed counsel, so that work can be done getting
14 everything organized that should be in this case, that
15 we'll not be sitting today. We're going to sit tomorrow
16 and until Thursday fulltime on the case. And we will
17 not be sitting Friday. I believe Friday is the day I
18 have a big hearing. We'll not be sitting Friday this
19 week. I have a hearing involving lots of witnesses and
20 people in another case. But it will give everybody a
2 chance to get things organized and go forward a little

2 bit better tomorrow than we could today.
2 So I've talked to counsel about it and we're
2 not going to sit it today. You'll get credit for being
2 here today. It doesn't count against you or anything.

1424

1 But you simply have a surprise this morning after coming
2 in on Monday morning and have a chance to do other
3 things for awhile. You've been with us for awhile. You
4 may need the time. But we'll be back tomorrow at 9:30
5 and will be ready to proceed with the case at that
6 time.

7 Also I know one member of the jury still isn't

8 feeling too well and we'll give her a chance to recover

9 and to stay with us.

10 So we'll be back tomorrow at 9:30. Again, you
11 aren't to read or watch or listen to anybody about this
12 case or discuss it with anyone or among yourselves.

13 I appreciate you're coming in. I know it's
14 always an inconvenience to come in but I deemed it best
15 that we do it this way and I think it will work best as
16 the trial goes forward.

17 So we'll let you all off for the day. I know
18 you're disappointed.

19 (Jury dismissed)

20 THE COURT: Is Mr. Kitchin here?

2 MR. O'NEILL: Your Honor, I conveyed the

2 message to him. I don't think --

2 THE COURT: You're satisfied?

2 MR. O'NEILL: Yes, Judge, I don't think

2 there's a need for him to come in.

1425

1 THE COURT: All right.

2 We'll be back tomorrow morning at 9:30.

3 All right, Mr. Wehner, we'll be back and ready
4 to go

5 MR. WEHNER: Thank you, Your Honor

6 (Proceedings recessed 10:30 a.m. to resume

7 September 28, 1993 at 9:30 a.m.)

8 CERTIFICATE OF OFFICIAL REPORTER

9 IT IS CERTIFIED BY THE UNDERSIGNED OFFICIAL

10 COURT REPORTER OF THE UNITED STATES DISTRICT COURT FOR

1 THE DISTRICT OF COLUMBIA THAT THE FOREGOING IS THE

1 OFFICIAL RECORD OF THE PROCEEDINGS INDICATED.

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1 SANTA THERESA ZIZZO

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1426

1 UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

2

UNITED STATES OF AMERICA, Criminal No. 92-181-01

3

vs. Washington, D.C.

4 September 28, 1993

DEBORAH GORE DEAN, 9:45 a.m.

5

Defendant.

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7

TRANSCRIPT OF JURY TRIAL
8 BEFORE THE HONORABLE THOMAS F. HOGAN
UNITED STATES DISTRICT JUDGE

9

VOLUME XII

10

APPEARANCES

11

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ALSO PRESENT: MARK BATTS

18

19 OFFICIAL COURT REPORTER: ANNELIESE J. THOMSON

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2 Washington, D.C. 20001

(202)842-5069

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(Pages 1426 - 1601)

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COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

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2 DIRECT CROSS REDIRECT RECROSS

3 WITNESSES ON BEHALF OF
THE GOVERNMENT:

4

Louis Kitchin 1429 1450 1506 1513

5 1514

6 Jack Jennings 1516 1529

7 Sherrill Netties-Hawkins 1542

EXHIBITS

10 GOVERNMENT'S: MARKED RECEIVED

11 No. 5 1562

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12 5-B 1591

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2 DEFENDANT'S:

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146 1489
2 148 and 149 1491
150 1497
2 151 and 152 1498
153 1505

1428

PROCEEDING S

2 (Defendant present, Jury out.)
3 MR. WEHNER: Good morning, Your Honor.
4 THE COURT: Good morning.
5 THE CLERK: Criminal No. 92-181, United States of
6 America v. Deborah Gore Dean. We have Robert O'Neill and Paula
7 Sweeney for the government, Stephen Wehner for Ms. Dean.
8 THE COURT: All right. Ready to go?
9 MR. O'NEILL: Yes, Your Honor.
10 MR. WEHNER: Yes, sir.
11 THE COURT: All right. Bring the jury in, please.
12 (Jury in.)
13 THE COURT: All right, Ladies and Gentlemen, good
14 morning again.
15 THE JURORS: Good morning.
16 THE COURT: That's all we did yesterday, but we are
17 ready to go today, and the government will proceed with their
18 next witness at this time.
19 I expect we'll have a full day today. I have a 4:30
20 executive session of the Court. That means the judges meet
21 together to talk over business once a month. So we'll be
22 recessing shortly before 4:30 today. Otherwise, we're here.
23 I made a misstatement yesterday. I think I said Friday
24 we may not be sitting. We'll be sitting Friday morning if the
25 witnesses are available. I misinformed counsel of that. It's

1429

1 Friday next week that I have to have a hearing all day. So we'll
2 be sitting Friday morning in this case.
3 All right, we'll go ahead now with the first witness of

4 the day, please.

5 MR. O'NEILL: Thank you, Your Honor. The government
6 would call Louis Kitchin.

LOUIS KITCHIN, GOVERNMENT'S WITNESS, SWORN

DIRECT EXAMINATION

BY MR. O'NEILL:

10 Q. Mr. Kitchin, I will be asking you a series of questions.

11 I'd ask you to state -- speak, unlike myself, in a loud and clear
12 voice so that everyone can hear you. Will you please state your
13 name for the record, spelling your last name for the court
14 reporter?

15 A. Louis Kitchin, K-i-t-c-h-i-n.

16 Q. And for the record, Mr. Kitchin, are you testifying today
17 pursuant to an order of immunity?

18 A. I am.

19 Q. Now, Mr. Kitchin, what has been your primary occupation
20 throughout the course of your adult life?

2 A. I've been a political consultant for, since 1966 or -7,
2 working in the election of different candidates for office.

2 Q. When you say a political consultant, what does a political
2 consultant do?

2 A. A political consultant plans a campaign and manages it on a

1430

1 basis, on a track that is laid out by that consultant. The
2 consultant may or may not help raise funds or buy media, or just
3 generally in charge of an election.

4 Q. Have you been involved in any specific or particular
5 campaigns?

6 A. Yes.

7 Q. And can you relate to the Ladies and Gentlemen of the Jury
8 some of the campaigns you've been involved in?

9 A. Well, the first campaign I was ever involved in in 1966 was

10 a candidate for Congress from Atlanta, Georgia. From then on, I
11 ran Congressional campaigns, senatorial campaigns, campaigns for
12 governor, and eventually where it was involved in presidential
13 elections.

14 Q. Mr. Kitchin, did there come a point in time when you
15 approached the United States Department of Housing and Urban
16 Development about obtaining mod rehab units for the City of
17 Atlanta?

18 A. Yes, there was.

19 Q. And when did that occur, sir?

20 A. In 1986, -5, -6.

21 Q. Okay. Let me show you a document -- if I may approach the
22 witness, Your Honor?

23 THE COURT: All right.

24 BY MR. O'NEILL:

25 Q. Sir, this is not in evidence, so you cannot read it out loud

1431

1 to the jury. Please just read lines 15 to 20 -- through 19 to
2 yourself.

3 And I'd ask you, sir, does that refresh your
4 recollection as to when you went to the department?

5 A. Yes, sir. I'm sure that's correct.

6 Q. Okay. And when did you go there?

7 A. In '86, April of '86.

8 Q. Who did you approach at the Department of Housing and Urban
9 Development concerning the Mod Rehab Program?

10 A. Well, I approached a number of people at the department to,
11 to learn more about the, the program, specifically, Deborah Dean
12 and others.

13 Q. When you were seeking mod rehab units specifically for the
14 City of Atlanta, who did you approach?

15 A. Deborah Dean certainly, maybe others. I'm not positive
16 about that.

17 Q. Now did you know the defendant, Deborah Gore Dean, at this
18 time?

19 A. I had known Deborah, who Deborah was for a number of years
20 through just politics in this area. I knew her, began to know
2 her better in this time, yes, or more.

2 Q. Do you recall when you first met the defendant, Deborah Gore
2 Dean?

2 A. First met her?

2 Q. Yes.

1432

A. No, I don't.

2 Q. Okay. Let me again show you a document, page 6. Again, it
3 is not in evidence, so you cannot read out loud. And I'd ask you
4 to just look through that, and does that refresh your
5 recollection?

6 A. Well, I met her during the period of the presidential
7 campaigns, in which 1980's specifically she was involved. I just
8 don't remember when.

9 Q. Did there come a point in time, Mr. Kitchin, when you
10 learned that the defendant, Deborah Gore Dean, was employed at
11 HUD?

12 A. Yes, there did.

13 Q. And when was that?

14 A. I would say '84, '85, maybe '83.

15 Q. I would direct your attention to the year 1986. What was
16 her position at HUD at that time?

17 A. She was an assistant to the secretary, a special assistant.
18 I don't know the title.

19 Q. And what, if anything, was her involvement in the Mod Rehab
20 Program?

21 A. It is my understanding that mod rehab units were distributed
22 throughout the country basically by a committee at HUD. It is
23 further my understanding that from time to time, she represented
24 the secretary's interest on this committee.

25 Q. Now, Mr. Kitchin, when you approached the defendant, Deborah

1433

1 Gore Dean, about the Mod Rehab Program and the City of Atlanta,
2 what, if anything, did you say to her?

3 A. I talked to her, I am sure, about the need for, for
4 low-income housing in Atlanta and asked, I am sure, what was,
5 what were the chances of a specific, or not a specific developer,
6 but that I knew a specific developer who was in, worked with the
7 Atlanta Housing Authority constantly, and they would like to get
8 some units, 200 units of mod rehab units in Atlanta.

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9 Q. what, if anything, did she say to you?

10 A. It was a long time ago. I'm -- she said that that number
11 for Atlanta could be done, or that was a reasonable number to,
12 for a city like Atlanta to request, or something of that nature.

13 Q. After you had this conversation with the defendant, Deborah
14 Gore Dean, what did you do next?

15 A. Well, I just went back to Atlanta and told the developer
16 that I had done what I thought I could do to get them to
17 Atlanta.

18 Q. At this point in time, had you any prior involvement in the
19 Mod Rehab Program?

20 A. I knew of the Mod Rehab Program because of a project I'd
21 been involved in, not with the mod rehab part of it, but mod
22 rehab was involved in it, with it in Durham, North Carolina. I
23 personally had not worked with it.

24 Q. Now previously you've mentioned to this jury a developer in
25 Atlanta who you'd contacted. what was his name, sir?

1434

A. Mike Bazan.

2 Q. Okay. Are you sure it's Mike?

3 A. No.

4 Q. Okay. would it refresh your recollection to say Nick Bazan?

5 A. Nick, okay.

6 Q. How did you meet Nick Bazan, sir?

7 A. I was involved at that time with other HUD projects. I
8 don't remember whether Nick came to me or the City of Atlanta
9 introduced me to Nick, but he was a person who was involved
10 throughout the city with low-income housing, and he sought me out
11 or I sought him out because he was a developer that the housing
12 authority had respect for, and I looked at some of his projects
13 and thought he did a real good job with them, and the city was
14 interested in him doing more work in that area.

15 Q. Now you've testified that you had a conversation with the
16 defendant, Deborah Gore Dean, and then you went back to
17 Mr. Bazan. what, if anything, did you tell Mr. Bazan?

18 A. I am sure that I told Mr. Bazan that I had met with the
19 people in Washington and they had told me that Atlanta, that was
20 a good number, or a number that Atlanta might expect to receive.

21 Q. Did you reach an agreement with Mr. Bazan as to how much you
22 would be paid?

23 A. I did.

24 Q. And what was that agreement?

25 A. \$1,000 an unit.

1435

1 Q. Now after reaching that agreement with Mr. Bazan, what is
2 the next thing that you did?

3 A. The units arrived in Atlanta fairly soon after that, and I,
4 I don't, you know, I really didn't do anything.

5 Q. Okay. Let me show you again -- page 11. I'd ask you to
6 read that to yourself and ask you does that refresh your
7 recollection as to what you did after speaking with Mr. Bazan in
8 Atlanta?

9 A. Yeah. I thought I had covered that. I definitely went to,

10 to Deborah Gore Dean as well as maybe others and asked that those
11 units be sent to Atlanta if at all possible and supplied all the

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12 documentation I could about the need for housing, of low-cost
13 housing in Atlanta.
14 Q. What, if anything, did she tell you, sir?
15 A. To the best of my recollection, she told me, as I said, that
16 that was a reasonable number for Atlanta to request.
17 Q. Did there come a point in time when you learned that 200
18 units did, in fact, go to the City of Atlanta?
19 A. Yes, I did. Yes, there was.
20 Q. And how did you learn that?
2 A. I could have learned it through several ways. I could have

2 heard it from the -- the Congressional delegation is notified
2 before the public is notified that they are coming. The Atlanta
2 regional office was in Atlanta; I could have asked them. I
2 could have asked someone in Washington. I could have asked

1436

1 Deborah. I really don't know how I found out.
2 Q. Mr. Kitchin, did there come a point in time when you were
3 paid for your services in reference to the 200 units going to
4 Atlanta?
5 A. No, sir.
6 Q. Okay. Why were you not paid?
7 A. The developer, Nick Bazan, never was awarded those units.
8 Q. Did there come a point in time when you again requested mod
9 rehab units?

10 A. Yes, there was.
11 Q. And from whom did you request the units?
12 A. Again, I'm sure I requested, I talked to Debbie about it. I
13 talked to everyone in Washington or at least in the HUD office
14 that I thought, you know, worked in this area.
15 Q. What was your reason for approaching the defendant, Deborah
16 Gore Dean?
17 A. Deborah seemed to me to be one of the most knowledgeable --
18 I take that back -- the most knowledgeable person there was in
19 that building. She had a vast knowledge of what went on, how the
20 program has worked, et cetera, and I'm sure I would have talked
2 to her.
2 Q. And what, if anything, did you say to her?
2 A. I would have said -- well, Miami is an area that, like
2 Atlanta, could probably use all the mod rehab units that HUD ever
2 allocated and not have enough. I'd found or become acquainted

1437

1 with a developer in Miami who again worked in this area,
2 especially in this area, maybe only in this area, area of
3 low-cost housing. He was very well-qualified, in my opinion, and
4 he had an excellent rapport with, again, with the public housing
5 authority of Miami. And I would, really went through the same
6 process.
7 Q. And what would that have been?
8 A. To, to put together materials that supported the need for,
9 for low-income housing in Miami, such as the waiting list of
10 applicants there were for these type of units. I would have
11 brought them to Washington or had someone mail them to
12 Washington. I would have spent a day or two up here and seen
13 everybody that I knew that had anything to do with this process

14 and would have lobbied, I guess, as hard as I could for those
15 units.

16 Q. Okay. Do you remember who you, in fact, lobbied?

17 A. Well, again, I would have lobbied anyone that was in the
18 housing commissioner's office. I would have talked to Debbie, I
19 am sure. I don't even remember right this second who was the FHA
20 commissioner at that time.

2 Q. Now did there come a point in time when you had a discussion
2 with the defendant about these units going to Miami?

2 A. I am sure that I discussed these units going to Miami with
2 the defendant, yes.

2 Q. And what, if anything, did she say to you?

1438

1 A. Probably she would have said, you know, that similar to
2 Atlanta, that yes, she certainly understood the need for these,
3 for mod rehab units in the Miami area. I think she would have
4 said, I believe she said she'd do what she could to help.

5 Q. Now after this discussion with the defendant, Deborah Gore
6 Dean, what did you do next?

7 A. I again would have gone back to the developer in Miami and
8 told him that I had done the best I could do and we'd have to
9 wait and see if the number of units we had requested would, would
10 be allocated.

11 Q. Now, Mr. Kitchin, is it your testimony that you had the
12 developer before you had your initial conversation with Ms. Dean,
13 or did you get that developer later?

14 A. To the best of my memory, I knew the developer before I came
15 to Washington. I'm sure I would have. I would have had no
16 reason just to -

17 Q. Sir, do you recall testifying before a federal grand jury?

18 A. Yes, sir.

19 Q. Do you recall being asked the following questions and giving
20 the following answers? Page 12.

2 "Question: Sometime thereafter in 1986, did you
2 approach Ms. Dean again about obtaining moderate rehabilitation
2 units?

2 "Answer: Yes, sir.

2 "Question: Did you approach her about obtaining an

1439

1 allocation of 200 units that you could use in Miami, Florida?

2 "Answer: Yes, sir.

3 "Question: She indicated that that could be done; is
4 that correct?

5 "Answer: Yes, sir.

6 "Question: Then you went to Miami, Florida, is that
7 correct, to attempt to locate a developer?

8 "Answer: I believe the developer I was already
9 familiar with. I certainly would have gone to Florida to put
10 this together."

11 MR. WEHNER: Objection, Judge. It's not impeachment.

12 THE COURT: All right, I'll sustain the objection. I
13 don't think that's impeachment.

14 MR. WEHNER: Motion to strike.

15 THE COURT: All right, I'll grant the motion to strike
16 that reference to the grand jury. It's not impeachment. It
17 didn't impeach what he testified to today.

18 BY MR. O'NEILL:

19 Q. Mr. Kitchin, do you recall what familiarity you had with the
20 developer prior to speaking to Ms. Dean?

21 A. I knew the developer well. I -- it's, it would be very

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22 difficult for me to tell that long ago how long I knew him
23 before. I had done -- I tell you, I worked with a bank in
24 Florida for a long time that this man was a client of, and they
25 introduced me to him, and I just do not remember exactly when.

1440

1 Q. Now we haven't mentioned a developer yet. Who was the
2 developer that you're talking about?
3 A. There was actually three partners, Jim Mitchell, Claude
4 Dorsy, and I honestly can't remember the other one's name.
5 Q. Now did there come a point in time that you reached an
6 agreement with these individuals about acting as a consultant on
7 their behalf?
8 A. Yes, sir.
9 Q. And what was that agreement?

10 A. That they were to pay me \$10,000 a month, and when we closed
11 the deal, that the \$10,000 a month would be subtracted from
12 whatever they owed me for that particular deal. We were doing --
13 we did a lot of things other than mod rehab, or attempted to.
14 MR. WEHNER: Sorry, Judge, I didn't hear that last one.
15 THE COURT: Do you want to reread it?
16 (Answer read.)
17 BY MR. O'NEILL:
18 Q. Did you also agree for a specific fee for the units coming
19 to Miami?
20 A. Yes, sir.
2 Q. And what was that?

2 A. \$1,000 a unit.
2 Q. How did you come to that figure, sir?
2 A. I believe that from other people who were doing it, I just
2 understood that's what the going rate, so to speak, was.

1441

1 Q. Now, Mr. Kitchin, did there come a point in time when you
2 learned that the units had gone to the City of Miami?
3 A. Yes, sir.
4 Q. And how did you learn that the units had gone to the City of
5 Miami?
6 A. I probably learned it through the Jacksonville office.
7 That's where it would have --or the Atlanta office.
8 Q. Did there come a point in time when you were paid for your
9 services on this particular project?

10 A. Yes, sir.
11 Q. And how much were you paid?
12 A. \$1,000 a unit, but what -- there were some monies subtracted
13 out of that for the fee. I don't know exactly what --
14 Q. And how many units were received by this project?
15 A. 200, 202 or -3.
16 Q. What was the name of the project, just so the jury is
17 familiar with it?
18 A. I really don't remember.
19 Q. The name of the project?
20 A. I don't remember the name of it.

2 Q. Okay.

2 THE COURT: Unless there's a dispute, you could just
2 suggest a name to him. I don't think counsel will object to
2 that.

2 MR. WEHNER: I won't.

1442

BY MR. O'NEILL:

2 Q. Would Springwood/Cutlerwood refresh your recollection?

3 A. That was the name of a project I worked on, and I'm sure
4 that was it.

5 THE COURT: All right.

6 BY MR. O'NEILL:

7 Q. Now, Mr. Kitchin, are you familiar with a project by the
8 name of the Woodcrest Retirement Center?

9 A. Yes, sir.

10 Q. And where was that located?

11 A. San Diego.

12 Q. Who was the developer of that project?

13 A. Jack Jaynes.

14 Q. Were you retained at any point to provide services on the
15 Woodcrest Retirement Center?

16 A. I was asked to -- "retained" might be misleading. If I
17 remember correctly, Dean Witter was the lender on that project,
18 and it had been held up, and it wasn't progressing, and they
19 asked me if I would go look and see what I thought the problems
20 were and help straighten it out.

21 I was to be paid a percentage of the closing from Dean
22 Witter. Jack Jaynes did not retain me, no.

23 Q. When you say they asked you, who are you referring to, they?

24 A. Dean Witter, the mortgage branch of Dean Witter.

25 Q. So you were retained by Dean Witter?

1443

1 A. Yes, sir.

2 Q. Okay. Do you recall who, if anyone, at HUD headquarters you
3 contacted concerning the Woodcrest Retirement Center?

4 A. Everyone from the Los Angeles HUD office to San Francisco
5 and finally to Washington.

6 Q. And who at Washington did you contact?

7 A. There were probably a number of people. The project was
8 appealed, I think, to the region and then finally to, to
9 Washington. When you appeal a project to Washington, you

10 automatically appeal it to the secretary. And whatever
11 conversations that I had with it -- with the secretary would have
12 been with Deborah Dean.

13 But there were other people, I think his name is
14 Hammernick. I believe he was responsible, or a person
15 responsible in that area whom I also talked to. This project
16 went on for quite a while.

17 Q. Now, Mr. Kitchin, changing to another topic, did there come
18 a point in time when you gave the defendant, Deborah Gore Dean, a

19 sum of money?

20 A. Yes.

2 Q. And please describe for the Ladies and Gentlemen of the Jury

2 what you gave her.

2 A. I gave her a check for \$4,000.

2 Q. Now how did this come about?

2 A. It was at a time that Deborah -- I don't know exactly what

1444

1 position she held. She was applying for a position, in fact, she
2 was up for nomination -- I mean, confirmation, excuse me, at the
3 Senate for a position as assistant secretary for community
4 development, something like that, and Debbie and I were good
5 friends, and she told me that she was in need, just needed some
6 money, just was, was financially in a, in some stress, I think
7 the -- and I lent her \$4,000.

8 Q. Mr. Kitchin, at this point, let me show you a document,

9 Government's Exhibit 203.

10 Mr. Kitchin, I'll show you a document that for the

11 record, Your Honor, was stipulated to by counsel --

12 THE COURT: All right.

13 BY MR. O'NEILL:

14 Q. -- and is in evidence as Government's Exhibit 203.

15 And I'd ask you, sir, do you recognize that?

16 A. Yes, I do.

17 Q. And what is that?

18 A. It is a check for \$4,000 from me made out to Deborah Dean.

19 Q. Is this the check you gave her?

20 A. Yes.

21 Q. Now, Mr. Kitchin, directing your attention to that check, on
22 the memo line, did you write anything on that?

23 A. Yes, I did.

24 Q. And what, if anything, did you write?

25 A. "Loan."

1445

1 Q. why did you write "loan," sir?

2 A. well, that's what I believed it was.

3 Q. Did you charge the defendant any interest on the loan?

4 A. No.

5 Q. Did you agree on a repayment schedule?

6 A. I don't think so.

7 Q. Now did you discuss this \$4,000 loan with anyone other than
8 the defendant, Deborah Gore Dean?

9 A. I doubt it.

10 Q. Okay. Let me show you a document again to see if this would
11 refresh your recollection. Again, I'd just ask if that refreshes
12 your recollection?

13 A. I think I discussed it with -- looking at that, I think I
14 discussed it with a, with an individual who worked for me.

15 Q. And who would that have been?

16 A. Jack Jennings.

17 Q. Was that \$4,000 loan ever repaid by the defendant, Deborah
18 Gore Dean?

19 A. No, sir.

20 Q. Was any part of it repaid?

2 A. To the best of my knowledge, no, sir.

2 Q. Now, Mr. Kitchin, did there come a point in time when you
2 were interested in buying an apartment in the Washington, D.C.
2 area?

2 A. Yes, sir.

1446

1 Q. And why were you interested in buying an apartment in the
2 Washington, D.C. area?

3 A. The hotel bills I was running up up here was substantial.

4 Q. Did there come a point in time when you looked at particular
5 apartments?

6 A. Yes, I did.

7 Q. And did the defendant, Deborah Gore Dean, assist you in this
8 process?

9 A. She did.

10 Q. Was there any specific apartment that you looked at with the
11 defendant, Deborah Gore Dean?

12 A. Her brother owned an apartment at the Watergate complex, and
13 I believe he was living in California at the time and no longer
14 needed the apartment or wanted it.

15 Q. Did there come a point in time when you purchased that
16 apartment?

17 A. No, I did not.

18 Q. Did you enter into a contract of sale or anything?

19 A. A written contract?

20 Q. Yes.

2 A. No.

2 Q. Now, Mr. Kitchin, did there come a point in time when the
2 defendant, Deborah Gore Dean, asked you for your support for her
2 nomination to be assistant secretary for community planning and
2 development?

1447

1 A. I certainly supported her for it. Whether I did it just
2 because I wanted to do it or somebody suggested it or she
3 suggested it, I really don't remember.

4 Q. Now did there come a point in time when the defendant,
5 Deborah Gore Dean, left the Department of Housing and Urban
6 Development?

7 A. Yes.

8 Q. What, if any, contact have you had with the defendant since
9 then?

10 A. We have seen each other, I guess, several times while I was
11 in Washington. I can't tell you specifically.

12 Q. After the defendant left the Department of Housing and Urban
13 Development, did you continue to have dealings with the
14 department?

15 A. Yes, I did.

16 Q. And who, if anyone, did you approach at the department?

17 A. I worked with, with, again, the housing commissioner's
18 office, who was, I guess, Tom Demery. It changed a lot in the
19 time I -- there were several commissioners there at that time.

20 Q. When did you meet Tom Demery?

21 A. I met Tom Demery, oh, gosh, I don't remember the date. I
22 met him in Washington at several places, but I just don't
23 remember the particulars.

24 Q. Okay. What was your relationship with Tom Demery?

25 A. I met him several times. I spent very little time with him.

1448

1 He was a busy man. I knew him. That's the best I can answer
2 that

3 Q. Mr. Kitchin, who was the secretary at the Department of
4 Housing and Urban Development during the time frame that we were
5 talking about, 1985, '86, '87?

6 A. Sam Pierce.

7 Q. Did you ever meet Sam Pierce?

8 A. No, sir.

9 Q. Mr. Kitchin, I'd like to show you a document previously
10 marked as Government's Exhibit 191 for identification. I'd ask
11 you, sir, to look at that.

12 A. Yes, sir.

13 Q. And do you recognize it?

14 A. Yes, sir.

15 Q. And what is it?

16 A. It is a document asking for a clarification on a ruling that
17 seems to have been made by someone I don't know at HUD.

18 Q. And who's the memo from?

19 A. It is, it's got to be -
yeah, it's from me, excuse me.

20 Q. Does it bear your initials?

2 A. It does.

2 MR. O'NEILL: Your Honor, I'd move it into evidence at
2 this time as Government's Exhibit 191.

2 MR. WEHNER: No objection, Your Honor.

2 THE COURT: All right, 191 is admitted.

1449

1 (Government's Exhibit No. 191 was
2 received in evidence.)

3 BY MR. O'NEILL:

4 Q. Mr. Kitchin, I'd also like to show you a document previously
5 marked as Government's Exhibit 207 for identification purposes.

6 THE CLERK: Government's Exhibit 207 marked for
identification.

(Government's Exhibit No. 207 was
marked for identification.)

10 BY MR. O'NEILL:

11 Q. And I'd ask you to look at this, sir.

12 A. Yes, sir.

13 Q. Okay. And what is it?

14 A. It is an agreement between First Florida Equities, Inc., and
15 Lou Kitchin Consultants, Inc.

16 Q. Does it bear your signature?

17 A. It does.

18 MR. O'NEILL: Your Honor, at this time, I'd move it
19 into evidence as Government's Exhibit 207.

20 MR. WEHNER: No objection, Your Honor.

2 THE COURT: 207 will be admitted.

2 (Government's Exhibit No. 207 was
2 received in evidence.)

2 MR. O'NEILL: I have no further questions at this time.

2 Thank you.

1450

1 THE COURT: All right, thank you.
2 Are you ready to go?
3 MR. WEHNER: Yes, as soon as the monitor is finished,
4 Judge. They're still showing the exhibit.
5 THE COURT: Go ahead.

CROSS EXAMINATION

BY MR. WEHNER:
8 Q. Hello, Mr. Kitchin.
9 A. Sir.

10 Q. Mr. Kitchin, you have a history, do you not, sir, of
11 promising private individuals that in return for a sum of money,
12 you can solve their governmental problems; isn't that correct?
13 A. I wouldn't word it that way, but --
14 Q. Well, going back, all the way back to the mid-'70s, isn't it
15 true that you tried to get \$25,000 from a doctor who had been
16 charged criminally for making bad prescriptions and that you were
17 going to take that money to the prosecutor in order to get those
18 charges dismissed?
19 A. No, sir.
20 Q. Mr. Kitchin, you were indicted for that, weren't you?
2 A. And it was dropped, yes, sir.

2 Q. And the charges were dismissed; is that correct?
2 A. Dropped, yes, sir.
2 Q. And in fact, you were tape-recorded in your conversation
2 with that doctor, weren't you?

1451

A. I believe so.
2 Q. And do you remember what you said to the doctor on the tape?
3 A. No, sir, I don't.
4 Q. Do you remember telling him that for \$25,000, you could go
5 see the prosecutor and get the charges dropped?
6 A. No, sir. I never told anybody for 25,000 or any other
7 amount of money I could go to a prosecutor and get anything
8 dropped. If I had done that, I don't think it would have been
9 dropped.
10 Q. Well, let's talk about the Benton Mortgage Company more
11 recently. Did you ever go to the Benton Mortgage Company and
12 tell them for \$50,000 to be delivered to three HUD employees, you
13 could cause an investigation of Benton Mortgage Company to be
14 dropped?
15 A. No, sir, I certainly did not.
16 Q. Why don't you describe to me exactly what conversation you
17 had with Benton Mortgage Company regarding the three HUD
18 employees you were going to pay money to.
19 A. I don't believe I've ever discussed three, one, two, or ten
20 HUD employees that I intended to give any money to from Benton
21 Mortgage Company or any other company.
22 Q. Well, if it wasn't three, one, two, or ten, how many was it?
23 A. It wasn't any, sir.
24 Q. So your testimony is that you never said that to the
25 principals of the Benton Mortgage Company?

1452

1 A. That's right.
2 Q. And if it appeared in notes taken of interviews with them by
3 the FBI, you'd say that either they're wrong or the FBI is wrong;
4 isn't that correct?
5 A. Sir, I'd say what I've just said, that I have not said that.
6 Q. Now on the Atlanta project, those units were not delivered,
7 is that right, to Mr. Bazan?
8 A. That is correct.
9 Q. Now how much money did you get as a result of that
10 transaction?
11 A. I don't believe I got anything, sir.
12 Q. Not how much money, but plan to get if the units had come
13 through?
14 A. \$1,000 for each unit that he actually was awarded.
15 Q. And how many units was that?
16 A. That we, that he requested?
17 Q. Yes.
18 A. Atlanta Housing Authority requested 200. I believe
19 Mr. Bazan had a use for, I think, 160 or -70.
20 Q. So you would have made from Mr. Bazan about \$160,000 from
2 that, correct?

2 A. If it had worked, yes, sir.
2 Q. Now did you have any conversation with Mr. Bazan like you
2 had with the medical doctor and like you had with Benton Mortgage
2 Company as to what you were going to do with \$160,000 you were

1453

1 getting?
2 A. I didn't have one with any of those people nor Mr. Bazan
3 about giving any money to any HUD employee or whoever else you
4 said.
5 Q. Okay. So you never had any conversation with anyone to give
6 money to any HUD employees; is that correct?
7 A. That's correct.
8 Q. Okay. Well, didn't you testify on direct that you had a
9 conversation with your business partner about making a loan to
10 Deborah Gore Dean in the amount of \$4,000?
11 A. Yes.
12 Q. And during that conversation you had with your business
13 partner, did you explain to him what that \$4,000 was for?
14 A. I'm sure I told him it was a loan, yes.
15 Q. You're sure you told him it was a loan.
16 A. I feel sure I did.
17 Q. Okay. And in your own mind as you sit here today, you
18 considered it a loan?
19 A. That's correct.
20 Q. Okay. Now you don't consider it a bribe, correct?
2 A. I considered it a loan.

2 Q. And you don't consider it a payoff?
2 A. I considered it a loan.

2 Q. And -- well, you considered it a loan.
2 Accepting that as true for the moment, you have

1454

1 testified several times in the past about this transaction, have
2 you not?

3 A. Yeah, I think so.

4 Q. Well, you've talked to the FBI on several occasions about
5 this transaction.

6 A. Yes, yes.

7 Q. And from time to time, your memory of what happened during
8 this transaction has changed, hasn't it?

9 A. I -- could you be specific?

10 Q. Well, yes. Isn't it true that you told the FBI, contrary to
11 what you said this morning, that Ms. Dean had paid at least half
12 that money back?

13 A. No. I think I told them at one time I thought she paid a
14 thousand of it back, but I have -- I can't prove it or not prove
15 it.

16 Q. Well, you testified on direct that she hadn't paid any of it
17 back.

18 A. Well, that's what I believe.

19 Q. Now you recognize the importance of this. As you sit here
20 today, do you recall whether Deborah Gore Dean paid any of the
21 funds back?

22 A. I don't believe she did.

23 Q. Okay. Do you recall seeing a check from Ms. Dean?

24 A. No.

25 Q. You never received a check from Ms. Dean?

1455

1 A. I don't recall seeing a check from Ms. Dean.

2 Q. Well, is it possible she gave you a check and you don't
3 recall today?

4 A. I suppose anything is possible, yes, sir.

5 Q. Well, your best recollection.

6 A. I just told you. I don't believe she did.

7 Q. Do you recall having an occasional dinner with Ms. Dean
8 after this \$4,000 was given to her?

9 A. I've had several dinners with Ms. Dean and others. Whether

10 it was before or after, I really don't remember. Probably both.

11 Q. And do you recall her paying you money at these dinners in

12 return for that loan and giving you money?

13 A. No.

14 Q. You don't have any recollection of that whatsoever?

15 A. No, I don't.

16 Q. Now one individual at HUD that Mr. O'Neill didn't ask you

17 about was Chris Oliver. I'd like to talk to you a little bit

18 about Chris Oliver. Now she worked at HUD, did she not?

19 A. She did.

20 Q. And she worked for Mr. Demery, did she not?

21 A. She did.

22 Q. And you had a personal relationship with her, didn't you?

23 A. I did.

24 Q. As a matter of fact, she spent a lot of time with you at the

25 Republican National Convention, didn't she?

1456

A. It's what I've been told.

2 Q. You don't remember?

3 A. I -- that was a big convention. I certainly spent time with
4 her. I spent time with a lot of people.

5 Q. Do you remember spending the evening hours with her?

6 A. I spent some evening hours with her, yes, sir.

7 Q. Do you remember spending the night with her?

8 A. Yes, sir.

9 Q. Now when did she work for Mr. Demery?

10 A. I don't remember the dates.

11 Q. Well, as a matter of fact, she started working for HUD in
12 approximately 1983, didn't she?

13 A. I have no idea. I didn't know her then.

14 Q. And you met her shortly after that; isn't that true?

15 A. Not 1983. I probably didn't meet her until '86 or -7.

16 Q. '86 or -7?

17 A. Somewhere in that area, yes, sir.

18 Q. And you struck up a relationship with her, did you not?

19 A. Yes, sir.

20 Q. And at some point in time, you decided that you needed an
21 apartment in Washington; isn't that correct?

22 A. Yes, sir.

23 Q. Now the fact that you were seeing Ms. Oliver at the time was
24 connected to the fact that you were looking for an apartment;

25 isn't that correct?

1457

1 A. No, sir.

2 Q. No, sir? No connection?

3 A. No, sir.

4 Q. Okay. You looked at a number of apartments in Washington,

5 didn't you? Didn't you look at five or six different ones?

6 A. I can recall looking at maybe three, maybe four. I really

7 don't know.

8 Q. Well, you looked at a number of them, didn't you?

9 A. I looked at more than one, yes, sir.

10 Q. And what was the name of the real estate agent you looked at

11 these apartments with?

12 A. Janette. It was a friend of Deborah's. I don't remember

13 the name.

14 Q. Do you recall the name Janet Whitman?

15 A. Janet Whitman, okay.

16 Q. And you looked at all these apartments, isn't that true,

17 with her? She took you to apartments, didn't she, sir?

18 A. Give me a minute. It was a while ago. I looked at some

19 apartments with a woman named Janet Whitman, yes. Whether I

20 looked at all of them or not, no, sir, I don't know. I don't

21 think I did, but maybe I did.

22 Q. Now you're aware that Chris Oliver was working for

23 Mr. Demery at the same time that you allege that you said on

24 direct that Ms. Dean was talking to you about these Florida mod

25 rehab units,- isn't that correct?

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1 A. Say that again, please?

2 Q. Chris Oliver was working at HUD for Tom Demery at the same

3 time that you say that you were talking to Ms. Dean about the mod

4 rehab units; isn't that correct?

5 A. I'll take your word for it. I really don't know when Chris

6 Oliver went to work for Tom Demery. I don't even know when Tom

7 Demery was appointed to that position, the date.

8 Q. Okay. When was the convention when you spent the night with

9 Ms. Oliver?

10 A. It was 1988, in the summer of '88.

11 Q. And how long before that had you known her?

12 A. Had I known who?

13 Q. Chris Oliver.

14 A. Six months, a year. I don't know.

15 Q. Okay. So that would have put you back into 1987; isn't that

16 right?

17 A. It would appear so.

18 Q. Okay. So now we've got you back into 1987, knowing

19 Ms. Oliver in that time period.

20 A. Well, actually six months wouldn't have been back into '87,

21 but close to it.

2 Q. A year?

2 A. I don't know. I really don't know.

2 Q. Okay. What about Tom Demery? Did you meet Chris Oliver

2 through Tom Demery?

A. I don't know which one I met first.

2 Q. Okay. Well, do you recall talking to Tom Demery about the

3 mod rehab units in Florida?

4 A. No, sir.

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5 Q. No? Do you remember meeting with Thomas Demery on January
6 28 of 1987 -- I'm sorry, on January 29 of 1987?

7 A. No, sir.

8 Q. Do you recall being in Washington on January 29 of 1987?

9 A. No, sir.

10 Q. Mr. Demery's calendar shows a visit by you to him on
11 January 29, 1987. Does that refresh your recollection as to
12 whether you were here?

13 A. No, sir, it does not, but if it was on his calendar and I
14 was scheduled to meet with him, I probably did.

15 Q. Well, if you did meet with him on January 29 of 1987, isn't
16 it true that that's approximately the same time that you were
17 working on the Florida Mod Rehab Project?

18 A. You have all the dates in front of you, sir. If that's the
19 right time, then that's the right time.

20 Q. You just testified to this on direct examination.

21 A. If I did, then that's the right time. I don't recall every
22 single date, the time of day or the meeting. I am not saying I
23 did not do it.

24 Q. Okay. Well, let me show the same document that Mr. O'Neill
25 has been showing you, page 18, and I'll ask you to read -- and

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1 don't read it out loud; just read it to yourself -- page 18,

2 lines 4 through 22.

3 Have you had the chance to read that?

4 A. Yes, sir.

5 Q. Now does that refresh your recollection that you were, in
6 fact, having these discussions with HUD in 1987 with regard to
7 the Florida project?

8 A. Now you said with HUD. Now you've been saying Mr. Demery.

9 Q. Let's start with HUD.

10 A. I've said all along that I've had the discussions with HUD.

11 Q. In 1987?

12 A. Yeah. Obviously, it was 1987.

13 Q. Okay. So we've established it was in 1987.

14 Now do you have a recollection of knowing Mr. Demery in
15 1987?

16 A. I -- if that's when he was the commissioner, yes, sir. I
17 have a recollection of knowing him.

18 Q. Now you certainly would have had a conversation with

19 Mr. Demery about those Florida units, would you not?

20 A. If he was the FHA commissioner at that time, I probably did.

21 I do not remember it specifically. I do remember discussing the
22 Mod Rehab Program with Thomas Demery. Whether it was over these
23 specific units or not, I do not remember.

24 Q. Well, if you met with Mr. Demery in January of 1987, that's
25 exactly the same time you were trying to get this project funded;

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isn't that correct?

2 A. It appears that way, yes, sir.

3 Q. And you would therefore have talked to Mr. Demery about this
4 project; isn't that correct?

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5 A. I do not remember. The first time I ever met with Tom
6 Demery, it was to say, "Hey, I'm Lou Kitchin. You're the FHA
7 commissioner. I, you know, would like to get to know you."
8 I am not saying that I did not discuss it with him, but
9 I am not going to sit here and make a statement that I did.

10 Q. Well, I'm not asking you to make a statement that you did.
11 I'm trying to figure out what your best recollection is. What
12 I'm getting from you is that your recollection isn't very good
13 today; is that right?

14 MR. O'NEILL: Judge, is it closing argument again?

15 THE COURT: All right, I'll sustain the objection. Why
16 don't you just ask the question.

17 BY MR. WEHNER:

18 Q. Do you have a good recollection -- sorry, Judge, excuse me.

19 THE COURT: Go ahead.

20 BY MR. WEHNER:

21 Q. Do you have a good recollection today of what happened five
22 or six years ago?

23 A. Not on every given day, no, and not on any given meeting am
24 I, do I specifically --do you have any idea how many times I
25 came to Washington in those days?

1462

1 Q. How many times?

2 A. Once a week probably.

3 Q. That often?

4 A. That often.

5 Q. That's 52 times a year?

6 A. Okay. You're right, it is.

7 Q. So you have a lot of difficulty knowing what exactly was
8 said back then; isn't that right?

9 A. On a specific day and a specific meeting, I do not remember

10 what I said to Mr. Demery.

11 Q. And your memory would have been better several years ago?

12 Wouldn't it have been better several years ago?

13 A. I don't understand what you mean.

14 Q. Well, let's say we went back to 1988, and let's say you were
15 interviewed in 1988 about the same thing you've testified about
16 today. Wouldn't your memory have been better in '88 about your
17 conversations with Ms. Dean than it was today?

18 A. I would think it would, but I don't know that.

19 Q. Well, it certainly would. I mean, that's, that's not --

20 that's at about the point in time that this was happening, isn't
21 it?

22 A. Yes, sir.

23 Q. Do you recall being interviewed by agents of the Office of
24 Independent Counsel in 1988 regarding Ms. Dean?

25 MR. O'NEILL: Judge, objection. That can't be

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1 factually correct.

2 THE COURT: All right, I'll sustain the objection the
3 way you've asked it. You can show him what you're talking about.

4 All right.

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5 MR. WEHNER: I'm sorry, Your Honor.

6 Q. Do you recall being interviewed by the HUD inspector general
7 in 1988 with regard to Ms. Dean?

8 A. Again, I've been interviewed by those folks a number of
9 times. I don't deny it. I don't remember it in 1988
10 specifically about Ms. Dean.

11 Q. Well, do you recall telling a law enforcement officer in
12 November of 1988, when admittedly your memory was better about
13 events in 1987 than it was today -- than it is today, do you
14 remember telling them that you do not know how one could go to
15 Washington to get allocations of mod rehab units? Do you recall
16 saying that?

17 A. I believe what I said was I did not recall -I
did not know

18 how one could go to Washington and have mod rehab units
19 specifically allocated to a specific developer. I've been asked
20 that question many times, and that has always been my answer and
2 still is.

2 Q. So then it's not correct, which was the inference I got from
2 your direct examination, that Ms. Dean said she would send these
2 units to Florida for you?

2 A. That, sending those units to Florida and sending those units

1464

1 to a specific developer in Florida are not, in my opinion, the
2 same thing.

3 Q. Oh, okay. Okay. So you were trying to get the units sent
4 to Florida, not to a specific developer?

5 A. As I understand it, that is the only thing that could have
6 been done. I don't believe Washington had the authority to send
7 them to anything other than a PHA authority.

8 Q. Do you think as a consultant, part of your role is to help
9 people with the Moderate Rehabilitation Program?

10 A. I do.

11 Q. Did you tell the agents that talked to you in 1988 that you
12 have never helped anyone get into the Moderate Rehabilitation
13 Program?

14 A. I don't think I did.

15 Q. Well, let me show you what I've marked as Dean Exhibit 138.

16 THE CLERK: Dean Exhibit 13 8 marked for identification.

17 (Defendant's Exhibit No. 138 was

18 marked for identification.)

19 BY MR. WEHNER:

20 Q. Your notes of interview dated 11-17-1988, and ask you if you
2 did not say the following: "P -

meaning you -- has never

2 participated in this program, MRP, and as a consultant, he has

2 never helped anyone get into the MRP"?

2 A. I believe that refers to when I was building -- owned

2 apartments in Atlanta. I believe that refers to the fact I

1465

1 didn't even know what the Mod Rehab Program was.

2 Q. So you told them you didn't know what the Mod Rehab Program
3 was in November of 1988?

4 A. Well, the next sentence is, "Kitchin stated that if an
5 individual came to him as a client for the MRP, he would first
6 explain the program, how to determine the rents, et cetera." So,
7 I mean, I think it's self-explanatory.

8 Q. Do you travel extensively in Europe?

9 A. I'm sorry?

10 Q. Do you travel extensively in Europe?

11 A. I did for a time.

12 Q. Did you have any conversations when you're in Europe dealing
13 with the Libyan hijackers?

14 A. I did.

15 Q. Would you explain to the jury what conversations you had?

16 A. I was working for a company as a consultant in Geneva,
17 Switzerland, by the name of Fetex, Ltd. One the partners in
18 Fetex is a, was born in Libya. He carries a Swiss passport now.
19 He's lived there for 20-some-odd years.

20 This company dealt at one time at least with exports/
21 imports out of the North African countries. I was helping them
22 with some of their dealings with some of the other North African
23 countries, and they talked to me about the fact that they had at
24 one time dealt with exports or imports from and to Libya and they
25 could no longer do it because of the sanctions. They asked me if

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1 there is anything that I could help them with during -- with the
2 lifting of the sanctions, which is a U.N. sanction.

3 I asked people in Washington in the spring of '92, and
4 at that time, the government was interested in discussing it and
5 set up a trip to the ambassador -- to the capital of Tunisia. At
6 that particular time, evidently lots of people began to call
7 Washington about it, and the trip was aborted.

8 I asked people in Washington to find out what might be
9 done, and they said if the suspects were released to the United
10 States or to England, I believe, they would consider lifting the
11 sanctions or consider going to the U.N.

12 I probably dealt with that a month or so. I even
13 talked to the ambassador, our ambassador to Geneva regarding the
14 subject, and he checked into it, and I finally got back this
15 country wasn't interested in doing anything unless they released
16 the hostages, and it was dropped.

17 Q. And when did this -- when did these conversations take
18 place?

19 A. During the spring and early part of the summer, or during
20 the summer, I guess, of '92.

2 Q. Okay. So that's been very recently, correct?

2 A. Yes.

2 Q. Okay. You testified on direct you had first met Ms. Dean, I
2 believe, in connection with the Reagan campaign?

2 A. I believe that that's true, yes.

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1 Q. Well, isn't it true that you first met Ms. Dean as a result
2 of you supporting Shirley Wiseman to become the federal housing
3 commissioner?

4 A. I don't, I don't recall. I mean, I recall supporting
5 Shirley Wiseman. I don't recall that as being the time I met
6 Ms. Dean, but it is possible.

7 Q. And isn't it true that you asked someone to arrange for you
8 to meet Ms. Dean so you could talk to her about the fact that you
9 had heard that Ms. Dean didn't like Shirley Wiseman?

10 A. I don't recall that, but I don't recall having anyone set up
11 a meeting so I could discuss such a subject with Ms. Dean.

12 Q. As a matter of fact, you had a drink with Ms. Dean at the
13 Four Seasons Hotel here in Washington, did you not?

14 A. I did that.
15 Q. And you had a conversation with her at that time; is that
16 right?
17 A. I did. I certainly did.
18 Q. She was there; you were there?
19 A. That's correct.
20 Q. Were there others there?
2 A. Not others in our party. I mean, just the two of us.
2 Q. You were the only two?
2 And Ms. Dean drove you to the airport that evening, did
2 she not? She dropped you off?
2 A. She may have.

1468

1 Q. And you thought that was a very nice thing for her to do,
2 because she was in Georgetown, she drove you out to National;
3 isn't that right?
4 A. She may have. I don't -- she may have. If she says she
5 did, I'm sure she did.
6 Q. You found out that she didn't have any animosity to Shirley
7 Wiseman; isn't that right?
8 A. I don't remember discussing Shirley Wiseman, but that's
9 possible.

10 Q. Do you remember discussing Durham Hosiery Mill at all during
11 that meeting with Ms. Dean?
12 A. No.
13 Q. Do you remember that you discussed Durham Hosiery Mill with
14 Ms. Wiseman prior to that meeting?
15 A. I think I probably discussed Durham Hosiery Mill with
16 everybody that worked at HUD during that time.
17 Q. Including Shirley Wiseman?
18 A. Including Shirley Wiseman.
19 Q. You agreed to support her in her quest to become federal
20 housing commissioner, didn't you?
2 A. For whatever that's worth, yes.
2 Q. Well, you did support her?
2 A. Yes.
2 Q. And in fact, isn't the arrangement you had with her was that
2 she would help you with Durham Hosiery Mill provided that you

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1 supported her for federal housing commissioner?
2 A. Absolutely not.
3 Q. Okay. You testified on direct that you had several
4 conversations with Ms. Dean regarding moderate rehabilitation
5 programs, and I think we also established on cross examination
6 you had several conversations regarding Tom Demery, with Tom
7 Demery regarding mod rehab; is that correct?
8 MR. O'NEILL: Objection, Your Honor.
9 MR. WEHNER: I'll rephrase it.

10 THE COURT: Rephrase it. I'll sustain the objection
11 the way it's asked.
12 BY MR. WEHNER:
13 Q. You had conversation with Tom Demery regarding mod rehab,
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14 did you not?

15 A. I'm sure I did.

16 Q. You also had conversation with Chris Oliver regarding mod
17 rehab, did you not?

18 A. Yes, sir.

19 Q. Okay. who else at HUD did you have conversations regarding
20 mod rehab with?

2 A. I discussed it with Deborah Dean. I discussed it probably
2 with Hunter Cushing. Specifically, I don't remember anyone else,
2 but I certainly could have.

2 Q. well, you talked to everybody you could find that you
2 thought had any role in the process; isn't that correct?

A. That's correct.

2 Q. And you essentially lobbied them to get projects approved,
3 correct?

4 A. To get allocations, yes.

5 Q. To get allocations of units to a specific housing, to a
6 specific housing authority or to a specific city?

7 A. Housing authority, yes.

8 Q. Okay. And that included everybody from the local HUD
9 offices, correct?

10 A. Yes.

11 Q. From, say, a Jim Mitchell down in Florida?

12 A. Yes.

13 Q. All the way up to the federal housing commissioner, whoever
14 that was at the time, isn't that right?

15 A. That's correct.

16 Q. And that was Shirley wiseman sometimes, and it was Tom
17 Demery sometimes; isn't that right?

18 A. And it was two or three other people sometimes, temporary.
19 There was a lot of change in that area.

20 Q. A lot of change in the federal housing commissioner level?

21 A. Yes.

22 Q. And you thought it was your job to try to convince the
23 decision makers that these projects were good projects; isn't
24 that right?

25 A. That the need for that housing in that specific area was,

1471

1 was evident, yes.

2 Q. Now none of these decision makers ever knew, did they, the
3 amount of money you were making as a result of your lobbying
4 efforts?

5 A. I couldn't answer that yes.

6 Q. well, did you tell them?

7 A. I don't remember.

8 Q. Do you remember telling them?

9 A. I don't remember telling them, no.

10 Q. okay.

11 A. I would doubt very seriously that they didn't know.

12 Q. well, would you doubt very seriously that you didn't tell

13 them?

14 A. I don't know whether I did or not. I really -- I don't know

15 why I would have or wouldn't have, for that mater.

16 Q. Do you have any recollection of telling Ms. Dean the amount

17 of money you were making off these efforts?

18 A. No specific recollection, no.

19 Q. Okay. Do you have any recollection of telling Tom Demery

20 how much you were making as a result of the application?

21 A. No, sir.

22 Q. Well, in fact, they were helping you because you were a
23 well -- you were widely known for helping Ronald Reagan get
24 elected; isn't that right?

25 A. I don't know what you mean by widely. I imagine a lot of

1472

1 people knew it, yes.

2 Q. A lot of people knew that you -- the South, you carried the
3 South for Ronald Reagan, didn't you?

4 A. I'm starting to get more credit for it now than I got then.

5 Q. How much credit did you get for it then?

6 A. Sir?

7 Q. How much credit did you get for it then?

8 A. It depends on who was talking.

9 Q. Well, how about when you were talking?

10 A. Oh, I probably gave myself more credit than I deserved.

11 Q. There we go.

12 A. All right.

13 Q. So you took credit at least for delivering the South for
14 Ronald Reagan, - isn't that right?

15 A. I think that's putting it a bit posh, but --

16 Q. But isn't it true that that's one of the reasons that these
17 people at HUD dealt with you was because you were a well-known
18 supporter, campaign strategist, consultant for Ronald Reagan?

19 A. I would say that that is the reason I knew a lot of them.

20 I'd like to think that I was able to get along with people, and
2 being in politics, that's one of the things that will get you a

2 lot further than if you can't get along with people.

2 I have said before to, to people who asked me similar

2 questions, my working with Ronald Reagan gave me the knowledge of
2 who worked in most of these areas, and possibly maybe because

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1 they knew my name, they would answer my phone call. Beyond that,
2 I think I did it on, on merit.
3 Q. On the merit of your project?
4 A. Merit of need and merit of project, yes.
5 Q. So there's no suggestion that you ever bribed anybody to get
6 anything done with the United States government, correct?
7 A. No suggestion by whom? Certainly not by me.
8 Q. Right. And you didn't bribe Ms. Dean; isn't that correct?
9 A. I certainly don't feel I did, no.

10 Q. Okay. Now you testified that you gave her the \$4,000 loan,
11 correct?
12 A. Yes.
13 Q. You testified that that was at the same time you were
14 looking for an apartment in Washington; isn't that correct?
15 A. I believe it was, yes, sir.
16 Q. Do you have any recollection of having discussions with
17 Ms. Dean about the purchase of that apartment?
18 A. Yes.
19 Q. Do you have any recollection -- well, tell me what you said
20 to her and what she said to you.
21 A. Well, it came up, you know, I'm sure it came up in a
22 conversation that I was spending a tremendous amount of money on
23 hotels, and I had often thought but I had never pursued it,
24 buying or -- yeah, buying an apartment with just myself or with
25 some other people who do the same thing or who were at that time

1 doing the same thing that I was.
2 I'm sure I said that in front of her, and that led to
3 her telling me that her brother had an apartment at Watergate,
4 and I think he lived in California or somewhere other than here,
5 and he wanted to sell it.
6 Q. Were you looking at furnished or unfurnished apartments?
7 You were looking -
8 A. I probably would have preferred one that was furnished. I
9 don't, I don't think that -- I don't remember whether that
10 apartment was furnished or not.
11 Q. Do you have any, any recollection of having any discussion
12 with your business partner regarding a furnished -- the purchase
13 of furniture for that apartment?
14 A. No.
15 Q. If your business partner said that that money to Ms. Dean
16 was not a loan but was for furniture, would he be incorrect?
17 A. I would think so.
18 Q. Okay. You don't recall having any such conversation with
19 him regarding that?
20 A. No, I don't.
21 Q. Because clearly your memory as to what that check was for
22 would have been clearer at the time you were writing the check
23 than it is today; isn't that right?
24 A. Probably so.
25 Q. You had, you had many occasions to have telephone

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1 conversations with Washington officials during this time period;
2 isn't that correct?
3 A. Yes, sir.
4 Q. The time period being '83 to '87, right?

5 A. Yes, sir.

6 Q. Okay. And in fact, you made these telephone calls from your
7 office generally?

8 A. Generally.

9 Q. When you telephoned from your office, did you have a

10 practice of leaving your door open or closed when you talked to

11 Ms. Dean?

12 A. Whether I was talking to Ms. Dean or not would have had
13 nothing to do with the door. I didn't have a practice of getting
14 up and shutting my door when I talked on the phone, no.

15 Q. Isn't it a fact that you usually shut your door when you
16 were on the phone with Mr. Demery or Ms. Oliver?

17 A. I don't think I ever got up and shut my phone intention-
18 ally -- shut my door intentionally because of anybody I was
19 talking to.

20 Q. Do you have any recollection of making sure your
2 conversations were private in your office when you talked to

2 Mr. Demery or Ms. Oliver?

2 A. No.

2 Q. What about Ms. Dean? Did you try to conceal your
2 conversations with her?

1 A. I don't think so, no.

2 MR. WEHNER: Your Honor, could we take our midmorning
3 break at this point and finish up?

4 THE COURT: Do you still have some more to go?

5 MR. WEHNER: A few more minutes, not much.

6 THE COURT: All right. We'll take a midmorning break
7 at the request of counsel, 15 minutes. Be back at that time.

8 Remember the admonition about not discussing the case
9 with anybody else or among yourselves. Be back in 15 minutes,
10 please. Thank you.

1 (Jury out.)

1 THE COURT: Mr. Kitchin, 15 minutes, okay?

1 THE WITNESS: Yes, sir.

1 THE COURT: Thank you. All right.

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1 (Recess, 11:00 a.m. To 11: 20 a.m.)

2 THE COURT: All right. We're ready to go as
3 soon as the lawyer gets back here.

4 All right, bring the jury in, please?

5 THE DEPUTY MARSHAL: Yes, Your Honor.

6 (Jury present)

7 THE COURT: All right, are we ready to resume
8 at this time?

9 BY MR. WEHNER:

10 Q Mr. Kitchin, do you recall your testimony on direct
11 when you testified that you did not recall receiving any
12 repayment from Miss Dean?
13 A Yes, I do.
14 Q I want to show you pages 31 and 32 of the same
15 document Mr. O'Neill has been showing you and ask you to
16 read those two? To yourself.
17 A These two pages?
18 Q To yourself, please.
19 A Yes.
20 Q Now, it's true, in fact, that Miss Dean did pay you
21 portions of that money back, isn't that correct?
22 A I'm not aware if she did. I don't remember if she
23 did. I'm not going to swear that she did.
24 Q Do you recall being put under oath in front of a
25 Federal Grand Jury when you were asked questions by

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1 representatives of the Office of the Independent
2 Counsel?
3 A Yes.
4 Q And do you recall being asked the following
5 question? "The \$4000 was not entirely repaid, is that
6 correct?"
7 A Yes, that's true.
8 Q And your answer was, "That is correct."
9 A Yes.
10 Q Now, you testified on direct that she hadn't repaid
11 any of the money, is that correct?
12 A Yes.
13 Q Now, you testified in front of the grand jury that
14 she hadn't entirely repaid the money. Now, you were
15 under oath then and you are under oath now.
16 A Yes, sir.
17 Q Now, what is your recollection as to how much money
18 Miss Dean paid you back?
19 A My recollection is I can't prove to myself or
20 anyone else she paid me any of it back, and I don't
2 know •
2 Q So you don't know if she paid you back or not,
2 isn't that right?
2 A I've stated that before, yes.
2 Q No, sir, what you stated on direct was that she had

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1 paid you?
2 A I said I stated that before.
3 Q In fact, you stated on several occasions that she
4 did pay you back, isn't that right?
5 A I certainly believed that she had paid part of it.
6 Q And didn't you tell the Independent Counsel on
7 occasion that she paid a portion of this money back in
8 cash?
9 A I thought she did, yes, sir.

10 Q And that she repaid other amounts by check?
11 A I don't ever recall saying that, but if I said it,
Page 835

12 I said it.

13 Q Do you recall in April of 1992 being interviewed by
14 representatives of the Office of the Independent
15 Counsel, and at page five of that interview your
16 saying, "Other amounts would have been repaid by check?"

17 A I don't recall saying that, but if I - if it's
18 there, I'm sure I did.

19 Q Well, let me show it to you. I've had it marked
20 for identification as Dean Exhibit 140, interview on
2 April 13th and 14th, 1992. Don't you say there

2 that you "advised that he lost track," you, "of how much
2 of the loan was repaid by Dean. She paid back a portion
2 of the loan in cash, probably either 500 or \$1000.
2 Other amounts would have been repaid by check."

1480

1 A Okay.

2 Q Now, you said that then, didn't you?

3 A Obviously I did.

4 Q And that's not what you said on your direct
5 examination, which was that none of it had been repaid?

6 A I have been asked in the past to show proof that
7 she has paid some of it back and I cannot.

8 Q Well, did the Independent Counsel tell you that
9 because you didn't have proof you couldn't say that

10 during your testimony?

11 A No.

12 Q Did you have discussions with them recently as to
13 whether Miss Dean had repaid any of that money?

14 A I believe I had.

15 Q And did you tell them that you thought that she had
16 repaid some of the money?

17 A At sometime or another I told them that -- I had
18 had a discussion like that, yes.

19 Q And yet you testified on direct examination this
20 morning that no repayment had been made, isn't that
2 correct?

2 A I cannot show evidence or prove in any way that she
2 paid me any money.

2 Q But your best recollection is that she did in fact
2 pay you back, isn't that correct?

1481

1 A If you asked me that a year or two ago I would have
2 said yes. Now after going over it 100,000 times, I'm

3 not sure.

4 Q And who did you go over it 100,000 times with,
5 Mr. Kitchin?

6 A Myself, and mostly looking for records.

7 Q And who else?

8 A I've talked to the Independent Counsel about it,
9 not that many times.

10 Q Not that many times?

11 A No.

12 Q How many times have you been interviewed by the

13 Office of the Independent Counsel?
14 A Five or six.
15 Q How long would the sessions last?
16 A An hour, two hours.
17 Q Three hours?
18 A Maybe.
19 Q Four hours?
20 A I don't think so.
2 Q You have been interviewed by them on many
2 occasions, isn't that correct?
2 A I said five or six.
2 Q Okay. You've given them testimony under a grant of
2 immunity, isn't that correct?

1482

1 A Yes.
2 Q And that means that you're not going to be
3 prosecuted for anything you say, isn't that correct?

4 A I think you would be for perjury. I don't think it
5 has anything to do with that.
6 Q Anything else?
7 A Not to my knowledge.
8 Q Okay. So you talked to them several times. You
9 used the word several.
10 A Fine.
11 Q About Miss Dean and about this loan because they
12 obviously were very interested in this loan, were they
13 not?
14 A They seemed to be.
15 Q Yeah. Seemed to be. Because they thought this was
16 some kind of a smoking gun. Did they ever call it that
17 to you?
18 A No, sir.
19 Q Did they ever tell you how important it was that
20 you testify to this jury that Miss Dean didn't pay any
2 of this money back?
2 A I don't recall them ever saying that to me.
2 Q But you recall telling them that she paid you the
2 money back?
2 A I do, some of it.

1483

1 Q What is your best recollection today as to how much
2 was repaid?
3 A I cannot prove that she repaid any of it and I'm
4 not going to make a comment as to how much because I
5 really just don't know.
6 Q But she did repay a portion of it, isn't that
7 correct?
8 A I felt she did.
9 Q Now, you testified about your relationship with

10 Chris Oliver and about your efforts to find this
11 apartment.
12 A Yes.
13 Q Okay. Isn't it true that you looked at several
14 apartments in the presence of Miss Dean?
15 A I believe that's correct.
16 Q And isn't it correct that you looked at a number of
17 apartments at the Watergate with Miss Dean?
18 A I remember looking at that one. I don't know about
19 a number of them. Maybe I did.

20 Q Isn't it true that you had difficulty getting into
2 Watergate because of some rules of the homeowner's

2 committee in saying you couldn't have an office in that
2 building, do you recall that?

2 A Now that you said it, I believe that's correct.

2 Q I believe that's correct. And you did have some

1484

1 conversations where you were having difficulty putting
2 an office in that particular complex, isn't that right?

3 That was an issue?

4 A I think so. I would never have thought of that. I
5 believe you're right.

6 Q But as you're sitting here today you remember?

7 A Since you reminded me of it and stated it, I think
8 you're correct.

9 Q And isn't it true that when you looked at the
10 apartment at the Watergate complex that it was a
11 two-room apartment, isn't that correct?

12 A It was one bedroom, I think.

13 Q One bedroom and one separate room, isn't that
14 right?

15 A I'm sure it is.

16 Q Now, do you remember going to a house that was
17 owned by a person by the name of Linda Murphy?

18 A Yes. I've been there.

19 Q You've been there, and do you recall being there
20 for about ten minutes on one occasion?

2 A No, I -

2 Q How many times have you been to Linda Murphy's
2 house?

2 A Maybe twice.

2 Q Do you recall being at Linda Murphy's house and

1485

1 looking to see the type of furniture that was in the
2 house?

3 A I remember going to Linda Murphy's house. I think
4 she had just bought -- they had just bought it and -- I
5 don't know what you mean by looking at her furniture. I
6 mean -

7 Q They had just bought the house and it had just been
8 decorated, isn't that correct, Mr. Kitchin?

9 A It seems right, yes.

10 Q And Miss Dean had decorated the house, isn't that
11 correct?

12 A If she said she did, I'm sure she did.

13 Q And you had gone there to look at the furniture she
14 had picked out for that house, isn't that correct?

15 A I don't recall going there specifically for that
16 reason but I -- you know, it's certainly possible, but I
17 don't recall.

18 Q Isn't it true that the reason was not for Mod Rehab
19 units, not for HUD favors, but the reason that you had
20 that financial transaction with Deborah Gore Dean was
2 because you wanted her to help you find furniture for
2 the apartment that you were going to buy or rent in
2 Washington?

2 A I lent Deborah Gore Dean that money for exactly the
2 reason I said I did, and what you say may also be true.

1486

1 I may certainly have wanted her to help me do that. She

2 certainly was willing to help me with that problem.

3 Q She runs an antique store, doesn't she?

4 A I think she did at one time, yes.

5 Q And she was in the furniture business, sir, isn't

6 that correct?

7 A She ran an antique store.

8 Q Now, there came a time, did there not, when you

9 decided not to buy the apartment, isn't that right?

10 A This is correct.

11 Q And did you have a conversation with Deborah Gore

12 Dean on that date?

13 A On that date?

14 Q Approximately, when you decided not to buy the

15 apartment.

16 A I certainly had a conversation with her when I

17 decided not to buy it, yes.

18 Q What was her reaction? Didn't she say to you, oh

19 my God, I've got to get you that money back? Isn't that

20 what she said?

2 A I don't recall that, but she may have.

2 Q Because when the apartment deal fell through she

2 didn't have any reason to have that money, did she?

2 A You know, that's -I

don't know.

2 Q And isn't one of the reasons, sir, that the

1487

1 apartment deal fell through was because you decided that

2 you couldn't keep it a secret from the people you had to

3 keep it a secret from? In other words, you hadn't -

4 A Keep what a secret?

5 Q You hadn't told your partner or your employee,

6 Mr. Jennings, that you were looking at apartments in

7 Washington, had you?

8 A I'm sure I had.

9 Q You're sure you had not?

10 A Well, I don't know why I wouldn't have.

11 Q Did you tell your wife that you were looking for an

12 apartment in Washington?

13 We certainly discussed it at some point in time,

14 yes

15 Q Is that before or after you decided not to get it?

16 A Probably after. I don't really know.

17 Q Isn't it true, sir, that when you decided not to

18 get the apartment, that that's when Miss Dean started

19 paying you back on the \$4000?

20 A I don't -- I just do not remember.

2 Q Well, is there anything that would refresh your

2 recollection as to that, if you don't remember?

2 A I remember why I didn't buy the apartment.

2 Q Why didn't you buy the apartment?

2 A Because when I found out that the, what do you call

1488

1 it, the condominium dues or association dues were higher

allbinders as word for experiment.txt
2 than the payment on the apartment I decided that that
3 wasn't the thing for me to do.
4 Q Because they were too high?
5 A That's correct.
6 Q And you didn't want to pay for that.
7 A That's correct.
8 Q What about the other apartments? Did you decide
9 you didn't want to buy those for similar reasons?

10 A I decided the apartment I wanted to buy was that
11 one. I guess I was kind of shocked at whatever they
12 call them, association dues, and maybe I found out that
13 it was that way all over Washington. So, I don't know.
14 Q You had gone so far as to actually what, enter a
15 contract to buy that apartment?
16 A I don't think there was ever a contract, written.
17 Q Written. Did you have a verbal agreement to buy
18 it?
19 A I think that she knew and I knew that it was my
20 intention to buy it, yes.
2 Q As a matter of fact, you negotiated a price for
2 that, had you not?
2 A Yes.
2 Q And one of the reasons you were going to buy it was
2 because Deborah Dean's brother was willing to knock five

1489

1 or \$10,000 off the price, isn't that correct?

2 A I -- maybe so, I don't remember that.

3 Q Compared to comparable units, isn't that right?

4 A I thought the price on it was fair, sir. I don't

5 know about knocking anything off.

6 Q Well, you had some negotiations.

7 A I don't think I ever talked to her brother. I

8 think I just talked to her and Janet.

9 Q And you had discussions that led him to lower the

10 price?

11 A Yes.

12 Q And then you backed out.

13 A Yes.

14 Q I want to go back to the 1987 time period for a
15 minute and I'd like to direct your attention to January,
16 1987, and I believe you testified -- excuse me. Now, do
17 you recall when the Housing Authority in Florida made

allbinders as word for experiment.txt
18 application for the units that you claimed to have
19 discussed with Miss Dean? Do you recall when they made
20 application to HUD?
2 A No, sir.

2 Q I'm going to show you what I've marked for
2 identification as Dean Exhibit 146.
2 THE DEPUTY CLERK: Dean Exhibit 146 marked for
2 identification.

1 (Defendant's Exhibit 146

2 marked for Identification)

3 BY MR. WEHNER:

4 Q And I'm going to ask you to read the yellow
5 highlighted part.

6 A Read it in here?

7 Q No, just read it to yourself.

8 Now, based on your review of this document,
9 it's true, is it not, that that application was made in

10 January of 1987?

11 A I don't know what this document is.

12 Q Well, I'll show you another document. I'll show
13 you what I've marked for identification as Dean Exhibit
14 number 147 and ask you to read that and see if that
15 refreshes your recollection as to when the application
16 was made for the Metro-Dade units?

17 A According to this it was February 13th or I wrote
18 the letter at that time.

19 Q On February 13, 1987 a letter gets written that -
20 requesting those units, is that correct?

2 A That's what it appears, right.

2 Q Now, you were retained by First Florida Equities,
2 isn't that correct?

2 A That's correct.

2 Q And on the 20th of February, 1987 they paid you

1 \$40, 000, correct?

2 A I don't know.

3 Q well, on the 27th of March, 1987 they paid you

4 \$25, 000, isn't that correct?

5 A You've got the records, I don't have anything. I
6 don* t know.

7 Q I'll show you what I've marked for identification

8 as Dean Exhibit 148 and Dean Exhibit 149?

9 THE DEPUTY CLERK: Dean Exhibits 148 and 149

10 marked for identification.

11 (Defendant's Exhibits 148 and
12 149 marked for Identification)

13 BY MR. WEHNER:

14 Q which purport to be checks and deposit slips to
15 you.

16 A Okay.

17 Q Now, it's correct then, you were paid \$40,000 on
18 February 20, 1987 and \$25,000 on March 27th of 1987?

19 A I can't read this \$25,000 thing. March -I
can't

20 even

2 Q Let me direct your attention to a portion of it,
2 this portion which appears to be the date of the check.

2 A Yes. Okay.

2 Q And this portion which appears to be the date of
2 the deposit.

1492

1 A Yes, sir.

2 Q Now, does that refresh your recollection you were

3 paid \$25,000 on March 27, 1987?

4 A It appears I was. I mean I don't remember it, but

5 I see it, so I must have been.

6 Q Okay. So you were paid a total of \$65,000 as a

7 result of that project, in February and March of 1987,

8 correct?

9 A That appears to be true, yes.

10 Q Now, the units were not assigned out of HUD
11 headquarters until April, 1987, isn't that right?

12 A I don't remember.

13 Q Well, do you remember having a conversation with
14 Tom Demery prior to that date, prior to April 7, 1987,
15 about getting the units to Florida?

16 A I remember having conversations about those
17 projects and getting them to Florida with a number of
18 people. I cannot tell you the date. I mean I can
19 follow your dates and your chronological order there and
20 that appears to be true, but I'm not about to say that
2 that is the date I did -- I just don't remember. That's

2 been six years ago, a little over six years.

2 Q There came a time, did there not, when Miss Dean
2 left HUD?

2 A Yes.

1493

1 Q Now, obviously at that point in time she had
2 nothing further to do with Mod Rehab units, is that
3 correct?

4 A I would assume she did not.

5 Q And yet you continued to be paid as a consultant in
6 your efforts to get Mod Rehab units, isn't that correct?

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7 A I'm sure I did. I don't remember the dates.
8 Q Well, in fact, didn't you enter into a retainer
9 agreement where you were going to be paid \$10,000 a
10 month?
11 A Yes.
12 Q To get Mod Rehab units, correct?
13 A Yes.
14 Q Okay.
15 A Well, that, and a number of other things.
16 Q And a number of other things, but including Mod
17 Rehab units, correct?
18 A Yes.
19 Q And at that time Miss Dean wasn't at HUD, isn't
20 that right?
2 A Part of that time obviously she wasn't.
2 Q And it's true that you dealt with Mr. Demery even
2 after Miss Dean had left, isn't that correct?

2 A I dealt with Mr. Demery in his office , yes.
2 Q And Miss Oliver?

1494

1 A Yes.
2 Q With whom you had had the personal relationship,
3 isn't that correct?
4 A Not at that time.
5 Q Well, the one you had had the personal relationship
6 with .
7 A Not at that time.
8 Q But you had had - previously had that
9 relationship, correct?

10 A Not if that was 19 87, no.
11 Q Okay. But the point is that you continued to deal
12 with HUD even after Miss Dean left, isn't that correct?
13 A That is correct.
14 Q And you continued to receive Mod Rehab units, isn't
15 that correct?
16 A I believe, yes.
17 Q And you continued to do other business with HUD,
18 isn't that correct?
19 A That is correct.
20 Q Including Title X, isn't that correct?
2 A Not after that, no Title X was done away with and
2 in, I don't know, '85, ' 86.
2 Q Well, you didn't do any Title X work with
2 Miss Dean, did you?

2 A No.

1495

1 Q Who did you deal with at HUD on Title X work?
2 A Single-Family Housing, Jim Nistler I think his name
3 is
4 Q James Nistler?
5 A James Nistler and Ted Baker, more than anybody
6 else.
7 Q In fact, you received consulting fees for doing
8 that work as well, isn't that right?
9 A Yes, sir.

10 Q In fact you would occasionally get favorable
11 decisions out of HUD regarding Title X.
12 Tel me what title X is?
13 A Title X was a program where a developer could
14 purchase land and the infrastructure -- money for the
15 infrastructure to sell lots on as long as he could do it
16 and sell the lot at a price that would afford -- that
17 would be affordable to whatever area you were in would
18 be considered moderate to low income families.
19 Q And those Title X programs, were those -- those
20 monies were desirable for developers, isn't that right?
2 A Yes.
2 Q And you helped them get those monies, isn't that
2 right?
2 A I did.
2 Q And you did not go to Miss Dean to get those

1496

1 monies, did you?
2 A No.
3 Q You went to Mr. Nistler, is that right?
4 A Really Ted Baker.
5 Q Say it again?
6 A Ted Baker.
7 Q Ted Baker. So you dealt with Mr. Baker at HUD on
8 those issues?
9 A He was the most knowledgeable person at HUD on that

10 particular program, in my opinion.
11 Q And did you get the same responses from Mr. Baker
12 that you got -- regarding Title X that you got from
13 Miss Dean with regard to Mod Rehab?
14 A If you mean did they help me with the program, yes.
15 Q What did they do is really what I'm asking you.
16 A Title X is, as all these HUD programs, is extremely
17 complex and if one ever could find a project that fit
18 the program exactly, every line and every sentence on
19 every page, it would be easy to do. I doubt there is a
20 project in the world that would fit any of those

2

programs exact.

2 Q But did any of those people at HUD do anything for
2 you that wasn't right?
2 A Not to my knowledge.

2

Q And did they do anything to you that was -- for you

1497

1 that was corrupt?

2 A Not to my knowledge.

3 Q And that, of course, included Miss Dean, did it

4 not?

5 A That included Miss Dean.

6 Q When the Florida units were actually sent from HUD

7 Central to Florida, Tom Demery was the Housing

8 Commissioner, was he not?

9 A Check the date. I'm sure you're right. I just

10 don't remember those dates. I think they had four or
11 five Director of Housing -- Federal Housing
12 Commissioners during this period. I honestly don't
13 remember who was there at which time.

14 Q I show what I've marked for identification as Dean
15 Exhibit 150.

16 THE DEPUTY CLERK: Dean Exhibit 150 marked for
17 identification.

18 (Defendant's Exhibit 150
19 marked for Identification)

20 BY MR. WERNER:

2 Q And I'd ask you if this refreshes your recollection

2 as to who was Federal Housing Commissioner at the time
2 the Jacksonville Metropolitan Dade County units were
2 funded? Just read that to yourself, please.

2 A May 7, 1987. Yes, definitely was Tom Demery.

1498

1 Q And he signed off on the approval for that, did he
2 not?

3 A Yes, sir.

4 Q And Chris Oliver was his assistant at the time, was
5 she not?

6 A I'm sure she was.

7 Q Now, that decision was made on May 7, 1987,
8 correct?

9 A Yes, according to that, yes, sir.

10 Q Now, in that three month period prior to that you
11 had met with Demery on occasion, isn't that right?

12 A I honestly do not know. You must have his
13 appointment book. If it's on there I'm sure I did.

14 Q I'll show you what I've marked for identification
15 as Dean Exhibits 151 and 152.

16 THE DEPUTY CLERK: Dean Exhibits 151 and 152
17 marked for identification.

18 (Defendant's Exhibits 151 and

allbinders as word for experiment.txt
19 marked for Identification)
20 BY MR. WEHNER:
21 Q With specific reference to January 27th of 1987 and
22 specific reference to January 29th of 1987.
23 A okay.
24 Q Now, you did in fact meet with Mr. Demery on
25 January 29th of 1987, correct?

1499

1 A It says I did on that. I guess I did. I certainly
2 don 't remember that meeting. I know I met with him. I
3 just don't remember what day.
4 Q If you met with him on January 29, 1987 would not
5 you have discussed the Mod Rehab units in Jacksonville?
6 MR. O'NEILL: Objection, Your Honor.
7 THE COURT: I'll sustain the objection the way
8 if s asked. It's speculation.
9 BY MR. WEHNER ••

10 Q Did you discuss the Mod Rehab units in Jacksonville
11 with him when you met with him on January 29, 1987?
12 MR. O'NEILL: Objection again, Your Honor.
13 THE COURT: What's that? I missed it.
14 MR. WEHNER: I said did you.
15 MR. O'NEILL: He has stated several times if
16 the notes --
17 THE COURT: All right I'll let him ask it
18 again.
19 A Now, I'm sorry.
20 Q Did you discuss with Tom Demery on January 29, 1987
2 the Mod Rehab units to Florida that were ultimately
2 funded on April 7, 1987?
2 A I do not know.
2 Q Did you - do you recall that you called Mr. Demery
2 on January 27th of 1987?

1500

1 A No, sir, I don't.
2 Q I'll show you Dean exhibit 151 again and ask you if
3 that refreshes your recollection that you in fact called
4 Mr. Demery on January 27, 1987?
5 A Why would this document make me remember that?
6 Q Because you asked to see Mr. Demery's phone logs
7 and that's what I'm showing you.
8 A well, but that says, "Mr. Kitchen would like to
9 visit with you." I'm not supposed to read that.

10 Q Do you recall a telephone call from Mr. -
11 A It could have been my secretary. It could have
12 been somebody who worked for me. Obviously somebody
13 called him and said I would like to meet with him. I'm
14 not trying to evade you. I probably did, but I don't
15 remember.
16 Q Okay, but I'm trying to get your best recollection
17 that you recall having a meeting arranged with Tom
18 Demery on January 29, 1987, correct?
19 A Not seeing that, I would have no idea. Looking at
20 that, it appears that I did.
21 Q Very good. Okay. Now, January 27, 1987 is the

22 date that meeting was arranged, according to this, isn't
23 that right?
24 A Yes, sir.
25 Q Okay. Now, do you recall the date upon which

1501

1 application was made to the Housing Authority for those
2 units?
3 A Made to the Housing Authority?
4 Q Yes.
5 A By -
6 Q By the developer.
7 A No.
8 Q Do you recall that it was January 27, 1987, the
9 exact same day your office called for an appointment
10 with Mr. Demery?
11 A No, but I can certainly speculate from that if
12 that's the date they made application I certainly would
13 have been talking about those units to him because that
14 would have had to have been a week or so before.
15 Q Before the application went to the Housing
16 Authority?
17 A Well, the process of that is, or was, that the
18 housing units were, I think, delivered in this instance
19 to Atlanta and Atlanta then delivers them, I think, to
20 Jacksonville and then Jacksonville delivers them to the
2 Housing Authority.
2 Q But it's true, is it not, that the application has
2 to be made to the local Housing Authority before any of
2 that can happen, isn't that right?
2 A What?

1502

1 Q Isn't it true that the application has to go to the
2 local Housing Authority first before -3
THE COURT: I think he's talking about the
4 developer's application to get units has to be filed
5 with the local housing authority.
6 THE WITNESS: Yeah, but not first. That's
7 what I don't understand. I don't understand what you're
8 saying has to be filed first to cause what.
9 BY MR. WERNER:
10 Q Before units can be sent from HUD Central anywhere
11 for Mod Rehab, isn't it true that there has to be an
12 application with the local Public Housing Authority?
13 A No, sir.
14 Q You don't believe that that's the case.
15 A I don't believe that's the case. I believe the
16 local Housing Authorities can make application for units
17 anytime they want to. The allocations don't come but
18 every so often. But I don't believe that the Housing
19 Authority has to have an application from a developer in
20 order to make an application. I could be wrong, but
2 that's what I believe.
2 Q Is it your understanding that a local Housing
2 Authority has to have applications on file before funds
2 would be awarded to them for Mod Rehab units?
2 A No, it's my understanding they have to show a need.

1503

1 Q And this is before any applications are made to the
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2 local Public Housing Authorities?
3 A I believe that is correct. Actually I believe that
4 when an allocation comes to a Public Housing Authority I
5 believe the regulations call for that Housing Authority
6 to advertise that availability of units in the newspaper
7 for some period of time and during that period of time
8 applications can be received.
9 Q Have you ever heard of a pipeline?
10 A Several times.
11 Q Okay. Do you know what a pipeline is with regard
12 to the Metro-Dade Public Housing Authority?
13 A I can guess what you're talking about.
14 Q No, no, isn't it true that the Metro-Dade Public
15 Housing Authority, according to testimony that the jury
16 has already heard -17
MR. O'NEILL: Objection, Your Honor.
18 THE COURT: All right, I'll sustain it the way
19 the question is asked.
20 BY MR. WEHNER:
2 Q Isn't it true that the Metro-Dade Public Housing
2 Authority had a pipeline or a number or a group of
2 developer applications on file?
2 A If they did I'm not aware of it.
2 Q You're not aware of it.

1504

1 A No, sir.

2 Q would you recognize Chris Oliver's handwriting if
3 you saw it?

4 A I don't think so, sir.

5 Q what about Tom Demery's handwriting, would you
6 recognize his?

7 A No, sir.

8 Q I'm going to show you what I've marked for

9 identification as Dean Exhibit number 147, and I ask you
10 to look at the handwriting in the upper righthand corner
11 of that and ask you if that's your handwriting?

12 A That? That part?

13 Q Any of the writing in the upper righthand corner.

14 A I don't believe it is, no, sir.

15 Q And you wouldn't recognize it if it was

16 Mr. Demery's handwriting?

17 A I would or would not?

18 Q You wouldn't recognize it.

19 A No, no.

20 Q Or Chris Oliver's handwriting, would you?

2 A No.

allbinders as word for experiment.txt

2 Q Finally, Mr. Kitchin, I'm going to direct your
2 attention to the time period of October 27 and October
2 29 of 1986. And I know as you sit here today you don't
2 have any specific recollection of where you were and

1505

1 what you were doing on those two dates. But I'm going

2 to show you what's been marked for identification as

3 Dean Exhibit 153.

4 THE DEPUTY CLERK: Dean Exhibit 153 marked for

5 identification.

6 (Defendant's Exhibit 153

7 marked for Identification)

8 BY MR. WEHNER:

9 Q Which are a series of phone toll records for that
10 period of time from your office. And I ask you to
11 review those and tell the jury if you were in Atlanta
12 during that time period or were you in Washington during
13 that time period?

14 A You know, I'm sure this thing says that it's from
15 my office. I don't see that, but -- I really can't read
16 it.

17 Q Let me help you. Do you see the dates October
18 27th, October 28th, 29th?

19 A Yes.

20 Q Do you see the telephone calls Washington,
2 Washington, Washington, Charlotte, New York, Ashville,

2 Charlotte, Macon, Charleston?

2 A Yes.

2 Q And the numbers called?

2 A Yes.

1506

1 Q Now -2

A Does that say somewhere that I don't see, that it
3 was from my office? 233 -4

Q Here it is, 5162.

5 A I of course no longer have that number and I assume
6 that that's my number but I -- or was then. I don't -7

Q Does that refresh your recollection or does that
8 let you know where you were on those dates?
9 A No, sir, I probably was in my office in Atlanta.
10 Jack Jennings called all of these places as often as I
11 did. It does not tell me what -I'm
not going to argue
12 whether I was in Atlanta or not.
13 Q Your best recollection is that you would have been
14 in Atlanta at that time?
15 A I don't have a recollection one way or the other.
16 I traveled a great deal then.
17 MR. WEHNER: May I have a second, Your Honor?
18 THE COURT: All right.
19 MR. WEHNER: No further questions, Your Honor.
20 THE COURT: All right. Thank you.
2 THE COURT: Redirect?
2 MR. O'NEILL: Yes.
2 MR. O'NEILL:
2 REDIRECT EXAMINATION
2 BY MR. O'NEILL:

1507

1 Q Mr. Kitchin, on cross-examination Mr. Wehner asked
2 you about several dealings you may have had with Miss
3 Dean. Did you socialize with Miss Dean?
4 A Yes.
5 Q And how often?
6 A When I was in Washington and, you know, I don't
7 know how to answer how often.
8 Q In excess of one time?
9 A Yes.
10 Q When you would go out to dinner would there be
11 other people there as well? Would there be more than a
12 few? How would you describe these occasions?
13 A There was usually a group of people.
14 Q Do you remember any of the other people?
15 A Linda Murphy and her husband, from time to time. I
16 don't specifically remember. Some people from HUD.
17 Q Now, you were asked about Linda Murphy on
18 cross-examination. This is the first time her name has
19 come up. Who is Linda Murphy?
20 A Linda Murphy is a lawyer here, was a lawyer, I
2 guess still is, a lawyer here in Washington who had, I
2 guess in a previous administration, had worked at HUD.
2 Q And what if anything was her relationship with
2 Deborah Dean?
2 A They seemed to be friends.

1508

1 Q Now, Mr. Wehner asked you about a number of
2 questions about your relationship with Miss Christine
3 Oliver. What was her position at HUD?
4 A I don't know her title. I assume it was Special
5 Assistant to Tom Demery.
6 Q When did your relationship with Miss Oliver begin?
7 A He knows the dates better than I do. I don't know
8 when.
9 Q You mentioned during cross-examination about the
10 Republican National Convention.
11 A Yes, that was the summer of '88.

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12 Q Did you have a relationship with her before that?

13 A I knew her before then and I had worked with her at
14 HUD before then.

15 Q And how long did you know her before the summer of
16 '88?

17 A I -- I would say that I met her within a month's
18 time or two months' time of whenever Tom Demery was --
19 became the Housing Commissioner.

20 Q Now, you stated during cross-examination when asked
2 about trying to get units to the local PHA's, as a
2 consultant,, did you work with the local PHA's?

2 A No, sir.

2 Q You were asked a number of questions about a
2 meeting with the defendant Deborah Gore Dean over drinks

1 at the Four Seasons Hotel. Do you recall that, those

2 questions?

3 A Yes, sir.

4 Q Do you recall when that would have been?

5 A November, December of '87, I guess.

6 Q Let me show you a document that's previously been

7 marked as Government's Exhibit 7H for identification.

8 MR. WEHNER: Your Honor, could we approach

9 briefly?

10 THE COURT: All right.

11 (Bench conference)

12 MR. WEHNER: That is a portion of Miss Dean's
13 calendar dated June 26, 1986. I understand that

14 Mr. O'Neill is going to use it to refresh his
15 recollection as to a meeting at the Four Seasons with
16 Mr. Kitchin which is in fact an entry found on the day
17 of June 26, 1987. I object to the use of this to
18 refresh the witness' recollection, based upon the
19 previous argument that using Miss Dean's calendar
20 violates Miss Dean's Fifth Amendment privilege against
2 self-incrimination.

2 THE COURT: what's your response to that?

2 MR. O'NEILL: I quite frankly do not see any
2 legal basis under the law for ever using anything to
2 refresh someone's recollection.

1510

1 THE COURT: You could use notes of an illegal
2 search that's been suppressed?
3 MR. O'NEILL: I believe you can. You can use
4 a confession for a variety of different reasons. You
5 just can't bring it out on your direct case. Judge, if
6 you have qualms, I'll withdraw it.
7 THE COURT: See if it refreshes his
8 recollection and not read it to him.
9 MR. O'NEILL: I'm going to tell him again to
10 read it to himself.
11 THE COURT: whether that was December, '87
12 that he just talked about or whether it was another
13 time. I don't know.
14 MR. WEHNER: Just for the record, I'm not sure
15 that you can use evidence gathered in violation of the
16 Fifth Amendment in a criminal trial as opposed to Fourth
17 because the violation of the Fifth Amendment goes
18 directly to the defendant and I think Mr. O'Neill may be
19 incorrect correct, and I would bring it to the Court's
20 attention. It's going to be a neat issue upstairs if we
2 ever get that far.
2 THE COURT: I'll overrule the objection.
2 (Bench conference concluded)
2 THE DEPUTY CLERK: Government's Exhibit 7H
2 marked for identification.

1511

1 (Government's Exhibit 7H
2 marked for Identification)
3 BY MR. O'NEILL:
4 Q Now, Mr. Kitchin, did you have more than one
5 meeting at the Four Seasons with Deborah Dean?
6 A I don't think so.
7 Q I'm going to show you Government's Exhibit 7H for
8 identification and since it is not in evidence, do not
9 read it, and I just ask you to look at it.
10 A Okay.
11 Q Does that document refresh your recollection as to
12 when you met with Miss Dean?
13 A I knew I had a meeting with her there, and this
14 document tells me that's the day it was.
15 Q And when was that?
16 A Oh -I
can't read that document.
17 Q It's not whether you can read it, sir, the question
18 is does it refresh your recollection as to -19
A Yes, I did have a meeting on that day. I just
20 cannot read the year, I'm sorry.
2 Q Now, do you know when Miss Wiseman left HUD?
2 A I - do I recall the date?
2 Q Yes.
2 A No, sir.
2 Q Or the approximate time period?

1512

1 A It would have been in '87, I would imagine.
2 Q Do you even know whether Miss Wiseman was at HUD
3 when you had this meeting with Deborah Dean at the Four
4 Seasons Hotel?
5 A I do not know.
6 Q Now, it was mentioned on cross-examination that you

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7 might have discussed the Mod Rehab program with several
8 individuals, including Hunter Cushing. Who was
9 Hunter Cushing?

10 A Hunter was an employee there. He worked in the
11 Multi-Family Section. I cannot recall his title.
12 Q In these -- on these occasions that you socialized
13 with the defendant Deborah Gore Dean was Hunter Cushing
14 at any of these dinners?
15 A I can recall being in a group that he was in, yes.
16 I don't remember where I was or anything, but I can
17 remember being with him.
18 Q Now, Mr. Kitchin, why did you loan the \$4000 to
19 Deborah Gore Dean on April 7, 1987?
20 A As I stated, you know, to the best I can remember,
2 it was in a period of time that she was going through
2 these hearings, senate confirmation hearings, and she
2 expressed to me the need for some funds. That's the
2 best I can say.
2 Q Did she say why she needed the funds?

1513

1 A I believe it was just to pay back bills or
2 something of that nature.
3 Q And did she state what bills?
4 A Not to me.
5 Q Let me show you a document that is not marked in
6 evidence. Does that refresh your recollection as to why
7 she requested \$4000?
8 A Well, like I said, she had some bills she wanted to
9 get out of the way and I think it was a tough time for
10 her.
11 Q And does that refresh your recollection as to what
12 type of bills?
13 A I only notice it says credit card bills.
14 MR. O'NEILL: I have no further questions.
15 THE COURT: All right.
16 MR. WEHNER: Very brief recross, Your Honor?
17 THE COURT: In those areas that were just went
18 into.
19 MR. WEHNER: Yes, sir.
20 THE COURT: All right.
2 RECROSS EXAMINATION
2 BY MR. WEHNER:
2 Q With regard to Hunter Cushing, do you remember
2 driving with Miss Dean and Hunter Cushing to pick up an
2 automobile in early 1987?

1514

1 A Yeah. I remember driving to pick up an
2 automobile. I don't know when it was.
3 Q And during that time do you remember any
4 conversation about something called Designing Women or
5 DW?
6 A No, sir.
7 Q Did you have a recollection of later that night
8 Miss Dean driving with you alone later that evening?
9 A I've been in a car with Miss Dean alone when she
10 was driving. I don't know whether it was that evening
11 or not.

12 Q On that evening do you recall that she wrote you a
13 check to repay you for the loan?
14 A No, sir.
15 Q You have no recollection of that whatsoever?
16 A None.
17 MR. WEHNER: I'm finished, Your Honor.
18 THE COURT: Mr. Kitchin, you can step down.
19 MR. O'NEILL: Excuse me, Your Honor.
20 FURTHER REDIRECT EXAMINATION
2 BY MR. O'NEILL:
2 Q whose automobile was that you were going to get?
2 A It was Miss Dean's.
2 Q what type of car was it?
2 A I think it was a Volvo or a Sterling or -

1515

1 Q Was it new or used?
2 A I don't know.
3 MR. O'NEILL: No further questions.
4 THE COURT: Thank you, Mr. Kitchin, you're
5 free to go, sir
6 THE WITNESS: Thank you
7 THE COURT: All right, ladies and gentlemen,
8 we'll take a luncheon recess.
9 I've got a matter at 1:15 here in Court in
10 another case so I would say to come back about 1:35.
11 That would give me about 15 minutes or so. So I'll see
12 you at 1:35. Remember the admonitions over lunch about
13 not talking with anyone or among yourselves during
14 lunch. It's a good day. why don't you go outside?
15 (Jury dismissed)
16 THE COURT: All right, 1:35, please.
17 (Lunch recess, 12:10 p.m. to 1:35 p.m.)
18
19
20
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AFTERNOON SESSION

2 (1:50 p.m.)
3 (Defendant present, Jury out.)
4 THE COURT: All right, bring the jury in.
5 who's your next witness, please?
6 MS. SWEENEY: Jack Jennings.
7 THE COURT: All right, thank you.
8 (Jury in.)
9 THE COURT: All right, Ladies and Gentlemen, we're
10 ready to go for the afternoon session.
11 The government will call their next witness, please,
12 MS. SWEENEY: The United States calls Jack Jennings.
13 JACK JENNINGS, GOVERNMENT'S WITNESS, SWORN
14 DIRECT EXAMINATION
15 BY MS. SWEENEY:
16 Q. I'm going to ask you a number of questions, Mr. Jennings,
17 and I'd ask that you keep your voice up so the members of the
18 jury can hear.
19 A. Okay.
20 Q. would you kindly state your name for the record, spelling

21 your last name for the court reporter?

22 A. Okay. My name is Jack Jennings, and the last name is

23 J-e-n-n-i-n-g-s.

24 Q. Are you presently employed, Mr. Jennings?

25 A. Yes, I am.

1517

1 Q. And how are you employed?

2 A. I'm an attorney. I practice law on my own. I'm self-

3 employed.

4 Q. What type of practice do you engage in?

5 A. I do some civil work and some criminal defense work.

6 Q. Could you briefly describe your educational background for

7 the members of the jury?

8 A. Okay. I graduated from the University of Virginia in 1980

9 with a B.A. in English, and then I graduated from Mercer Law

10 School in 1983. Mercer is in Macon, Georgia.

11 Q. Is your practice at this time in Atlanta, Mr. Jennings?

12 A. Yes. I live and practice in Atlanta, yes.

13 Q. Do you know an individual named Lou Kitchin?

14 A. Yes, I do.

15 Q. And when did you meet Mr. Kitchin?

16 A. I met Lou Kitchin in 1984. I worked on the Reagan-Bush

17 campaign in Georgia in '84 and met him during that.

18 Q. You say that you were working on the campaign. Was

19 Mr. Kitchin a supervisor of yours at that time?

20 A. Yes, he was. I worked on the state level, just in the State

2 of Georgia, and Lou was the regional political director at the

2 time for the South, and so Lou was one of my, he was a supervisor

2 of mine. He was several levels above me, but that's what he did,

2 and that's how I met him was during that campaign.

2 Q. Did there come a time later on when you and he discussed

1518

1 your going to work for him?

2 A. Yes. When the campaign was over at the end of '84, I was a

3 full-time employee of the Reagan-Bush campaign, and I was looking

4 for work, and he knew that, and he was trying to help me find

5 things, and then later on, I guess it would have been, it would

6 have been at the beginning of '86, around the beginning of 1986,

7 he contacted me and discussed my coming to work with him, and we

8 talked for about half a year about it. I was still living in

9 Macon, Georgia, at the time. He was in Atlanta. And then he

10 offered me a job, and I went to work for him in September of '86.

11 Q. What was your understanding of what your role would be when

12 you joined him in September of '86?

13 A. Okay. He, Lou had, Mr. Kitchin had at the time a company

14 called Lou Kitchin Consultants, Inc., that was in Atlanta, and it

15 was a small company. It was basically Lou and some support

16 staff, and then he hired me.

17 And it was a governmental relations consulting firm.

18 The company represented clients. They could either be

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19 individuals or partnerships, companies. Sometimes they were
20 public entities, like cities.
21 And the company represented them in their dealings with
22 the federal government. Most of the work that the company did
23 was with HUD.
24 Q. Do you know the defendant, Deborah Gore Dean?
25 A. Yes, I do.

1519

1 Q. How did you meet her?
2 A. I met her through working with Lou.
3 Q. Do you recall when it was that you met her?
4 A. The first time I met her was in December of '86. I don't
5 remember exactly when. I mean, I don't remember the date, but it
6 was at Christmastime of '86.
7 Q. Do you recall what her job was at that particular time?
8 A. She was the, I think, the executive assistant to Mr., to Sam
9 Pierce, to the secretary of HUD.

10 Q. Did there come a time when Lou Kitchin discussed with you
11 transferring some money to the defendant?
12 A. Yes. Yes, there did.
13 Q. And do you recall when that was?
14 A. I'm not exactly sure of when it was. I think, I think it
15 was in '87, but I'm not positive of the exact month. It was
16 during, I remember it was during professional basketball season.
17 Q. Are you a sports fan, Mr. Jennings?
18 A. Yes.
19 Q. Is Mr. Kitchin a sports fan?
20 A. Yes. Lou and I are both sports fans, or at least he was at
2 the time. And I remember, because Lou and I had been talking

2 about Hawks basketball.
2 Q. Was anyone else present?
2 A. No. what happens was it was a small office, and it was
2 about six or seven in the evening, and everybody had gone home

1520

1 except for Lou and I, and Lou came in my office, said he wanted
2 to talk to me, so I went in his office. That was not uncommon.
3 Usually we were the last two there, and we would talk.
4 And we were talking about Hawks basketball. I can't
5 remember exactly what we were saying, but we were having sort of
6 an in-depth discussion about Hawks basketball, and then he almost
7 in mid-sentence stopped talking and said that, that he was
8 thinking about --he said that Debbie had bought some furniture,
9 that Debbie Dean had bought some furniture and that he was
10 thinking about giving her some money for the furniture. I think
11 it was around \$4,000 he was talking about, but I can't remember.
12 Q. Do you recall whose furniture it was?
13 A. Well, what he told me, as I recall, was that Debbie had
14 bought some furniture, and I don't know, I either don't recall or
15 he didn't tell me whether she had, you know, paid cash for it or
16 charged it or whatever, but what he said was that she had
17 purchased some furniture and that she needed around \$4,000, as
18 best I can recall, and that he was thinking about giving her the
19 money.
20 And he asked --he was telling me about it, and he was
21 asking me about it, what did I think.

22 Q. And what was your response?

23 A. Well, at first, to be honest with you, like I say, because
24 we were talking about basketball and all of a sudden, boom, he
25 switches and starts talking about this, I thought it was some

1521

1 kind of joke. I just thought it was some sort of joke. I didn't
2 know what was going on.
3 But then he kept talking about it, so I realized he was
4 serious, that, you know, something was going on about some
5 furniture and whatever, and I told him that I didn't think it was
6 a good idea, and he said, "well, why not?"
7 And I said, "well," I said, "Lou, I don't know if
8 there's any kind of law against that, but I just," I said, "you
9 know, this is a consulting firm. You're a consultant. You do
10 business with Debbie. She's very high up in HUD, and it just to
11 me doesn't look right that you're giving her money."
12 And he said, "well, I'm not giving her money. All I
13 would be doing is lending her the money for this furniture."
14 And I said, "Lou, it's my understanding that Debbie is
15 from a wealthy family. Why can't she get the money herself from
16 some other source?"
17 And I can't remember exactly, he said that, I don't
18 know, that she was in a financial bind or something and that she
19 had mentioned needing \$4,000 for some furniture and he was
20 thinking about giving her, lending her the money.
21 And it concerned me, and I told him it concerned me,
22 that it just appeared inappropriate to me to be doing that.
23 Q. Do you recall if the defendant was working at HUD at the
24 time that you had this conversation with Mr. Kitchin?
25 A. I can't remember exactly when he told me about this. I

1522

1 can't remember exactly when he told me, but yes, she was at HUD
2 when -- she was at HUD when all this was going on.
3 Q. Do you recall anything else about this conversation?
4 A. Well, again, I just remember that, like I say, at first I
5 thought it was some sort of bizarre joke, because it happened so
6 quickly. I mean, he just in mid-sentence starts talking about
7 it.
8 Then when I realized he was serious about it, I was
9 very concerned, because it just did not -- again, I didn't know
10 whether it was a violation of anything, but I explained to Lou
11 that in Georgia, there's a code of ethics for attorneys, and
12 attorneys, one thing they're not supposed to do is even if
13 something is legal, if it gives the appearance of impropriety,
14 they're not supposed to do that, and I sort of used that as an
15 analogy for Lou.
16 I said, "Lou, I think you're crazy to even be
17 discussing this, because it just does not look good, and I don't
18 think you should be doing it." And then I did ask him, I said,
19 "Lou, if you're going to do this, how are you going to do it?"
20 Because he, he kept saying there's nothing wrong with it. And I
21 said, "Lou, I just think it's a mistake."
22 And he said that what he would do is he would write her
23 a check.
24 And then at some point -- and I don't remember if it
25 was during that conversation or if it was later on -- he told me

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1 that, in fact, he had written her a check, and I don't know the
2 exact amount; I think it was -I

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really just don't remember the
3 exact amount. I think it was \$4,000.
4 And he said that he'd written on the part where he put
5 what the check is for, he said that he put "loan" on there.
6 Q. Did Mr. Kitchin discuss with you any terms of the so-called
7 loan?
8 A. No, and --no. I asked him, I said, you know, "Lou, is she
9 really going to pay you back?"
10 And he said, "well, I put on the check 'loan.1 If she
11 pays me back, she pays me back. If she doesn't, she doesn't."
12 Q. Did you have any subsequent conversations with Mr. Kitchin
13 about this transfer?
14 A. Yes, I did, and again, I cannot remember -- like I say, the
15 night that he and I were talking about basketball and all of a
16 sudden he switches and starts talking about Debbie and furniture
17 and the money, after, after that conversation, he told me that,
18 in fact, he had written her the check, and I can't remember if it
19 was that same evening or if it was shortly thereafter, but at
20 some point after that conversation, he did say that yes, he had,
2 in fact, written her the check.
2 And then at some point after that, he said that he had
2 gotten the check back from the bank, that it had come back in his
2 statement, and that he had either destroyed the check or hidden
2 it.

1524

1 Because I said, "Lou, you know," I said, "this is
2 stupid that you've done this," and -- because I remember he said
3 he made the check out to Debbie. I asked him, "who did you make
4 the check out to?"
5 And he said, "I made it out to Debbie Dean."
6 I said, "Lou, you know, when you write a check, the
7 bank -- just because you tear up or hide the actual check you've
8 written, the bank keeps a copy of that somewhere."
9 Q. I'm going to change subjects to the Mod Rehab Program, and
10 the jury is somewhat familiar with that program.

11 A. Okay.
12 Q. During the time when the defendant was executive assistant
13 to Secretary Pierce, were you aware of Mr. Kitchin's work on mod
14 rehab projects?
15 A. Yes.
16 Q. And did he discuss funding rounds with you?
17 A. Yes, he did.
18 Q. Do you recall what he said to you?
19 A. Lou Kitchin Consultants, we, the company, we had clients,
20 developers that were interested in mod rehab units, and the
2 company would look at these projects and analyze whether they

2 were appropriate form or whatever, and Lou would talk with Debbie
2 to try to get mod rehab units, and on several occasions, he told
2 me that he was able through talking to her to get the mod rehab
2 units, and he showed me on a couple instances, I guess they were

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1 either what you'd call a 185 or a 185.1, I can't remember, it's a
2 written document from HUD that states where the money for mod
3 rehabs is going --
4 Q. Did Mr. Kitchin tell you where he had gotten the 185s or the
5 185.1s, the document you just referred to?
6 A. He'd gotten them from Debbie somehow.
7 Q. Do you recall which projects these particular funding
8 documents related to?
9 A. There was a project in Atlanta -- and I can't think of the

10 name of the project. There was a developer named Nick Bazan, it
11 was a project in Atlanta, I can't remember the names of the
12 apartments, and then there was one, there was a guy, Claude Dorsy
13 and Jim Mitchell, and they were working on some projects in
14 Florida. They were in Miami and Jacksonville, I think, and I
15 can't remember the names of the projects, but --
16 Q. Did Mr. Kitchin ever talk to you about looking at apartments
17 to buy or rent in the Washington, D.C. area?
18 A. Yes, he did.
19 Q. Do you recall when, when it was that he spoke to you about
20 apartments?
2 A. I really can't remember, no. He -- no.
2 Q. Do you recall what he said to you?
2 A. Yes. I don't remember when this was. I worked for Lou from
2 September of '86 until about the end of '89, so it would have
2 been somewhere in that time period.

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1 I don't remember the details, but there was either a
2 condo or an apartment. I don't think it was a house; I think it
3 was either a condo or an apartment, and either Debbie owned it or
4 somebody in Debbie's family owned it, and they wanted to, to
5 lease it out, and so he mentioned to me on several different
6 occasions that he was thinking about leasing it, and I didn't
7 think it was a good idea, but yeah, he mentioned it to me.
8 Q. Why was it that you thought it was not a good idea?
9 A. There were a couple reasons. One was just kind of from a,
10 from a business standpoint. The company was not doing that well,
11 and I just thought it was too much money. I can't remember how
12 much he was talking about, but it was a, you know, fair amount of
13 money, and I just thought it was too much money for the company
14 to be spending renting an apartment or a condo, whatever it was.
15 And then also, I just felt like that Lou or I or nobody
16 from the company went up enough to Washington to justify having
17 an apartment or a condo up there.
18 Q. Did there come a point in time when you learned that the
19 defendant was seeking a HUD job other than the executive
20 assistant slot?
2 A. Yes. I knew Debbie was, she was trying to become the
2 assistant secretary, I guess, for CPD, for Community Planning and
2 Development.
2 Q. Did Mr. Kitchin ever discuss with you whether he supported
2 her efforts to become assistant secretary for CPD?

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1 A. Yes. He told me that, what he said was that actually she,
2 that Debbie would be of more help to us where she was as
3 executive assistant, but that being the assistant secretary was
4 something that she really wanted and that therefore he was going
5 to help her get that.

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6 Q. Did he tell you what type of help he was going to give her?

7 A. I know he -- I can't really remember who he called or wrote,
8 but I know he made some phone calls on her behalf and sent some
9 letters and maybe some fax's, and he -- I'm not exactly sure who
10 he contacted. I know he knew the people at the White House very
11 well, and so I'm assuming those were some of the people he spoke
12 with.

13 Q. Do you have any idea of when in time this would have been,
14 Mr. Jennings?

15 A. I started work in September of '86, and I think it was in
16 '87 when she was trying to get that job, like in the middle of
17 '87 when she was trying to get the job, I think.

18 Q. While you were working for Mr. Kitchin, did you or he do any
19 work on projects that were under the jurisdiction of the
20 Community Planning and Development?

21 A. Yes.

22 Q. What type of work would that have been?

23 A. We did some -- we were not successful, but we did some UDAG
24 work, that's Urban Development Action Grant, which comes under
25 CPD, and then there's a program, it's a Section 106(b), which I

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1 think is a loan guarantee program, I can't remember, that was
2 under CPD. And then some of the technical assistance grants were
3 under that. And HUD has got, they've got just a ton of different
4 programs. They've got a whole bunch of them.

5 And Lou and my's involvement was just with a relatively
6 small number of these programs, and the UDAG grant interested me
7 just in the way it was set up, and I discussed it with Lou, and
8 he said, "Yeah, you know, we ought to try to go do some UDAGs,
9 because that might be something that we could find some
10 developers and get some business from," and he said, "Especially
11 since Debbie wants to be the assistant secretary of CPD, that
12 would be nice for us to be doing some projects that are under
13 her, you know, her new umbrella of authority will be."

14 Q. Did there come a time when you left Lou Kitchin Consultants,
15 Inc.?

16 A. Yes, I left -
yes.

17 Q. And when, when was that?

18 A. Well, my last paycheck was the end of '89. I don't remember
19 whether it was November or December. It was the end of '89. Lou
20 was having some financial problems and wasn't able to pay me, and
21 I actually, so I guess technically I stopped working there at the
22 end of '89, and I actually stayed on and used his office space -
23 he had signed a long-term lease -

until, I think it was March of
24 '90. So I was still there in his office for a while, but I quit
25 working at the end of '89.

1529

1 MS. SWEENEY: Okay. No further questions, Your Honor,

2 THE COURT: All right. Are you ready for cross?

3 CROSS EXAMINATION

BY MR. WEHNER:

5 Q. Sir, do you know an individual by the name of Christine
6 Oliver?

A. Yes.

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8 Q. Have you met her?

9 A. Yes. I met her maybe only once, but I've met her.

10 Q. Are you aware that, that Mr. Kitchin had a romantic relationship with Ms. Oliver?

12 A. Yes, he did mention that to me, and I sort of thought that.

13 Q. Okay. And are you aware as to when that romantic interest began, romantic situation began?

15 A. I can't tell you the exact date. I know that after Debbie -- Debbie wanted to be the assistant secretary of CPD, and I can't remember the exact chronology, but that got messed up, and so she ended up leaving the executive assistant --or whatever her slot was. Chris -- and Lou started working then with Chris Oliver and Tom Demery on mod rehab units in particular, and it's my recollection, best I can recollect was Lou and Chris were buddies after Debbie kind of was out of the picture, so to speak.

24 Q. So your recollection from '88 to '89 at least is that Lou Kitchin dealt with Chris Oliver and Tom Demery with regard to mod

1530

1 rehab; is that correct?

2 A. I can't say now '88 and '89. I can't remember the exact time period, but whenever --

4 Q. Best recollection.

5 A. After Debbie was not able to be any help with mod rehabs, then Lou started dealing with Chris Oliver and Tom Demery. I apologize, I just can't remember exactly when that was.

8 Q. Do you recall how early or late in September you went to work for Mr. Kitchin in 1986?

10 A. At the very beginning of September.

11 Q. Okay.

12 A. It was September 2. I remember, because my mother's birthday was September 1.

14 Q. Okay. And do you recall that the Atlanta Mod Rehab Program was funded shortly thereafter?

16 A. Yes.

17 Q. That would have been on or about September 12, 1986? Do you have any recollection of that?

19 A. I can't remember the exact date, no.

20 Q. Okay. Do you recall that Mr. Kitchin had various habits in terms of talking on the telephone with various individuals, that on some occasions he would shut his door and other occasions he would leave it open?

24 A. Yes.

25 Q. And do you recall whether he kept the door open or shut when

1531

1 he was talking to Ms. Dean?

2 A. A lot of times, he would have it shut. Now sometimes I'd be in there with him, but a lot of times, he would have it shut.

4 Q. When you were in there with him, did you listen into the conversation?

6 A. Yeah, because he would have me in there so I could listen to the conversation. Yes.

8 Q. Did you listen in on the conversations that he had with Chris Oliver?

10 A. On some. Again, kind of the same thing. On some of them,
11 he would call me in there, and I'd be in there, and then on
12 others, you know, I wouldn't hear.
13 Q. Okay. You, I believe, have talked to the Independent
14 Counsel or agents of the Independent Counsel several times -15
A. Right.
16 Q. -- over the past few years?
17 A. Yes, that's correct.
18 Q. Do you recall telling them that Mr. Kitchin dealt
19 differently with Mr. Demery on the telephone than he did with
20 others?
2 A. I don't recall having told them that, but I may have told
2 them that, because he was a man. I mean, he is a man, Tom Demery
2 is.
2 Q. So he dealt differently with men than he did with women?
2 A. Well, he would talk on the phone, Lou would, when he was

1532

1 talking to Debbie and to Chris, it was different from how when he
2 would talk to Tom Demery.
3 Q. Okay. How was it different?
4 A. He was friendlier with Debbie than he was with -- I mean,
5 more --he was friendlier with her than he was --
6 Q. Flirtatious?
7 A. Yeah, in some respects. He, obviously, was not flirtatious
8 with Tom Demery.
9 Q. At the time he was flirtatious with Ms. Dean, was he also
10 being flirtatious with Ms. Oliver, or do you not connect those
11 two in your, in your own mind?
12 A. Wait a minute, I'm sorry. I don't remember.
13 Q. I'm just trying to get some chronology here as to when he
14 was being flirtatious with Ms. Dean and when he was being
15 flirtatious with Ms. Oliver.
16 A. Again, you know, I just can't remember, but as I recall, the
17 whole reason that Chris Oliver comes onto the picture with Lou is
18 because Debbie Dean is not the executive assistant and is not
19 able to help out, is not able to help Lou out, and I can't tell,
20 I just can't remember, you know, exactly when that is. But the
21 thing with Chris is after with, with Debbie Dean.
22 Q. Okay. Do you recall Mr. Kitchin telling you what Ms. Dean
23 would do to help him out?
24 A. What he said is that she would try to get us the units, the
25 units sent to the different cities where we had the developers.

1533

1 Q. Did you know about Mr. Kitchin's prior history when he made
2 those statements to you?
3 A. His prior history?
4 Q. Exactly. With regard to statements that he'd made regarding
5 his ability to get favors done from politicians.
6 A. I'm not following. I'm sorry, I'm not --
7 Q. Was Mr. Kitchin pretty bragging -- did he brag about how he
8 could get favors done by politicians?
9 A. Okay. He did at times, but since I worked for Lou, there
10 were times when maybe when he was talking to a developer, when he
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11 might puff stuff, but when --

12 Q. What did he puff? Give an example of what he would say to a
13 developer that was puffing.

14 A. Well, he would tell developers about how he'd, you know,
15 been in a lot of meetings with the President and that kind of
16 thing.

17 Q. What specifically dealing with HUD?

18 A. I don't know that he --

19 Q. I mean, he was selling his services, wasn't he?

20 A. Right.

21 Q. Okay. And he was puffing in the sense that he was bragging
22 about his Washington contacts; isn't that right?

23 A. Well, but not really with HUD. I mean, he would brag about
24 the political contacts, like, with the politicians, but the HUD
25 stuff, I don't, I never really saw him brag about the HUD stuff.

1534

1 I mean he, what he felt like was mod rehabs, for
2 example, he felt like he could get around 200 mod rehabs a year,
3 and I recall there were instances when he had already promised
4 200 mod rehab units or around that many to a certain developer or
5 developers, and then somebody else would make an inquiry, and he
6 would not deal with it, because he knew that he could not fulfill
that.

8 Q. Okay. You're referring to your conversations about when a
9 developer offered to pay you to get mod rehab units and you then
10 went to Mr. Kitchin and he said he couldn't do it? Is that what
11 you're referring to?

12 A. There was a -

yeah. There was -- and I don't remember who
13 the developer was. There was a developer that Lou got me to meet
14 with, and the guy wanted mod rehabs. No, he didn't say he'd pay
15 me. He said, "I'll, you know, pay you all for the mod rehab
16 units."

17 And I said, "Lou, this guy wants mod rehab units."

18 And Lou said, "well, I wish we could help him, but we
19 can't, because we're already working on --" I don't remember
20 whose project that we were working on. It may have been Claude
2 Dorsy's. I can't remember that.

2 Q. Do you remember the approximate time that that conversation
2 took place in relationship to when you went to work for
2 Mr. Kitchin?

2 A. It was early on. I want to say, like, it would have been,

1535

1 like, in '87, but I can't, I can't swear to you, but I want to
2 say it would have been early on.

3 Q. Okay. Early on in '87, and this was at the same time
4 that --

5 A. No, I'm sorry, I didn't mean to interrupt you, but --

6 Q. It's okay.

7 A. -- I don't know if it was -- what I'm saying is '87, I mean,
8 early on when I was working for Lou, not necessarily early in the
9 year of '87. I'm sorry.

10 Q. What I'm trying to get to is if this conversation took place
11 at the same time Mr. Kitchin was telling you that he could get
12 mod rehab units from Ms. Dean. Was this in the same general time
13 period?

14 A. I think it was. I think it was.

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15 Q. Okay. Without tying you down too closely to dates.
16 A. Okay. I think when that took place, but I can't remember,
17 would have been towards the beginning of my employment with Lou,
18 around '87. I can't swear to it, though.
19 Q. Okay. Well, now you had conversations with Ms. Dean from
20 time to time, did you not?
21 A. Yes, yes.
22 Q. You talked to her on the phone from time to time?
23 A. Yes.
24 Q. And you talked to her about various mod -- I'm sorry,
25 various HUD matters?

1536

1 A. I'm sorry, did I?
2 Q. Didn't you?
3 A. Yes.

4 Q. Yeah, okay. Across the spectrum of not only mod rehab?
5 A. Right.
6 Q. Okay. Did you, did you have any -- did you ever have
7 occasion to discuss with her the funds that Lou Kitchin
8 transferred to her?
9 A. I'll be honest with you. I don't remember. Normally,

10 normally Lou is the one that talked with Debbie.
11 Q. Right.
12 A. And the times that I talked with Debbie, as I recall, it was
13 usually because Lou wasn't there, because he, either I would
14 happen to pick up the telephone and so would just happen to
15 answer it, or Lou wouldn't be there and would tell the secretary,
16 "Hey, if Debbie calls, let Jack talk to her."
17 Q. There wasn't any reluctance on Ms. Dean's part to talk to
18 you when Mr. Kitchin wasn't there?
19 A. Well, let me, you know -- again, I can't read her mind, but
20 there were a lot of people that if Lou wasn't there, they would
21 automatically ask to speak to me.
22 I don't think Debbie always did that. I think if it
23 was just, I mean, I think a lot of times she would just leave a
24 message. I really can't tell you, but I don't think -- I think a
25 lot of times she would leave a message if he wasn't there even if

1537

I was there.
2 Q. Okay. Now you know Mr. Kitchin testified this morning.
3 A. Yes, I'm aware he testified this morning.
4 Q. Now it's very important that you remember as best you can
5 exactly what Mr. Kitchin told you about this furniture when he
6 approached you about the funds for Ms. Dean, and I'd like you to
7 the best of your recollection to remember exactly what
8 Mr. Kitchin told you in relationship to the \$4,000 and the
9 furniture.
10 A. Okay. First of all, I can't remember that it was exactly
11 4,000. I think it was around 4,000, or as I recall, it was
12 around 4,000.
13 What he said was that Debbie had bought some furniture,
14 and again, I don't remember whether she, I don't know who she

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15 bought the furniture from, what kind of furniture it was, whether
16 she paid cash for it or credit card or whatever, but what I
17 recall he told me was that she had purchased some furniture and
18 it cost around \$4,000 and that had put her in a bind financially
19 and that he was going to lend her \$4,000 because she had gotten
20 in this bind because of the furniture.

21 Q. Now was that at or about the same time that Mr. Kitchin was
22 considering this apartment or house or condo, you don't recall
23 exactly what, in Washington?

24 A. Okay. I don't think it was. I think that -- I don't know,
25 but as I recall, that was a different -- to me, my recollection

1538

1 is that those were two totally separate instances and that the
2 condo/apartment thing happened maybe later.

3 Q. Okay.

4 A. But I can't tell you when. But, but I don't think that, I
5 don't know, but I don't think that they are connected, no.

6 Q. Do you recall when the conversations took place with regard
7 to the \$4,000 transfer?

8 A. I think it was in '87, but I can't remember. I know, I know
9 we were talking about Hawks basketball, but I can't tell you
10 exactly when, no.

11 MR. WEHNER: May I have a second, Your Honor?

12 THE COURT: All right.

13 BY MR. WEHNER:

14 Q. Do you remember if the discussions took place around
15 Christmas of one year?

16 A. At first I thought they did, but I can't -- and I don't
17 know, they may have, because basketball season, pro basketball
18 season would go on during Christmastime, but I just honestly
19 can't remember.

20 Q. Okay. Did you have occasion to tell the Independent Counsel
21 or agents of the Independent Counsel you believed that the
22 conversation about the funds took place sometime in around
23 Christmas season?

24 A. What I told them was that I couldn't swear to them -
well,

25 this is what I think I told them. This is what I recall, was

1539

1 that I told them that I couldn't remember exactly when it took
2 place, that it may have been around Christmas, but that Lou and I
3 were talking about basketball at the time.

4 Q. Did Mr. Kitchin ever tell you that he had been paid back the
5 funds?

A. No.

7 Q. Did he ever have any conversation with you in which he told
8 you that Ms. Dean had given him money or had tried to give him
9 money?

10 A. No. I kind of got the impression that --no. To answer
11 your question, no. He never told me that she paid him back. My
12 impression was that she wasn't going to pay him back.

13 Q. And that's your impression over time? In other words,
14 that's your impression today?

15 A. No, that was my impression at the time when all this was
16 going on, because when Lou brought it up, again, like I was
17 saying, at first I thought he was teasing. Then when I realized
18 he wasn't, I couldn't believe he was discussing this, and I -

19 Q. What I'm really trying to get from you is what your
20 impression is today. Did your impression change as to whether
2 Ms. Dean ever paid back any of the funds?

2 A. I'm sorry, say that again. Do I know if she's paid back any
2 of the funds?

2 Q. Yes.

2 A. I have no idea if she has or not, no.

1540

1 Q. Okay. So Mr. Kitchin never mentioned anything to you about
2 that?

3 A. No. But my point is when he first mentioned this and I told
4 him that I thought that it was stupid that we were even having a
5 discussion about lending/giving her money, I asked her -- or I
6 asked, "Lou," I said, "you know, she's got money. Why do you
7 need to lend her money?"

8 And the impression I got from what he told me was that,
9 I just got the impression she wasn't ever going to pay him back.
10 I don't know, she may have, but that was my impression was that
11 she didn't.

12 Q. You got the impression that she wasn't going to pay him
13 back?

14 A. Right.

15 Q. Did you also tell Mr. Kitchin at that time that it might not
16 be wrong for him to make that transaction?

17 A. I told him that I just, that I had no idea what the law was,
18 and I said, "Lou," I said, "I just don't know." And I said, "It
19 may not be illegal, but maybe it is illegal." And I said, "I
20 just don't know." And I said, "But it just looks bad, and I
don't think you ought to do it."

2 Q. But you did tell him that it may not be illegal; isn't that
2 correct?

2 A. I don't know if those were exactly my words. I told him
2 that I just didn't know, that I had no idea, but that, you know,

1541

1 that I just didn't think it looked good.

2 Q. Did you look it up?

3 A. No.

4 Q. Did he ask you to?

5 A. No.

6 Q. And you're not sure that it was wrong, are you?

7 A. Well, to tell you the truth, since -- once I was indicted, I
8 did look it up, and it's my understanding from reading the
9 statute that it is wrong.

10 Q. Once you were indicted?

11 A. Once she was indicted, I looked it up and --

12 Q. You weren't indicted, were you?

13 A. No.

14 Q. Okay. Have you been given any form of immunity for your

15 testimony?

16 A. No.

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17 MR. WEHNER: I have nothing further, Your Honor.

18 THE COURT: All right, thank you.

19 Some redirect, Ms. Sweeney?

20 MS. SWEENEY: No, Your Honor.

21 THE COURT: Okay. All right, Mr. Jennings, you're

22 excused then. Thank you.

23 THE WITNESS: Okay, thank you.

24 (Witness excused.)

25 MR. O'NEILL: Your Honor, at this time, pursuant to

1542

1 stipulation from counsel, the government would seek to publish
2 Government's Exhibits 203A and 203B.

3 MR. WEHNER: No objection, Your Honor.

4 THE COURT: All right, 203A and 203B may be published
5 and admitted.

6 MR. O'NEILL: we're having technical difficulties.

7 we'll publish it later, Your Honor. we'll do it later with this.

8 THE COURT: All right.

9 MS. SWEENEY: The government calls Sherrill

10 Nettles-Hawkins.

11 THE COURT: Can you give me that last name again,
12 please?

13 MS. SWEENEY: Nettles -

14 THE COURT: Nettles, thank you.

15 MS. SWEENEY: -

Hawkins.

16 It's a hyphenated name, Your Honor.

17 SHERRILL NETTLES-HAWKINS, GOVERNMENT'S WITNESS, SWORN

18 DIRECT EXAMINATION

19 BY MS. SWEENEY:

20 Q, Ms. Nettles-Hawkins, I'm going to be asking you a series of
2 questions, and I'd ask you to keep your voice up so the members
2 of the jury can hear.

2 A. Okay.

2 Q. would you please state your complete name, spelling your
2 last name for the court reporter?

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1 A. My name is Sherrill Nettles-Hawkins. It's a hyphenated last
2 name, N-e-t-t-l-e-s, hyphen, H-a-w-k-i-n-s.

3 Q. Ms. Nettles-Hawkins, are you presently employed?

4 A. Yes, I am.

5 Q. And where are you employed?

6 A. With the Department of Housing and Urban Development.

7 Q. And what is your particular job at HUD?

8 A. I am currently employed as an administrative officer.

9 Q. Can you give the jury a brief description of your

10 educational background?

11 A. I've had three years of college.

12 Q. Okay. And how long have you worked at HUD?

13 A. I've worked at HUD for 13 years.

14 Q. Could you describe briefly the different jobs that you've

15 held there?

16 A. When I first came to HUD in 1980, I came in as a

17 clerk-typist, moving into various clerical positions, as

18 secretary, then moving into a position in '84 as secretary to the

19 executive assistant.

20 Q. Okay. Focusing on the period when you were secretary to the

2 executive assistant, you said that that particular job began in

2 1984?

2 A. In January of 1984.

2 Q. And the executive assistant that you were working for, was

2 that the executive assistant to the secretary of HUD?

1544

A. Yes.

2 Q. And who was it at that particular point in time when you

3 started?

4 A. At that time, it was Lance Wilson.

5 Q. Okay. Did there come a time when Mr. Wilson left HUD?

6 A. Yes. He left in June of '84.

7 Q. Who took his place as executive assistant?

8 A. Deborah Dean.

9 Q. And did you remain on in your position as secretary --

10 A. Yes.

11 Q. --to the executive assistant?

12 What were your duties and responsibilities in that job?

13 A. I was responsible for scheduling her appointments, keeping

14 her calendar, scheduling travel, typing, the usual clerical

15 duties.

16 Q. Okay. What about responsibilities or duties regarding the

17 telephone and Rolodex and that sort of thing? Could you describe

18 what was involved in that?

19 A. I answered her incoming calls, placed outgoing calls for

20 Ms. Dean. I maintained a Rolodex of, I guess, people that she

21 wanted to keep.

22 Q. Okay. The messages that you took, were they merely

23 call-back messages, or did you also have occasion to take

24 substantive messages?

25 A. There were occasions when substantive messages were taken.

1545

1 Q. Now a moment ago, Mrs. Net ties-Hawkins, you referred to the

2 calendars. Could you describe the particular system that you

3 used for maintaining Ms. Dean's calendars, where they were kept,

4 how they were kept, was there more than one? Whatever detail you

5 could give us.

6 A. I maintained two calendars. Ms. Dean kept a calendar at her

7 desk; I kept one at my desk. I reconciled that calendar usually

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8 on a daily basis. Usually in the morning, I was able to make
9 entries. When I made entries, I made sure those same entries

10 were placed on her calendar, and likewise, when she made entries,
11 I might note those on my calendar as well.

12 Q. Could you describe for the members of the jury the location
13 of your desk relevant -- relative to the defendant's office?

14 A. My desk sat immediately outside of her office.

15 Q. And was it her practice generally to have her door open or
16 closed?

17 A. Usually it was open.

18 Q. Given where you were sitting, were you in a position where
19 you could hear her when she was on the telephone?

20 A. Yes, sometimes.

21 Q. What about when she had meetings with individuals in her

22 office? Were you in a position where you could hear the
23 conversations?

24 A. Most times she would close the door for those meetings.

25 Q. Okay. Were there times when she had the door open during

1546

1 meetings?

2 A. Yes, there were.

3 Q. So were there occasions on which you overheard conversations
4 during meetings?

5 A. Yes.

6 Q. I'm going to ask you a series of questions about a program
7 called the Mod Rehab Program, and the jury is very familiar with
8 that program at this point. In the course of your work for the
9 defendant, did you become familiar with the Mod Rehab Program?

10 A. Yes.

11 Q. And could you give us a brief description of the program?

12 A. It was my understanding that the Mod Rehab Program was a
13 means for awarding -- making awards to projects that needed
14 substantial rehabilitation work done on them in order to make
15 them available for low-income housing residents.

16 Q. Did you have an understanding of whether the defendant
17 played a role in the Mod Rehab Program during the period 1984
18 through 1987, while she was executive assistant?

19 A. She -- I believe that she was making some decisions on how
20 the awards were made.

21 Q. I'm going to ask you a series of questions about a number of
22 individuals. The first one I'd like to ask you about is Lou
23 Kitchin. Were you familiar with an individual named Lou Kitchin?

24 A. Yes.

25 Q. And what was your understanding of his role in relation to

1547

1 the Mod Rehab Program?

2 A. I believe Mr. Kitchin was a consultant to perhaps housing
3 authorities.

4 Q. Okay. Were you familiar with an individual named Richard
5 Shelby?

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6 A. Yes.

7 Q. And what was your understanding of his role in relation to
8 mod rehab?

9 A. I don't, couldn't -- I don't recall Mr. Shelby being

10 involved with the Mod Rehab Program.

11 Q. Okay. Were you familiar with an individual named Thomas
12 Broussard?

13 A. Yes.

14 Q. Do you know if he worked in the mod rehab area?

15 A. I'm not certain of that.

16 MS. SWEENEY: Okay. Just a moment, Your Honor?

17 THE COURT: All right.

18 BY MS. SWEENEY:

19 Q. Ms. Hawkins, I'm going to show you a document that's been
20 marked Government's Exhibit 508 for I.D. I'm going to ask you to
2 look at page 3, about a third of the way down, but not to read

2 the document, because it's not in evidence.

2 THE CLERK: Government's Exhibit 508 marked for
2 identification.

(Government's Exhibit No. 508 was
marked for identification.)

BY MS. SWEENEY:

4 Q. You may read it to yourself, but just not out loud.

5 Does that refresh your recollection as to what

6 Mr. Broussard's role was vis-a-vis HUD?

A. Yes.

8 Q. Okay. And what, what was his role?

9 A. He was a developer from California.

10 Q. Okay. Do you know an individual --or did you know an
11 individual named Phil Winn?

12 A. I know the name, yes.

13 Q. Okay. And what was your understanding of his role in
14 relation to mod rehab?

15 A. That he was a developer.

16 Q. To your knowledge, did the defendant meet with developers
17 while she was at HUD?

18 A. Yes.

19 Q. To your knowledge, did she meet with people that you
20 understood to be consultants while she was at HUD?

21 A. Yes.

22 Q. Did these meetings occur at HUD?

23 A. On occasion.

24 Q. Did they occur other places as well?

25 A. I can't -- I don't know.

1 Q. Okay.

2 MR. WEHNER: I'm sorry, Judge, I didn't hear that.

3 THE WITNESS: I don't know.

4 MR. WEHNER: Thank you.

5 BY MS. SWEENEY:

6 Q. Did you have occasion to schedule these meetings for her?

7 A. They were put on the calendar.

8 Q. Did you ever have occasion to hear the defendant discussing

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9 mod rehab awards in connection with particular consultants or
10 developers?
11 MR. WEHNER: Objection, Judge.
12 THE COURT: All right, I'll sustain it. I don't know
13 how you can get into that, unless everyone's considered a
14 conspirator she talked to.
15 MR. WEHNER: And leading.
16 THE COURT: I'll sustain it.
17 MS. SWEENEY: Your Honor, may we approach briefly?
18 THE COURT: All right.
19 (Bench conference on the record.)
20 THE COURT: where are you going to go?
2 MS. SWEENEY: Your Honor, I'm going to be eliciting
2 Ms. Dean's statements, not those of other individuals.
2 THE COURT: About giving awards to different people?
2 MS. SWEENEY: Yes.
2 MR. WEHNER: I don't think that she's going to get it,

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1 Judge, but I'm going to object if she tries to lead into it,
2 because I don't think she will.
3 THE COURT: Okay.
4 MR. WEHNER: I'm not going to allow her -- I'm going to
5 object if she continues to ask the question in such a way that
6 it's going to be answered yes or no, simply adopting her
7 testimony.
8 THE COURT: Can she ask her did she overhear any
9 conversations Ms. Dean had about mod rehab awards? If she says
10 yes, she can ask, "what are those conversations that Ms. Dean
11 had, that Ms. Dean said?"
12 MR. WEHNER: That's right.
13 MS. SWEENEY: Okay.
14 (End of bench conference.)
15 BY MS. SWEENEY:
16 Q. Ms. Netties-Hawkins, were there occasions on which you
17 overheard Ms. Dean discussing particular mod rehab awards?
18 A. Not particular awards, but the program perhaps.
19 Q. Were there occasions on which you overheard Ms. Dean
20 discussing the names of particular developers or consultants?
21 A. Yes.
22 MR. WEHNER: Objection, Judge.
THE COURT: Okay, I'll overrule it. It's leading, but
24 I'll allow it. Go ahead.
25 BY MS. SWEENEY:

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1 Q. You may answer that question.
2 A. Yes.
3 Q. Can you tell us what you recall about those conversations?
4 A. There was an occasion Mr. Kitchin, being a favorite pest at
5 the time, was anxious to know whether or not funding was coming
6 forward, and I don't remember the exact words, but he may have
7 asked where were the units or, "The units didn't come," and she
8 might -- Ms. Dean may have said to me, "Tell him that they're
9 coming," or something to that effect.
10 Q. Do you recall any other conversations that, where you heard
11 Ms. Dean discussing units?
12 A. Another favorite pest, Laury Gaye, I don't recall the
13 particular project, but he, too, was very anxious for funding and
14 the same sort of thing. "I'm working on it," she may say, the
15 same thing: "They're coming," or, "I'm working on it."
16 Q. Did Ms. Dean ask you to do anything with this information

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17 that she had mentioned to you?

18 A. Just relay that message back, and we would be responding to

19 a call that either Mr. Kitchin or Mr. Gaye had placed to her.

20 Q. Are you familiar with the name Ed Brooke?

2 A. Yes.

2 Q. Who is Mr. Brooke, to your knowledge?

2 A. Besides being a former senator, he also, he also was

2 involved with the Mod Rehab Program.

2 Q. Did he call Ms. Dean, to your knowledge?

1552

1 A. Through his secretary, he'd place calls.

2 Q. Can you describe for the members of the jury how frequently

3 he called?

4 A. It wasn't that often, but he -

but I became familiar enough

5 with his secretary -I

don't recall her name at this time --to

6 know that he did make a couple of calls.

7 Q. Now in addition to the conversations that you've just

8 related involving Mr. Kitchin and Mr. Gaye, do you recall any

9 other conversations where you overheard Ms. Dean discussing units

10 or mod rehab?

11 A. We -I

took a call where the individual -- and I believe it

12 was Mr. Kitchin at the time -- wanted to write a letter regarding

13 funding, and he wanted to name a project, and after some time,

14 from my limited knowledge, I said to Ms. Dean, "Can he name a

15 project in his letter? He can't --it can't -- the letter can't

16 be project-specific, can it?" and she told me that that is

17 correct.

18 Q. Okay. You just mentioned the term "project-specific."

19 Could you describe for the members of the jury what you mean by

20 that?

2 A. Meaning that the funding was not supposed to go to a

2 particular project, but the funding was to be awarded to a

2 housing authority, and the housing authority would then decide

2 where the funds would be best utilized.

2 Q. You mentioned a conversation that you had with Ms. Dean

1553

1 about Mr. Kitchin's request about the letter. Did you do

2 anything after you talked, had that conversation with her?

3 A. Relayed the message to him.

4 Q. Okay. Did you have an understanding during this time period

5 of what the role of the consultant was in the mod rehab process?

6 A. After a period of time, I learned that the role of the

7 consultant was more or less like a negotiator for the housing

8 authority, but then I later find that the housing authority was

9 just a ghost entity used to, to get the funding.

10 Q. What was your understanding of who the consultant was

11 working for in practice?

12 A. In practice, they were working for the housing authority.

13 Q. Do you know an individual named Andrew Sankin?

14 A. Yes.

15 Q. Did Mr. Sankin have occasion to call the defendant?

16 A. Yes.

17 Q. Did he also meet with the defendant?

18 A. Yes.

19 Q. Did you take messages from him?

20 A. Yes.

21 Q. Did you also have occasion to relay messages to him?

22 A. Yes.

23 Q. Do you recall what those contacts were about?

24 A. About her family property.

25 Q. Is there anything else that you can recall about them? Can

1554

1 you describe them in any more detail?

2 A. I can't recall the name of the --it was an apartment

3 complex that I believe the family, Deborah's family owned, and it

4 was my understanding that Mr. Sankin was the property manager.

5 Q. About how often did he call, Ms. Nettles-Hawkins?

6 A. Perhaps as often as three times a week.

7 Q. What would he say when he called on these occasions?

8 MR. WEHNER: Objection. How would she know?

9 THE COURT: She can say what he said to her.

10 THE WITNESS: He would be calling regarding property,
11 the family property.

12 BY MS. SWEENEY:

13 Q. A moment ago, you described the PHA as a ghost entity.

14 Could you tell us what you mean by that?

15 A. That the, that the housing authority was perhaps named in a
16 particular letter or used to, in order to get the funding. They
17 didn't actually benefit from the funding.

18 Q. Who did benefit?

19 A. The consultant and whoever they were actually lobbying for.

20 Q. Do you know an individual named Silvio DeBartolomeis?

2 A. Yes.

2 Q. Did I pronounce that correctly?

2 Did Mr. DeBartolomeis have occasion to meet with

2 Ms. Dean?

2 A. Yes.

1555

1 Q. Was the door open during any of the meetings between the two
2 of them?

3 A. They usually talked on the, on the phone. The way the
4 office was set up, Ms. Dean had private lines to all of the
5 principals in the department, so she could just simply pick up

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6 the line and press the button for the individual she wanted and
7 be able to talk to them direct.
8 Q. Were there times when you heard her talking to Silvio
9 DeBartolomeis?

10 A. I'd heard fragments of conversations.
11 Q. Do you know if any of these conversations or do you recall
12 if any of the conversations involved mod rehab?
13 A. There were maybe one or two occasions.
14 Q. Can you tell us what you recall about those conversations,
15 about what Ms. Dean said during those conversations?
16 A. After this particular conversation, Ms. Dean was angry. She
17 and Mr. DeBartolomeis apparently had argued over, I guess, how
18 the awards were going to be made, and she came out of her office
19 and said that he made her angry and that she was the executive
20 assistant and he should do what she told him to do.
21 Q. Are you familiar with an individual named Thomas Demery?
22 A. Yes.
23 Q. To your knowledge, did Ms. Dean have conversations with
24 Mr. Demery?
25 A. Yes.

1556

1 Q. Did any of these conversations involve mod rehab?
2 A. They may have.
3 Q. Did you overhear any conversations that she had with
4 Mr. Demery?
5 A. There was an occasion where she got angry with him, also.
6 Q. Did you hear what she said to him while she was talking to
7 him?
8 A. Something almost on the same level as, that he ought to do
9 what she'd say to do.

10 Q. Are you familiar with the name Bob Tuttle?
11 A. Yes.
12 Q. And who is Bob Tuttle?
13 A. Well, there were two Bob Tutttles that we had dealings with,
14 and one Bob Tuttle would call and say, "I am not the Bob Tuttle
15 at the white House."
16 Q. Do you recall how frequently he called?
17 A. I can't say.
18 Q. Do you recall whether he called throughout Ms. Dean's tenure
19 or whether it was just at a particular, particular points in
20 time?
2 MR. WEHNER: Objection to the leading nature.

2 BY MS. SWEENEY:
2 Q. How would you describe it?
2 THE COURT: No, I'll allow it. Go ahead.
2 THE WITNESS: Occasionally, probably when funding was

1557

1 becoming available.
2 BY MS. SWEENEY:
3 Q. Do you recall if the defendant ever had you place calls to
Page 874

4 Bob Tuttle, either one?

5 A. Yes.

6 Q. To, to which Bob Tuttle did she have you place calls?

7 A. Either one, depending on which -

the Bob Tuttle at the

8 white House, I believe, was in the presidential personnel office,

9 so she was the department's liaison for political appointments,

10 and they would talk based on, you know, because of that. And the

11 other Bob Tuttle was with a law firm. I'm not sure of the law

12 firm's name.

13 Q. Okay. I'm going to show you another document that's been

14 marked Government's Exhibit 509.

15 THE CLERK: Government's Exhibit 509 marked for

16 identification.

17 (Government's Exhibit No. 509 was

18 marked for identification.)

19 BY MS. SWEENEY:

20 Q. Now once again, this document is not in evidence, so please

21 don't read it aloud.

22 Mrs. Nettles-Hawkins, I'd ask you to look at that

23 particular page and see if that refreshes your recollection as to

24 the non-white House Bob Tuttle's affiliation, professional

25 affiliation?

1558

A. Yes.

2 Q. And what was that?

3 A. I'm still not sure what it is.

4 Q. Okay. That refreshes your recollection as to where he

5 worked, but you believe that was a law firm?

6 A. Yes.

7 Q. Now you testified earlier that you'd worked for Lance Wilson

8 for a period of time.

9 A. Yes.

10 Q. To your knowledge, during that period of time, did Mr., did

11 John Mitchell ever call Lance Wilson?

12 A. I don't recall that he did.

13 Q. Were you familiar with a, with something at the Department

14 of Housing and Urban Development referred to as the Autopen?

15 A. Yes.

16 Q. And can you describe for the Ladies and Gentlemen of the

17 Jury what the Autopen is?

18 A. Autopen is a machine that will duplicate the signature of an

19 individual. In this case, it was the signature of the secretary.

20 Q. And when you say the secretary, are you referring to Samuel

21 Pierce?

22 A. Yes.

23 Q. Did you have an understanding as to whether or not Ms. Dean

24 had any duties and responsibilities with regard to the Autopen?

25 A. Mrs. Dean was a -- she could authorize the use of the

1559

1 Autopen for, to place that signature on documents and letters.

2 Q. And how would she, how would she indicate that she had

3 authorized its use, to your knowledge?

4 A. She was to write on a form that the department had, that the

5 department developed, that she okayed it for Autopen and sign her

6 name to that.

7 Q. Mrs. Nettles-Hawkins, I'm going to ask you to look -- I'm

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8 going to show you a document, Government's Exhibit 110A, and this
9 document is in evidence. Do you recognize that document? Do you

10 know what it is?

11 A. It's a memo to the, the then regional administrator in
12 Philadelphia.

13 Q. I'm going to ask you to look through that document, it's a
14 multi-paged document, and tell us if you see an authorization
15 from Ms. Dean in that package?

16 A. On the second page.

17 Q. And is -- and what does that authorization provide for?

18 A. In Deborah's handwriting, she wrote, "Autopen." In my
19 handwriting, it was, "Per Deborah Dean," and the date that she
20 authorized it.

2 MS. SWEENEY: Your Honor, at this time, I'd like to
2 publish for the members of the jury that particular page of
2 Government's Exhibit 110A.

2 THE COURT: All right.

2 MR. WEHNER: No objections.

1560

1 Q Miss Hawkins, can you see the document on the

2 monitor?

3 A Yes.

4 Q And can you point out for the members of the jury

5 where the autopen authorization is on there? I think

6 you can physically just point from the witness stand.

7 A Where it says autopen sort of written this way, is

8 the autopen authorizations.

9 Q And then you indicated that you also placed some

10 handwriting on this document?

11 A Yes, where it says per Deborah Dean is my own
12 handwriting and I also dated it.

13 Q Mrs. Nettles-Hawkins, while you were working
14 together did the defendant ever discuss her financial
15 situation with you?

16 A Not in any detail but she would just say I'm

17 broke.

18 Q Do you recall if she said that on more than one
19 occasion?

20 A Sure.

2 Q Did she ever tell you what she was going to do
2 about it?

2 A No.

2 Q Mrs. Nettles-Hawkins, I'm going to show you a
2 document that's been marked Government's Exhibit 510 for

1561

1 identification purposes. Again, it's not in evidence,

2 so I would ask you not to read it aloud but I would ask

3 you to read pages 15 and 16 to yourself.

4 THE DEPUTY CLERK: Government's Exhibit 510

5 marked for identification.

6 (Government's Exhibit 510

7 marked for Identification)

8 BY MS. SWEENEY:

9 Q Does that refresh your recollection as to whether
10 she told you what she was going to do about her

11 financial difficulties?

12 A Yes.

13 Q what did she tell you?

14 A She could go to her mother for help.

15 Q Did she -- did you ever do anything relating to her
16 mother's financial help?

17 A Yes.

18 Q And what was it that you did?

19 A I went to her mother's home and picked up a letter
20 authorizing me to pick up a check for Deborah.

21 Q Did you do anything after you picked up the letter?

22 A I went to pick up the check.

23 Q Mrs. Nettles-Hawkins, I'm going to show you a

24 document -- a book that's been previously marked

25 Government's Exhibit Five for identification purposes.

1562

1 I'm going to ask you to look through that book.

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2 THE DEPUTY CLERK: Government's Exhibit Five
3 marked for identification.
4 (Government's Exhibit Five
5 marked for Identification)
6 BY MS. SWEENEY:
7 Q Do you recognize that book?
8 A It's a calendar that Deborah used in 1985.
9 Q Does it contain your handwriting?
10 A Yes, it does.
11 Q Does it also contain the handwriting of the
12 defendant?
13 A Yes, it does.
14 Q And is this one of the calendars that you were
15 describing when you described earlier the calendars that
16 you maintained and reconciled?
17 A Yes.
18 MS. SWEENEY: Your Honor, at this time I offer
19 Government Exhibit Five into evidence.
20 MR. WEHNER: Objection, Your Honor.
2 THE COURT: You said -
2 MR. WEHNER: Can I approach? We have an
2 objection.
2 THE COURT: You do have an objection. Why
2 don't we take our afternoon recess?

1563

1 Ladies and gentlemen, I think you're ready to
2 go with the afternoon recess so you can get your
3 snacks. Why don't we take our break now and take care
4 of our business.
5 Remember the admonitions, please, about not
6 talking about the case.
7 (Jury dismissed)
8 THE COURT: I think we can do this in open
9 Court. Nobody is here now.
10 MS. SWEENEY: Sorry, Your Honor.
11 THE COURT: All right. I've got an
12 objection. I think it's a Braswell objection.
13 Let me ask the Government, are you bringing
14 anybody else to identify these records as received from
15 the custodian of HUD or anything like that?
16 MS. SWEENEY: If Your Honor deems it
17 necessary, we certainly are prepared to do that. We
18 believe that Miss Hawkins can lay the business
19 foundation for bringing them in.
20 THE COURT: She's testified she kept calendars
2 and - dual calendars for herself and Miss Dean and they
2 both wrote on them. I assume she can testify -she's
2 not in the courtroom now - they were kept in the
2 regularly conducted business activity, in the course of
2 that, and that it was a regular practice to make such a

1564

1 record.

2 MS. SWEENEY: I believe she has said that,

3 Your Honor, at this point, in somewhat different words,

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4 that it was part of her scheduling and maintenance of

5 the calendar duties to maintain and reconcile the

6 calendars on a daily basis.

7 THE COURT: She can identify the handwriting

8 on this exhibit five. She looked at a single page.

9 MS. SWEENEY: Your Honor, we can ask her to

10 look through more. I think she's looked through several
11 pages and said that it contains her handwriting as well
12 as the defendant's.

13 THE COURT: All right. Then, Mr. Wehner,
14 under Braswell my prior rulings as to the calendars,
15 your objection I take it is a Fifth Amendment objection
16 as to production of these documents involving
17 self-incrimination and the use of them, that the
18 Independent Counsel continues that violation.

19 MR. WEHNER: That's correct.

20 THE COURT: What else do you have to say about
2 it, out of the relevancy argument and admissibility

2 argument?

2 MR. WEHNER: That's correct, the Braswell
2 issue. Your Honor, the second issue is I do not believe
2 the Independent Counsel has established pursuant to Rule

1565

1 803 (6) the necessary prerequisites for admission as a
2 business record and I would like the opportunity to voir
3 dire the witness as to those elements because I do not
4 have the confidence that the Independent Counsel has,
5 based on my knowledge of what's in the documents, that
6 they were either the regular practice to make those
7 records or kept in the regular course of the business
8 activity.

9 I think they are notoriously inaccurate in

10 terms of what they reflect because of the circumstances
11 under which they were prepared. They do not reflect
12 actual events. In some circumstances they reflect
13 planned events that never took place. In some
14 circumstances they reflect events that Miss Hawkins may
15 have believed did occur based upon her viewing of the
16 calendar, but in fact they did not occur. And I don't
17 infer any corruption on the part of Miss Nettles-Hawkins
18 in that regard. It's simply that they are not a fair
19 and accurate record of the activities of Miss Dean and
20 that's my broad argument as to their inadmissibility
2 under the business records exception.

2 In addition, Your Honor, if the calendars are
2 admitted under the business records exception there are
2 selected entries that we have conceded are relevant to
2 the instant trial. Those are the items that are listed

1566

1 on the Independent Counsel's exhibit list with regard to
2 the particular dates. We do not object to the relevancy
3 of those entries. With one exception, and we ask that a
4 redaction be made as to skull and crossbones written on
5 that particular date. But to the extent they are
6 relevant, their relevancy is limited to those particular
7 dates and I do not believe that there is any relevancy
8 to the remainder of the entries in the notebooks.

9 what they reflect simply is not relevant to
10 the charges in the indictment. They show a calendar, a
11 typical executive type calendar, and I frankly don't
12 want the jury to be leafing through the calendar and
13 focusing on how Miss Dean spent her evenings or spent
14 her early mornings or what time she got in the office or
15 what she did on Halloween when they're not relevant to
16 this case.
17 So I think the objection to relevancy goes
18 only to those that are not listed in the Independent
19 Counsel's Exhibit list.
20 MS. SWEENEY: Your Honor, may I respond?
2 THE COURT: Yes, please.

2 MS. SWEENEY: Your Honor, as to Mr. Wehner's
2 point that the calendars may reflect what was scheduled
2 and not what actually took place, I believe that that
2 goes to the weight and not to the admissibility of the

1567

1 document. The calendars contain many, many, many
2 relevant entries. They contain relevant entries beyond
3 those individual entries that the Government has
4 segregated in 5A through 5E.
5 As Your Honor is aware, the perjury count
6 deals with Miss Dean meeting with developers. The
7 calendars are replete with entries of meetings with
8 developers.
9 Moreover, Your Honor, the Government believes
10 that whether or not these are business records as
11 opposed to personal records was determined long long ago

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12 by Judge Robinson and that that question has really
13 virtually been foreclosed, both by Judge Robinson's
14 decision -
15 THE COURT: I don't think foreclosed that all
16 the entries are relevant to the prosecution.
17 MS. SWEENEY: No, Your Honor. What Judge
18 Robinson indicated, that Mr. Wehner had foregone his
19 opportunity to denote certain entries as being
20 irrelevant. We would have no problem, Your Honor, to
2 Miss Dean's redacting her hairdressing appointments,
2 doctors' appointments and that type of thing. We will
2 not -
2 THE COURT: I'm leery of putting the whole
2 calendar in, just unredacted, just the whole calendar

1568

1 where the jury can thumb through and find things that
2 have nothing to do with this case but they may think it
3 does and begin to speculate, it's totally inappropriate,
4 about some name they think they heard, and it would not
5 be any name in the case. I don't know how we can
6 control that.

7 MS. SWEENEY: Your Honor, several weeks before
8 trial Your Honor gave Mr. Wehner the opportunity to
9 designate individual items as well and he chose not to
10 avail himself of that opportunity and rather to simply
11 say on the eve of trial that they argued that everything
12 was irrelevant.
13 Now, Judge Robinson, when he looked at these
14 materials, pursuant to the guides given him by the Court
15 of Appeals indicated that the documents were business
16 documents. And that they might contain a few individual
17 entries.
18 Your Honor, we do also have a brief that we'd
19 like to hand up to Your Honor that recounts the decision
20 of Judge Robinson and places this in context in
2 responding to Mr. Wehner's argument that the calendars

2 are irrelevant in their entirety.
2 THE COURT: I do have Judge Robinson's
2 decision before me on the argument that was done before
2 Judge Robinson. And that's the argument on February

1569

1 10th, 1992.

2 MS. SWEENEY: Your Honor, it should be

3 Miss Dean's burden to establish that the meetings were

4 not with developers, not the Government's burden at this

5 point.

6 MR. WEHNER: Judge -

7 THE COURT: wait. Let her finish. I'm not

8 sure I accept that. It seems to me that I don't think

9 anybody can offer a large volume of personal notations
10 and say, well, if something is not relevant the other
11 side's got to find it and take it out. I think you've
12 got to offer relevant evidence in your case and not just
13 a conglomeration of notes that may have a lot of
14 notations that don't have anything to do with this case
15 and could be misused by the jury. You may offer
16 anything that may be relevant or not and say the other
17 side is to pick out what's wrong. You're the one who
18 puts the evidence in, not the other side.
19 I'll look at your brief and I'll look at what
20 has occurred in the past, but I've already considered in
2 notes to myself and discussions that there may be

2 private matters in there that don't have to come out.

2 MS. SWEENEY: And, Your Honor, as to those we
2 have no problem. As I said, for example, with doctors'
2 appointments and hairdressing appointments and the like

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1 we don't have difficulty with redacting those, but as to

2 meetings with developers, we do believe that it's

3 inappropriate at this point to permit the defendant to

4 redact those from these calendars.

5 MR. WEHNER: Your Honor, with respect to the

6 meetings with developers, I would ask the Court to
7 review the counts of the indictment that refer to the
8 perjury counts. I do not believe there's any statement
9 charging Miss Dean in not meeting with developers. She
10 certainly hasn't testified to that.

11 THE COURT: I think they go to the Mod Rehab
12 panel, according to the indictment, "Goes solely on
13 information provided by the Assistant Secretary for
14 Housing." The Government alleges she had "never given or
15 approved or pushed or coerced anyone to help any
16 developer and that it was a tremendous waste of time for
17 developers to meet with people at HUD." That's counts
18 and seven and eight. "There is evidence that Dean met
19 regularly with developers." This is relevant to the
20 perjury charges. She said "it was a waste of time to
2 meet developers and that she never had given or approved

2 or pushed or coerced anyone to help any developer."
2 My concern is not so much that it's not
2 relevant that she met with developers. I think that's
2 an argument as to what that means, but that there are

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1 other items in the calendars and other names of people
2 who may not be developers, and the jury doesn't know who
3 they are, and they may think they are.

4 It's your argument to the jury look at these
5 calendars, look at all the developers. What are the
6 names? What are the names of all the people in the
7 book? Are they all developers? I don't know. I don't
8 think the jury can speculate who these people are. I

9 think they have to be identified.
10 And I just don't think we can give them three
11 years or whatever it is, five years of calendars, and
12 tell them to read that, and you'll find lots of
13 developers there, unless it says behind each entry
14 "developer," who Mr. Jones is supposed to be or

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15 Miss Smith is supposed to be that she had a meeting with
16 one day.
17 I think you should look at those calendars and
18 see where you're going to go with them. I do think that
19 under the Braswell decision, and a decision in this case
20 by the Court of Appeals and Judge Robinson's prior
21 decision and, of course, earlier rulings, the Government
22 can lay a foundation that these are perfectly admissible
23 under 803 (6). They can be admitted despite Miss Dean's
24 objection. But I'm not sure that they can be admitted
25 in toto just as they are with all the names, whatever is

1572

1 in there.

2 I assume you're saying there are lots of names

3 written in there, lots of meetings she had, some were

4 with developers, some with people at HUD, some may be

5 personal friends, that have nothing to do with the

6 case.

7 I'm just not sure how we're going to have the

8 jury speculate what names are what and what they mean.

9 I don't know what we'll have the jury do with that
10 book. Do they read it for the prurient interest to see
11 her dates? I don't know what we're doing with this.

12 MS. SWEENEY: Your Honor, I believe that Your
13 Honor - Your Honor's point doesn't quite address the

14 fact that these have been found to be Government
15 records, that they have been found to be business
16 records. These are not Miss Dean's personal calendars.

17 THE COURT: There are irrelevant things in
18 there. Just like any document. I can have a Government
19 record and it could have irrelevant things.

20 MS. SWEENEY: Your Honor, the defendant has
21 conceded the relevancy of the particular entries that

22 the Government has designated. But, Your Honor, it is
23 very important to place it into context in terms of
24 dealing with the perjury. What percentage of time this
25 represents, how this fits into the context of the entire

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1 work life of the defendant, if you will.
2 THE COURT: All right.
3 well, let me have Exhibit Five and I'll take a
4 break and look at it and you all can look at the others,
5 but I'll look further and see, but I have grave doubt
6 about giving to the jury matters contained in there that
7 have nothing to do with this case and tell them to
8 figure out what deals with this case and what doesn't.
9 There's no guidance. I don't know how that works.

10 while I understand Judge Robinson said social
11 matters can be business, in this context I'm not saying
12 that's not true. I don't know what social matters can
13 be business or not in a sense related to the charges in
14 this case. It may be business to other matters
15 unrelated to the charges.
16 MS. SWEENEY: Your Honor, in the interests of
17 time perhaps we can proceed this afternoon in publishing
18 the additional entries to which the defendant concedes
19 relevance and take some additional time over the items
20 in the calendar in toto.
2 THE COURT: Let me take a break and see.
2 (Recess, 3:15 to 3:45 p.m.)
2 THE COURT: All right. Let me recapitulate
2 for a minute where we are in this calendar issue.
2 I put an Order out, I think it's August 12th,

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1 after our hearing on this matter. August 13th. Where I
2 held that the calendars in toto are Government documents
3 and the Government may introduce, under the method
4 outlined in Braswell and Dean to authenticate the
5 document at trial, and that the defendant could raise
6 objections to admission of these documents at trial on
7 relevancy on 403 grounds at the status conference on
8 August 31st and the defendant had certain objections as
9 to skull and crossbones and some other markings and that

10 was all I was made aware of. I will discuss that with
11 Mr. Wehner, his approach to this, in a minute, which
12 would give the Government the basis for their argument,
13 well, he didn't object to anything else and therefore
14 all can come in.
15 That still gives me as an overseer of this
16 trial some concern as to the probative value of the
17 evidence visavis the prejudicial nature of some of it
18 and as I said perhaps in quotes the somewhat specious
19 prurient interest of the jury in going through a
20 person's personal calendar and seeing their lifestyle
2 that may not be relevant to the charges.
2 The first thing I did was open up one calendar
2 and find a film festival. I'm not sure what that has to
2 do with anything. And there are a whole series of
2 things like that. There are telephone messages of

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1 people who have not been identified, as far as I know,
2 in this case, that are involved in any wrongdoing.
3 There is, for instance, a telephone message in
4 the inside of 1985 from Doris Price reading,
5 "Very important." She says "She's ready to shackle
6 herself to the white House fence to get press coverage.
7 Other employees in OTA are quite upset as well and are
8 crying and afraid because of the impending loss of their
9 jobs." That may be interesting, but I have no idea what
10 this has to do with this case and I'm not sure that that
11 is appropriate.
12 There are many many items that are relevant,
13 from a very brief review of the books, as to meetings
14 with people who have been testified about in this case.
15 And there may be some things that -- other names that
16 have not been testified that will become evident that
17 can be identified as relevant to this case, but I'm
18 still very leery regardless of the admissibility of all
19 of these documents as to the individual documents for
20 the jury to consider.
2 I'll take up Miss Sweeney's suggestion as to

2 introducing all these, I assume the yellow tabs that
2 you're talking about so far today. Some don't have
2 yellow tabs.
2 Also, Mr. Wehner, can't it be argued by the

1576

1 Government that you waived when I had a hearing on this
2 and I told you to file a motion on relevancy grounds and
3 you only raised a couple of issues and those were
4 redacted by the Government, those that you raised.
5 MR. WEHNER: That can be fairly raised but for
6 the pleading that we filed, Judge, in which we pointed
Page 886

7 out that we were raising our objections to everything
8 with the exception of those specific entries which we
9 attached to that pleading and in that pleading and those
10 specific entries we said to the Court that we conceded
11 relevancy as to those items and argued that the

12 remainder were not relevant.
13 Now, I don't think it's incumbent upon us to
14 go through 10,000 individual entries and calendars for
15 five years and say, Judge, August 1st, ten a.m. is

16 irrelevant.
17 THE COURT: well, I have an Order saying the
18 Government can satisfy the burden put upon them by the
19 Court of Appeals and the Supreme Court on this type of
20 document and in Judge Robinson's ruling where he
2 specifically said that social records may be business

2 records in the context of the Washington lifestyle.
2 I'm not sure that they - I mean there are
2 entries all through here of various individuals that
2 we've heard about, and as I said, there are others that

1577

1 the Government can point out as individuals associated
2 with the Mod Rehab programs in some way, either
3 developers or consultants, and I'm sure there are many
4 here that are not.

5 There's a lot of social affairs and a lot of
6 things, trips and things like that.

7 It seems to me my concern is weighing the
8 prejudicial value against the -- prejudicial effect

9 against the probative value of those and I did try to
10 point out in my Order that I issued that we should have
11 considered having a hearing rather than doing it now.
12 It seems to me at minimal I'll have the
13 Government go through these and the ones they want to
14 identify specifically now and then see overnight if

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15 there's ones that either side want to point out that
16 they're concerned about and the defendant has time to go
17 through these things and then I'll decide tomorrow
18 whether they can come in as a group or are we going to
19 have to just put in certain pages the Government's wants
20 to use which would give the jury the flavor of her
2 schedule at work as it relates to the Mod Rehab program

2 and the issues relating to that.
2 But I simply am not -- I really don't know of
2 many of these people and their relation to the program
2 or not. And I'm not sure the jury is supposed to know

1578

1 that evidence.
2 There's lots of references that can be used
3 that do relate to this case, obviously, and then it's
4 for argument as to whether they're indicia of
5 wrongdoing, but there's a lot here that to me has
6 nothing to do with the case.
7 MR. WEHNER: Judge, I don't disagree that if
8 you find that they're admissible -- there are many
9 entries in there that are properly admissible. My

10 problem is that there are a vast majority of entries
11 that simply aren't relevant.
12 THE COURT: well, we should have had it long
13 before now. We should have tried to get it done prior
14 to trial.
15 MR. WEHNER: May we conduct a voir dire of
16 Mrs. Nettles-Hawkins, Judge?
17 THE COURT: well, I'm going to have
18 Miss Sweeney first ask her a couple of more questions
19 and laying a foundation on the accuracy of these records
20 and identifying the handwriting in these particular
2 volumes. I think we should go ahead and just have her
2 look at five, six, seven, eight, if that's what you want
2 her to do, and indicate what they are, for the record,
2 and whose handwriting they generally are in and that
2 they are -- do meet the criteria set forth in the Rule

1579

1 and then I'll allow limited voir dire as to their
2 accuracy or not.
3 I don't think the voir dire really goes to the
4 admissibility. I don't want to spend a lot of time on
5 this at this point unless you can point out to her

6 they're not what they are purported to be. I don't know

7 how you can attack them any more, based upon

8 Judge Robinson's ruling. He already found that they

9 were business records, I assume, from reading his
10 ruling, that they are business records kept at HUD.

11 MR. WEHNER: Judge, if I can make one quick

12 response on that. That points out where I respectfully
13 disagree with the Court's analysis of what Judge
14 Robinson said but I don't think there's any doubt that
15 Judge Robinson ruled for the purposes of the Fifth

16 Amendment these are business records and that to admit
17 them at trial falls under the Braswell analysis. I
18 concede that. But I don't think Judge Robinson had
19 anything in his head about whether they were properly
20 admissible in a criminal trial against Miss Dean. I
2 don't think he thought about 803 (6) for one second.

2 Nor do I think he thought about anything further than
2 the limited issue as to whether they're business records
2 for the purpose of the subpoena. I don't think he even
2 considered those elements as to their admissibility at

1580

1 trial.

2 THE COURT: well, he ruled that they were --
3 all right. I believe that he had ruled that, perhaps in
4 response to subpoena requests, saying that they're
5 business records, but I -- as to whether or not he
6 talked about individual issues of admissibility of
7 certain records or not I'm not aware of that.

8 MR. WEHNER: He certainly couldn't decide in
9 advance whether they were properly admissible.

10 MS. SWEENEY: Your Honor, if I may respond
11 just briefly. Had Judge Robinson determined that they
12 were personal records rather than business records they
13 would not have been required to be produced pursuant to
14 this subpoena.

15 THE COURT: I understand.

16 MS. SWEENEY: In this case, Your Honor, the
17 very same criteria that guided his decision that they
18 were business records are basically the equivalent
19 criteria that admit documents as business records in
20 trials.

2 THE COURT: Let me read Judge Gesell's ruling
2 in the Court of Appeals. This is the Court of Appeals
2 on April 6, '93 in the Gesell ruling. "We turn to the
2 Independent Counsel's contention that the District Court

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2 had erred by reserving its ruling on the extent to

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1 which, if any, purely private material found in the
2 documents may have to be redacted, the admissibility of
3 the documents and any claim by the defendant that the
4 portions of the papers selected by Independent Counsel
5 are incomplete." That's a quote from the lower Court's
6 Order. "The lower court did no more than acknowledge by
7 this statement that some portions of the documents might
8 be more prejudicial than probative or might not be
9 relevant under the applicable rules of evidence. See
10 Federal Rules of Evidence 402 and 403."
11 "The District Court," I'm skipping
12 some, "merely declined to determine in limine the
13 admissibility of each portion of the documents. Because
14 the District Court deferred its decision on
15 admissibility the Independent Counsel cannot taken an
16 appeal from the ruling at this time."
17 And I think I tried to take care of that in my
18 ruling that I did in August and perhaps I misread
19 Mr. Wehner's pleading because I thought he would have
20 read through the documents and found what he thought was
21 inappropriate. At the same time I didn't understand the
22 approach from the Independent Counsel that the entire
23 document comes in. There are a lot of records that she
24 met with consultants that showed her modus operandi as
25 to dealing with them and as to being relevant to the

1582

1 perjury counts where she said they didn't carry any
2 weight and they had a committee that decided these
3 matters, and I think that argument is right in a sense
4 that I think it's developers and others she met with

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5 would fall in the category of people who had influenced

6 her decision from outside HUD.

7 The jury has the right to see that, but I

8 don't think the entire document should come in

9 unredacted with many other items that have no bearing on
10 the case except to go to the jury as matters that could
11 be unfairly read by the jury to take some kind of an
12 inference against your defendant because of the
13 lifestyle she led and the restaurants she ate in and
14 trips she took and things of that nature. Organizations
15 she attended, et cetera. That goes both ways, because
16 there are organizations and other items in here that I
17 think the defendant would like to have the jury know
18 about.

19 Mr. Wehner has objected to these items. I
20 think the Independent Counsel should go through and
2 Mr. Wehner should go through this set as well and use

2 specific pages that can come into evidence and, or parts
2 of the pages that come into evidence. If there's a name
2 that's not relevant, a date or place that's not relevant
2 to these charges would it would not go before the jury

1583

1 for review.
2 I'll let you look at it overnight and see if
3 we come up with anything else. But I will let you take
4 sometime, the rest of this afternoon, and go through
5 certain individual items if you wish.

6 MS. SWEENEY: Your Honor, may I have a moment
7 to confer with Mr. Wehner?

8 THE COURT: Sure.

9 MS. SWEENEY: we're ready to proceed, Your

10 Honor.

11 THE COURT: All right.

12 Bring the jury in.

13 I'll sit for about another 20 minutes and then

14 I have to go to an executive meeting.

15 Before we do the voir dire I'd like just to

16 have you run through each of these exhibits and identify

17 them as to the handwriting and the method of keeping

18 them, et cetera, in the normal course of business.

19 MS. SWEENEY: Yes, Your Honor.

20 (Jury present)

2 THE COURT: All right, we're ready to go. Is

2 the witness here?

2 we're ready to resume.

2 BY MS. SWEENEY:

2 Q Mrs. Nettles-Hawkins, I'm going to hand you four

1584

1 Government Exhibits that are not yet in evidence.

2 They've been marked for identification as Government's

3 Exhibits five, six, seven and eight. And I'd ask you to

4 take a few moments and to go through those documents, to

5 look through each of them, and then I'd like to ask you

6 some questions about them.

7 THE DEPUTY CLERK: Government's Exhibits six,

8 seven and eight marked for identification.

9 MS. SWEENEY: Five, six and seven.

10 THE DEPUTY CLERK: No, you already marked

11 five.

12 (Government's Exhibits Six,

13 Seven and Eight marked for

14 Identification)

15 BY MS. SWEENEY:

16 Q Do you recognize those four documents?

17 A They're calendars that Miss Dean had.

18 Q Do you recognize the handwriting in each of the
19 documents, starting with Government Exhibit Five and
20 then proceeding with the others?

2 A There's a combination of Miss Dean's handwriting

2 and my own.

2 Q And is there a combination of the two handwritings
2 in each of those four documents?

2 A Yes.

1585

1 Q Can you tell us where each of those four documents
2 were kept while you were working at HUD?

3 A These two would have -- these three that would be
4 Exhibits five, six, and is this eight?

5 Q Yes.

6 A Eight, would have been maintained on Miss Dean's
7 desk. They would have laid open on her desk. This one
8 looks like the one I maintained at my own desk.

9 Q And did you have access to both the one at your --
10 to the one at your own desk?

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11 A Yes.
12 Q Did you have access to the ones that were
13 maintained on Miss Dean's desk?
14 A Yes.
15 Q How often did you have access to them?
16 A Daily.
17 Q Was it part of your duties and responsibilities as
18 Miss Dean's secretary to maintain these calendars?
19 A Yes.
20 Q Was that part of your job at HUD, to maintain these
2 calendars?
2 A Yes.
2 Q And were these calendars maintained in the course
2 of your performing your duties at HUD?
2 A Yes, yes.

1586

1 MS. SWEENEY: Your Honor, I'd move these into
2 evidence.
3 THE COURT: All right, thank you. I'll
4 reserve at this time. I'll allow Mr. Wehner to have
5 some voir dire on those records if you wish.
6 Ladies and gentlemen, voir dire means he can
7 question about these records for sometime before they're
8 admitted to make sure that they are what they purport to
9 be.
10 VOIR DIRE EXAMINATION
11 BY MR. WEHNER:
12 Q Mrs. Nettles-Hawkins, I'm Steve Wehner.
13 A Hi.
14 Q Referring to -I'll
start with number five. was
15 it your practice or Miss Dean's practice to make a note
16 on the calendar the following day if an event that had
17 been scheduled had or had not occurred?
18 A What I prepared for her on a daily basis was an
19 index card that gave her her calendar for the day and on
20 that index card we would note any changes.
2 Q Okay. So the index card would differ from the
2 calendar.
2 A It could.
2 Q It could? The index card was prepared closer to
2 the day, closer to the time at which events took place?

1 MS. SWEENEY: Objection, Your Honor.
2 THE COURT: I'm allow this voir dire.
3 A It was prepared the night before.
4 Q And was it a compilation of data from the
5 calendars?
6 A Yes.
7 Q And other sources?
8 A Her verbal changes or changes I might add on my
9 own.
10 Q Given your history of working for Miss Dean, are
11 these calendars an accurate reflection of what she did
12 on a daily basis?
13 A No, because the changes were not made on the
14 calendar themselves. As I noted that on the index card
15 that was prepared for her, the changes were noted
16 there. I would not go back and reconcile the calendar
17 that way.
18 Q It's true as well, isn't it, that these calendars
19 and the entries were made before planned future events,
20 is that correct?

2 A Yes.
2 MS. SWEENEY: Objection, Your Honor.
2 BY MR. WEHNER:
2 Q And they are not a record of what occurred on a
2 particular day, is that correct?

1588

1 A That's correct.
2 Q So if Miss Dean in all of these calendars, there's
3 a notation that said met with Joe Smith, and I just pick
4 Joe Smith out of the air, I don't have any reason to
5 think his name is there, meet with Joe Smith, that
6 doesn't necessarily mean that Miss Dean met with
7 Joe Smith, does it?
8 A No.
9 MR. WEHNER: Nothing further, Your Honor.
10 THE COURT: I didn't hear the answer, I'm
11 sorry.
12 THE WITNESS: No.
13 MR. WEHNER: I have nothing further on the
14 voir dire, Your Honor.
15 THE COURT: All right. Do you have anything
16 else on the voir dire?
17 MS. SWEENEY: No, Your Honor. At this time
18 the Government renews its motion that these documents be
19 accepted into evidence.
20 THE COURT: All right. I'm going to, as I
2 said, withhold ruling at this time and reserve ruling on
2 the admissibility overall of all of the materials
2 contained in the calendar that's been identified or
2 calendars that have been identified, Exhibits five, six,
2 seven and eight. I will allow you to go in on

1589

1 individual pages if you wish at this time.
2 MS. SWEENEY: Yes, Your Honor, with the
3 Court's permission I'm going to go through the
4 individual pages as to which the defense has stipulated
5 relevance.
6 THE COURT: All right. That's fine.
7 MS. SWEENEY: Your Honor, will those
8 individuals pages be accepted into evidence at this
9 point in time?

10 THE COURT: As long as they've been stipulated
11 to as relevant, as to all the contents that's on the
12 particular page.
13 BY MS. SWEENEY:
14 Q Miss Nettles-Hawkins, I've just handed you what's
15 been marked Government's Exhibit 5A. And it is a
16 portion of Government Exhibit Five and you may refer to
17 the original if the original is clearer and easier to
18 read. I would ask you to look at the entry that's been
19 highlighted.
20 A It's not matching -- okay.
2 Q Do you recognize the handwriting on the highlighted

2 entry?
2 A It's Deborah's.
2 Q And can you tell us what it says?
2 A Saturday December 22nd, it says, "lunch, Andy

1590

1 Sankin, Rehoboth Beach."
2 MS. SWEENEY: with the Court's permission I'll
3 publish that page, Your Honor.
4 THE COURT: No objection to that, then 5A will
5 be admitted and be published.
6 (Government's Exhibit 5A
7 received into Evidence)
8 THE COURT: Do you want to give the year that
9 that calendar covers, please?
10 THE WITNESS: This is December of '84.
11 THE COURT: December of '84.
12 THE WITNESS: Yes, thank you.
13 THE COURT: Is that a calendar really for the
14 year '85?
15 THE WITNESS: The calendar starts -begins
16 with December, 1984, beginning on December the 10th,
17 1984 and then it carries over into 1985.
18 THE COURT: All right.
19 MR. WEHNER: Your Honor, could we reserve all
20 previously stated objections?
2 THE COURT: I thought I took that up at the
2 recess. I'm not quite sure what you're talking about.
2 MR. WEHNER: Very well, Your Honor.
2 BY MS. SWEENEY:
2 Q Miss Nettles-Hawkins, I'll show you a document

1591

1 that's previously been marked Government's Exhibit 5B
2 and I'd ask you to refer to the highlighted material on
3 the one that's been xeroxed. Do you see that?
4 A Yes.
5 Q Do you recognize the handwriting on that entry?
6 A That's my own.
7 Q And can you tell the jury what it says?
8 A It says Thursday, January 31st. It says "lunch,
9 Jockey" -I'm
sorry, one o'clock is what you have
10 highlighted, "Andy Sankin." I'm sorry, I've read the
11 wrong thing. Let me see.
12 THE COURT: Did you get the right one?

13 THE WITNESS: I've got to find which year this
14 one was in.
15 MS. SWEENEY: May I approach, Your Honor, to
16 be of assistance?
17 THE COURT: Sure.
18 A Okay. It says January 29th, 1985, one o'clock.
19 It' s noted, "Andy Sankin."
20 MS. SWEENEY: with the Court's permission I'll
2 publish that one, Your Honor.
2 THE COURT: All right. That will be admitted,
2 5B.
2 (Government's Exhibit 5B
2 received into Evidence)

1592

1 BY MS. SWEENEY:

2 Q Miss Nettles-Hawkins, I've handed you what's
3 previously been marked Government's Exhibit 5C and I'd
4 ask you once again to look at the highlighted matter on
5 that page and can you tell us whose handwriting that one
6 is in?

7 A It' s my own.

8 Q And what does it say?

9 A On January 31st, 1985. It says one o'clock,
10 "Andrew Sankin/Stanley Arms," I've noted an arrow going
11 from one o'clock downward as if to block off the
12 afternoon.
13 Q Miss Nettles-Hawkins, I'm going to show you a
14 document that's been marked Government's Exhibit 5D and
15 ask you to take a look at the highlighted entry on that
16 page and can you tell us in whose handwriting that is?
17 A That's my own.
18 Q And what does the entry say?
19 A Next to the notation it says "lunch," and that's on
20 Friday, March 15th in 1985. "Andrew Sankin. Lunch with
2 Andrew Sankin."

2 MS. SWEENEY: with the Court's permission
2 I'll publish that document.
2 THE COURT: All right, fine. 5D is admitted.
2 (Government's Exhibit 5D

1 received into Evidence)

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2 BY MS. SWEENEY:

3 Q Now, Miss Nettles-Hawkins, I'm going to show you a

4 document that's been marked Government's Exhibit 5E and

5 ask once again if you can identify the handwriting on

6 that highlighted entry?

7 A It's my own. It's Monday, April 22nd, 1985. It

8 says two o'clock. "Andrew Sankin."

9 MS. SWEENEY: Your Honor, again with the
10 Court's permission I'd like to publish that entry.

11 THE COURT: All right, 5E is admitted.

12 (Government's Exhibit 5E
13 received into Evidence)

14 BY MS. SWEENEY:

15 Q Miss Nettles-Hawkins, I'm showing you a document
16 that's previously been marked Government's exhibit 5F
17 and ask you if you recognize the handwriting on the
18 highlighted entry?

19 A It's my own. It's noted under Friday April 26 at
20 one o'clock, "Andrew Sankin."

2 MS. SWEENEY: with the Court's permission,

2 I'll publish that page for the members of the jury.

2 THE COURT: All right. 5F will be admitted.

2 (Government's Exhibit 5F
2 received into Evidence)

1594

1 BY MS. SWEENEY:

2 Q Miss Nettles-Hawkins, I show you a document that's
3 been marked Government's Exhibit 5G and I ask you if you
4 can identify the handwriting on that highlighted entry?

5 A It's my own.

6 Q And can you tell us what it says?

7 A It says "lunch, John Rosenthal."

8 MS. SWEENEY: with the Court's permission I'll
9 publish that page for the -

10 THE COURT: what's the date on that one?

11 THE WITNESS: Friday, May 10th, 1985.

12 THE COURT: All right. That may be

13 published. That's admitted.

14 (Government's Exhibit 5G
15 received into Evidence)

16 BY MS. SWEENEY:

17 Q Mrs. Nettles-Hawkins, I'm going to show you a
18 document that's been marked Government's Exhibit 5H. Do
19 you recognize the handwriting on the highlighted entry?

20 A It is my own. It's under Thursday August 1st,

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2 above lunch I've noted the time of 11:45. The name Rick
2 Shelby. And the restaurant was 209 1/2.
2 MS. SWEENEY: Your Honor, with the Court's
2 permission I would publish that page.
2 THE COURT: All right. It will be admitted,

1595

1 5H.
2 (Government's Exhibit 5H
3 received into Evidence)
4 BY MS. SWEENEY:
5 Q Mrs. Nettles-Hawkins, I've handed you what's been
6 marked Government's Exhibit 51. And I ask you if you
7 can identify the handwriting on that highlighted entry
8 on that page?
9 A It's my own. Noted under Friday August 9th, 1985,

10 next to the notation for lunch it says Rick Shelby. The
11 restaurant again is 209 1/2.
12 MS. SWEENEY: with the Court's permission, I'd
13 like to publish that page for the members of the jury.
14 THE COURT: All right. It will be admitted.
15 (Government's Exhibit 51
16 received into Evidence)
17 BY MS. SWEENEY:
18 Q Mrs. Nettles-Hawkins, I've shown you a document
19 that's been marked Government's Exhibit 5J and I ask you
20 once again if you can recognize the handwriting in the
21 highlighted entry?
22 A Under Thursday, August 29th, entry was made in
23 Deborah's handwriting at 7:30, "Andy Sankin."
24 MS. SWEENEY: with the Court's permission, I
25 would like to publish that page.

1596

1 THE COURT: All right. 5J is admitted.
2 (Government's Exhibit 5J
3 received into Evidence)
4 BY MS. SWEENEY:
5 Q Mrs. Nettles-Hawkins, I hand you a document that's
6 been marked Government's Exhibit 5K and I ask if you
7 recognize the handwriting that's been highlighted on
8 that page?

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9 A It's Deborah's handwriting. It's noted under

10 Monday September the 9th, 1985 under the notation lunch
11 it says Shelby and Mitchell.

12 MS. SWEENEY: With the Court's permission I'd
13 publish that exhibit.

14 THE COURT: 5K will be admitted.
15 (Government's Exhibit 5K
16 received into Evidence)

17 BY MS. SWEENEY:

18 Q Miss Hawkins, I've handed you a document that's
19 been marked Government's Exhibit 5L and I ask you if you
20 recognize the handwriting that's been highlighted on
2 that page?

2 A The notation was made on Thursday October 3rd, 1985
2 under lunch with the time noted 12 noon. It says with
2 Tom Broussard. Underneath Deborah in her own
2 handwriting wrote in the name of Janet Hale.

1597

1 MS. SWEENEY: With the Court's permission I'd

2 publish that exhibit, Your Honor, 5L?

3 THE COURT: All right. 5L will be admitted.

4 (Government's Exhibit 5L

5 received into Evidence)

6 BY MS. SWEENEY:

7 Q Mrs. Nettles-Hawkins, I've handed you what's been

8 marked Government's Exhibit 5M and I ask if you

9 recognize the handwriting that's been highlighted on

10 that page?

11 A It is my own. It's noted under Tuesday October 15,
12 1985. The time three o'clock. The name of Rick Shelby
13 was entered along with the notation co-insurance
14 briefing.

15 MS. SWEENEY: with the Court's permission I'd
16 ask that that document be published to the members of
17 the jury.

18 THE COURT: All right. It will be admitted,

19 5M.
20 (Government's Exhibit 5M
2 received into Evidence)

2 BY MS. SWEENEY:
2 Q Mrs. Nettles-Hawkins, I'll show you what's been
2 previously marked Government's Exhibit 5-0?
2 THE COURT: We skipped N?

1598

1 MS. SWEENEY: They got out of order perhaps.
2 THE COURT: Okay. we'll stop when you find N
3 then •
4 MS. SWEENEY: I'll due N next.
5 THE COURT: All right. I have to recess.
6 A Under – it's noted under Monday December 9, 1985.

Lunch with Rick Shelby, and again the restaurant noted

8 was 209 1/2.
9 MS. SWEENEY: with the Court's permission I'd
10 ask that that document be published for the members of
11 the jury.
12 THE COURT: All right, that will be admitted,
13 5-0.
14 (Government's Exhibit 5-0
15 received into Evidence)
16 MS. SWEENEY: Did Your Honor indicate I might
17 do N?
18 THE COURT: How about N? Do you have N?
19 MS. SWEENEY: Yes, Your Honor.
20 BY MS. SWEENEY • •
2 Q Miss Nettles-Hawkins, I show you what's been
2 previously marked Government's Exhibit 5N and I ask if
2 you recognize the handwriting that's been highlighted on
2 that document?
2 A It is my own. Under lunch the notation of 12

1599

1 noon – I'm sorry, the date is Friday November 22nd, at
2 12 noon, Phil Winn, the restaurant was Dominique's, and
3 then at four o'clock I've noted the name of Rick
4 Shelby.
5 Q Are you familiar with the name Phil Winn?
6 A Be was a developer.

7 MS. SWEENEY: with the Court's permission I'd

8 like to publishing Government's Exhibit 5N.

9 THE COURT: All right. 5N has been

10 published.

11 Ladies and gentlemen, I have to recess. We
12 have a Court meeting this evening. Tomorrow morning we
13 will start at 9:30. I have one short matter in another
14 case earlier and we'll be ready to go at 9:30. It
15 should be a full day tomorrow and we'll move along
16 through these documents and go forward with the next
17 witnesses.
18 Remember now overnight the admonition again,
19 please, no talking about the case with each other or if
20 anyone else talks to you about it, avoid it in the
2 media, don't read, watch or listen to anything about

2 this case. Be back here at 9:30, please? Thank you.

2 (Jury dismissed)

2 THE COURT: You can be excused. All right.

2 You have several more of those pages, right?

1600

1 MS. SWEENEY: Yes, Your Honor, I think I have
2 probably another 20.

3 THE COURT: Do you know if there are other
4 pages within the calendars, the other calendars that you
5 have not marked that you would like to have if I don't
6 let the entire calendar in? Is there some way we can do
7 that, or would you rather not do it?

8 MS. SWEENEY: I do believe that there are
9 additional relevant entries. I would have to look

10 through the calendars.

11 THE COURT: I think there are. We'll see how
12 we do that tomorrow. We might have to reserve and come
13 back to that.

14 Also, Mr. Wehner, it's incumbent upon you and
15 Miss Dean to look at those and see if there are any
16 particular items that come in in toto or certain pages
17 that would come in that you would be concerned about.
18 Secondly, you reserved all your objections in
19 front of the jury, which was appropriate. I take it
20 what you meant by that is that you were just renewing
2 your objection for the record of the admissibility of
2 these documents, or do you have anything else?

2 MR. WEHNER: No, that's what I said. Just on
2 the Braswell issue. I will point out to the Court, if
2 there are entries we will concede relevance in order to

1601

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1 speed things along, if we can come up with a list. We
2

just won't concede admissibility generally. So if the
3

Independent Counsel and we can get together and concede
4 that these 15 days --
5 THE COURT: I've looked at the telephone
6 messages I read. For instance, there are lots of
7 things, and I think under the Court of Appeals ruling
8 and Judge Gesell's ruling those are reserved. So take a
9 look at those.

10 All right, I'll stand in recess until 9:30 in
11 the morning.
12 (Proceedings recessed at 4:20 p.m. to resume September
13 29, 1993 at 9:30a.m.)
14 Certificate of Official Reporters
15 It is certified by the undersigned Official Court
16 Reporters of the United States District Court for the
17 District of Columbia that the foregoing is the official
18 record of the proceedings indicated.
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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA

3 UNITED STATES OF AMERICA t4 - VERSUS5
DEBORAH GORE DEAN,
6 DEFENDANT
7

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DOCKET NO.
CRIMINAL NO. 92-181

WASHINGTON, D.C.
SEPTEMBER 29, 1993

10:00 A.M.
VOLUME XIII

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TRANSCRIPT OF
THE HONORABLE
UNITED STATES
AND A JURY.
APPEARANCES:

FOR THE GOVERNMENT:

14
15
16

FOR THE DEFENDANT:

17
18

COURT REPORTERS:

19
20
2
2
2
2

PAGES

2

(COMPUTER-AID TRANSCRIPT

TRIAL BEFORE
THOMAS F. HOGAN,
DISTRICT JUDGE,

ROBERT O'NEILL, ESQ
PAULA SWEENEY, ESQ.
OFFICE OF INDEPENDENT COUNSEL
444 NORTH CAPITOL STREET, N.W.
WASHINGTON, D.C. 20001

STEPHEN VINCENT WEHNER, ESQ.
513 CAPITOL COURT, N.E.
WASHINGTON, D.C. 20002

ANNELIESE J. THOMSON,
SANTA THERESA ZIZZO

U.S. DISTRICT COURT,
3RD & CONSTITUTION AVE., N.W.
WASHINGTON, D.C. 20001
1602-1765

OF STENOTYPE NOTES)

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1 PROCEEDING S
2 THE COURT: All right, good morning.
3 MR. WEHNER: Good morning, Your Honor.
4 THE DEPUTY CLERK: Criminal Number 92-181.
5 United States of America versus Deborah Gore Dean. We
6 have Robert O'Neill, Paula Sweeney for the Government.
7 Stephen Wehner for Miss Dean.
8 THE COURT: All right.
9 Miss Sweeney, did we make any advances on this
10 calendar issue I left with you last night?
11 MS. SWEENEY: I hope so, Your Honor. I have
12 supplied Mr. wehner and Miss Dean with a copy of
13 additional entries that we would propose to put into
14 evidence and I have a copy for the Court as well.
15 THE COURT: Thank you for the work you did. I
16 appreciate it.
17 MS. SWEENEY: And, Your Honor, I had another
18 matter that I wanted to raise. We anticipate reaching
19 late this afternoon or perhaps first thing tomorrow a
20 witness as to the materiality of the perjury and the
Page 905

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2 concealment and we are – would like to make a motion
2 that that testimony be heard outside the presence of the
2 jury since it's an issue for the Court.
2 THE COURT: An issue? What's the issue?
2 MS. SWEENEY: The materiality.

1608

1 THE COURT: Of the witness* testimony as to
2 the perjury?

3 MS. SWEENEY: Yes, Your Honor.

4 THE COURT: A motion in limine hearing.

5 MS. SWEENEY: Your Honor, I do believe we

6 wouldn't reach this witness until late this afternoon

7 or, as I said, perhaps the first thing tomorrow.

8 THE COURT: All right.

9 There's two matters I wanted to look at
10 briefly as to the calendar. One would be the issue on
11 voir dire raised by the defendant that I do not think I
12 treated adequately in admitting the individual pages of
13 the calendaring system that I've admitted over objection
14 of the defendant. That is, the testimony of the witness
15 who is on the stand as to the accuracy or not of the
16 calendars in that she testified that certain meetings
17 may not have occurred because these were written in
18 advance and were not changed after the fact to reflect
19 reality, and that overall then she would have said they
20 aren't accurate, whether that lays a foundational
21 grounds for admission of these calendars. I'm going to
22 rule that it does not. It goes to weight and not the
23 admissibility of documents as to whether certain
24 meetings occurred or not.
25 It's evident from the testimony that she kept

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1 these calendars and kept them up to date and to reflect
2 the meetings that were to be held. I will not limit
3 their use because of inaccuracy claims. So I think if
4 there's an area that is inaccurate that has been gone
5 into by the Government on these individual pages, the
6 defendant is capable of attacking those, as necessary,
7 through examination of the witness or production of
8 their own evidence, if she did not go those meetings or
9 went out of town or whatever.

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10 Mr. wehner, have you had a chance to review
11 these proposed exhibits, individual exhibits, whether
12 there's an objection to each of these pages or not?
13 MR. WEHNER: Yes, I've looked at them this
14 morning, Your Honor. Could I respond briefly to the
15 last -16
THE COURT: You can make a record.
17 MR. WEHNER: - to the last couple of
18 sentences?
19 THE COURT: Yes.
20 MR. WEHNER: I believe that Your Honor said
2 that the inaccuracies in the calendars could be
2 explained either through the cross-examination of
2 Nettles-Hawkins or -
2 THE COURT: Not could be, may be. I don't
2 know if it will or not or whether there are

1610

1 inaccuracies, but just the challenge, maybe there's
2 enough to void their admissibility. I don't think that
3 that's a concern as to any ones that are relevant to the
4 issues at hand. You could challenge it. It doesn't
5 mean that they come in necessarily unchallenged.
6 MR. WEHNER: I think that the second part of
7 that statement that Your Honor made which I recall as
8 being or we could challenge that through, I believe you
9 said, our own evidence -10
THE COURT: If you wished. You don't have any
11 burden to. I understand that. If there are any
12 inaccurate ones.
13 MR. WEHNER: Miss Hawkins testified that all
14 the calendars were inaccurate.
15 THE COURT: She testified to the presumption
16 that if the meetings didn't occur they would be
17 inaccurate, but the meetings, she also testified, she
18 scheduled on a daily basis, she updated it and if it
19 didn't occur she put an index card. She didn't come
20 back and reconcile the calendar. Despite her statement
2 I guess you could consider them inaccurate means they're
2 all inaccurate. I didn't consider her testimony quite
2 so broadly. That's why I said it goes to the weight as
2 to meetings that didn't occur.
2 MR. WEHNER: But I think her testimony was as

1611

1 broad as to the regularity with which the calendars were
2 made as they were with her statement they were
3 inaccurate and I don't think there's specific testimony
4 from her as to any inaccuracies in the calendar,
5 including the ones the Independent Counsel is attempting

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6 to introduce, and the cross-examination -

7 THE COURT: Also, I recall various other

8 witnesses who testified to meetings with her although

9 maybe not as to the exact date and timeframe. Some
10 have, I believe on certain times and dates, which would
11 verify the calendars.

12 MS. SWEENEY: Yes, Your Honor, at the very
13 least, Your Honor, the calendars indicate that the
14 meetings were scheduled with certain individuals, and at
15 the very least.

16 Your Honor will notice in some instances as
17 you flip through the additional pages this morning that
18 there are indications that certain meetings were
19 canceled. We're offering them to show that they were
20 scheduled and subsequently canceled with particular
21 individuals who have -- who are at issue really in this
22 particular case.

23 As to the regularity question, Your Honor,
24 Ms. Nettles-Hawkins testified yesterday that she
25 maintained the calendar on a daily basis and that it was

1612

1 one of her duties to reconcile the calendars and to make
2 an effort to see that the appointments reflected in each
3 calendar were reflected on the other documents as well.

4 THE COURT: Well, I indicate it's not for the
5 jury's benefit, but just the Court's review of the
6 calendars yesterday that I made, although somewhat
7 cursory, I was impressed with the detail written down as
8 to the meetings and the times and things on her
9 calendars. All right. I accept your objection but I'm
10 going to overrule on the grounds that I've given.

11 MR. WEHNER: Could I make one more statement
12 in this regard?

13 THE COURT: Yes.

14 MR. WEHNER: Judge, I think if you look at the
15 reason that the exceptions to the hearsay rule exists,
16 they exist based upon the premise that evidence as it is
17 accepted pursuant to the exceptions is reliable.

18 THE COURT: Trustworthy. That's the
19 foundation for admitting hearsay evidence. I understand
20 that.

21 MR. WEHNER: Trustworthy, right, and I think
22 that where a witness testified that the documents are
23 inaccurate, that removes the foundation for the
24 admission of the testimony, number one.
25 Number two, I think because the witness

1613

1 testified that they are inaccurate it unfairly shifts

2 the burden to the defense in violation of the Fifth

3 Amendment to prove those inaccuracies when there's

4 insufficient foundation, and with that I will sit down

5 and be quiet, Your Honor.

6 THE COURT: I recognize both those arguments.

7 That's why I raised it this morning to make sure the

8 record had been adequately considered by the Court both

9 as to inaccuracy concerns and whether or not it places

10 some burden on the defendant, but I don't think it does

11 in either case to violate the hearsay rule, the

12 admission of these documents. When there's hearsay you

13 place a burden on the defendant if they wish to, if she

14 wishes to, to try to refute it if they believe it's not

15 correct. That's the way the system works. They don't

16 have to. They have an opportunity to.

17 And, secondly, as to the inaccuracies or not I

18 think I covered that in a discussion with the witness

19 and other witnesses as verified in these meetings, and

20 Miss Sweeney indicates some cancellations and I have one

2 in front of me, May 18th, I'm not sure in what exhibit,

2 i can't read the xerox numbers very well, but it's May

2 18th and at the bottom of that it

2 says "rescheduled it" across a meeting she had with

2 Janet Hale. So sometimes these were corrected to

1614

1 reflect that there were changes in the documents -- in

2 the appointments on those documents.

3 All right. Then the witness is going to go

4 ahead and identify each of these documents,

5 Miss Sweeney?

6 MS. SWEENEY: Yes, Your Honor, I was going to

7 have the witness identify the ones that were in our

8 original exhibit binder and I was hoping to publish the

9 additional ones at some later time after Your Honor and
10 Mr. Wehner had an opportunity to look at them.
11 THE COURT: All right. We'll look at them
12 over the break.
13 MR. WEHNER: Judge, is the publishing to the
14 jury going to be limited to the specific entry that's
15 been identified by the Office of the Independent Counsel
16 or are they going to include other appointments on that
17 day and other activities on that day?
18 THE COURT: I guess the document that's going
19 to be exhibited to the jury I think will be the entire
20 day. I think what the jury has seen on the screen, what
2 they've been seeing on the screen is just a highlighted

2 area and there may be a little appointment underneath it
2 that comes up on the screen, but the whole page has not
2 been shown on the screen so far.
2 MR. WEHNER: And I would ask that that

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1 practice be continued.

2 THE COURT: I think for speed sake I think we
3 should show the highlighted appointment that the
4 Government is interested on the screen rather than have
5 them look at every single appointment on the page. That
6 will take much longer.

7 MR. WEHNER: Since that's what the jury is
8 going to see, I'll just alert the Court to the point
9 that we have agreed with the Independent Counsel that
10 one portion of that is going to be redacted, the skull

11 and crossbones on a certain date. That's been agreed
12 to.

13 MS. SWEENEY: Yes, Your Honor, we have

14 redacted that.
15 THE COURT: All right. You've done that.
16 MR. WEHNER: And, secondly, I may request the
17 Court when you make a determination as to what Exhibits
18 go out to the jury to mark out one or two or three other

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19 passages.

20 THE COURT: All right, I'll take care of that
2 at that point.

2 MR. WEHNER: Yes, sir.

2 THE COURT: All right. We're ready to go.

2 Bring in the jury.

2 (Jury present)

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1 THE COURT: All right, ladies and gentlemen,

2 good morning. We're ready to proceed at this time again

3 with the witness who was on from last evening. We'll

4 continue to present the Government's case at this time

5 (SHERRILL NETTLES-HAWKINS, WITNESS FOR GOVERNMENT,

6 RESUMED THE STAND)

7 THE COURT: Good morning. Thank for you

8 coming back.

9 THE WITNESS: Good morning.

10 DIRECT EXAMINATION - CONTINUED

11 BY MS. SWEENEY:

12 Q Ms. Nettles-Hawkins, I'm going to hand you the
13 original calendars again so that you may refer to them
14 if you have difficulty with the individual exhibits.

15 Ms. Nettles-Hawkins, I'm handing you what's
16 been marked Government's Exhibit 5P and I ask if you
17 could take a look at the highlighted portion of that
18 document. Do you recognize the handwriting in the
19 highlighted portion?

20 A It is my own.

2 THE COURT: I'm sorry, what's the letter?

2 MS. SWEENEY: 5P.

2 THE COURT: P.

2 A It's Tuesday, December 10th, noted at lunch, one
2 o'clock, Phil Winn, I made a notation, meet him at

1617

1 airport, United Airlines flight 166.

2 MS. SWEENEY: with the Court's permission I'd
Page 911

3 like to publish that entry to the jury.

4 THE COURT: All right. Without objection 5P

5 will be admitted.

6 (Government's Exhibit 5P

7 received into Evidence)

8 BY MS. SWEENEY:

9 Q Ms. Nettles-Hawkins, I'm going to show you a

10 document that's been marked Government's Exhibit 7A. Do
11 you recognize the handwriting in the highlighted portion
12 of that document?

13 A It is mine. It's noted under Wednesday, January
14 29th, 1986, at ten a.m., Tom Broussard, and a phone
15 number.

16 MS. SWEENEY: With the Court's permission,
17 Your Honor, I'd like to publish 7A to the members of the
18 jury.

19 THE COURT: All right. 7A will be admitted
20 and published.

2 (Government's Exhibit 7A

2 received into Evidence)

2 BY MS. SWEENEY:

2 Q Ms. Nettles-Hawkins, I'm going to show you a
2 document that's been marked Government's Exhibit 7B and

1618

I'll ask if you recognize the handwriting in the
highlighted portion on that exhibit?

3 THE COURT: Could we have the year for this
4 group here, these sevens?

5 THE WITNESS: 1986.

6 THE COURT: Yes, before it was '85. Now we're
7 into '86 starting with 7A.

8 MS. SWEENEY: Yes, Your Honor.

9 A Under Monday, February 3rd, 1986, noted is the name
10 of Rick Shelby. I drew a circle around 12:30, pointed
11 and arrow to his name and with the restaurant 209 1/2
12 noted.

13 MS. SWEENEY: With the Court's permission I'd
14 like to publish that exhibit 7A.

15 THE COURT: All right, it will be admitted and
16 published. 7B.

17 MS. SWEENEY: 7B, I'm sorry, Your Honor.

18 (Government's Exhibit 7B
19 received into Evidence)

20 BY MS. SWEENEY:

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21 Q I'm going to show the witness what's been marked
22 Government's Exhibit 7C and I'd ask if you recognize the
23 handwriting, the highlighted portion on that document?
24 A It is mine, it's noted under Wednesday March 12,
25 1986, beside the time of three o'clock p.m., Andrew

1619

1 Sankin.
2 MS. SWEENEY: with the Court's permission -3
THE COURT: whose name is that? I'm sorry, I
4 didn't -
5 THE WITNESS: Andrew Sankin.
6 THE COURT: All right. Thank you.
7 BY MS. SWEENEY:
8 Q Ms. Nettles-Hawkins, I've handed you what's been
9 marked Government's exhibit 7D and I ask if you
10 recognize the handwriting in the highlighted portion on
11 that exhibit?
12 A It is mine. It's noted under Friday March 21st,
13 1986, the time 2:30, with the name of Rick Shelby.
14 MS. SWEENEY: with the Court's permission I'd
15 like to publish that Exhibit to the jury?
16 THE COURT: All right. 7D is admitted. 7C
17 was also.
18 MS. SWEENEY: 7D, Your Honor.
19 THE COURT: Right, 7D will be admitted.
20 (Government's Exhibits 7C and
2 7D received into Evidence)
2 BY MS. SWEENEY:
2 Q I'm handing the witness what's been marked
2 Government's Exhibit 7F and I'd ask if you recognize the
2 handwriting in the highlighted portion?

1620

1 A Again, it's my own, noted under Monday, April 7th,
2 1986, time 11:45, lunch with Rick Shelby, and the
3 restaurant 209 1/2.
4 MS. SWEENEY: with the Court's permission, I
5 would publish this exhibit to the members of the jury.
6 THE COURT: All right. 7F will be admitted.
7 (Government's Exhibit 7F
8 received into Evidence)
9 BY MS. SWEENEY:
10 Q I've handed you what's been marked Government's
11 Exhibit 7G. Do you recognize the handwriting in the
12 highlighted portion on that exhibit?
13 A The handwriting noted Friday June 6th is not mine
14 and it's not Deborah's.
15 Q Do you recognize it as the handwriting of someone
16 else in the office?
17 A I am guessing when I say this, but it looks like
18 the handwriting of a co-worker then, Dorothy Faison.
19 Q And who was Miss Faison?
20 A She was a staff assistant in the office.
2 Q Can you read the entry in Miss Faison's
2 handwriting?
2 A It says Friday June 6th, 1986, 1:30. The name of
2 Jack Brennan.
2 MS. SWEENEY: Your Honor, at this time I'd ask

1 to publish that entry to the members of the jury.
2 THE COURT: All right. I'll admit 7G.
3 (Government's Exhibit 7G
4 received into Evidence)
5 BY MS. SWEENEY:
6 Q I've handed the witness what's been marked as
7 Government's Exhibit 7H?
8 THE COURT: You skipped E on purpose?
9 MS. SWEENEY: Yes, Your Honor.
10 A This is noted under Wednesday, June 25th, a circle
11 was drawn around the six p.m. time, the name of Lou
12 Kitchin is written there in my own handwriting and also
13 the name of the restaurant Four Seasons or the Hotel
14 Four Seasons.
15 MS. SWEENEY: Your Honor, at this time I'd
16 like to publish Exhibit 7H to the members of the jury.
17 THE COURT: All right. It's admitted.
18 (Government's Exhibit 7H
19 received into Evidence)
20 BY MS. SWEENEY:
21 Q Ms. Nettles-Hawkins, I've handed you what's been
22 marked as Government's Exhibit 7-1. Do you recognize
23 the handwriting in the highlighted portion on that
24 document?
25 A Looking at the calendar I recognize it better.

1622

1 It's my own handwriting and it's noted under Wednesday
2 July 2nd, 1986, the name of Al Kliman.
3 Q Who is Mr. Kliman?
4 A Mr. Kliman was the head of the budget office of HUD
5 at the time, I believe.
6 MS. SWEENEY: Your Honor, with the Court's
7 permission we would public exhibit 7H to the members of
8 the jury. 7-1, I'm sorry.
9 THE COURT: That will be admitted.
10 (Government's Exhibit 7-1
11 received into Evidence)
12 BY MS. SWEENEY:
13 Q Ms. Nettles-Hawkins, I'm handing you a document
14 that's been marked Government's Exhibit 6J.
15 THE COURT: Seven or 6J?
16 MS. SWEENEY: 6J.
17 A It's noted under Thursday July 10th, 1986, in my
18 own handwriting. It's the name -- the time noted six
19 o'clock, Andrew Sankin. And the name of the restaurant,
20 the Guards.
21 MS. SWEENEY: At this time, Your Honor, I'd
22 ask to publish exhibit 6J to the members of the jury.
23 THE COURT: All right. It will be admitted.
24 (Government's Exhibit 6J
25 received into Evidence)

1623

1 BY MS. SWEENEY:

2 Q Ms. Hawkins, I've handed a document that's been

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3 marked Government's Exhibit 7K, and do you recognize the

4 handwriting in the highlighted portion on that exhibit?

5 A Looking at the calendar, the original calendar, I

6 recognize my own handwriting under Friday July 18th,

7 1986, the time ten to 12 noon is blocked off and I've

8 written in, in quotes, mock hearing, room 9202.

9 MS. SWEENEY: Your Honor, at this time I'd
10 like to publish Government's Exhibit 6J.

11 THE COURT: 7K. we did 6J.

12 MS. SWEENEY: 7K, I'm sorry, Your Honor.

13 THE COURT: 7K is admitted.
14 (Government's Exhibit 7K
15 received into Evidence)

16 BY MS. SWEENEY:

17 Q I'm handing the witness a document that's been
18 marked Government's Exhibit 6M. Do you recognize the
19 handwriting in the highlighted portion on that exhibit?

20 A It is Deborah's handwriting. It's noted under July
2 23rd. There is -- the year is 1986. Andy Sankin is
2 noted, but no time.

2 MS. SWEENEY: At this time, Your Honor, I'd
2 like to publish Government Exhibit 6M.

2 THE COURT: All right, 6M is admitted.

1 (Government's Exhibit 6M

2 received into Evidence)

3 BY MS. SWEENEY:

4 Q I've handed the witness a document that's been

5 marked Government's Exhibit 7N.

6 A Noted under Friday July 25th, 1986 under twelve

7 I've written in lunch in my own handwriting with Rick

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8 shelby, 209 1/2, and in parens, tentative.

9 MS. SWEENEY: Your Honor, at this time I'd

10 like to publish Government's Exhibit 7N to the members
11 of the jury.

12 THE COURT: All right. The original, is it
13 written in ink?

14 THE WITNESS: It was written in pencil in the
15 original calendar.

16 THE COURT: All right. It's admitted.

17 (Government's Exhibit 7N
18 received into Evidence)

19 BY MS. SWEENEY:

20 Q I'm handing the witness a document that's been
2 marked Government's Exhibit 7-0. And I ask if you

2 recognize the handwriting that's been highlighted on
2 that document?

2 A It is my handwriting noted under Tuesday, August
2 5th, 1986 at 12 noon, lunch with Rick Shelby.

1625

1 MS. SWEENEY: At this time, Your Honor, I'd
2 like to publish exhibit 7-0 to the members of the jury.

3 THE COURT: All right. 7-0 is admitted.

4 (Government's Exhibit 7-0
5 received into Evidence)

6 BY MS. SWEENEY • •

7 Q I've handed the witness a document that's been
8 marked 7P, and I'll ask you, Ms. Nettles-Hawkins, if you
9 recognize the handwriting in the highlighted portion on
10 that exhibit?

11 A It is my handwriting noted under Wednesday August
12 20th, 19 86 at one o'clock, Lou Kitchin, and a telephone
13 number.

14 THE COURT: I sneezed over that name.

15 THE WITNESS: Lou Kitchin.

16 THE COURT: All right. Thank you.

17 MS. SWEENEY: Your Honor, at this time I'd
18 like to publish exhibit 7P to the members of the jury.

19 THE COURT: 7P will be admitted.

20 (Government's Exhibit 7P
2 received into Evidence)

2 BY MS. SWEENEY :

2 Q HS . Nettles-Hawkins, I've handed you what's been
2 marked Government's Exhibit 7Q and I'll ask if you
2 recognize the handwriting in the highlighted portion of

1626

1 that document?

2 A It is my handwriting, noted under Thursday

3 september the 11th, 1986, under -- at the time of 2:30

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4 p.m. I've drawn a little arrow or something, which says

5 meeting with Rick Shelby.

6 MS. SWEENEY: At this time, Your Honor, I'd

7 like to publish Government exhibit 7Q to the members of

8 the jury.

9 THE COURT: All right. 7Q is admitted.

10 (Government's Exhibit 7Q

11 received into Evidence)

12 BY MS. SWEENEY:

13 Q I've handed the witness what's been marked

14 Government's Exhibit 7R and I'd ask if you recognize the

15 handwriting in the highlighted portion?

16 A It's my handwriting, noted under Wednesday,

17 September 24th, and I've written in the name of

18 Linda Chavez and underneath that the word reception.

19 MS. SWEENEY: Your Honor, at this time I'd

20 like to publish Government's Exhibit 7R to the members

2 of the jury.

2 THE COURT: Let me ask the witness a

2 question. You said you wrote the word section under

2 Linda Chavez?

2 THE WITNESS: Reception. Linda Chavez, and

1627

1 then reception.

2 THE COURT: I'm sorry, I thought you said

3 section. What time was it?

4 THE WITNESS: I don't know the time. I have

5 it sort of a diagonal between 8:30 and eight p.m., eight

6 o'clock and 8:30 p.m.

7 MS. SWEENEY: With the Court's permission we

8 would public Government's Exhibit 7R.

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9 THE COURT: All right. I'll admit 7R.
10 (Government's Exhibit 7R
11 received into Evidence)

12 BY MS. SWEENEY:

13 Q Ms. Nettles-Hawkins, I've handed you a document
14 that's been marked Government's Exhibit 7S and I'd ask
15 if you recognize the handwriting in the highlighted
16 portion on that document?

17 A It is my handwriting, noted under Wednesday October
18 15th, 10:30 a.m., Chavez luncheon.

19 MS. SWEENEY: With the Court's permission I'd
20 like to publish Government exhibit 7S to the jury.

2 THE COURT: All right, it's admitted.
2 (Government's Exhibit 7S
2 received into Evidence)

2 BY MS. SWEENEY:

2 Q I'm handing the witness a document that's been

1 marked Government's Exhibit 6T, and I'd ask if you
2 recognize the handwriting in the highlighted portion on
3 that exhibit?

4 A It's my handwriting noted under Thursday, October
5 16th, 1986. I've written in the time of 7:30, dinner
6 with Lou Kitchin, Jockey Club.

7 MS. SWEENEY: Your Honor, at this time I'd
8 like to publish Government's Exhibit 6T to the members
9 of the jury.

10 THE COURT: All right. 6T is admitted.
11 (Government's Exhibit 6T
12 received into Evidence)

13 BY MS. SWEENEY:

14 Q I've handed the witness a document that's been
15 marked Government's Exhibit 7U and I'd ask if you
16 recognize the handwriting in the highlighted portion on
17 that document?

18 A It is my handwriting, noted under Friday, November
19 7th, 1986, 12 noon is circled, lunch with Rick Shelby
20 and the restaurant noted was La Colline.

2 MS. SWEENEY: At this time, Your Honor, I'd
2 like to publish Government Exhibit 7U.

2 THE COURT: All right, 7U is admitted.

2 (Government's Exhibit 7U
2 received into Evidence)

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1 BY MS. SWEENEY:

2 Q I've handed the witness a document that's been
3 marked Government's exhibits 6V and I'd ask if you
4 recognize the handwriting in the highlighted portion of
5 that document?

6 A This is my handwriting noted under Wednesday,
7 November 12th, 1986, the name of Lou Kitchin, in
8 parentheses, tentative dinner, Mr. K's, six p.m.

9 MS. SWEENEY: With the Court's permission I'd
10 like to publish Government's Exhibit 6V.

11 THE COURT: All right, 6V is admitted.

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12 (Government's Exhibit 6V
13 received into Evidence)
14 BY MS. SWEENEY:
15 Q I'm handing the witness a document that's been
16 marked Government's Exhibit 7V and I'd ask if you
17 recognize that document?
18 A Referring back to the original calendar, it is my
19 handwriting -20
THE COURT: which is this?
2 MS. SWEENEY: 7V as in Victor?
2 A It's noted under Wednesday, November 12, 1986, I've
2 written in the name of Lou Kitchin, in parens, tentative
2 early dinner, and I didn't really note a time. I just
2 have it written in during the period of between 5:15,

1630

1 5:45 p.m.
2 MS. SWEENEY: with the Court's permission I'd
3 like to publish exhibit 7V.
4 THE COURT: All right, 7V may be admitted.
5 (Government's Exhibit 7V
6 received into Evidence)
7 BY MS. SWEENEY:
8 Q I'm handing the witness a document that's been
9 marked Government's Exhibit 7W, and I'd ask you if you
10 recognize the handwriting in the highlighted portion on
11 that document?
12 A It is my handwriting noted under Friday, November
13 21st, 1986. I've written in 3:15 p.m., the name of
14 Rick Shelby, the name of Mary, it looks like Lunt, Harry
15 Oppman.
16 MS. SWEENEY: Your Honor, at this time I'd
17 like to publish Government's Exhibit 7W for the members
18 of the jury.
19 THE COURT: All right, 7W will be admitted.
20 (Government's Exhibit 7W
2 received into Evidence)
2 BY MS. SWEENEY:
2 Q I'm handing the witness what's been marked as
2 Government's Exhibit 7X and I ask if you recognize the
2 handwriting on the highlighted portion of that document?

1631

1 A It is my handwriting noted under Wednesday,
2 December 24th, 1986, lunch with Rick Shelby I've written
3 in. I really didn't know the time. I have it next to
4 twelve noon.
5 MS. SWEENEY: with the Court's permission I
6 would publish Government's exhibit 7X.
7 THE COURT: All right, admitted.
8 (Government's Exhibit 7X
9 received into Evidence)

10 BY MS. SWEENEY:
11 Q I've handed the witness what has been marked as
12 Government's Exhibit 8A and I'd ask if you recognize the
13 handwriting in the highlighted portion of that document?
14 A This appears to be from January 7, 1987, under 12
15 noon, the name of Lou Kitchin.

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16 MS. SWEENEY: with the Court's permission I
17 would publish Government's Exhibit 8A to the members of
18 the jury.
19 THE COURT: All right, 8A is admitted.
20 (Government's Exhibit 8A
21 received into Evidence)
22 BY MS. SWEENEY:
23 Q I'm handing the witness a document that's
24 been marked Government's Exhibit 8B and I'd ask if you
25 recognize the handwriting in the highlighted portion on

1632

1 that exhibit?
2 A It is my handwriting, noted under January 15th,
3 1987, three o'clock, Lou Kitchin.
4 MS. SWEENEY: with the Court's permission I'd
5 like to publish Government's Exhibit 8B.
6 THE COURT: All right. 8B is admitted.
7 (Government's Exhibit 8B
8 received into Evidence)
9 BY MS . SWEENEY:
10 Q I'm handing the witness a document that's been
11 marked Government's Exhibit 8D.
12 THE COURT: 8D?
13 MS. SWEENEY: Yes, Your Honor.
14 THE COURT: You skipped C?
15 MS. SWEENEY: Yes, Your Honor, but I will get
16 back to it.
17 THE COURT: All right. 8D.
18 BY MS . SWEENEY:
19 Q Do you recognize the handwriting in the highlighted
20 portion on that document?
2 A It's Deborah's handwriting noted under January
2 2 8th, 1987, lunch with Rick and John.
2 MS. SWEENEY: At this time, Your Honor, I
2 would ask to publish Government exhibit 8D to the
members of the jury.

1633

1 THE COURT: All right, 8D will be admitted.
2 (Government's Exhibit 8D
3 received into Evidence)
4 BY MS. SWEENEY:
5 Q Handing the witness a document that's been marked
6 Government's Exhibit 8C and I'd ask if you recognize the

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7 handwriting in the highlighted portion on that exhibit?

8 A It is my handwriting, noted under January 23rd,

9 1987, seven to nine p.m., reception for Jack Brennan and
10 Anne Joslin, the F Street Club, and the address of that

11 club.

12 MS. SWEENEY: At this time, Your Honor, I'd
13 ask that Government exhibit 8C be published to the
14 members of the jury.

15 THE COURT: All right, 8C will be admitted.

16 (Government's Exhibit 8C
17 received into Evidence)

18 BY MS. SWEENEY:

19 Q I'm handing the witness a document that's been
20 marked Government Exhibits 8E and 8F and this exhibit
2 contains two handwritten - two highlighted portions and

2 I'd ask the witness if she can identify the handwriting
2 in both of those highlighted portions?

2 A Both entries are mine, under January 20 29th 1987,
2 at ten a.m., Lou Kitchin is noted and then under Friday,

1634

1 January 30 at two p.m. the names Andrew Sankin and Bill

2 Morgan were noted.

3 MS. SWEENEY: with the Court's permission I'd

4 ask to publish Government Exhibits 8E and 8F to the

5 members of the jury.

6 THE COURT: All right, they're admitted, 8E

7 and 8F.

8 (Government's Exhibits 8E and

9 8F received into Evidence)

10 BY MS. SWEENEY:

11 Q Ms. Nettles-Hawkins, I've shown you a document
12 that's been marked Government's Exhibit 8G. Do you
13 recognize the handwriting in the highlighted portion on
14 that document?

15 A It is Deborah's handwriting. She has noted

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16 Rick Shelby and with a notation he'll call, re: time.
17 Q Is that next to a particular time?
18 A One p.m.
19 THE COURT: what's the date of 8G, please?
20 THE WITNESS: I'm sorry, it's February 10th,
2 1987.

2 MS. SWEENEY: With the Court's permission I'd
2 ask to publish Government's Exhibit 8G.
2 THE COURT: 8G will be admitted
2 (Government's Exhibit 8G

1635

1 received into Evidence)
2 BY MS. SWEENEY:
3 Q I've handed the witness a document that's been
4 marked Government's Exhibit 8H and I'd ask if you
5 recognize the handwriting?
6 A It is my handwriting noted under February 19th,
7 1987, a twelve noon lunch with Lou Kitchin.
8 MS. SWEENEY: At this time, Your Honor, I'd
9 ask to publish Government Exhibit 8H.

10 THE COURT: All right. 8H will be admitted.
11 (Government's Exhibit 8H
12 received into Evidence)
13 BY MS. SWEENEY:
14 Q I've handed the witness a document that's been
15 marked Government's Exhibit 8-1 and I'd ask if you
16 recognize the handwriting in the highlighted portion on
17 that document?
18 A It is my handwriting noted under March 2nd, 1987,
19 the time ten a.m. is circled, the name Demery and Dorsy
20 are there, re: Mod Rehab.
2 MS. SWEENEY: At this time, Your Honor, I'd
2 ask to publish Government exhibit 8-1 for the members of
2 the jury.
2 THE COURT: All right. 8-1 is admitted.
2 (Government's Exhibit 8-1

1636

1 received into Evidence)
2 BY MS. SWEENEY:
3 Q Ms. Nettles-Hawkins, I've handed you a document
4 that's been marked Government Exhibit 8J and I'd ask if
5 you recognize the handwriting in the highlighted portion
6 on this exhibit?
7 A This is Deborah's handwriting noted under March
8 4th, 1987, the time noted is 7:30 p.m., Phil Winn, at
9 the Occidental and in parentheses she wrote not to go on

10 official calendar.
11 MS. SWEENEY: At this time, Your Honor, I'd
12 ask that Government exhibit 8J be published to the
13 members of the jury.
14 THE COURT: All right. 8J will be published
15 and admitted.

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16 (Government's Exhibit 8J
17 received into Evidence)
18 BY MS. SWEENEY:
19 Q I'm handing the witness a document that's been
20 marked Government exhibit 8K and I ask you if you
2 recognize the handwriting on the highlighted portion of
2 that document?
2 A It's Deborah's handwriting noted under March 23,
2 1987, 4:30 p.m. with the name Rick Shelby.
2 MS. SWEENEY: At this time I ask that

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1 Government exhibit 8K be published to the members of the
2 jury.

3 THE COURT: All right, 8K is admitted.

4 (Government's Exhibit 8K

5 received into Evidence)

6 BY MS. SWEENEY:

7 Q I'm handing the witness a document that's been

8 marked Government Exhibit 8L and I'd ask you,

9 Ms. Nettles-Hawkins, if you recognize the handwriting on
10 that document?

11 A It is my handwriting noted under April 1st, 1987 at
12 4:30, the name of Lou Kitchin.

13 MS. SWEENEY: At this time, Your Honor, I'd
14 ask to publish Government Exhibit 8L to the members of
15 the jury.

16 THE COURT: All right, 8L is admitted.

17 (Government's Exhibit 8L
18 received into Evidence)

19 BY MS. SWEENEY:

20 Q I'm handing the witness a document that's been
2 marked Government's Exhibit 8M and I'd ask if you
2 recognize the handwriting in the highlighted portion on
2 that document?

2 A It is my handwriting, noted under April 8th at
2 three p.m., Lou Kitchin.

1638

1 MS. SWEENEY: Your Honor, at this time I'd ask
2 to publish Government's Exhibit 8M for the members of
3 the jury.

4 THE COURT: 8M will be admitted.

5 (Government's Exhibit 8M

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6 received into Evidence)
7 BY MS. SWEENEY:
8 Q I've handed the witness a document that's been
9 marked Government's Exhibit 8N and I'd ask if you
10 recognize the handwriting in the highlighted portion on
11 that document?
12 A It is my handwriting noted under April 9th at 11
13 a.m., the name of John Brennan.
14 MS. SWEENEY: Your honor, at this time I'd ask
15 to publish Government's Exhibit 8N for the members of
16 the jury.
17 THE COURT: All right, 8N is admitted.
18 (Government's Exhibit 8N
19 received into Evidence)
20 BY MS. SWEENEY:
21 Q I've handed the witness a document that's been
22 marked Government's Exhibit 8-0 and I'd ask if you
23 recognize the handwriting in the highlighted portion on
24 that document?
25 A It is Deborah's handwriting noted under April 16,

1639

1 1987, 12:30 p.m., the name of Rick Shelby and
2 Joe Rodota, 209 1/2.
3 MS. SWEENEY: Your Honor, at this time I'd ask
4 that Government exhibit 8-0 be published for the members
5 of the jury.
6 THE COURT: 8-0 is admitted.
7 (Government's Exhibit 8-0
8 received into Evidence)

9 BY MS. SWEENEY:
10 Q I've handed the witness a document that's been
11 marked 8Q and I'd ask if you recognize the handwriting
12 in the highlighted portion on Government Exhibit 8Q?
13 A It is a combination of both Deborah and my own,
14 noted under April 17, 1987 at 12 noon Deborah has
15 written in her handwriting lunch slash Rick Shelby. In
16 my handwriting noted there I wrote Grand Hotel, 12, then
17 a dash, the name of Mitchell.
18 MS. SWEENEY: At this time, Your Honor, I'd
19 ask to publish Government exhibit 8Q for the members of
20 the jury.
21 THE COURT: All right, 8Q you will be
22 admitted.
23 (Government's Exhibit 8Q
24 received into Evidence)
25 BY MS. SWEENEY:

1640

Q Ms. Nettles-Hawkins, I've handed you a document that's been marked Government's Exhibit 8S and I ask if you recognize the handwriting in the highlighted portion of this document?

A It is a combination of Deborah's and my own noted in Deborah's handwriting at 11 30 a.m., the name of Phil Winn and then in my handwriting beside that I wrote in Room 2226, Rayburn.

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1641

1 MS. SWEENEY: Your Honor, at this time, I'd ask to
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2 publish Government's Exhibit 8S to the members of the jury.
3 THE COURT: All right, 8S is admitted.
4 (Government's Exhibit No. 8S was
5 received in evidence.)
6 THE COURT: You meant to skip 8P, right?
7 MS. SWEENEY: Yes, Your Honor.
8 THE COURT: All right.
9 BY MS. SWEENEY:
10 Q. I've handed the witness a document that's been marked
11 Government's Exhibit 8T, and I'd ask you if you can recognize the
12 handwriting in the highlighted portion on 8T?
13 A. I believe this is the handwriting of Dorothy Faison, noted
14 under May 4, 1987. 10:00 is circled, 10:00 a.m. is circled, the
15 name of "Rick Shelby," and then the notation "and mayor of
16 Newark, et al."
17 MS. SWEENEY: Your Honor, at this time, I'd ask to
18 publish Government's Exhibit 8T.
19 THE COURT: All right, 8T will be admitted.
20 (Government's Exhibit No. 8T was
21 received in evidence.)
22 BY MS. SWEENEY:
23 Q. I've handed the witness a document that's been marked
24 Government's Exhibit 8U. I'd ask if you recognize the
25 handwriting in the highlighted portion on 8U?

1642

1 A. This is Deborah's handwriting. Noted under June 2, 1987, at
2 7:00 p.m., "Dominique's -- Phil Winn."
3 MS. SWEENEY: At this time, Your Honor, I'd ask to
4 publish Government's Exhibit 8U.
5 THE COURT: 8U will be admitted.
6 (Government's Exhibit No. 8U was
7 received in evidence.)
8 BY MS. SWEENEY:
9 Q. I've handed the witness a document that's been marked
10 Government's Exhibit 8V and W and X, and once again, there are
11 more than one highlighted portion on that document, and I'd ask
12 if you could identify the handwriting in each of the highlighted
13 portions?
14 A. This is Deborah's handwriting. Noted under June 15, at
15 twelve noon, "Rick Shelby." At 7:00 p.m., "Lou Kitchin."
16 MS. SWEENEY: May I approach the witness, Your Honor?
17 THE COURT: All right.
18 MS. SWEENEY: Your Honor, at this time, I'd ask to
19 publish Government's Exhibit 8V and W.
20 THE COURT: All right. It's one page, but there are
2 two different entries.
2 MS. SWEENEY: Two separate entries, Your Honor.
2 THE COURT: 8V and 8W will be admitted.
2 (Government's Exhibit Nos. 8V and 8W
2 were received in evidence.)

1643

BY MS. SWEENEY:
2 Q. I'm handing the witness a document that's been marked
3 Government's Exhibit 8Y. I'd ask if you recognize the
4 handwriting in the highlighted portion on that document?
5 A. It's Deborah's handwriting. Noted under July 7, 1987,
6 under -- next to 7:00 p.m., the name of "Rick Shelby."
7 MS. SWEENEY: Your Honor, I'd ask to publish
8 Government's Exhibit 8Y.
9 THE COURT: 8Y is admitted.

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10 (Government's Exhibit No. 8Y was
11 received in evidence.)
12 BY MS. SWEENEY:
13 Q. I've handed the witness a document that's been previously
14 marked as Government's Exhibit 8AA, and I'd ask if you recognize
15 the handwriting in the highlighted portion on that document?
16 A. It's Deborah's handwriting. Noted under July 23, 1987, the
17 time noted is 5:30 p.m., "The Grand -
18 Jack and Anne Brennan."
19 MS. SWEENEY: At this time, Your Honor, I'd ask to
20 publish Government's Exhibit 8AA to the members of the jury.
21 THE COURT: All right, 8AA will be admitted.
22 (Government's Exhibit No. 8AA was
23 received in evidence.)
24 BY MS. SWEENEY:
25 Q. At this time, I'm handing the witness a document that's been
26 marked as Government's Exhibit 8DD, and I ask if you recognize

1644

1 the handwriting in the highlighted portion on that document?
2 A. It's Deborah's handwriting. Noted under September 2, 1987,
3 at 6:00 p.m., "Lou Kitchin."
4 MS. SWEENEY: Your Honor, at this time, I'd ask to
5 publish Government's Exhibit 8DD.
6 THE COURT: Is that "B" or "D"?
7 MS. SWEENEY: "D" as in dog.
8 THE COURT: All right, 8DD will be admitted.
9 (Government's Exhibit No. 8DD was
10 received in evidence.)
11 BY MS. SWEENEY:
12 Q. I've handed the witness a document that's been marked
13 Government's Exhibit 8EE, and I'd ask if you recognize the
14 handwriting in the highlighted portion on 8EE?
15 A. It is Deborah's handwriting. Noted under October 27, 1987,
16 at twelve noon, "Lunch" and "Rick Shelby," and then it's been
17 marked out.
18 Q. You said that it's been marked out?
19 A. It was crossed out, a line drawn through it.
20 MS. SWEENEY: At this time, Your Honor, I'd ask to
21 publish Government's Exhibit 8EE.
22 THE COURT: All right, 8EE is admitted.
23 (Government's Exhibit No. 8EE was
24 received in evidence.)
25 BY MS. SWEENEY:

1645

1 Q. I've handed the witness a document that's been marked
2 Government's Exhibit 8FF. I ask if you recognize the handwriting
3 in that document?
4 A. It's Deborah's handwriting. Noted under October 30 at
5 twelve noon, "209-1/2, Rick Shelby."
6 MS. SWEENEY: At this time, Your Honor, I'd ask that
7 Government's Exhibit 8FF be published to the members of the jury.
8 THE COURT: 8FF is admitted.
9 (Government's Exhibit No. 8FF was
10 received in evidence.)
11 BY MS. SWEENEY:
12 Q. I've handed the witness a document that's been marked 8GG,
13 Government's Exhibit 8GG, and I'd ask if you recognize the
14 handwriting in the highlighted portion on that document?
15 A. It's Deborah's handwriting. Noted under November 24, 1987,
16 1:15 p.m., "Joe Rodota" and "R. Shelby."

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17 MS. SWEENEY: At this time, Your Honor, I'd ask that
18 Government's Exhibit 8GG be published to the members of the jury.
19 THE COURT: All right, 8GG is admitted.
20 (Government's Exhibit No. 8GG was
21 received in evidence.)
22 BY MS. SWEENEY:
23 Q. I've handed the witness a document that's been marked
24 Government's Exhibit 8HH, and I'd ask if you recognize the
25 handwriting in the highlighted portion on Government's Exhibit

1646

8HH?
2 A. It is Deborah's handwriting. Noted under December 17, 1987,
3 next to 2:00 p.m., the names "Al Moran, R. Shelby, J. Mitchell."
4 MS. SWEENEY: Your Honor, I'd ask that Government's
5 Exhibit 8HH be published to the members of the jury.
6 THE COURT: 8HH will be admitted.
(Government's Exhibit No. 8HH was
8 received in evidence.)
9 MS. SWEENEY: Your Honor, that concludes our direct
10 examination of this witness.
11 THE COURT: All right. Does that conclude these this
12 morning? Does that conclude these?
13 MS. SWEENEY: No, Your Honor. Our plan was to publish
14 those at a later time after the Court and Mr. Wehner had an
15 opportunity to look at those.
16 THE COURT: I see. Will you call the witness back on
17 those, or it won't be necessary?
18 MS. SWEENEY: Your Honor, we would just propose to
19 publish them for the members of the jury.
20 THE COURT: we'll see how that goes.
21 Do you want a short break?
22 MR. WEHNER: Yes, Your Honor, please.
23 THE COURT: All right. Ladies and Gentlemen, we'll
24 take our morning recess then for 15 minutes and be back to take
25 up the cross examination of the witness. Remember the

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1 admonitions of the Court again, please, about not talking about
2 the case among yourselves or with anyone else during the recess.
3 Take a 15-minute break, please.
4 (Jury out.)
5 MS. SWEENEY: Your Honor, if Mr. Wehner has had an
6 adequate opportunity to take a look at those exhibits, we'd be
7 more than happy to publish them today.
8 THE COURT: All right. Maybe he'll look into them over
9 the lunch hour or something. We'll see what we can do with it,
10 all right, and then see where we are with the witness.
11 All right, we'll be back in 15 minutes.
12 (Recess from 11:07 a.m. to 11:32 a.m.)
13 THE COURT: Who's your next witness, or are you
14 continuing with these? What's next?
15 MS. SWEENEY: Your Honor, we'd continue with
16 Mrs. Nettles-Hawkins to publish those additional documents if
17 there's been an opportunity for counsel and the Court to look at
18 them.
19 THE COURT: I don't know if Mr. Wehner has looked at
20 them yet.
21 MR. WEHNER: I haven't, Your Honor, and I think Your
22 Honor suggested that I do it over lunch hour.
23 THE COURT: Yes. I think --do you have anyone here
24 now or anything else to do?

25 MS. SWEENEY: No, Your Honor, but I believe Mr. Wehner

1648

1 was going to cross-examine the witness.

2 THE COURT: All right. You're going to cross-examine
3 her now, at least on what's been developed so far? Are you ready
4 to go on that?

5 MR. WEHNER: Yes, Your Honor. I can wait.

6 THE COURT: well, why don't you go ahead and do this
7 cross now at least until lunch hour. I mean, you may not be
8 finished with that then. And then we can look at these documents
9 over lunch, come back and finish the cross, and then go through
10 these.

11 All right, bring the jury in.

12 MR. WEHNER: what time does Your Honor want to break
13 for lunch?

14 THE COURT: About 12:10 or so.

15 MR. WEHNER: Very good.

16 THE COURT: Okay? 12:15, in that range.

17 MR. WEHNER: Yes.

18 (Jury in.)

19 THE COURT: All right, Ladies and Gentlemen, we're
20 ready to resume. At this time, we're going to start the cross
21 examination of the witness.

22 would somebody ask her to come back again, please?

2 Thank you.

2 All right, we're ready to go.

2 MR. WEHNER: Thank you, Your Honor.

1649

CROSS EXAMINATION

BY MR. WEHNER:

3 Q. Mrs. Netties-Hawkins, I recognize that this is a difficult
4 process for you, and if there is any time you don't understand my
5 questions or you want to ask for some kind of clarification,
6 please feel free to do so.

7 A. Okay.

8 Q. I'll try to make this as easy as we can.

9 You've known Ms. Dean for a very long time, correct?

10 A. That's correct.

11 Q. And you consider yourself both a friend and a professional
12 associate; is that right?

13 A. Yes.

14 Q. Okay. would you just tell the jury when you began to work
15 for her and when you finished working for her?

16 A. I began working for Deborah in June of '84 through
17 approximately September, maybe October of 1987.

18 Q. And you worked as her secretary during that entire time
19 period?

20 A. That's correct.

21 Q. were you located physically in the same office during that
22 entire time period? I mean, were you in the same place during
23 that entire time period?

24 A. Yes.

25 Q. And was Ms. Dean?

1650

A. Yes.

2 Q. And was Secretary Pierce?

3 A. Yes.

4 Q. Okay. I'm not much of an artist, and I hope you're a little
5 better. Could you go to the board and draw a, the best diagram
6 you can of where the offices were, yours, Ms. Dean's, and the
7 secretary's?

8 (Witness complying.)

9 BY MR. WEHNER:

10 Q. Actually, that was very good, much better than I would have
11 done, believe me.

12 were there other doors?

13 A. There was a door that adjoined the secretary's office with
14 Deborah's.

15 Q. Okay.

16 A. This is a wall.

17 Q. Okay. So this was blocked off?

18 A. (Nodding head.)

19 Q. There was a door between the two offices?

20 A. That's correct.

21 Q. Okay. Were there any other entries or exits from Deborah
22 Dean's office or the secretary's office other than what you've
23 put up there, do you recall?

24 A. Deborah had an entryway in the rear of her office that
25 connected her to the deputy secretary's office.

1651

1 Q. Okay.

2 A. Who was then called the under secretary.

3 Q. Right. And what about to the secretary's office?

4 A. That was the only doorway.

5 Or she could come to -- my desk was located here,
6 immediately outside her office. There was a reception area here.

7 Q. Would you just write "reception area" there, please?

8 A. Okay (Complying.)

9 And she could pass this reception area, and then there
10 would be the offices, or the office that the secretary's
11 confidential assistant and his personal secretary sat in.

12 Q. All right, thank you.

13 Now I notice that you wrote "Deborah" in her office.

14 Based on your experience with working with her, what did she
15 prefer to be called?

16 A. Debbie.

17 Q. What did her friends call her?

18 A. Debbie.

19 Q. Did they also call her Deborah?

20 A. Yes.

21 Q. Okay. And did you call her Deborah or Ms. Dean or -

22 A. I interchanged it.

23 Q. One way -- both ways?

24 A. Um-hum.

25 Q. When Ms. Dean would go to see the secretary, Secretary

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1 Pierce, she would sometimes go by your desk to do that; is that
2 correct?

A. That's correct.

4 Q. And she would on occasion make appointments with Starr
5 Eckart, who was the secretary's secretary, to make --to see the
6 secretary; isn't that right?
7 A. That's correct.
8 Q. There were also times, were there not, that you knew that
9 the secretary came in to see Ms. Dean through the private
10 entries; isn't that right?
11 A. That's correct.
12 Q. And in other words, the secretary and Ms. Dean would meet
13 from time to time by visiting each other through this door; isn't
14 that correct?
15 A. That's correct.
16 Q. And that would, that could have been without you seeing
17 Ms. Dean and Mr. Pierce or without any other secretary seeing
18 Ms. Dean or Mr. Pierce; isn't that correct?
19 A. That's correct.
20 Q. Now you had a chance during that five-year period to observe
21 her working relationship with Secretary Pierce, did you not?
22 A. Yes.
23 Q. Would you describe that working relationship, please?
24 A. It was a formal working relationship, where she had to
25 request to see the secretary, just like everybody else.

1653

1 Q. But in terms of how they talked on a daily basis, did they
2 talk?
3 A. They didn't talk daily.
4 Q. Okay. How often did they talk?
5 A. They could have talked as often as three times a week.
6 Q. Okay. Were there meetings with Secretary Pierce?
7 A. She may communicate with him by a note, which she often did.
8 Q. Okay. Would she communicate in person?
9 A. Sometimes.

10 Q. Okay. Did other people besides Ms. Dean that were employed
11 at HUD see the secretary from time to time?
12 A. Yes.
13 Q. And would those include federal housing commissioners?
14 A. Yes.
15 Q. And would they see the secretary from time to time both with
16 Ms. Dean and without Ms. Dean?
17 A. I'm sure they did.
18 Q. Did Ms. Dean have a place where she had meetings with more
19 than one or two people?
20 A. She could either keep the meeting in her office or move it
21 to the conference room that was part of the secretary's suite.
22 Q. And how many chairs approximately would be in the conference
23 room?
24 A. As many as 15.
25 Q. Okay. Do you recall testifying about your knowledge of the

1 Moderate Rehabilitation Program generally on your direct
2 examination?

A. Yes.

4 Q. Okay. Do you recall that there were meetings regarding the
5 Moderate Rehabilitation Program?

6 A. Yes.

7 Q. And where did those meetings take place?

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8 A. My -- sometimes those meetings were held outside of
9 Deborah's office, in someone else's office, and they were
10 sometimes held after hours, when I was already gone home.
11 Q. Okay. To your personal knowledge, who participated in the
12 meetings besides Ms. Dean?
13 A. Whoever was head of the office of housing at the time and
14 perhaps a special assistant on the staff who was responsible for
15 the housing program.
16 Q. Okay. And when you say whoever the federal housing
17 commissioner was at the time, that would have been at one point
18 Mr. Demery?
19 A. Yes.
20 Q. And at one point Mr. Barksdale?
2 A. Yes.
2 Q. And at one point Ms. Wiseman?
2 A. Yes.
2 Q. Do you recall any others? I'm trying to think of the
2 remainder during that time period.

1655

1 A. Silvio DeBartolomeis was in an acting position.
2 Q. Mr. DeBartolomeis, right.
3 So you recall meetings among these individuals
4 regarding the mod rehab process?
5 A. Yes.
6 Q. Okay. Did you ever attend any of those meetings?
7 A. No.
8 Q. Did you ever overhear what went on at any of those meetings?
9 As best you can recall.

10 A. Just maybe tidbits, just minor pieces of information.
11 Q. Okay. You testified on direct that you overheard Deborah
12 Dean making comments on occasion about certain of the federal
13 housing commissioners; isn't that correct?
14 A. That's correct.
15 Q. Okay. Do you have any reason to think that these were
16 Ms. Dean's personal comments or were the comments of the
17 secretary?
18 A. To the best of my knowledge, they were Deborah's personal
19 comments.
20 Q. Okay. But you wouldn't know that one way or the other,
2 would you --

2 A. As I said --
2 Q. -- for certain?
2 A. --to the best of my knowledge.
2 Q. Because you overheard what Deborah said?

1656

1 A. Exactly.
2 Q. Okay. Did you handle, as far as you know, all of Ms. Dean's
3 incoming correspondence?
4 A. Most of it.
5 Q. Where else did the correspondence go if you didn't handle
6 it?
7 A. The receptionist in the office received the correspondence

8 first --
9 Q. Okay.

10 A. -- if it was controlled.
11 It really depends on, on what the item was. People
12 could get by me if I was away from the office, if I was at lunch,
13 wherever. If I was not at my desk, then they could get by me.
14 Q. But in terms of correspondence in terms of letters, are you
15 also saying letters could be delivered without you seeing them?
16 A. Exactly.
17 Q. Okay. As well as individuals coming in to see Ms. Dean
18 without you seeing them?
19 A. Yes.
20 Q. Okay. Did you handle the outgoing correspondence?
21 A. I handled it if I was asked to type a response to it or if
22 it was given to one of the special assistants to research or for
23 them to draft a response to that particular piece of
24 correspondence.
25 Q. Okay. I want to ask you -- well, how often did you talk to

1657

Ms. Dean?
2 A. Daily.
3 Q. Okay. Frequently during the day?
4 A. Yes.
5 Q. Okay. Now do you recall any conversations with Ms. Dean at
6 all or ever recall her saying anything about or seeing a piece of
7 paper which reflected the name Baltimore Uplift?
8 A. No, I do not.
9 Q. Now before you worked for Ms. Dean, which I believe you said

10 was beginning in about 1983 --
11 A. '84.
12 Q. '84. Did you work for Mr. Lance Wilson?
13 A. I did.
14 Q. And he was in the same position as Ms. Dean was in; is that
15 correct?
16 A. That's correct.
17 Q. Executive assistant to the secretary?
18 A. Yes.
19 Q. Okay. And did he have, on occasion make telephone calls
20 without you placing the telephone calls?
21 A. Yes.
22 Q. Now there's been a lot of testimony about the receipts, and
23 you were shown, I don't know, probably 25 different receipts --
24 different calendar entries.
25 THE COURT: Not receipts, calendar entries.

1658

1 MR. WEHNER: All right.
2 THE COURT: Just to clear the question up, it was
3 calendar entries counsel meant.
4 MR. WEHNER: Right.
5 Q. And I believe I asked you a couple of questions yesterday
6 about the accuracy of those calendar entries. I believe you
7 testified that they were inaccurate, being not accurate, because

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8 they would reflect planned events possibly but not necessarily
9 events that took place; isn't that correct?
10 A. That's correct.
11 Q. Okay. Now I believe you also testified that there was a
12 card system that you managed or maintained that dealt with
13 Ms. Dean's schedule?
14 A. Her schedule was typed on an index card. The daily -- that
15 particular day's schedule was typed on an index card so that she
16 could carry it with her.
17 Q. And do you have a recollection that generally speaking,
18 there were many more events on the index card than were reflected
19 on those calendars that you saw?
20 A. I said that the index would have reflected a more accurate
2 picture of what took place that day, because she could have made
2 her own notation on it. If meetings were canceled, her notation
2 would have been made on that card. I would not have gone back to
2 reconcile the calendars in that fashion.
2 Q. No, and I wasn't suggesting that you were. What I was

1659

1 really trying to establish was whether those calendars reflect
2 generally, the ones you saw, Ms. Dean's typical activities on a
3 day? Do they represent what she was doing on a
4 day-to-day-to-day -
5 A. No.
6 Q. -- or -- I'm sorry.
7 A. Go ahead.
8 Q. Or were those noninclusive of everything she was doing on a
9 day-to-day basis?
10 A. They were not a -- they are not an accurate picture, and
11 they don't include everything that could have gone on.
12 Q. Okay. So where else would there be records of what else
13 occurred on a particular day other than the note cards?
14 A. I would not have kept a record.
15 Q. Okay. Was Ms. Dean a hard worker?
16 A. She, she is.
17 Q. Or was?
18 A. She was.
19 Q. When, when you worked together?
20 A. Yes.
21 Q. By that, I mean what -- she got into the office or left the
22 office at what time?
23 MS. SWEENEY: Objection, Your Honor.
24 MR. WEHNER: Judge -
25 THE COURT: All right, overruled. Go ahead, I'll allow

it.

MR. WEHNER: She left --
3 THE COURT: I'll allow it not because of any response
4 by defense counsel, but I'm going to allow it in any event.
5 MR. WEHNER: Thank you, Your Honor.
6 Q. Was she a hard worker?
7 A. Yes.
8 Q. And she was at the office after you left the office,
9 correct?

10 A. That is correct.

11 Q. Many, many times?

12 A. Many nights, yes.

13 Q. Okay She would occasionally come in late in the morning;

14 isn't : that right?

15 A. That is correct.

16 Q. And you would be there in the morning before, before she

17 came in?

18 A. That is correct.

19 Q. Okay You testified concerning her finances and the fact

20 that she said, on occasions she said she was broke.

21 A. That is correct.

22 Q. Did, did you keep any of her records that dealt with

23 personal finances?

24 A. Not in any detail, no.

25 Q. Okay so you weren't writing her checks for her, for

1 example?

2 A. Not on a daily basis, no.

3 Q. Or keeping track of who paid for lunch on a particular day?

4 A. No, I did not.

5 Q. Okay. So you would have no way of knowing whether when the

6 calendar reflects a luncheon with Andrew Sankin, for example,

7 whether it took place or not, or B, who paid for the luncheon if

8 it did take place; is that correct?

9 A. I would have no knowledge of that.

10 Q. Okay. Did Ms. Dean buy you lunch on occasion?

11 A. She had, um-hutn.

12 Q. And did she take you to restaurants on occasion?

13 A. She did.

14 Q. What restaurants did she take you to?

15 A. Mr. K's.

16 Q. Do you recall any others?

17 A. That's the only one I remember.

18 Q. On occasion, Ms. Dean would give you typing assignments as

19 part of your job; is that, is that right?

20 A. That's correct.

2 Q. And would she occasionally write out what she wanted you to

2 type?
2 A. Yes.
2 Q. Let me show you what I've marked for identification as Dean
2 Exhibit 184 and Dean Exhibit 185.

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THE CLERK: Dean Exhibits 184 and 185 marked for
identification.
(Defendant's Exhibit Nos. 184 and 185
were marked for identification.)

BY MR. WEHNER:
6 Q. And I just want you to take a quick look at them and see if
7 you can recognize them.

8

9 those?
10
11
12

THE COURT: Have counsel seen these? Did you see

MR. O'NEILL: Yes.
MS. SWEENEY: Yes, I did, Your Honor.
MR. WEHNER: Yes, sir. I showed them to Mr. O'Neill

13 before I went up.
14 THE COURT: All right.
15 THE WITNESS: One is Deborah's handwritten notes, which
16 looks like it was transcribed into a typewritten note -
17 MS. SWEENEY: Objection, Your Honor. The document has
18 only been marked for I.D. at this point.
19 THE COURT: All right. The first question is whether
20 she recognized it, and then she can answer yes or no, and then
21 I'll let you see what you can do with it.
22 BY MR. WEHNER:
23 Q. Do you recall, having looked at the document, typing Exhibit
24 185?
25 A. I do not.

1 Q. Do you recall seeing 184?
2 A. Before today?
3 Q. Exactly.
4 A. When it was shown to me by -
5 Q. Before today?
6 A. Before today, yes.
7 Q. When did you see it?
8 A. When the counsel showed it to me.
9 Q. When I showed it to you?
10 A. No, the Independent Counsel.
11 Q. Okay. Did you have a recollection then as to what it was?

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12 A. I identified it as Deborah's handwritten note then, and it
13 looks like it was transcribed as a typewritten document.
14 Q. Okay. But before then, you didn't have any -
15 you don't
16 have any recollection as you sit here today as to comparing it,
17 I'll use that word, either of these?
18 A. No.
19 Q. When mod rehab decisions were discussed in these committee
20 meetings, or when mod rehab was discussed, did you on occasion
21 receive information from Ms. Dean as to what was going to be
22 funded and what wasn't?
23 A. No.
24 Q. Do you have any recollection of receiving lists of names of
25 places -
A. No.

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1 Q. -- that were to be funded?
2 Do you recall something known as OFA, the Office of
3 Finance and Accounting?
4 A. Yes.
5 Q. Okay. And do you recall that Ms. Dean worked on a project
6 involving OFA for an extended period of time?
7 A. Yes.
8 Q. Would you describe what that was, please?
9 A. OFA stands for the Office of Finance and Accounting, and the
10 Office of Finance and Accounting, Ms. Dean had set up a task
11 force to study some personnel issues there, and she brought in
12 the employees, their supervisors. She had a court reporter
13 present to take statements of the problems that were occurring --
14 that was occurring in that office.
15 MS. SWEENEY: Your Honor, may we approach?
16 THE COURT: Sure.
17 (Bench conference on the record.)
18 THE COURT: Does this belong in the defendant's case,
19 as opposed to the government's case?
20 MS. SWEENEY: Your Honor, that's the objection that I
21 was going to raise. If Mr. Wehner would like to call Ms. Hawkins
22 as his witness, perhaps that's more appropriate.
23 MR. WEHNER: Perhaps it's also appropriate to
24 cross-examine a witness that's left the impression in front of
25 the jury that all the defendant did was eat dinner and talk about

1665

1 mod rehab. Judge, I think that's clearly appropriate cross
2 examination to get into other things Ms. Dean did.
3 THE COURT: well, I think you can get into some other
4 tasks she performed, but to get into the details, I don't know
5 what this is going to get into and how far it's going to go. I
6 do think at some point you start making her your own witness.
7 I let you have you some leeway that she worked hard,
8 and all that, I think, went to the issue you're talking about,
9 and that's why I allowed that, to show she didn't eat lunch and
10 dinner out all day every day, and that is the impression from the
11 calendars.
12 But I'll allow to you ask if she did this task force,
13 but to go into whatever the results of that task force was, I

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14 don't think that affects her work directly. You may want to put
15 it on in your own case as to her credibility and character. But
16 I'll let you develop that she did other work.
17 MR. WEHNER: I don't think it's character work, Judge,
18 that she did other things.
19 THE COURT: I don't know what this went into. I don't
20 know if it was racial problems or sexist problems. I don't know
21 what this task force went into.
22 MR. WEHNER: Very well.
23 THE COURT: I'm not sure we're worried about that right
24 now. All right.
25 (End of bench conference.)

1666

BY MR. WEHNER:

2 Q. During the years that Ms. Dean worked with you, what did she
3 spend most of her time working on?
4 A. She was involved with the fair housing campaign. She
5 traveled to heighten the awareness of what the fair housing laws
6 were about. She spoke on behalf of the department or represented
7 the secretary at particular speaking engagements regarding the
8 fair housing issues.
9 As mentioned about the task force, she was concerned

10 about fair treatment of employees, especially in that particular
11 office of OFA. She -- on a day-to-day basis, she had
12 responsibility for reviewing correspondence for the secretary's
13 signature. She handled personnel matters, political personnel
14 matters, being a liaison with the White House.
15 Q. Do you recall that she worked with Congress?
16 A. Yes, she worked with members of Congress.
17 Q. Would you describe what that was about?
18 A. She worked with them negotiating appropriations for the
19 agency. She may have researched issues that particular members
20 of Congress brought to her attention.

21 Q. Out of all of the things that you have mentioned and
22 recalling that you were with Ms. Dean for that entire four-year
23 period, what would you say she spent most of her time working on?
24 A. I can't really say what she spent most of her time doing.
25 It was divided equally, depending on what, what issue was or what

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needed to be done at the time.

2 Q. Okay. And where did she get the instructions as to what
3 needed to be done at that time?

4 MS. SWEENEY: Objection, Your Honor.

5 THE COURT: If she knows. I'll allow it if she knows.

THE WITNESS: Some of her direction came from the
7 secretary.

8 MR. WEHNER: Nothing further, Your Honor.

9 THE COURT: All right. Do you want to do redirect now?

10 MS. SWEENEY: Your Honor, if we are going to go into
11 the additional calendars after lunch, I'd prefer to do it at that
12 point in time. Were you going to permit Mr. Wehner some time to
13 look through them?

14 THE COURT: Yes, see these additional calendars. We'll

15 recess now then.

16 Ladies and Gentlemen, what we'll do is recess now for
17 lunch. It's a little bit early, but the posture of the witness
18 is such there are some other documents for the Court and counsel
19 to look at for a minute, and we can do that over lunch and have
20 the witness come back after lunch and finish up at that time.
21 we'll come back, it's about 5 after twelve or so, so
22 let's be back here and ready to go at about 20 after one so we
23 don't waste too much time. That's enough lunchtime. So we'll be
24 back at 20 minutes past one for resumption of the trial. Thank
25 you.

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Remember the admonitions of the Court. Don't talk
2 about the case with anyone or let anyone talk about it to you.
3 It's again a lovely day. I hope you can take a walk. All right,
4 we'll see you back here.
5 (Jury out.)
6 THE COURT: will we see you back after lunch?
7 THE WITNESS: Yes.
8 THE COURT: All right, thank you, ma'am.
9 All right, who's coming up after lunch, after this
10 witness finishes, please?
11 MR. O'NEILL: Judge, Susan Zagame, Philip Winn, and
12 Janice Golec will be the next three witnesses.
13 THE COURT: All right, That will take up the day, I'm
14 sure, at least.

15
16

17 1:20.

18
19
20
21
22
23
24
25

MR. WEHNER: Yes, sir.

THE COURT: All right. We'll return after lunch then,

(Recess from 12:05 p.m. to 1:20 p.m.)

166 8A

1 AFTERNOON SESSION 1:30 P.M.

2 THE COURT: All right. we're ready to resume
3 at this time. Have you decided where you're going on
4 this redirect?

5 MS. SWEENEY: well, Your Honor, we have had an
6 opportunity to confer about the calendar and we are
7 ready to proceed with those, to put them in.

8 THE COURT: All right. And then you're going
9 to have some other redirect?

10 MS. SWEENEY: Very briefly, Your Honor.

11 THE COURT: If the calendar raises some
12 different issue than what we had on direct that the
13 defense wants to raise, can they recross on those?

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14 MS. SWEENEY: Yes, Your Honor.
15 THE COURT: All right. We'll bring the
16 witness back.
17 MR. WEHNER: Judge, so I don't have to stand
18 and get up and down, I'll give my continuing objection.
19 THE COURT: All right, the same as the earlier
20 ones. You'll reserve on the record all objections.
2 MR. WEHNER: Yes, sir, thank you.
2 (Jury present)
2 THE COURT: All right, ladies and gentlemen,
2 we're ready to resume after lunch with the redirect.
2 Counsel for the Government will be going into some of

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1 these - some newer documents and calendar entries that
2 we had not had ready previously and we're going to allow
3 her to do that as well.
4 REDIRECT EXAMINATION
5 BY MS. SWEENEY:
6 Q Ms. Nettles-Hawkins, I'm going to hand you a
7 document that's been marked Government's Exhibit 5Q and
8 I'm going to hand you as well the originals of the
9 calendars again in case you need to consult with them.
10 Can you identify for us the handwriting on
11 Government Exhibit 5Q?
12 A The handwriting is my own. It's on - dated
13 Friday, March 8th, 1985. At 12 noon I've noted
14 Mr. Mitchell and Tom Evans.
15 MS. SWEENEY: Your Honor, at this time I'd
16 move Government exhibit 5Q into evidence and ask to
17 publish it to the jury.
18 THE COURT: All right. 5Q will be admitted.
19 (Government's Exhibit 5Q
20 received in Evidence)
21 BY MS. SWEENEY:
22 Q Ms. Nettles-Hawkins, I've handed you a document
23 that's been marked Government's Exhibit five - it is
24 5P, and ask if you recognize the handwriting in the
25 highlighted part of that exhibit?

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1 A It's Deborah's handwriting. It's dated March 29,
2 1985, 11 a.m., John Allen.
3 MS. SWEENEY: For the record I believe that's
4 Government's Exhibit 5P as in pot.
5 THE DEPUTY CLERK: This is 5P?
6 THE COURT: It looks like 5R in mine.
7 MS. SWEENEY: Oh, 5R?
8 THE DEPUTY CLERK: This is 5R.
9 MS. SWEENEY: 5R.
10 THE COURT: All right.
11 MS. SWEENEY: Your Honor, at this time I'd ask
12 to publish that exhibit to the members of the jury.
13 THE COURT: Is that the one you think it is?
14 THE DEPUTY CLERK: On my exhibit list the
15 Government's Exhibits only go up to 5P, so these I'm
16 adding on.
17 BY MS. SWEENEY:
18 Q I've handed the witness a document that's been
19 marked Government's Exhibit 5S and I'd ask if you
20 recognize the handwriting in the highlighted section on
2 that exhibit?
2 A It's Deborah's handwriting. It's dated July 24th,
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2 1985, 12 noon, the name of Lance Wilson.
2 THE COURT: All right, I've admitted 5R and 5S
2 is admitted. 5S for the record is published.

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1 (Government's Exhibits 5R and
2 5S received in Evidence)
3 BY MS. SWEENEY:
4 Q I've handed the witness a document that's been
5 marked Government's Exhibit 5T and I ask,
6 Mrs. Nettles-Hawkins, if you recognize the handwriting
7 in the highlighted material on that document?
8 A It's Deborah's handwriting. It's dated August 15,
9 1985. It says lunch, Joe Strauss.
10 MS. SWEENEY: I ask to publish that document,
11 Your Honor.
12 THE COURT: Yes.
13 (Government's Exhibit 5T
14 received in Evidence)
15 BY MS. SWEENEY:
16 Q I've handed the witness what's been previously
17 marked Government's Exhibit 5U and I ask if you
18 recognize the handwriting in the highlighted material on
19 that document?
20 A It's my handwriting, dated September 4th, 1985,
21 I've written in at five o'clock over the name of
22 Joe Strauss.
23 MS. SWEENEY: I ask to publish that, Your
24 Honor.
25 THE COURT: All right, that will be admitted,

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1 5U.
2 (Government's Exhibit 5U received
3 in Evidence)
4 BY MS. SWEENEY:
5 Q I've handed the witness a document that's been
6 previously marked Government's Exhibit 5V. I'd ask if
7 you recognize the handwriting in the highlighted
8 material on that document?
9 A It's my own handwriting. It's dated October 22nd,
10 1985, at 1:30, and I've written in the name of
11 Bob Tuttle and also marked it out, crossed it out. It's
12 at the top of that page it's noted that Deborah was out
13 sick.
14 Q When you would cross out a name like that what
15 would that indicate?
16 A That she wasn't in the office that day.
17 MS. SWEENEY: I ask to publish that document,
18 Your Honor.
19 THE COURT: All right, 5V is admitted.
20 (Government's Exhibit 5V
2 received in Evidence)
2 BY MS. SWEENEY:
2 Q I've handed the witness what's been marked
2 Government's Exhibit 5W and I ask you do you recognize
2 the handwriting in the highlighted material on that

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1 document?

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2 A It's my handwriting. It's dated November 25th,

3 3:30 p.m., John Allen.

4 MS. SWEENEY: I ask to publish that document.

5 THE COURT: All right, 5W is admitted.

6 (Government's Exhibit 5W

7 received in Evidence)

8 BY MS . SWEENEY:

9 Q I've handed the witness what's been previously

10 marked Government's Exhibit 5X and I ask if you

11 recognize the printing in the highlighted section on

12 that document?

13 A It's Deborah's.

14 Q And what does it show?

15 A It shows the telephone number and address section

16 from the calendar and it just has his name listed there.

17 Q And what name is listed?

18 A Andrew Sankin.

19 MS. SWEENEY: Your Honor, I ask to publish

20 Government's Exhibit 5X.

2 THE COURT: All right, 5X will be admitted.

2 (Government's Exhibit 5X

2 received into Evidence)

2 BY MS . SWEENEY:

2 Q I've handed the witness a document previously

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1 marked Government's Exhibit 6A. And I'd ask if you
2 recognize the handwriting in the highlighted material on
3 that document?

4 A It's my own handwriting. It's dated February 3rd,
5 1986, at lunch at 12:30, it's noted the name of Rick
6 Shelby, 209 1/2.

7 MS. SWEENEY: I'd ask to publish 6A, Your
8 Honor.

9 THE COURT: All right, 6A will be admitted.

10 (Government's Exhibit 6A
11 received in Evidence)

12 BY MS. SWEENEY:

13 Q I'm handing the witness a document that's been
14 marked Government's exhibit 6B, as in boy, and I'd ask
15 if you recognize the handwriting in the highlighted
16 material on that page?

17 A It is Deborah's handwriting. It's dated February
18 26th, 1986 in the name of David, it looks like Gitlitz.

19 MS. SWEENEY: I'd ask to publish that
20 document, Your Honor.

2 THE COURT: 6B is admitted.

2 (Government's Exhibit 6B

2 received in Evidence)

2 BY MS. SWEENEY:

2 Q I've handed the witness a document that's been

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1 previously marked Government's exhibit 6C and I'd ask if
2 you recognize the handwriting in the highlighted section
3 on that document?

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4 A It's my handwriting. It's dated March 6, 1986.
5 Beside the word lunch I've written in the name of Lance
6 Wilson.
7 MS. SWEENEY: I'd ask to publish that
8 document, Your Honor, Government Exhibit 6C.
9 THE COURT: All right, 6C is admitted.
10 (Government's Exhibit 6C
11 received in Evidence)
12 BY MS. SWEENEY:
13 Q I've handed the witness a document that's
14 previously been marked 6D and I ask if you recognize the
15 handwriting in the highlighted material on that exhibit?
16 A It's Deborah's handwriting. It's dated March 5th,
17 1986. Beside the word lunch, the name of Laury Gay is
18 highlighted.
19 MS. SWEENEY: I'd ask to publish Government's
20 Exhibit 6D.
2 THE COURT: Is there some other writing on
2 that?
2 THE WITNESS: Yes, sir.
2 THE COURT: In conjunction with that
2 appointment?

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1 THE WITNESS: Yes.
2 THE COURT: For the record.
3 THE WITNESS: It says Rick Davis, Laury Gay,
4 and it was marked out and above it I wrote in the word
5 canceled.
6 THE COURT: All right. That will be
7 admitted.
8 (Government's Exhibit 6D
9 received in Evidence)
10 BY MS. SWEENEY:
11 Q I've handed the witness a document that's
12 previously been marked Government's Exhibit 6E and I ask
13 if you recognize the handwriting in the highlighted
14 portion of that document?
15 A It is my handwriting, dated April 22nd, 1986. I've
16 written in 7:30 p.m., dinner with Lance.
17 MS. SWEENEY: Your Honor, I'd ask to publish
18 Government's Exhibit 6E.
19 THE COURT: 6E will be admitted.
20 (Government's Exhibit 6E
2 received in Evidence)
2 BY MS. SWEENEY:
2 Q I've handed the witness a document that's
2 previously been marked Government's Exhibit 6F and I ask
2 if you recognize the handwriting in the highlighted

1677

1 section on that document?
2 A It is my handwriting. It's dated May 15, 1986.
3 Beside the word lunch I've written in the name of
4 Lance Wilson.
5 MS. SWEENEY: Your Honor, I'd ask to publish
6 Government's Exhibit 6F.
7 THE COURT: All right, 6F will be admitted.
8 (Government's Exhibit 6F
9 received in Evidence)

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10 BY MS. SWEENEY:
11 Q I've handed the witness a document that's
12 previously been marked Government's exhibit 6G and I ask
13 if you recognize the handwriting in the highlighted
14 section of that document?
15 A It looks like the handwriting of Dorothy Faison.
16 It's dated June 6th, 1986, the time noted is 1:30. With
17 Jack Brennan's name associated with that time. And it
18 looks like above that in Deborah's handwriting it says
19 canceled.
20 MS. SWEENEY: Your Honor, at this time I'd ask
2 to publish Government's Exhibit 6G.
2 THE COURT: All right, 6G will be admitted.
2 (Government's Exhibit 6G
2 received in Evidence)
2 BY MS. SWEENEY:

16 78

1 Q I've handed the witness a document that's
2 previously been marked Government's exhibit 6H and I ask
3 if you recognize the handwriting in the highlighting on
4 that document?
5 A It is my handwriting. It's dated July 9, 1986. It
6 just says dinner with Laury Gay and Rick Davis.
7 MS. SWEENEY: At this time, Your Honor, I'd
8 ask to publish Government's Exhibit 6H.
9 THE COURT: All right. 6H will be received.
10 (Government's Exhibit 6H
11 received in Evidence)
12 BY MS. SWEENEY:
13 Q I've handed the witness a document that's
14 previously been marked Government's Exhibit 6-1 and I
15 ask if you recognize the handwriting in the two
16 highlighted portions on that particular exhibit, 6-1?
17 A The handwriting under Wednesday, July 23rd, is -
18 the highlighted area is Andy Sankin's name written in
19 Deborah's hand, and under Friday July 25th, noted at
20 lunch I've written in my own handwriting, tentative,
21 Rick Shelby.
22 MS. SWEENEY: Your Honor, I'd ask to publish
23 Government's Exhibit 6-1.
24 THE COURT: All right 6-1 I will be admitted.
25 (Government's Exhibit 6-1

1 received in Evidence)
2 BY MS. SWEENEY:
3 Q I've handed the witness a document previously been
4 marked Government's Exhibit 6Z, and I ask if you
5 recognize the handwriting in the highlighted section on
6 that document?
7 A It is my handwriting, it's dated August 7, 1986.
8 7:30, dinner with Bob Tuttle.
9 MS. SWEENEY: Your Honor, I'd ask to publish
10 Government's Exhibit 6Z*
11 THE COURT: Z as in zebra?
12 MS. SWEENEY: Yes, Your Honor.
13 THE COURT: 6Z is admitted.
14 (Government's Exhibit 6Z
15 received in Evidence)
16 MR. WEHNER: Your Honor, could I see that?
17 THE COURT: Yes, certainly.
18 BY MS. SWEENEY:

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19 Q I've handed the witness a document previously
20 marked Government's Exhibit 6K and I ask if you
2 recognize the handwriting in the highlighted section on
2 that document?
2 A It is my handwriting. It's dated August 5th,
2 1986. At lunch I've written in 12 noon with
2 Rick Shelby.

1680

1 MS. SWEENEY: Your Honor, I'd ask to publish
2 Government's Exhibit 6K.
3 THE COURT: All right, 6K is admitted. 6Z,
4 did you have it marked earlier as 6J?
5 MS. SWEENEY: Yes, Your Honor, we had already
6 used 6J.
7 THE COURT: All right. 6K is admitted.
8 (Government's Exhibit 6K
9 received in Evidence)

10 BY MS. SWEENEY:
11 Q I've handed the witness a document previously
12 marked Government's Exhibit 6L and I ask if you
13 recognize the handwriting in the highlighted section of
14 that document?
15 A It is my handwriting. It's dated September the
16 11th, 1986, 2:30 with Shelby, Dorothy Regis (spelled
17 phonetically) and Harry Oppman.
18 MS. SWEENEY: I'd ask to publish Government's
19 Exhibit 6L?
20 THE COURT: All right, it's admitted.
2 (Government's Exhibit 6L
2 received in Evidence)
2 BY MS. SWEENEY:
2 Q I've handing the witness a document previously been
2 marked Government's Exhibit 6N and I ask if you

1 recognize the handwriting in the highlighted section on

2 that document?
3 A It is my handwriting. It's dated September 19,
4 1986, lunch 12 noon, Laury Gay, Jockey Club, and it
5 looks like I've marked it out.
6 MS. SWEENEY: Your Honor, I'd ask to publish
7 Government's Exhibit 6L -- I mean 6N, I'm sorry.
8 THE COURT: All right, 6N will be admitted.
9 (Government's Exhibit 6N

10 received in Evidence)
11 BY MS . SWEENEY:
12 Q I've handed the witness a document previously been
13 marked Government's Exhibit 6-0 and I ask if you
14 recognize the handwriting in the highlighted section on
15 that document?
16 A It looks like the handwriting of the receptionist
17 Inez wheatney. (Spelled phonetically). It says 12
18 noon, lunch with Gay.
19 THE DEPUTY CLERK: what date was that?
20 BY MS . SWEENEY:
2 Q Is there a date on that exhibit?

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2 A I'm sorry, wednesday, September 24, 1986.
2 THE COURT: All right.
2 MS. SWEENEY: Your Honor, I'd ask to publish
2 that document.

1682

1 THE COURT: 6-0 will be admitted and
2 published.

3 (Government's Exhibit 6-0 received
4 in Evidence)

5 BY MS. SWEENEY:

6 Q I've handed the witness a document previously been
7 marked as Government's Exhibit 6P and I ask if you can
8 identify the handwriting in the highlighted section on
9 that document?

10 A It is my handwriting. It's dated October 16, 1986,

11 7:30. Dinner with Lou Kitchin, Jockey Club.

12 MS. SWEENEY: Your Honor, I'd asked to
13 published Government's Exhibit 6P.

14 THE COURT: 6P will be admitted.
15 (Government's Exhibit 6P received
16 in Evidence)

17 BY MS. SWEENEY:

18 Q I've handed the witness a document previously been
19 marked Government's Exhibit 6Q and I ask if you
20 recognize the handwriting in the highlighted section on
2 that document?

2 A It's Deborah's. It's dated November 7th, 1986,
2 beside lunch it says Rick Shelby.

2 MS. SWEENEY: I offer that document and ask
2 that it be published to the jury.

1683

1 THE COURT: All right, it will be admitted.

2 (Government's Exhibit 6Q

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3 received in Evidence)

4 BY MS. SWEENEY:

5 Q I've handed the witness a document previously

6 marked Government's Exhibit 6R and I ask if you

7 recognize the handwriting in the highlighted section of

8 that document?

9 A It is my handwriting dated November 14, 1986, 11

10 o'clock a.m., Laury Gay and others.

11 MS. SWEENEY: Your Honor, I'd ask to publish

12 this document for the jury.

13 THE COURT: All right, 6R is admitted.

14 (Government's Exhibit 6R

15 received in Evidence)

16 BY MS. SWEENEY:

17 Q I've handed the witness a document previously been

18 marked Government's Exhibit 6S and ask if you recognize

19 the handwriting on that document?

20 A It's Deborah's handwriting. It dated December

21 22nd, 1986. There's no time noted. It just says

22 dinner, Laury Gay and Rick Davis.

23 MS. SWEENEY: Your Honor, at this time I offer

24 that exhibit into evidence and ask to publish it to the

25 jury.

1684

1 THE COURT: All right. It will be admitted.

2 (Government's Exhibit 6S

3 received in Evidence)

4 BY MS. SWEENEY:

5 Q I've handed the witness a document that was

6 previously marked Government's Exhibit 6Y. I ask if you

7 recognize the handwriting or the printing in the

8 highlighted section of that document?

9 A It's Deborah's, it's dated September 15th, 1986.

10 Just the word Mod.

11 MS. SWEENEY: Your Honor, at this time I ask

12 to publish Government's Exhibit 6Y.

13 THE COURT: All right, 6Y will be admitted.

14 (Government's Exhibit 6Y

15 received in Evidence)

16 BY MS. SWEENEY:

17 Q I've handed the witness a document previously been

18 marked as 7Y and I ask if you recognize the handwriting

19 in the highlighted section of that document?

20 A It is my handwriting, it's dated January 8th,

2 1987. Three o'clock. It's noted - the name noted is

2 David Gitlitz.

2 MS. SWEENEY: Your Honor, I'd ask to publish

2 Government's Exhibit 7Y.

2 THE COURT: This is January of what year

1685

1 again?

2 THE WITNESS: '87.

3 THE COURT: '87. All right.

4 THE WITNESS: I'm sorry, Your Honor, it's

5 January 8th, 1986.

6 THE COURT: All right, it will be January 8th,

7 '86.

8 (Government's Exhibit 7Y

9 received in Evidence)

10 BY MS. SWEENEY:

11 Q I've handed the witness a document previously been
12 marked as Government's Exhibit 7Z, and I ask if you
13 recognize the handwriting in the highlighted portion of
14 that document?

15 A It's mine. It's dated Wednesday, February 26th,
16 1986, at 6:30 p.m. The name, David Gitlitz.

17 MS. SWEENEY: Your Honor, I'd ask to publish
18 Government's Exhibit 7Z.

19 THE COURT: All right. It will be admitted.

20 (Government's Exhibit 7Z

2 received in Evidence)

2 BY MS. SWEENEY:

2 Q I've handed the witness a document previously
2 marked as Government's Exhibit 7AA and I ask if you
2 recognize the handwriting in the highlighted section of

1686

1 that document?

2 A It's my handwriting. It's March 27th, 1986. It
3 says cocktail reception for Lance Wilson, and the way
4 I've drawn the arrow, it began at six o'clock.

5 MS. SWEENEY: Your Honor, I'd ask to publish
6 Government's Exhibit 7AA to the members of the jury.

7 THE COURT: All right. Admitted.

8 (Government's Exhibit 7AA received

9 in Evidence)

10 BY MS. SWEENEY:

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11 Q I've handed the witness a document previously
12 marked seven 7BB, B as in boy, and I ask if you can
13 recognize the handwriting in the highlighted section on
14 that exhibit?
15 A It's my handwriting. It's dated May 15th, 1986.
16 12:15, lunch with Lance.
17 MS. SWEENEY: Your Honor, I'd ask to publish
18 at this time Government's Exhibit 7BB.
19 THE COURT: All right. 7BB is admitted.
20 (Government's Exhibit 7BB received
2 in Evidence)
2 BY MS. SWEENEY:
2 Q I've handed the witness a document previously
2 mashed as Government's exhibit 7CC and I ask if you
2 recognize the handwriting in the highlighted section on

1687

1 that document?

2 A It's mine. It's dated July 9, 1986, the dinner
3 with Laury Gay and Rick Davis, and I didn't really know
4 the time but I have written there seven o'clock p.m.

5 MS. SWEENEY: Your Honor, I'd ask to publish
6 Government's Exhibit 7CC to the members of the jury.

7 THE COURT: 7CC is admitted.

8 (Government's Exhibit 7CC

9 received in Evidence)

10 BY MS. SWEENEY:
11 Q I've handed the witness a document previously
12 marked Government's Exhibit 7DD and I ask if you
13 recognize the handwriting in the highlighted section of
14 that document?
15 A It's my handwriting on August 7th, 1986, at a 7:30
16 dinner with Bob Tuttle, and then I've crossed it out
17 indicating canceled.
18 MS. SWEENEY: Your Honor, at this time the
19 Government asks to publish Government's Exhibit 7DD to
20 the members of the jury.
2 THE COURT: All right, 7DD is admitted.

2 (Government's Exhibit 7DD received
2 in Evidence)

2 BY MS. SWEENEY:
2 Q I've handed the witness a document previously

1688

1 marked as Government's Exhibit 7EE and I ask if you
2 recognize the handwriting in the highlighted section on
3 that document?

4 A It's my handwriting. On August 20th, 1986, four
5 p.m., Hector Pages.

6 MS. SWEENEY: Your Honor, I'd ask at this time
7 to publish Government's Exhibit 7EE.

8 THE COURT: All right, 7EE is admitted.

9 (Government's Exhibit 7EE
10 received in Evidence)
11 BY MS. SWEENEY:
12 Q I've handed the witness a document previously
13 marked as Government's Exhibit 7FF and I ask if you
14 recognize the handwriting in the highlighted section of
15 that document?
16 A It looks like the handwriting of Inez wheatney on
17 wednesday the 24th of September, 1986, a twelve noon
18 lunch with L. Gay.
19 MS. SWEENEY: Your Honor, I'd ask to publish
20 Government's Exhibit 7FF.
2 THE COURT: 7FF is admitted.

2 (Government's Exhibit 7FF
2 received in Evidence)
2 BY MS. SWEENEY:
2 Q I've handed the witness a document previously

1689

1 marked Government's Exhibit 7GG and I ask if you
2 recognize the handwriting on that particular document?

3 A It's my handwriting on October 16th, 1986, dinner
4 with Lou Kitchin, and a phone number with a 404 area

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5 code.

6 MS. SWEENEY: Your Honor, at this time I'd ask

7 to publish Government's exhibits 7GG.

8 THE COURT: All right, 7GG is admitted.

9 (Government's Exhibit 7GG received
10 in Evidence)

11 BY MS. SWEENEY:

12 Q I've handed the witness a document previously
13 marked 7HH and I ask if you recognize the handwriting in
14 the highlighted section of that document?

15 A It is my handwriting, it's dated Wednesday,
16 November 12, 1986, Lou Kitchin, and in parentheses,
17 tentative, early dinner.

18 MS. SWEENEY: Your Honor, I'd ask to publish
19 Government's Exhibit 7HH.

20 THE COURT: All right, 7HH will be admitted.

2 (Government's Exhibit 7HH

2 received in Evidence

2 BY MS. SWEENEY:

2 Q I'm handing the witness a document previously
2 marked Government's Exhibit 7-II and I ask if you can

1690

1 recognize the handwriting in the highlighted section on

2 that particular document?

3 A It is my handwriting. Noted on November 14th,

4 1986, 11 a.m., Laury Gay.

5 MS. SWEENEY: Your Honor, I'd ask to publish

6 Government's exhibit 7-II.

7 THE COURT: All right, 7-II is admitted.

8 (Government's Exhibit 7-II

9 received in Evidence)

10 BY MS. SWEENEY:

11 Q I've handed the witness a document previously
12 marked Government's Exhibit 7JJ and I ask if you can
13 recognize the handwriting in the highlighted section of
14 that document?

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15 A It's my handwriting on the 22nd of December, 1986,
16 dinner with Laury Gay and Rick Davis.
17 MS. SWEENEY: Your Honor, I'd ask to publish
18 Government's Exhibit 7JJ.
19 THE COURT: All right, it will be admitted.
20 (Government's Exhibit 7JJ
21 received in Evidence)

2 BY MS. SWEENEY:
2 Q And I've handed the witness a document that's been
2 marked Government's Exhibit 8-II and I ask if you can
2 recognize the handwriting in the highlighted section on

1691

1 that document?
2 A It's my handwriting on January 7th at eight o'clock
3 p.m., dinner with Lance, and I'm checking the originals
4 for the year, 1987.
5 Q And is there a notation next to that entry?
6 A It's eight o'clock, dinner with Lance.
7 MS. SWEENEY: Your Honor, at this time I'd ask
8 to publish Government's Exhibit 8-II.
9 THE COURT: All right. 8-II is admitted.
10 Government's Exhibit 8-II received
11 in Evidence)
12 Q I've handed the witness a document previously
13 marked Government's Exhibit 8JJ. Do you recognize the
14 handwriting in the highlighted section on that
15 particular document?
16 A It's both Deborah's and my handwriting on February
17 4th, 1987. Deborah wrote 12:30, lunch with Lance
18 Wilson, and it was crossed out and above that I wrote
19 canceled.
20 MS. SWEENEY: Your Honor, I'd ask to publish
21 Government's Exhibit 8JJ.
22 THE COURT: All right. Exhibit 8JJ is
23 admitted.
24 Government's Exhibit 8JJ received
25 in Evidence)

1692

1 BY MS. SWEENEY:
2 Q I've handed the witness a document previously
3 marked 8KK, Government's Exhibit 8KK, and I ask if you
4 recognize the handwriting on that document?
5 A It's a combination of both Deborah and mine,
6 February 17th, 1987, four o'clock. Deborah had written
7 in the name of Lou Kitchin. I marked it out, indicating
8 canceled.
9 MS. SWEENEY: Your Honor, I'd ask to publish
10 Exhibit 8KK.
11 THE COURT: 8KK is admitted.
12 (Government's Exhibit 8KK
13 received in Evidence)
14 BY MS. SWEENEY:
15 Q I've handed the witness a document previously
16 marked Government exhibit 8LL and I ask if you recognize
17 the handwriting in the highlighted section on that
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18 document?

19 A It's mine, March 12th, 1987, 11 a.m., Laury Gay.

20 MS. SWEENEY: Your Honor, I'd ask to publish

21 8KK - LL.

22 THE COURT: 8LL will be admitted.

23 (Government's Exhibit 8LL received

24 in Evidence)

25 BY MS. SWEENEY:

1693

1 Q And I've handed the witness a document previously

2 marked Government Exhibit 8MM. Do you recognize the

3 handwriting in the highlighted section on that document?

4 A It's a combination of Deborah and mine, it looks

5 like we had scheduled eight o'clock, dinner with Lance,

6 Dubois, and in my own handwriting I wrote in the

7 restaurant, Four Seasons, and then we subsequently

8 scratched out eight, we put in seven, we scratched that

9 out, and we put in eight o'clock back in.

10 MS. SWEENEY: Your Honor, I'd ask to publish

11 Government's Exhibit 8MM.

12 THE COURT: All right. 8MM is admitted.

13 (Government's Exhibit 8MM received

14 in Evidence)

15 BY MS. SWEENEY:

16 Q I'm handing the witness a document previously

17 marked 8NN. Do you recognize the handwriting in the

18 highlighted section?

19 A It's a combination of both Deborah and mine on

20 Wednesday the 18th of March, 1987. Beside the time of

2 eight p.m. Deborah had written in the name of

2 Lou Kitchin. I marked it out, indicating canceled per

2 Mr. Kitchin on 3-17-87 at 3:35 p.m.

2 MS. SWEENEY: Your Honor, I'd ask to publish

2 Government exhibit 8NN.

1694

1 THE COURT: All right 8NN is admitted.

2 (Government's Exhibit 8NN

3 received in Evidence)

4 BY MS. SWEENEY:

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5 Q And I've handed the witness a document previously
6 marked Government's Exhibit 8-00 and I ask if you
7 recognize the handwriting in the highlighted section?
8 A It's Deborah's handwriting on March 25th, 1987, the
9 time is 7:30, Laury, Rick and Paul.

10 MS. SWEENEY: Your Honor, I'd ask to publish
11 Government's Exhibit 8-00.

12 THE COURT: All right, 8-00 will be admitted.

13 (Government's Exhibit 8-00

14 received in Evidence)

15 BY MS. SWEENEY:

16 Q I've handed the witness what's been previously
17 marked Government's Exhibit 8FP. Ms. Nettles-Hawkins,
18 could you take a look at Government's Exhibit 8PP? Do
19 you recognize the handwriting in the highlighted section
20 on that document?

2 A It's both mine and Deborah's. It's dated April 29,
2 1987, 11:30 Deborah had written in the name of Phil Winn
2 and beside that I had written in Room 2226 Rayburn, but
2 I believe that was part of the previous notation in my
2 own handwriting at ten o'clock regarding the House

1695

1 Judiciary Subcommittee Hearing on Fair Housing.

2 MS. SWEENEY: Your Honor, at this time I'd ask

3 to publish Government's Exhibit 8PP.

4 THE COURT: All right, 8PP will be admitted.

5 (Government's Exhibit 8PP

6 received in Evidence)

7 BY MS. SWEENEY:

8 Q Ms. Nettles-Hawkins, on cross-examination you were

9 asked a number of questions about calendars and the
10 accuracy of calendars. You indicated on direct that you
11 had responsibility for Miss Dean's schedule, is that
12 correct?

13 A Yes.

14 Q And what role did the calendars play in executing
15 your responsibilities for her scheduling?

16 A I used them to schedule appointments when they were
17 requested by either staff or outside entities.

18 Q And did Miss Dean also make entries on the
19 calendar?

20 A Yes, she did.

2 Q At the time that the entries were made, did they

2 accurately reflect Miss Dean's schedule?
2 A The entries may have been made for future dates, so
2 at the time that we scheduled them we thought that they
2 might occur.

1696

1 Q You indicated that you also prepared index cards.
2 Where did you get the information that you placed on the
3 index cards?
4 A From the calendars.
5 Q Now, during cross-examination you were asked a
6 number of questions about Secretary Pierce. Could you
7 describe his management style for the members of the
8 jury?
9 MR. WEHNER: Objection.

10 THE COURT: I'll allow it. Overruled.
11 A I really don't know that much about his management
12 style because I didn't have that much direct contact
13 with him.
14 Q You also testified on cross-examination that
15 Miss Dean divided her time among many different tasks
16 and programs at HUD. Is that an accurate statement?
17 A Yes.
18 Q While you were working for Miss Dean, was the Mod
19 Rehab program one of the things that she spent her time
20 on?
2 A She was involved in it.
2 Q Did you receive telephone calls on her behalf from
2 developers?
2 A Yes.
2 Q And did they concern Mod Rehab?

1697

1 A On occasion.
2 Q Did you receive telephone calls on her behalf from
3 consultants?
4 A Yes.
5 Q And did some of these phone calls concern Mod
6 Rehab?
7 A Yes.
8 Q Did Miss Dean ask you to relay messages to
9 consultants?
10 A On a few occasions.
11 Q And did these messages concern Mod Rehab?
12 A Yes.
13 Q Did she ask you to relay messages to developers as
14 well?
15 A Yes.
16 Q And did these messages concern Mod Rehab?
17 A Yes.
18 MS. SWEENEY: No further questions, Your
19 Honor •
20 THE COURT: All right.
2 MR. WEHNER: No further questions.
2 THE COURT: All right, thank you.

2 All right. Thank you, ma'am. You're free to

2 go. I appreciate it.

2 MR. O'NEILL: Your Honor, the Government calls

1698

1 Philip Winn.

2 THE COURT: All right.

3 (PHILIP WINN, WITNESS FOR GOVERNMENT, SWORN)

4 DIRECT EXAMINATION

5 MR. O'NEILL:

6 Q Mr. Winn, I'll be asking you a series of questions.

7 Please speak loudly and clearly so that everyone can

8 hear you.

9 State your name for the record, spelling your

10 last name for the Court reporter?

11 A Philip D. Winn, w-i-n-n.

12 Q Sir, are you currently employed?

13 A I'm a self-employed real estate entrepreneur.

14 Q And what has been your primary occupation in your

15 adult life?

16 A Oh, for almost 33 years that's what I have done.

17 Q And could you please explain what exactly is that,

18 being a real estate entrepreneur?

19 A Well, over the years we have built many homes,

20 apartments, developed land, bought apartments and redone

21 them and refurbished them, I should say, and made

22 various transactions that pertained to real estate over

23 the years.

24 Q Where is your business located, sir?

2 A In Englewood, Colorado.

1 Q And how long has it been located in Englewood,

2 Colorado?

3 A Well, when I count Denver and Englewood, Englewood

4 is just a suburb of Denver, and that's about 30 years,

5 29 years.

6 Q Did there come a point in time where you were

7 employed at the United States Department of Housing and

8 Urban Development?

9 A Yes.

10 Q When did that occur?

11 A That was from March of 1981 to March of 1982.

12 Q And in what capacity were you employed at HUD?

13 A I was the Assistant Secretary for Housing and

14 Federal Housing Commissioner.

15 Q Who was the Secretary of the United States

16 Department of Housing and Urban Development at that

17 time?

18 A Samuel Pierce.

19 Q Could you describe Mr. Pierce's management style?

20 A Again, I was just there a year, but I would say it

21 was laid back. He let his Assistant Secretaries pretty

22 well run their departments. At least that was the case

23 in my case.

24 Q Can you describe how much interaction you had with

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25 Mr. Pierce during that period of time?

1700

1 A Not a great deal.

2 Q Did there come a point in time where you left HUD?

3 A Yes, I left there in '82.

4 Q And what if anything did you in terms of employment
5 when you left HUD?

6 A I went back to the business I had left.

7 Q Did there come a point in time when you
8 subsequently took another position with the United
9 States Government?

10 A Yes, I served as the American Ambassador to
11 Switzerland in -- from July, late July of 1988 '83
12 August of '89.

13 Q What did you do as United States Ambassador to
14 Switzerland? what type of functions does an Ambassador
15 perform?

16 A I ran the Embassy which had roughly 100 people. We
17 got involved in various issues with the Swiss Government
18 and promoted good will for our country. Traveled
19 extensively. Lectured a great deal. We spent a lot of
20 time with the youth of the country explaining American
2 foreign policy.

2 Q Mr. Win, after leaving the position as Ambassador
2 to Switzerland what if anything did you do in terms of
2 employment?

2 A I went back to a lesser extent to what I had done.

1701

1 Actually in the last 20 years between political and
2 community work I've spent about two-thirds of my time,
3 and returned to do the same thing when I got home.

4 Q Did there come a point in time where you entered a
5 plea of guilty to a felony charge of conspiracy?

6 A I did.

7 Q When does that occur, sir?

8 A That was in February of this year.

9 Q what did you plead guilty to? what is your

10 understanding of the charges?

11 A My understanding of the charges, I pleaded guilty
12 to offering the use of a condominium in Vail, Colorado
13 to the then Assistant Secretary of Housing, Thomas
14 Demery. I also pleaded guilty to arranging a loan which
15 was subsequently paid back by -- to a Silvio
16 DeBartolomeis who was an employee of the Department of
17 Housing and Urban Development.

18 Q Mr. Winn, did you enter into a plea agreement with
19 the United States Government?

20 A I did.

2 Q And what if anything did that agreement require you

2 to do?

2 A To cooperate with the Government.

2 Q Now, have you been sentenced as of this date?

2 A I have not.

1702

1 Q Do you have a sentencing date?

2 A My understanding is it will be prior to February
3 of - of '94.

4 Q Have you been required to pay a fine in this case?

5 A Yes.

6 Q And what was the fine?

7 A It was a little less than a million dollars.

8 Q Now, Mr. Winn, do you know the defendant in this
9 case, Deborah Gore Dean?

10 A I do.

11 Q And how do you know the defendant?

12 A I met Miss Dean sometime I believe it was 1984 when
13 she was serving at HUD.

14 Q Did there come a point in time, Mr. Winn, where you
15 approached the defendant Deborah Gore Dean about the Mod
16 Rehab program?

17 A Yes.

18 Q And when did that occur, sir?

19 A I can't give you the exact dates but I would think
20 it would be in late '85 or 1986.

2 Q What was your reason for approaching the defendant
2 Deborah Gore Dean about the Mod Rehab program?

2 A The units that were issued were discretionary and
2 she was then, I think, the Assistant to the Secretary.

2 I contacted her for that purpose of allocating the units

1703

1 to housing authorities in areas where I was working.

2 Q Why did you contact her?

3 MR. WEHNER: Objection, asked and answered.

4 THE COURT: I'll let him answer it again.

5 A I'm sorry?

6 Q Why did you contact her?

7 A It was common knowledge that if you wanted to get

8 housing you should contact Miss Dean.

9 Q Now, Mr. Winn, in answering the questions I ask you
10 to keep your voice up or speak into the microphone so
11 the jury can hear you.

12 A Okay.

13 Q Did there come a point in time where you spoke to

allbinders as word for experiment.txt

14 Miss Dean about specific projects?

15 A I don't believe I ever talked about specific projects but I talked about a Housing Authority.

17 Q And which housing authorities did you speak about?

18 A It was -- one was in -- I can't recall the Housing

19 Authority but I believe it was the Oklahoma Housing

20 Finance Agency in Oklahoma. One was the Aurora Housing

2 Authority in Aurora, Colorado and another one was the

2 Colorado Housing Finance Agency in Denver.

2 Q What if anything did you say to the defendant

2 concerning these Mod Rehab units?

2 A To the best of my knowledge. The last two I wrote

1704

1 letters explaining the need for housing in those

2 particular areas. The Oklahoma one I think I contacted

3 Miss Dean personally.

4 Q Did there come a point in time when you learned

5 that any funds had gone to these particular housing

6 authorities?

7 A The only one was a call from Miss Dean in regard to

8 the project in Aurora.

9 Q What if anything do you recall speaking to

10 Miss Dean about as to or in relation to Aurora?

11 A I got a call that the project would be funded and

12 the reason I remember, I guess, is that simultaneously

13 an associate of mine had applied for housing units in

14 Grady, Colorado and I was advised to let him know that

15 these would not be funded.

16 Q You say an associate of yours. Who was that?

17 A Philip Abrams.

18 Q Is that the same Philip Abrams that once worked at

19 HUD?

20 A Yes.

2 Q Now, Mr. Winn, during his lifetime, were you

2 familiar with John Mitchell, the ex-Attorney General to

2 the United States?

2 A To the best of my knowledge I had met him twice.

2 Q And when did you meet him?

1705

1 A Once was at a President's dinner. I can't recall
2 the year. Another was at a lunch. It was at one of the
3 local hotels in town.

4 Q When you say a President's dinner, what was that?

5 A I don't know if they still have them. These were
6 fundraisers when President Reagan was President and I
7 purchased a table and invited various people to attend.

8 Q Who did you invite to attend?

9 MR. WEHNER: Your Honor, could we approach?

10 THE COURT: Yes.

11 (Bench conference)

12 MR. WEHNER: I'm not sure where this is
13 going. I would request a proffer.

14 THE COURT: All right.

15 MR. O'NEILL: It's establishing the
16 relationship once again between Deborah Dean and
17 John Mitchell. It's establishing the relationship
18 between Philip Winn and Deborah Dean, as the Jencks act
19 material that's been furnished will show. Mr. Winn
20 bought a table, invited Miss Dean. She took
2 John Mitchell. She refers to him as daddy. On other
2 occasions he met with them at lunch, bought them lunch
2 at another time. Then they had a series of dinners
2 together, some of which he paid for.

2 THE COURT: Is there any fee arrangements

1706

1 between Mitchell and Winn that you developed, or not?

2 MR. O'NEILL: I'm sorry, I didn't hear. Did

3 you say fee?

4 THE COURT: F-e-e arrangements.

5 MR. O'NEILL: No, not that I know of.

6 THE COURT: That you had with Shelby. They're

7 just showing their knowledge of each other. All right,

8 I'll let you go ahead.

9 (Bench conference concluded)

10 (Question read back by reporter)

11 A I don't remember who was at the entire table at
12 that time. It was a number of years ago. That was the
13 first time I believe I had met Mr. Mitchell, and
14 Miss Dean was there.

15 Q Did you invite Miss Dean to this dinner?

16 A Yes.

17 Q Had you invited John Mitchell?

18 A I invited Miss Dean and a guest, as I recall, and

19 she brought Mr. Mitchell.

20 Q Now, you said there was a second occasion in which
2 you met Mr. Mitchell as well.

2 A I recall there was a lunch or it may have been a
2 cup of coffee. I can't remember exactly. But it was a
2 lunch that took place in one of the hotels in
2 Georgetown.

1707

1 Q And who attended that lunch?

2 A Miss Dean, Mr. Mitchell and myself.

3 Q Who paid for that lunch?

4 A As best as I can recall/ I did.

5 Q Now, Mr. Winn, how would you describe the

6 relationship between the defendant Deborah Gore Dean and

7 John Mitchell?

8 A Well, again I only was together with them twice and

9 I can't recall if she referred to him as her stepfather
10 or her father. There seemed to be a warm relationship,
11 but I can't give you any more information than that.

12 Q Now, Mr. Winn, were there any other occasions in
13 which you took the defendant Deborah Gore Dean to lunch
14 or dinner?

15 A Again I'm recalling, I believe, that we may have
16 three, four, five, probably closer to five lunches or
17 dinners over the course of the years.

18 Q And who paid for these?

19 A Generally I paid.

20 Q Now, Mr. Winn, did there come a point in time where
2 you visited the defendant's family home in Maryland?

2 A Yes.

2 Q When did that occur?

2 A I can't give you the exact date. I would guess it
2 was sometime in '85, but I could be wrong. That's when

1708

1 I think it was.

2 Q How did you come upon visiting that property?

3 A Miss Dean contacted me and indicated that her

4 family had a relatively large peace of ground attached

5 to their property and they were thinking of subdividing

6 it, and that was one of the businesses that my

7 associates were in, and would I be willing to take a

8 look at it to see if there was an interest we may have

9 or what advice I could give on it.

10 Q And what if anything did you do in relation to her
11 request?

12 A I came out and went out to look at the property.

13 Q Were you alone?

14 A As best as I can recall David Gitlitz, who was one
15 of my associates, came with me.

16 Q And what if anything did you do when you got to the
17 property?

18 A We were driven around the property and looked at
19 the house and that was about the extent of it. I
20 believe we met Miss Dean's mother.

2 Q Did there come a point in time where you developed

2 the property?

2 A No, we did not.

2 Q And why not?

2 A The real land development of this nature was more

1709

1 in the expertise of two of my associates and while I was
2 not there beyond that point I believe they met with
3 Miss Dean, but no business arrangement was ever
4 concluded.

5 Q Now, Mr. Winn, did there come a point in time that
6 the defendant sought the position of Assistant Secretary
7 for Community Planning and Development?

8 A Yes.

9 Q When did that occur?

10 A I'm guessing now, but I believe it was sometime in
11 1986 •

12 Q Did she make any requests of you in that regard?

13 A Just to contact any political persons that I -14
that would give support to her.

15 Q what if anything did you do?

16 A I just contacted one Senator, a Senator from
17 Colorado.

18 Q who was that?

19 A Senator Armstrong.

20 Q what if anything did you ask him to do?

2 A Just support the nomination.
2 Q Now, are you familiar with an individual by the
2 name of Thomas Demery?
2 A Yes.
2 Q And who is Thomas Demery?

1710

1 A He was a former Assistant Secretary for Housing and
2 Federal Housing Commis sioner.
3 Q Did there come a point in time where you contacted
4 Thomas Demery about allocating units to particular
5 housing authorities?
6 A Yes.
7 Q And when did that occur?
8 A That had to be in late '87, I believe.
9 Q what if anything did you ask him?

10 A I asked him --

11 MR. WEHNER: Objection. Relevancy.

12 THE COURT: You'd better come up.

13 MR. O'NEILL: I'll be glad to withdraw it,

14 Your Honor.

15 THE COURT: All right. You withdraw it?

16 MR. O'NEILL: Yes .

17 THE COURT: Fine.

18 BY MR. O'NEILL:

19 Q Mr. Winn, who is Lance Wilson?

20 A He was the former Assistant to Secretary Pierce.

2 Q How do you know Lance Wilson?

2 A I met Mr. Wilson when I first joined the
2 department.

2 Q Did you ever have any business --

2 MR. WEHNER: Objection as to relevance, Judge.

1711

1 MR. O'NEILL: Once again, Your Honor, the name

2 will come up again.

3 (Bench conference)

4 THE COURT: The objection is on what basis?

5 Obviously Wilson and Demery are irrelevant but his

6 actions are relevant.

7 MR. WEHNER: No, sir, it's his actions with

8 Demery relating to this case against Miss Dean. What's

9 the relevancy of what he did with those two. It may be
10 proper cross-examination. That doesn't make it proper

11 direct.

12 THE COURT: I don't know if you can stop going
13 into it in your cross, if you say did you know

14 Miss Dean.

15 MR. WEHNER: I'm not sure I understand that,
16 Judge, because it seems to me if they're allowed to

17 describe all of their associations with all of the HUD
18 employees overtime then my cross-examination is going to
19 be a lot longer than it would be otherwise. I mean you
20 have to -- somehow you have to limit their direct
21 examination to what is relevant to Miss Dean and I guess
22 the argument is did you deal with Lance Wilson, too.
23 Therefore, you did the same thing with Deborah Dean that
24 you did with Lance Wilson.

25 MR. O'NEILL: Well, it's the Government's

1712

1 contention that it was the defense that brought up the

2 Lance Wilson connection, we never did, and therefore

3 Mr. Winn is familiar with Lance Wilson and has business

4 relations with him. I assume that there won't be on
5 cross-examination mentioned every person who has ever
6 worked at HUD, but if Lance Wilson is mentioned I
7 believe I have every right to go into it as Mr. Wehner
8 does. I'd be more than willing not to go into it if
9 he's not going to go into it.
10 MR. WEHNER: No guarantees.
11 MR. O'NEILL: That's right.
12 THE COURT: I'm going to allow him to at least
13 introduce these areas of the people he worked with at
14 HUD, not every individual at HUD. I'll overrule the
15 objection.
16 (Bench conference concluded)
17 THE COURT: All right, you may go ahead.
18 MR. O'NEILL: Thank you, Your Honor.
19 BY MR. O'NEILL:
20 Q Mr. Winn, I asked you did you ever have a business
2 relationship with Mr. Wilson?

2 A Yes, Mr. Wilson was a partner in various projects
2 that we completed.
2 Q And when did this business relationship begin?
2 A I think it was the end of '86 or early '87.

1713

1 Q Mr. Winn, at this time I would show you what's
2 previously been marked for identification purposes as
3 Government's Exhibit 228 and I ask you, sir, with the
4 permission of the Court to give it to you and ask you do
5 you recognize that?
6 A Yes, this is my handwriting.
7 Q And what is it?
8 A It's a request for housing units and it doesn't say
9 where. It says in some - I'm aware of several projects
10 requiring Mod Rehab in some western communities, that
11 need low income housing assistance.
12 Q To whom is it addressed?
13 A To Miss Dean.
14 MR. O'NEILL: Your Honor, at this time I move
15 it in as Government's exhibit 228.
16 MR. WEHNER: No objection Your Honor.
17 THE COURT: All right, 228 is admitted.
18 (Government's Exhibit 228 received
19 into Evidence)
20 BY MR. O'NEILL:
2 Q Mr. Winn, I will now show you Government's Exhibit
2 229 for identification and I ask you if you recognize
2 that, sir?
2 A Yes, I do.
2 Q And what do you recognize that to be?

1714

1 A If s a request for housing units for Clarke County,
2 Nevada.
3 Q And whose handwriting is that?
4 A If s mine.
5 MR. O'NEILL: Your Honor, at this time I move
6 it into evidence as Government's exhibit 229.
7 MR. WEHNER: No objection, Your Honor.
8 THE COURT: Who is it addressed to?
9 BY MR. O'NEILL:
10 Q To whom is that letter addressed to?
11 A To Miss Dean.
12 THE COURT: All right, it's admitted.
13 (Government's Exhibit 229
14 received in Evidence)
15 BY MR. O'NEILL:
16 Q At this time, Mr. Winn, I show you Government's
17 Exhibit 231 for identification, and I'd ask if you
18 recognize this, sir?
19 A Yes , this is a request which I wrote to Miss Dean
20 in regard to Mod Rehab units in Aurora, Colorado.
2 MR. O'NEILL: Your Honor, at this time I move
2 it into evidence as Government's Exhibit 231.
2 MR. WEHNER: No objection. Your Honor.
2 THE COURT: All right. 231 will be admitted.
2 (Government's Exhibit 231

1715

1 received in Evidence)
2 BY MR. O'NEILL:
3 Q Mr. Winn, at this time I will show you Government's
Exhibit 235 for purposes of identification. If I may,
5 sir, I'd ask you what is this?
6 A It's an attachment to a request for housing units.
7 I don 't have the attachment so I can't give you the
8 area, but it's probably Aurora again. Request for
housing units to Miss Dean.

10 Q whose handwriting is that?
11 A It's mine.
12 MR. O'NEILL: Your Honor, at this time I move
13 it in as Government's Exhibit 235.
14 MR. WEHNER: No objection, Your Honor.
15 THE COURT: All right, 235 will be admitted.
16 (Government's Exhibit 235
17 received into Evidence)
18 MR. O'NEILL: And before I attempt to introduce
19 the next document, Your Honor, you wanted to do it at
20 side bar.
2 THE COURT: All right.
2 (Bench conference)
2 THE COURT: which one is this?
2 MR. O'NEILL: This is the photo of the house.
2 MR. WEHNER: Judge -

1716

1 THE COURT: what's the basis of this?
2 MR. O'NEILL: That Mr. Winn went to Marwood to
3 develop the property. That is the property he sought to
4 develop, she requested him to develop.
5 THE COURT: Did she want to have the house
6 torn down and developed or just develop the acres? Is
7 it a picture of all the land or just the house?
8 MR. O'NEILL: It's just the land around the
9 house.
10 MR. WEHNER: Bob -
11 THE COURT: It has the house in the picture.
12 MR. O'NEILL: Do I get the feeling, Judge,
13 that you're not -14
THE COURT: I think it's more prejudicial. He
15 said he went there. There's no fight that he didn't go
16 there. There's no argument about that. It's not an
17 identity question. So I'll keep it out at this time.
18 MR. WEHNER: Thank you.
19 MR. O'NEILL: Yes, Your Honor.
20 MR. WEHNER: Thank you.
2 (Bench conference concluded)
2 MR. O'NEILL: Based on what occurred at side
2 bar, Your Honor, the Government has no further questions
2 at this time.
2 CROSS-EXAMINATION

1717

1 MR. WEHNER:
2 Q Sir, my name is Steve Wehner and I represent
3 Miss Dean. I've only got really one area I'd like to
4 discuss with you. If you don't understand my questions
5 please so indicate. I'll try to go through it again.
6 You testified on your direct examination that you bought
7 several approximately five, I believe, lunches and/or
8 dinners for Miss Dean, isn't that correct?
9 A Yes, I can't give you the exact number but that's
10 approximately correct.
11 Q It's true, is the not, that Miss Dean bought you
12 lunches and dinners on occasion?
13 A I recall one dinner party that I was at that
14 Miss Dean did purchase, yes.
15 Q And wasn't that for a considerable sum of money?
16 A Well, I didn't see the bill so I can't give you the
17 amount.
18 Q How many people were at that dinner party?
19 A I can't give you the exact number. I could perhaps

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20 verify anything that you have to show me.
2 Q Let me show what you I've marked for identification

2 as Dean Exhibit 154 and ask you if that refreshes your
2 recollection as to who was at the dinner party?
2 THE DEPUTY CLERK: Dean's Exhibit 154 marked
2 for identification?

1718

1 (Defendant's Exhibit 154
2 marked for Identification)
3 A This letter was written by Gary Lachman (spelled
4 phonetically) who was -5
Q Does it refresh your recollection?
6 A It does.
7 Q Who was at the dinner party?
8 A Again I can't say exactly but I believe it was
9 Miss Dean, I can't give you his name but a gentleman I
10 think Miss Dean was dating at that time.
11 Q Mr. Giegengack?
12 A Pardon me?
13 Q Mr. Giegengack?
14 A It was an unusual name, so that's probably -again
15 I speak from memory, but I think he was an architect. I
16 may be in error.
17 Q Mr. Gitlitz?
18 A Mr. Gitlitz, yes.
19 Q And Mr. Lachman?
20 A Mr. Lachman and myself.
2 Q And Miss Dean picked up the tab for the entire
2 group?
2 A Yes.
2 Q Do you recall if the restaurant was Morton's?
2 A I believe so.

1719

1 MR. WEHNER: Nothing further, Your Honor,

2 thank you.

3 MR. O'NEILL: Nothing, Your Honor.

4 THE COURT: Thank you, Mr. Winn, you're free

5 to go.

6 MS. SWEENEY: Your Honor, the Government calls

7 Susan Zagame.

8 THE COURT: All right.

9 (SUSAN ZAGAME, WITNESS FOR GOVERNMENT, SWORN)
10 DIRECT EXAMINATION
11 BY MS. SWEENEY:
12 Q Mrs. Zagame, I'm going to be asking you a series of
13 questions and I'd ask you to keep your voice up so that
14 the members of the jury can hear and to use the
15 microphone as necessary.
16 Could you please state your name for the
17 record, spelling your last name for the Court reporter?
18 A It Susan, K is the middle initial, Zagame
19 Z-a-g-a-m-e.
20 Q Mrs. Zagame, are you presently employed?
2 A Yes.

2 Q And what is it that you do?
2 A I'm working at a consultant for the Health Industry
2 Manufacturers Association.
2 Q Could you briefly describe your educational

1720

1 background for the members of the jury?
2 A I have a college degree and a law degree from
3 Syracuse University.
4 Q Was there a time when you came to work at BUD?
5 A Yes, approximately September of 1983.
6 Q What position or positions did you hold while you
7 were at HUD?
8 A My first position was as Deputy Assistant Secretary
9 in the Office of Fair Housing and Equal Opportunity. I
10 remained in that position from September of '83 until
11 November of 1985 when I became the Deputy Assistant
12 Secretary for Policy, Financial Management and
13 Administration in the Office of Housing.
14 Q Now, in the latter job, which you assumed in
15 November of '85, is that right?
16 A That's correct.
17 Q Did you have any duties and responsibilities for
18 Mod Rehab?
19 A Yes, I did. Among my responsibilities was the
20 management of the Office of Funding Control and it was
2 that office that was responsible for carrying out the

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2 documents that were necessary for allocating grant
2 monies to the field for all of the various programs that
2 Housing ran.
2 MS. SWEENEY: With the Court's permission I'd

1721

1 I like to use Government's Exhibit One in evidence.

2 THE COURT: All right.

3 BY MS. SWEENEY:.

4 Q Mrs. Zagame, can you see the chart from there?

5 A With my glasses on I might be able to. Yes.

6 Q Now, you've mentioned the Office of Funding

7 Control, is that right?

8 A That's right.

9 Q And can you see where that's located on that chart?

10 A Yes, it's at the lower lefthand corner in the blue

11 box.

12 Q And where would your position have been located at
13 that time?

14 A Mine would have been two boxes up in the green
15 box. It says Deputy Assistant Secretary for Policy,
16 Financial Management and Administration. I was the
17 Deputy Assistant Secretary.

18 Q What was it that the Funding Control Office did?
19 You mentioned funding documents.

20 A Yes, they were responsible for preparing those
21 documents. They prepared initially what we called the
22 rapid reply letters which were the initial decision
23 documents as to where the fund moneys would be
24 allocated. They controlled the mathematics. They
25 performed mathematical functions. They then also

1722

1 prepared the form 185 which was the documents ultimately

2 signed by the Housing Commissioner that the Assistant

allbinders as word for experiment.txt
3 Secretary for Housing -- that authorized the funds to go

4 to the regional offices and from there to be allocated

5 to the public housing authorities in the case of Mod

6 Rehab.

7 Q Was this work done under your supervision?

8 A Yes.

9 Q Do you know the defendant Deborah Gore Dean?

10 A Yes, I do.

11 Q And how did you meet Miss Dean?

12 A I can't remember exactly when I met her but
13 actually I think I was on the tenth floor where the
14 Secretary's office was and I was interviewing or
15 speaking with Lance Wilson who was then the Executive
16 Assistant to the Secretary and I believe I met her at
17 that time.

18 Q Referring to the time period when the defendant was
19 Executive Assistant, did you ever attend any meetings
20 where Mod Rehab decisions were made?

2 A I attended meetings where they were discussed and,

2 yes, ultimately it turned out that they were made at
2 that meeting as well.

2 Q Do you recall approximately when this meeting
2 occurred?

1723

1 A Approximately September of 1986.

2 Q Where was the meeting held?

3 A It was held in Miss Dean's office.

4 Q How was it that you came to attend this meeting?

5 A Either I or my secretary was called by her

6 secretary or Miss Dean herself and I was invited to

7 attend a meeting in her office.

8 Q When you got there was anyone else present?

allbinders as word for experiment.txt
9 A Yes, there were several people present, and to the

10 best of my recollection it was Miss Dean, Tom Casey,

11 Bronwyn Morgan and Pam Patenaude.

12 Q what happened at the meeting? Could you describe
13 it for the members of the jury?

14 A Yes. I sat at a table. The table was in
15 Miss Dean's office and Miss Dean was going through some
16 papers and she was dictating to me which particular
17 public housing authorities were to receive an allocation

18 of Moderate Rehabilitation units.

19 Q what particular information did the defendant give
20 you?

2 A She named the Public Housing Authority and where it
2 was located and with regard to several of the
2 allocations she indicated what the number – actually
2 for all of the allocations she indicated the total
2 number of units to be allocated and in addition she also

1724

1 with regard to some of them indicated what the bedroom
2 configuration would be, and that refers to the number of
3 units that would be two-bedroom versus three-bedroom
4 units versus single bedroom units.

5 Q And when you say units, what are you referring to,

6 Mrs. Zagame?

7 A I'm talking about the apartments that were the

8 subject of the Moderate Rehabilitation grant.

9 Q what was your role in this meeting?

10 A My role was to take notes and to take down the

11 announcements that Miss Dean was making as to which

12 projects would receive which funding.

13 Q what selection criteria were being used at the
14 meeting?

15 A None that I was aware of.

16 Q What did the defendant do during the course of the
17 meeting?

18 A She was looking through papers. They did not seem
19 to be arranged in any kind of an order. And would flip
20 back and forth between different piles and, in fact,
2 there were not only eight and a half by 11 size sheets

2 but there were also some phone messages and so forth,
2 and she was dictating the information to me, referring
2 to those pieces of paper.

2 Q What did you observe the other individuals who were

1725

1 present at the meeting doing during the course of the

2 meeting?

3 A They were sitting there observing, for the most

4 part, and making small talk.

5 Q What did you do after the meeting?

6 A I took the list that I had prepared and went to the

7 office of Funding Control and gave it to one of my staff

8 members and indicated that this was to be the funding

9 decisions that were made and to please work up the
10 numbers and the math so that we could have a better idea
11 as to how much money had been spent through that
12 particular process.

13 Q Did you do this at the instruction of anyone else?

14 A Yes, Miss Dean had asked me to make sure that we
15 looked at the numbers.

16 Q Did she ask you to do anything else?

17 A At that time I don't believe so.

18 Q Did there come a point in time when you had further
19 discussions with her about these particular funding
20 decisions?

2 A Yes. After the numbers had been prepared she asked

2 that the funding documents be prepared to make sure that
2 the money would go to the field as had been dictated.

2 Q Did you have any role regarding the PHA request
2 letters?

1726

1 A Yes. During the course of the meeting there was
2 discussion about whether there were applications on file
3 for the particular projects and I was asked to go
4 through a series of books and other files. These books
5 I referred to were these large black binders that
6 contained applications in them as well as some other
7 files that had applications in them and we were - I was
8 asked along with some of the other members that were
9 there to go through the files and to find the letters
10 that were applications for Mod Rehab projects or funding
11 from the particular public housing authorities that
12 Miss Dean had indicated should receive the funds.
13 Q what did you discover when you looked through the
14 books to find the request letters?
15 A I discovered that there were letters of application
16 on file for most of the projects. For a few there were
17 no letters.
18 Q And did you report that to Miss Dean?
19 A Yes, I did.
20 Q what did she say to you at that point in time?
2 A She said she would take care of making sure that

2 the letters were found or were obtained.
2 Q Are you familiar with the term project specific as
2 it's used in regard to the Mod Rehab program?
2 A Yes, I am.

1727

1 Q And can you tell us what project specific would
2 mean?
3 A At the time there had been discussions about the
4 Mod Rehab program and what was required for our files
5 and I believe I first heard the term from Tom Casey who
6 indicated to me that the letters of application could
7 not contain project specific requests, and by that he
8 meant that the Public Bousing Authority could not
9 identify in its letter of application a particular
10 project for which that funding was being used.
11 Q On the occasion when you reviewed the letters in
12 the binders in files that you described, were there

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13 letters that contained project specific names in them?
14 A I believe there may have been, yes.
15 Q And do you recall what you did with that
16 information?
17 A I brought that to the attention of Miss Dean.
18 Q And do you recall what her response was?
19 A Again, she assured me that she would make sure that
20 there were non-project specific letters in the files.
2 Q Did she at any point ask you to contact any of the
2 PHA's regarding a non-project specific letter?
2 A Yes, she did.
2 Q And can you tell us about that particular
2 circumstance?

1728

1 A There was a call that needed to be made, to the
2 Worcester Housing Authority and she asked me if I would
3 make that call and ask that they send a letter which
4 would be non-project specific.
5 THE COURT: Worcester Housing Authority?
6 THE WITNESS: Worcester, Massachusetts.
7 THE COURT: All right. It's Worcester.
8 THE WITNESS: Worcester.
9 THE COURT: Spelled W-o-r-c-e-s-t-e-r.
10 MS. SWEENEY: Like Worcestershire sauce.
11 BY MS. SWEENEY:
12 Q what gave rise to the phone call asking for the
13 non-project specific letter?
14 A well, we were trying to get these funding decisions
15 out to the field and there was some interest in getting
16 them out quickly. I believe it was towards the end of
17 the fiscal year and we had until September 30th to get
18 this money out and so we wanted to make sure that we had
19 documentation in the files that was appropriate for that
20 particular decision. I can't recall whether or not the
2 letter that was in the file was project specific or
2 whether the request that was received was project
2 specific but there was - there was a project specific
2 document that we all had seen that we all knew was not
2 appropriate for documentation and it was at that point

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1 that I was asked to call to make sure that the letter
2 was changed so it would not refer to a specific project.
3 Q Was there ever an occasion on which you attended a
4 meeting with Silvio DeBartolomeis and Miss Dean?
5 A Yes.
6 Q Can you describe that particular occasion?

7 A Well, Silvio, if I may refer to him as that, had

8 asked me if I would accompany him to a meeting with

9 Miss Dean. He was uncomfortable with the Mod Rehab
10 process. He did not want to sign the funding documents

11 and he wanted to have a discussion with Miss Dean about
12 his unwillingness to sign decisions that were not his.

13 Q Do you recall when this occurred, Mrs. Zagame?

14 A I believe it was in September of 1986.

15 Q Do you recall whether it was before or after the
16 meeting that you've been describing to the members of
17 the jury just a few moments ago?

18 A I really don't remember.

19 Q Did you in fact accompany Mr. DeBartolomeis to a
20 meeting with the defendant?

2 A I did.

2 Q And where was that meeting held?

2 A That was in Miss Dean's office.

2 Q Do you recall what Miss Dean said during the course
2 of this meeting?

1730

1 A She was adamant that Mr. DeBartolomeis sign the

2 project -- the funding decisions.

3 Q Do you have any other recollection of what was said

4 at this meeting?

5 A There were words between them, they were quite

6 heated, and Silvio was very resistant to signing the

7 documents and she was equally insistent that he sign

8 them, and ultimately he agreed to sign them.

9 Q During the defendant's tenure as Executive
10 Assistant do you recall any other meetings you attended
11 related to the Mod Rehab process?

12 A There was a meeting with Secretary Pierce where Mod
13 Rehab was discussed.

14 Q What do you recall about that meeting?

15 A That was a meeting where numerous people were
16 present around the table and in Secretary Pierce's
17 conference room and we were -- the Secretary was being

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18 briefed on budget issues and one of the categories for
19 discussion as per a briefing document was the Moderate
20 Rehabilitation program and I can recall the conversation
2 taking place where the Secretary asked what is the Mod

2 Rehab program, and this was sometime after Mr. Demery
2 had arrived on the scene, which was in late 1986, and
2 sometime before Miss Dean had left, and there was some
2 shocked silence for several moments after he asked the

1 question and I expected Tom Demery to answer the
2 question but in fact he did not. And Miss Dean
3 proceeded to describe what the program was.

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1 Q. Do you recall what she said in this description of the
2 program?

3 A. She identified the program as a grant program going to
4 public housing authorities for projects and that it was, relied
5 upon a 15-year, what they would call contract authority to
6 subsidize the rents.

7 Q. Other than the September meeting that you described where
8 you took notes about the mod rehab allocations that had been
9 made, did the defendant ever give you any other instructions that

10 you recall regarding mod rehab awards?

11 A. I believe there were a few additional times when she
12 contacted me and asked that a particular housing authority be on
13 the list, but my memory is very fuzzy on those.

14 Q. Who was your direct supervisor at HUD in the spring of 1986?

15 A. In the spring of 1986, it would have been Silvio
16 DeBartolomeis.

17 Q. And what was your position at that time again?

18 A. I was the deputy assistant secretary for Policy, Financial
19 Management, and Administration.

20 Q. Did you assume any additional duties when Mr. DeBartolomeis

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21 was away from HUD?

22 A. Yes. Occasionally I would be designated as the acting FHA
23 commissioner.

24 Q. Do you recall if he was out at all during the spring of
25 1986?

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1 A. Yes, he was.

2 Q. And do you recall if you were asked at any point while he
3 was away to have, to do anything with regard to the Mod Rehab
4 Program?

5 A. Yes. I was asked to sign the 185 documents, which, as I
6 mentioned earlier, were the funding documents that went to the
7 field.

8 Q. Mrs. Zagame, are you familiar with an individual named
9 Hector Pages, or perhaps it's "Pages"?

10 A. I believe his name is pronounced "Pages." It's a Hispanic
11 name.

12 Yes, I met Mr. Pages in Puerto Rico through my,
13 actually my former boss when I was in the Office of Fair Housing
14 and Equal Opportunity. He was a friend of my -- or he was an
15 acquaintance of my former boss, who was from Puerto Rico.

16 Q. Did there come a point in time when -- I'm just going to
17 call him Mr. "Pages" -- when Mr. Pages contacted you at HUD?

18 A. Yes, I recall that he did contact me.

19 Q. Do you recall what the subject was that he contacted you on?

20 A. He wanted to know how he could get mod rehab funding for
2 Puerto Rico.

2 Q. What did you tell Mr. Pages?

2 A. I told him that he ought to see if he could get in to see
2 Deborah Dean.

2 Q. Mrs. Zagame, I'm going to show you a document that's been

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1 previously marked Government's Exhibit 42A for identification.

2 I'm going to ask you not to read the document, because it's not
3 in evidence at this time, but I'd ask you to look at the
4 multi-paged document and tell me if you recognize it?

5 A. Yes, I recognize this. This is the list -- first of all,
6 it's a two-part document.

7 Q. Yes, it is. There are several yellow sheets that are part
8 of that document. Do you recognize the handwriting on the yellow
9 sheets?

10 A. Yes. Yes, I do. This, this is my handwriting, or at least
11 most of it is my handwriting. There may be a few, a few
12 notations here I don't recognize as my handwriting, but the bulk
13 of it is mine.

14 Q. And do you recall -- do you know when that document was
15 prepared?

16 A. This is the, the document that I prepared as I sat around
17 the table with Ms. Dean in September of 1986, where she dictated
18 the public housing authorities that were to receive funding.

19 Q. Turning your attention to the white pages that are part of
20 that document, do you recognize those as well?

2 A. Yes, I do. This is the, the work of the Office of Funding
2 Control. I gave the yellow pages to that office, and they then
2 produced the white pages that I have in my hand here, which
2 include the housing authorities, together with the unit

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2 distribution and some financial information.

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1 MS. SWEENEY: Your Honor, at this time, the government
2 offers Government's Exhibit 42A into evidence.
3 MR. WEHNER: No objection, Your Honor.
4 THE COURT: No objection, 42A is admitted.
5 MS. SWEENEY: with the Court's permission, we would
6 like to publish this document for the members of the jury.
7 THE COURT: All right.
8 BY MS. SWEENEY:
9 Q. Mrs. Zagame, can you see the document on the monitor?

10 A. Yes.
11 Q. And is this the list that you prepared? This is your
12 handwriting?
13 A. This is it.
14 Q. Could you look at the entries and explain to the members of
15 the jury what they indicate?
16 A. Yes. The first notation to the far left is "Region," and
17 that was the region in the country. There are, of course ten
18 federal regions. Region IV is down in the South. Atlanta is the
19 regional center.
20 The next notation is the, the public housing authority,
2 which Ms. Dean dictated to me, and the, on that same line is the

2 number of units that that particular housing authority was to
2 receive.
2 The next line has the bedroom distribution. In this
2 case, which is the housing authority of the City of, I can't read

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1 that next word, something South -- Charleston? I guess it's -2
Columbia, okay. It becomes clear. Columbia, South Carolina. In
3 that particular instance, all of the units, meaning all of the
4 100 units that comprised the particular allocation, were to be
5 funded at the two-bedroom level.
6 And I believe that that next notation was subsequently
7 entered, and that is the dollar value ascribed to the two-bedroom
8 unit in that particular locality, each locality having a
9 different what they called FMR, or fair market rent, associated
10 with the allocation.
11 Q. Mrs. Zagame, can you describe for the ladies and the
12 gentlemen of the jury what this particular portion of the
13 document represents?
14 A. I, I recall that this was prepared by Ross Kumagai. After I
15 gave him the yellow legal, legal pad sheets in my own
16 handwriting, he, he then gave that to me and attached it to the
17 yellow sheets for his files. I know it's not attached that way,
18 but then subsequently I believe it came to be re-attached to the
19 computerized version of the list, which we're looking at now.
20 Q. Mrs. Zagame, I'm going to ask you to focus your attention to
2 the computerized list as it pertains to Region IV. Does this
2 indicate whether or not Metro Dade in Florida was to receive any
2 units?
2 A. Yes, it does.
2 Q. And how many units was Metro Dade to receive?

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A. 315 two-bedroom units.

2 Q. Mrs. Zagame, I'm going to show you an exhibit that's been
3 previously marked Government's Exhibit 42C for identification,
4 and again I'd ask you not to read that document, it's not in
5 evidence, but to look at it and tell us if you recognize it.

6 A. Yes. This, this is a document that was prepared subsequent
7 to the document that we just discussed.

8 Q. Do you recognize the handwriting on this particular
9 document?

10 A. On page 1 of this document, my initials are, are over my
11 name. Then as we turn the page, it is the, the computerized
12 list, with some notations made in, in red handwriting.

13 Q. Can you identify the red handwriting?

14 A. It looks like Ms. Dean's handwriting.

15 MS. SWEENEY: Your Honor, the government offers
16 Government's Exhibit 42C into evidence at this time.

17 MR. WEHNER: No objection.

18 THE COURT: No objection to 42C? All right, 42C will
19 be admitted.

20 MS. SWEENEY: with the Court's permission, we'd like to
21 publish this document to the members of the jury.

22 THE COURT: All right.

23 BY MS. SWEENEY:

24 Q. Mrs. Zagame, is there any relationship between Government's
25 Exhibit 42A and 42C, and could you describe one if there is?

1 A. Well, the, the latter document, 42C, as is-indicated on the
2 cover sheet, is a revision to the 42A document that we discussed
3 earlier. The revisions are, are marked in, in pen inside.

4 Q. Mrs. Zagame, I'm handing you a document that's previously
5 been marked Government's Exhibit 42D. That document is not yet
6 in evidence, but I'd ask you to look at it and to tell us if you
7 recognize the document.

8 A. This is a, a document, memo to the file signed by one of my
9 staff members.

10 MS. SWEENEY: Your Honor, at this time, the government
11 offers Government's Exhibit 42D into evidence.

12 MR. WEHNER: No objection, Your Honor.

13 THE COURT: 42D will be admitted.

14 MS. SWEENEY: "D" as in David, Your Honor.

15 THE COURT: "D" as in David.

16 BY MS. SWEENEY:

17 Q. Mrs. Zagame, I'd ask you if this document has any
18 relationship to Government's Exhibits 42A and 42C that we have
19 just been looking at?

20 A. Yes, it does. It purports to, to communicate some changes
2 that were made to the list subsequent to the change of the
2 earlier document.

2 Q. Would you be able to read those changes to us as we follow
2 along?

2 A. The change -- shall I read the whole thing? Is that what

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1 you'd like me to do?

2 Q. The text of the memo, yes.

3 A. Okay. This is a memo to the file, and it reads, "Debbie
4 wanted to talk to Ross, but since he wasn't in, she asked me to
5 take a message for him. She had changes for Zagame's mod rehab

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6 fund assignment list:

7 "Cancel most of units for Washington, D.C. (too
8 expensive), and for D.C., send only 17 -- I believe that's --
9 efficiency units and 23 one-bedroom units. May send something at

10 start of FY '87.

11 "Also, send to Region VI for -- I think that's --
12 Boxier -- B-o-x-i-e-r -- Parish Housing Authority 40 two-bedroom
13 units.

14 "She started to give me something for Housing Authority
15 of Tulsa but changed her mind. She said --" I can't really get
16 the next word. "She said run the new sheets, and get the 185s
17 out; hopes -- thank you -- hopes not too many at last minute.
18 She said no more changes to mod rehab. Her word on it."
19 And it, of course, says "Funding Control Division," and Jack Fay
20 is the signatory.
21 Q. Mrs. Zagame, I'd asked you earlier about your employment
22 history. When did you first join the federal service?
23 A. I began working for the federal government in May of 1981.
24 Q. And are you familiar with the term "Schedule C" as it
25 relates to federal employment?

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1 A. Yes, I am.
2 Q. Were you a Schedule C employee?
3 A. Yes, I was.
4 Q. And can you describe for the members of the jury briefly
5 what Schedule C means?
6 A. Schedule Cs are political appointees, plain and simple. The
7 schedule refers to a particular federal personnel term that
8 accepts employees hired under this authority from the competitive
9 rules of the civil service.
10 Q. And when you joined in May of 1981, what agency were you
11 with at that time?
12 A. I was with the Small Business Administration.
13 Q. And did you remain there until you joined HUD?
14 A. Yes, I did.
15 Q-Are you acquainted with Senator Al D'Amato?
16 A. Yes, I am.
17 Q. And how do you know him?
18 THE COURT: Are you going to go into another area now?
19 I thought you were finishing. How long?
20 MS. SWEENEY: May we approach, Your Honor?
21 THE COURT: Sure.
22 (Bench conference on the record.)
23 MS. SWEENEY: Your Honor, I have about four or five
24 additional questions.
25 THE COURT: That's all?

MS. SWEENEY: Yes.

2 THE COURT: All right, let's finish those and take a
3 break and begin cross, okay? All right.

4 (End of bench conference.)

5 THE COURT: All right, just a couple more minutes
6 before our recess.

BY MS. SWEENEY:

8 Q. How do you know Senator D'Amato?

9 A. I know him from my days in New York politics.

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10 Q. Did Senator D'Amato serve as a reference for you when you
11 applied for a Schedule C job?
12 A. Yes, he did.
13 Q. Did Senator D'Amato ever contact you while you were at HUD
14 concerning the Mod Rehab Program?
15 A. No, he did not.
16 Q. Did anyone on his staff ever contact you while you were at
17 HUD concerning the Mod Rehab Program?
18 A. No.
19 Q. As a government employee, did you become familiar with the
20 standards of conduct?
21 MR. WEHNER: Objection.
22 THE COURT: I'll overrule it. It's been testified to
23 previously.
24 THE WITNESS: Yes, I did.
25 BY MS. SWEENEY:

1742

1 Q. In 1984 through 1987, did you have an understanding as to
2 whether the standards of conduct applied to Schedule C employees?
3 A. Yes, I did, and they did.
4 Q. And did you have an understanding as to whether the
5 standards of conduct applied to decisions in the Mod Rehab
6 Program?
7 A. Yes. My understanding was that the standards did apply to
8 the Mod Rehab Program.
9 MS. SWEENEY: That concludes our direct examination,
10 Your Honor.
11 THE COURT: All right, fine. Ladies and Gentlemen,
12 then we'll take our afternoon recess at this time. If you'd
13 remember the admonitions of the Court, you are not to talk about
14 this case among yourselves or with anyone else during the short
15 break. We'll be back and finish up with at least this witness
16 this afternoon.
17 We'll give you 15 minutes, to 3:25 approximately. That
18 clock there is a few minutes faster than that clock. All right,
19 so it's about --it will be that one, I think, actually is right.
20 So 3:25.
2 (Jury out.)
2 THE COURT: You can step down for a minute. Thanks.
2 (Recess from 3:10 p.m. to 3:30 p.m.)
2 THE COURT: All right, bring the jury in.
2 THE DEPUTY MARSHAL: Yes, Your Honor.

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1 (Jury in.)
2 THE COURT: Ready to go? All right
3 MR. WEHNER: Yes, sir.
4 CROSS EXAMINATION
BY MR. WEHNER:
6 Q. Mrs. Zagame, I'm going to ask you a series of questions
7 basically concerning the funding meeting that you attended at
8 Ms. Dean's office and the events that occurred after that. If
9 you don't understand anything I ask you, please indicate so, and
10 I'll be glad to rephrase the question, because I don't want there
11 to be any confusion between what I'm asking, okay, and your
12 answers.
13 A. Sure.
14 Q. Okay. Now as I recall your testimony on direct, I believe
15 you testified on September 12 that -
16 of '86, that there was a
16 meeting in Ms. Dean's office regarding mod rehab.

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- 17 A. No, that's incorrect.
18 Q. That's incorrect?
19 A. I said there was a meeting in September. I did not say it
20 was on September 12.
21 Q. Okay. Well, let's see if we can tie down the date. I'll
22 show you what's already been introduced, which is Government's
23 Exhibit 42A, and does that not reflect a date of 9-12-86?
24 A. Yes, it does.
25 Q. Okay. Now 9-12-86 was a Friday, was it not?

1744

- 1 A. I'll take your word for it.
2 MR. WEHNER: Can we have a stipulation that 9-12-86 was
3 a Friday?
4 MR. O'NEILL: If counsel represents it, Judge, that's
5 fine.
6 THE COURT: All right, we'll accept it for purposes of
7 trial.
8 BY MR. WEHNER:
9 Q. Now on the --do you recall the term "recision" in

- 10 connection with this funding round of mod rehab?
11 A. No, it was not in connection with this particular funding
12 round, to the best of my recollection.
13 Q. Do you have a recollection that there was a, that HUD was in
14 a hurry or wanted to get these units out before something
15 occurred?
16 A. Yes.
17 Q. What was the reason that HUD wanted to get these units out?
18 A. We had to spend the money by the end of the fiscal year, or
19 we would lose it.
20 Q. And if you didn't spend the money by the end of the fiscal
21 year, no mod rehab funds got to the PHAs, and no apartments would
22 be renovated, correct?
23 A. That's, that's correct.
24 Q. The money would be just gone?
25 A. Right.

- 1 Q. Okay. So the end of the fiscal year was when?
2 A. September 30.
3 Q. Okay. So you had 18 days essentially; is that correct?
4 A. That's correct.
5 Q. All right. Now do you recall that there is a particular
6 reason why these funding decisions had to be made on Friday,
7 September 12, 1986?
8 A. No, I don't recall.
9 Q. Do you have any recollection at all that the Office of
10 Management and Budget had made a determination that if the funds
11 were not committed within a certain period of time, that they
12 were not going to permit them to be spent during that fiscal
13 year?
14 A. My recollection is that occurred later in 1986, with the
15 beginning of the new fiscal year, which would be fiscal year
16 1987, when the, if allocations for the apportionment, is what
17 they called it, was made for OMB. OMB said we could only have a
18 small percentage of the units and that the rest were being
19 proposed for recision, and I believe it was sometime in October
20 or November when we went through another round of funding, which
21 entailed our attempts to beat OMB to the punch, so to speak.
2 Q. When you were beating OMB, your recollection is that was in

2 October or November?

2 A. Yes.

2 Q. Did you -- did Ms. Dean participate in that funding round?

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A. Yes.

2 Q. I thought you testified on direct that you only participated
3 in one meeting regarding mod rehab units?

4 A. That's correct, but I knew that Ms. Dean participated in the
5 subsequent round, because that was done, to the best of my
6 recollection, in connection with Tom Demery, who had arrived on
7 the scene.

8 Q. Okay. We're talking about a time period now before
9 Mr. Demery arrived on the scene.

10 A. In September.

11 Q. In September of '86.

12 A. That's correct.

13 Q. But just to finish that thought, did you attend a meeting
14 between Tom Demery and Ms. Dean?

15 A. No, I did not attend a meeting with the two of them present.

16 Q. Do you recall that Hunter Cushing attended the meeting on
17 September 12 of 1986?

18 A. Well, first of all, I'm not sure we've established that
19 September 12 was the date. It could have been the day before.
20 It could have been Thursday the 11th or possibly even Wednesday.
21 It was sometime just before the, the -- as I recall, it was late
22 in the afternoon, and therefore if it had -- and it went on some
23 time, and therefore it's possible that the, the document that is
24 dated September 12 was done the next day. But Hunter, to answer
25 your question, I believe Hunter Cushing was present.

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1 Q. And as you said, the meeting went on late into the night,
2 did it not?

3 A. Well, I'm not sure how late into the night it went. It went
4 on late in the evening.

5 Q. What time did you leave?

6 A. I don't remember.

7 Q. Do you recall driving Hunter Cushing to the train station
8 that evening?

9 A. No, I don't.

10 Q. Did you on occasion drive Hunter Cushing to the train
11 station?

12 A. I recall driving him to the train station perhaps one time.

13 Q. And do you recall driving him to the train station because
14 he was going back to New York for the weekend?

15 A. That sounds right.

16 Q. And if he was going back to New York for the weekend, he
17 would be leaving, that would make that a Friday, would it not?

18 A. Unless he was taking an extra day for the weekend.

19 Q. Okay. And do you recall, now that you recall taking
20 Mr. Cushing to the train station on one occasion, that you took
21 him to the train station on that one occasion after this meeting

22 you testified to?

23 A. I don't remember that it was in connection with the meeting,

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2 sir.

2 Q. Okay. Well, not in connection with the meeting, but it just

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followed?

2 A. At the same time I don't remember that at all.

3 Q. Okay. I'm a little confused as, as to the chronology of
4 this, because -- and what I'm going to do is I'd like to show you
5 all the exhibits that the Independent Counsel introduced with
6 you, and I'd like you to please put them in chronological order
7 as to your best recollection as to when each was prepared. Could
8 you do that, please?

9 A. Sure.

10 MR.

11 exhibits, the

12 all?

13 MS.

14 MR.

15 THE

16 MR.

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25 BY MR. WEHNER

WEHNER: And for the record, I believe that the total number of exhibits is 42D, C, A. Is that

SWEENEY : Yeah.

WEHNER:

COURT:

WEHNER:

COURT:

WEHNER:

COURT:

WEHNER:

COURT:

WEHNER:

COURT:

Okay.

was C in that group?

We have, Judge, A, C --

All right.

-- and D.

That's fine.

And no "B" as in boy.

B is in a different category.

No "B" as in boy in this group.

All right.

WITNESS : This would be the order.
:

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1 Q. Okay. So you put them in the chronological order as to your
2 best recollection --

A. Yes.

4 Q. -- as to when they were prepared; is that right?

5 A. Yes.

6 MR. WEHNER: With the government's permission and with
7 the Court's permission, I'm going to put another sticker on the
8 one that is not marked for identification purposes.

9 THE COURT: All right. The same sticker as --

10 MR. O'NEILL: That's fine, or we can put it into

11 evidence as 42A or whatever.

12 THE COURT: What does it go with?

13 MS. SWEENEY: Your Honor, this document is a part of

14 42A.

15 THE COURT: Why don't we put a "42A" on there so we

16 know it's part of it?

17 MR. WEHNER: We can do that, Judge. I was just --

18 okay, I would like the record to reflect that the witness has
19 said that the yellow sheets attached to 42A were prepared before

20 42A.

21 THE COURT: Oh, I see what you mean.

22 MR. WEHNER: Yes, sir. They are two separate

23 documents.

24 THE COURT: Question her about it, put it on the
25 screen, and you can put "42A" and perhaps "-1" or something on it

1750

to reflect it's a different document for the record.

2 MR. WEHNER: The government's now marked the yellow
3 sheets as 42A-1.

4 THE COURT: All right.

5 (Government's Exhibit No. 42A-1 was
6 marked for identification.)

BY MR. WEHNER:

8 Q. And I'll show you what they've marked as 42A-1 and ask you
9 if that is the first document prepared chronologically of 42A, C,
10 and D?

11 A. Yes, it is.

12 Q. Okay. Now I believe you testified that this was in your
13 handwriting, did you not?

14 A. Yes. Most of the document is in my handwriting.

15 Q. I don't -- I'm not going to get into every entry on these
16 pages, but let's just take the first one. It says, "Region IV,
17 the housing authority in the City of Columbia, South Carolina,
18 all 2-bedroom, 100 units, \$394." Is that basically what that
19 says?

20 A. Yes.

21 Q. Now that's the first entry on Exhibit 42A-1. Your testimony
22 is that you sat in the meeting, and Ms. Dean told you to fund
23 that project; is that correct?

24 A. Yes. Well, not, not quite. She was putting together a list
25 of projects to be funded. We still had to work out the math to

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1 make sure that there was a sufficient amount of money for the
2 funding to occur as had been dictated by her.

3 Q. Okay. So this, you were preparing, you called this a
4 proposed funding list if money was available?

5 A. We didn't call it that at the time, but that's essentially
6 what it was.

7 Q. Okay. I'll call this a proposed funding list then, 42A-1,
8 okay? Just so you and I are clear on what we're talking about.

9 A. Fine.

10 Q. Now you took 42A-1 and you found out if funds were available
11 to fund those; is that right?

12 A. Yes.

13 Q. Okay. Who did you talk to about that, Mr. Kumagai?

14 A. Yes.

15 Q. And you determined that funds were, in fact, available?

16 A. Yes.

17 Q. And you then did what, reported back to Ms. Dean?

18 A. Yes.

19 Q. And you reported back to her that 42A-1, the proposed
20 funding list, was -- that funds were available to fund it as she
2 had proposed?

2 A. Well, I can't remember whether funds were available to fund
2 it exactly as she had proposed. I -- it could very well be that
2 there was not enough funding to, to fund all the, the particular
2 specifics of what she had given.

1752

1 Q. Okay. But you reported back to her with the information you
2 had gathered from Ross Kumagai and told her that these can be,
3 that with changes, these can be funded; is that fair?
4 A. I don't, I don't remember exactly what I said to her.
5 Q. Now after you prepared 42A-1, you then prepared 42A; is that
6 correct?
7 A. I, I signed 42A. It was prepared for my signature by Ross
8 Kumagai or someone in his office.
9 Q. Now was this before or after you reported back to Ms. Dean?

10 A. I believe it was before I reported back.
11 Q. So you took 42A-1 and prepared 42A as a result of 42A-1;
12 isn't that right?
13 A. Could you repeat that, please?
14 Q. Did you prepare 42A as a result of 42A-1?
15 A. Yeah. As I say, I did not prepare that document. I signed
16 that document.
17 Q. Did you give somebody 42A-1 to type?
18 A. Yes.
19 Q. Who did you give it to?
20 A. Ross Kumagai.
2 Q. Okay. And he typed 42A-1, right --he typed 42A, I'm sorry.
2 A. 42A. I don't know if he personally typed it. He probably
2 had his secretary type it.
2 Q. Now the attachment to 42A at the bottom says, "Prepared by
2 Funding Control," does it not?

1753

1 A. Could you move it up a bit, please, so I could see it?
2 Q. Yeah. I'll try to -- can you read that?
3 A. Yeah. It says, "Prepared by Funding Control."
4 Q. And that is Mr. Kumagai's, what?
5 A. That's his office.
6 Q. Office?
7 And this isn't really a typewritten list; this is a
8 computer-generated list, isn't it?
9 A. Well, it was prepared on a, on some sort of an electronic

10 instrument.

11 Q. Okay. Did you have this document before -- you had this

12 document, did you not, before you went back up to Ms. Dean,

13 correct?

14 A. I don't remember exactly when I had the document in

15 connection with reporting back to Ms. Dean.

16 Q. Well, clearly you must have had that document before 42C was

17 prepared, correct?

18 A. Which one is 42C?

19 Q. I've just put it up on the board.

20 A. Yeah, I thought this was -- okay, this is the revision,

2 right?

2 Q. Exactly.

2 A. Yes, okay. I follow you.

2 Q. Do you follow me?

2 A. Sure.

1754

1 Q. Because this is a revision?

2 A. Sure.

3 Q. 42C is a revision to 42A, is it not?

4 A. Right. Yes, I must have sent 42A to Ms. Dean.

5 Q. Now you send 42A to Ms. Dean, and you get back 42C, correct?

6 A. I don't have a recollection of, of my getting it back. It

7 may have gone directly to Mr. Kumagai.

8 Q. Don't you recall testifying on direct, identifying this

9 handwriting, changes to original notes?

10 A. Yes, I did see it, I did see it. I just don't recall

11 whether I saw it before it went to Mr. Kumagai or subsequent.

12 Q. But it came back down to you somehow?

13 A. Yes, it did.

14 Q. With changes on it, correct?

15 A. That's correct.

16 Q. Now --so somehow between the time that 42A was prepared and

17 42C came back to you, someone decided to make changes in the

18 funding; isn't that correct?

19 A. That's correct.

20 Q. Now Ms. Dean had given you in that meeting, she had
21 basically given you the proposed funding list; isn't that
22 correct?
23 A. That's correct.
24 Q. And yet the changes came to you back from Ms. Dean; isn't
25 that correct?

1755

A. Yes.
2 Q. Whose office was right next door to Ms. Dean's?
3 A. Secretary Pierce.
4 Q. Now 42D was prepared after 42A, A-1, and C; isn't that
5 correct?
6 A. It's dated subsequent to the dates on the other documents.
7 Q. Well, you, you introduced the documents. You don't have any
8 reason to doubt the dates, do you?
9 A. No.
10 Q. I mean, presumably they are dated on or about the day
11 they're prepared, right?
12 A. Yes.
13 Q. So do you have any reason to think that wasn't prepared
14 last?
15 A. No, I don't.
16 Q. And you read this to the jury; isn't that right?
17 A. Yes, I did. I tried to anyway.
18 Q. And that reflects additional changes from what Ms. Dean had
19 originally said in that meeting in her office, doesn't it?
20 A. Yes, sir, it does.
21 Q. So somehow between the 12th and the 18th, somebody made some
22 changes in the list, correct?
23 A. Correct.
24 MR. WEHNER: Nothing further, Your Honor.
25 THE COURT: Okay.

1756

1 MS. SWEENEY: No redirect, Your Honor.
2 THE COURT: All right. Thank you, Ms. Zagame. You're
3 free to go.
4 THE WITNESS: Thank you.
5 (Witness excused.)
6 THE COURT: Anymore before the jury today?
7 MS. SWEENEY: Your Honor, we have one witness, but I
8 anticipate that the examination is going to be a little bit
9 longer.
10 THE COURT: All right, let's just come up on scheduling
11 and see where we are.
12 (Bench conference on the record.)
13 THE COURT: who do you have, Mr. Demery?
14 MS. SWEENEY: No, it's Janice Golec, and I know that
15 Mr. Wehner has quite a lengthy cross examination.
16 THE COURT: Okay. Did you have that one that was a
17 materiality issue today or not, or is that some other day you're
18 talking about?
19 MS. SWEENEY: We had hoped to reach him after
20 Ms. Golec, so that would probably be sometime tomorrow, Your
21 Honor.

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22 THE COURT: I see.
23 MR. O'NEILL: The other thing is, Judge, there are a
24 couple of documents we would be moving in, so we could do that
25 outside or in the presence of the jury.

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2 THE COURT: what do you mean?
3 MR. O'NEILL: The documents, the Mitchell calendars and
4 the like.
5 THE COURT: Mitchell calendars?
6 MR. O'NEILL: Yes.
7 THE COURT: Are they stipulated to?
8 MR. O'NEILL: No, they're not. Those are the ones
9 where we have Marti Mitchell; Frank Gauvry; John Brennan, Charles
10 Fogle, the agent. We set the foundation.
11 THE COURT: I'd better hear you on that.
12 Are you objecting?
13 MR. WEHNER: Yes.
14 THE COURT: I'd better hear you out of the presence of
15 the jury. We can take those up now. I'll let the jury go.
16 MR. O'NEILL: I was just alerting you to the fact.
17 (Discussion off the record.)
18 THE COURT: Okay, then I'll let the jury go until 9:30
19 in the morning. We'll just take up these Mitchell documents.
20 (End of bench conference.)
21 THE COURT: Ladies and Gentlemen, the next witness,
22 it's been indicated, will be somewhat lengthy, very likely, and
23 it will take up considerably more time than we have this evening.
24 I have some legal matters to discuss with counsel anyway, so I'd
25 like to do that tonight so we don't have to hold up tomorrow's

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1 So what we'll do is release you for now, and I'll take
2 up these other matters with counsel, and then tomorrow morning be
3 ready to go at 9:30 with our next witness. And we should have a
4 full, regular day tomorrow, so we're going to let you out a
5 little early today.
6 So remember the admonitions of the Court again
7 overnight. You're not to talk about the case with anyone or
8 among yourselves. Don't let anyone talk to you about it. You're
9 not to read about, watch anything, or listen to anything in the
10 media about it at all, and if it comes to your attention or
11 something, you turn your attention away from it.
12 We'll see you back here tomorrow morning then at 9:30,
13 all right? Be ready to go then. Thank you.
14 (Jury out.)
15 THE COURT: All right, counsel for the government
16 raised an issue about moving for admission of some John Mitchell
17 calendar references that have been identified by various
18 witnesses. Let me see what we have on that, please, when you're
19 ready.
20 MR. O'NEILL: Yes, Your Honor. The government at this
21 time would be moving into evidence Government's Exhibits 9A
22 through H, 10, Your Honor, 14, 15, 17, 18, 30, and 36A.
23 THE COURT: All right. My list indicates that 9 is a
24 John Mitchell '85 calendar. 9A through 9H are individual lunches
25 with Governor Nunn or Rick Shelby or meetings with Rick Shelby or

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1 a lunch with Debbie and Shelby or, again, Governor Nunn. 10 is a
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2 John Mitchell calendar for '86.
3 MR. O'NEILL: There are four specific entries, Your
4 Honor.
5 THE COURT: You want the rest of the 10s, all right.
6 Then 10A -- I don't have 10B, C, or D being identified
7 individually by anybody in my notes. I just have 10A as,
8 identified as Mitchell calendar, Rick Shelby - picture, 7-28-86.
9 MR. O'NEILL: Right.
10 THE COURT: But I don't have B, C, or D being discussed
11 by anybody.
12 MR. O'NEILL: I believe the testimony was just as to
13 the whole calendar, Your Honor.
14 THE COURT: All right. And then we've got 14, 15. Let
15 me see those. 14 is a note. That's the only thing I have about
16 it right here. 15 is a list of figures. 17 is a letter from
17 Dean to Mitchell; 18, a note on Dean's HUD stationery; and 30,
18 rapid reply letter signed by Barksdale.
19 THE CLERK: Did you say 36A?
20 THE COURT: Oh, I didn't look at 36A, okay.
21 And 36A is some notes from Mr. Mitchell in March of
22 84.
23 All right, now what's the theory of introduction of
24 these Mitchell documents? I'll just categorize them all like
25 that. One is a document from Dean to Mitchell.

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1 MR. O'NEILL: Yes, sir. For the Court's convenience, I
2 will send up a memorandum of law, but in essence, as to the
3 calendars and the notes of John Mitchell, Your Honor, it's the
4 government's contention that the primary theory is that they're
5 statements of a co-conspirator during and in furtherance of a
6 conspiracy.
7 The government also believes that they would be
8 admissible under Federal Rule of Evidence 803(3) as a statement
9 of the declarant's intent and plan. They're also admissible
10 pursuant to the testimony of Frank Gauvry as business records
11 pursuant to Federal Rule of Evidence 803(6).
12 The specific documents, Your Honor, that are addressed
13 to John Mitchell -
14 sent to John Mitchell, I should say, by
15 defendant Dean are admissible pursuant to Federal Rule of
16 Evidence 801(d)(2)(A) as admissions by a party.
17 At this time, if I may hand to Gloria, Your Honor, and
18 give a copy to counsel -
19 THE COURT: Thank you.
20 MR. O'NEILL: -
21 I would set forth a memorandum of law.
22 Did I give you the wrong one, sir? Judge, does the
23 last page have a signature page?
24 THE COURT: No.
25 MR. O'NEILL: Then of course, I gave you the wrong one.
26 THE COURT: It's not quite a complete copy there.
27 THE CLERK: This is the original right here?

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1 MR. O'NEILL: Yes, that's the original.
2 THE COURT: Mr. Wehner, do you want to respond now, or
3 do you want to respond early in the morning, since they've given
4 you a memo to read?
5 MR. WEHNER: I'd say both, but I don't want to take
6 advantage of Your Honor, so how about if I do it in the morning?
7 THE COURT: That's all right. I'm familiar with the

8 issue, because we've discussed it somewhat before. The memo is
9 new, which I haven't seen before, and I appreciate the work that
10 counsel put into this memo for the Court.

11 MR. WEHNER: I'll give a brief response to just what
12 I've seen in the memo, and unfortunately, I think the, the issues
13 are somewhat intertwined, I'm going to try to keep them separate,
14 in terms of this issue from Rule 29 issues in terms of the
15 difference being a preponderance and a light-most-favorable-type
16 test. I think sometimes those are difficult to differentiate
17 between, but I'm going to try.
18 I think the, the reason that the co-conspirator
19 statements are not admissible -- and I do not include in that
20 category the admissions. I include the co-conspirator statements
2 only.

2 THE COURT: All right.

2 MR. WEHNER: The reason that the co-conspirator
2 statements, alleged co-conspirator statements are not admissible
2 is because the government has been unable to show that Ms. Dean

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1 became a knowing, willing co-conspirator with the others. So
2 it's a combination lack of foundation for the hearsay exception
3 rule to apply plus almost a relevancy objection to the
4 co-conspirator statements, because I believe if you'll remember
5 the testimony, for example, of Mr. Shelby, Mr. Shelby testified
6 that he intentionally concealed from the defendant, from Ms. Dean
7 that John Mitchell was receiving any fees as a result of
8 co-conspirator activities.
9 The government's evidence, I think, suggests at its
10 best a close relationship with John Mitchell, between Ms. Dean
11 and John Mitchell. Their evidence that she refers to him as
12 "Dad," that she admittedly was close personally to him, I do not
13 believe that one can infer from their evidence a participation in
14 a criminal conspiracy with him by Ms. Dean.
15 Now I think the government would argue that
16 circumstantially they are somehow showing knowledge of the nature
17 of the criminal conspiracy by Ms. Dean because of the events that
18 occurred among the other co-conspirators, and I will admit that
19 that has some immediate attraction if you apply the standard rule
20 that circumstantial evidence means the same thing as direct
2 evidence, et cetera, et cetera.
2 The difference here, Judge, is that the direct evidence
2 is to the contrary. In other words, the direct evidence in the
2 government's case in chief is that it was strictly a personal
2 relationship between Deborah Gore Dean and, and John Mitchell,

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1 and the direct evidence suggests a close personal relationship
2 and an absence of any intent on Ms. Dean's part to participate in
3 a criminal conspiracy with John Mitchell, and that's direct
4 evidence, Your Honor, as opposed to circumstantial evidence.
5 And the direct evidence is established by the
6 government that she was close to John Mitchell and that any
7 financial remuneration he received, derived as a result of any of
8 these transactions was concealed from her.
9 And I don't think the government can get over that
10 burden at this point both in terms of proving Ms. Dean was a
11 knowing, willing member of a conspiracy, and No. 2, to satisfy
12 the co-conspirator exception to the hearsay rule. To get over
13 that -- and I'll give Your Honor some cases on this tomorrow --
14 they have to show that Ms. Dean was a member of the conspiracy.
15 I mean, that's a prerequisite to admission. She's the one that's
16 on trial. John Mitchell is not on trial; Richard Shelby is not
17 on trial; the other co-conspirators are not on trial; it's

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18 Ms. Dean. And their evidence may be overwhelming that John
19 Mitchell and Richard Shelby and others entered into some kind of
20 conspiracy, whether illegal or not, but that doesn't connect
21 Ms. Dean to that conspiracy.
22 So I'll give Your Honor some cases on it first thing in
23 the morning, but that's generally where I'm coming from.
24 THE COURT: All right. I appreciate your remarks. I
25 think you are, as you said, getting in this argument over into

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1 the rule 29 argument a little bit.
2 MR. WEHNER: Yes.
3 THE COURT: All right. Did you want to respond
4 briefly? And then I'll get you all here tomorrow morning. I
5 haven't read your memo yet. I want to have a chance to do that.
6 MR. O'NEILL: Your Honor, I'd just as soon do that
7 tomorrow, if you'd like.
8 THE COURT: All right. Let me read the memo.
9 MR. O'NEILL: Okay.
10 THE COURT: Then we can work on that tomorrow morning.
11 why don't you come a few minutes then before 9:30, like at 9:20,
12 and then we'll have a chance to address this in the morning so we
13 can take up what we need to do.
14 I've read your two cases cited in your memo, two of
15 your cases cited in your memo on materiality in the D.C. Circuit,
16 and we can address that at the appropriate time as well.
17 All right, then we'll recess for the jury until 9:30.
18 I'd like counsel back about 9:20 to take a look at the Mitchell
19 documents issue, all right? Thank you.
20 MR. O'NEILL: Yes, sir. Thank you.
2 (Recess from 4:07 p.m. to 9:20 a.m., September 30, 1993.)
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CERTIFICATE OF THE REPORTERS

2 We certify that the foregoing is a correct transcript of the
3 record of proceedings in the above-entitled matter.

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1 UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

2
3 UNITED STATES OF AMERICA, Criminal No. 92-181-01

4 vs. Washington, D.C.
5 4 September 30, 1993
6 DEBORAH GORE DEAN, 9:40 a.m.

7
8 Defendant.

9
10
11 TRANSCRIPT OF JURY TRIAL
12 8 BEFORE THE HONORABLE THOMAS F. HOGAN
13 UNITED STATES DISTRICT JUDGE

14
15 VOLUME XIV

16
17 APPEARANCES:

18
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17
18 ALSO PRESENT: MARK BATTS

19
20 OFFICIAL COURT REPORTER: ANNELIESE J. THOMSON
21 SANTA THERESA ZIZZO

22 U.S. District Courthouse
23 3rd and Constitution, N.W.
24 Washington, D.C. 20001
25 (202)842-5069

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(Pages 1766 - 1948)

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2
COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

1 INDE X
2 DIRECT
3 WITNESSES ON BEHALF OF
4 THE GOVERNMENT:

5
6 Janice Golec 1778

7
8 Kenneth McLean 1825

9
10 Thomas T. Demery 1888

11
12
13 EXHIBITS
14 GOVERNMENT'S:

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11 NOS. 9A-H, 10A-D, 14, 15, 17, 18,
30, and 36A

12 183
204A

13 208
14 209

212
15 212A

212B
16 247

17 248
249

18 250
19

DEFENDANT•S:
20

Nos. 16 and 59
21 186

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22 190

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23

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24 19 3

CROSS REDIRECT RECROSS

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PROCEEDING S

2 (Defendant present, Jury out.)

3 THE CLERK: Criminal Case No. 92-181, United States v.

4 Deborah Gore Dean. Mr. Robert O'Neill and Paula Sweeney for the
5 government, Mr. Stephen Wehner for the defendant.

6 THE COURT: All right, we had left off yesterday on the
7 Mitchell documents. Mr. Wehner, did you come up with anything
8 else?

9 MR. WEHNER: Yes, Judge. I came up with one item when
10 I read the memorandum in detail, which is basically the same
11 argument I made yesterday, because I note in the memorandum that
12 no attention is paid to the issue as to whether Ms. Dean is
13 criminally connected to the conspiracy.

14 THE COURT: Is tied into the conspiracy.

15 MR. WEHNER: Exactly. And I think, frankly, that's
16 what I've been arguing this entire trial vis-a-vis the
17 admissibility of those statements. I think the law is clear that
18 Ms. Dean has to have been shown to have been a member of the
19 conspiracy before co-conspirator statements can be admitted
20 against her, and with that, I'll rest for this purpose.

21 THE COURT: All right, thank you.

22 Let me ask the government, on the documents that you
23 wish to admit, as I understood them, the 9 series are particular
24 pages from his calendar?

25 MR. O'NEILL: That's correct, Your Honor.

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1 THE COURT: 10 is the entire calendar for a year?

2 MR. O'NEILL: well, Judge, as you'll remember
3 yesterday, we did break up 10 to actually four entries in 10, A,
4 B, C, and D.

5 THE COURT: All right.

6 MR. O'NEILL: We just had the agent identify the entire
7 calendar, because of course, the entire calendar was found there.

8 THE COURT: I see.

MR. O'NEILL: But we don't intend to introduce it.

10 THE COURT: You don't intend to put in the entire
11 calendar?

12 MR. O'NEILL: No, Your Honor.

13 THE COURT: All right. That's what I was concerned
14 with.

15 Then the other series of documents consist of what?

16 Are those notes or something, the 14 to 36A, that group?

17 MR. O'NEILL: I'll run through them, Judge. 14 is a
18 handwritten note that was identified in Mr. Mitchell's
19 handwriting, and it says, "Nunn/Global. 10,000 Man-of-war
20 deposited by J M. in own account. 8,600 plus, Marbilt
2 litigation, deposited by Global. J.M. got 4,000 advance from
2 Global." It's a handwritten, one-page sheet.
2 Exhibit 15 is a handwritten, one-page sheet. Again, it
2 was identified as the handwriting of John Mitchell, and it lists
2 a number of various dates and names or perhaps names of companies

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1 with dollar figures next to it, and the specific one here would
2 be where it says, "L. Nunn (Martinez), \$8,613.94."
3 As Your Honor might recall, Exhibit 13, which is in
4 evidence, gives that same figure as a breakdown of the monies
5 Mr. Nunn paid Mr. Mitchell.
6 Exhibit 16 -
7 THE COURT: That's not part of the group.
8 MR. O'NEILL: No, I'm sorry, Your Honor. You're
9 absolutely right. Exhibits 17 and 18 are two separate -
well,
10 let me deal with 17. 17 is a one-page letter from Deborah Dean
11 to the Hon. John M. Mitchell enclosing two memoranda, and the
12 memoranda -- and there are memoranda attached to that exhibit.
13 Exhibit 18 is again a, a little cover form on the
14 stationery of Deborah Dean to "Daddy, FYI," and then it contains
15 an attachment, which is a memo from Philip Abrams.
16 I believe then, Judge, we go to Exhibit 30.
17 THE COURT: 30 and then 36A.
18 MR. O'NEILL: 30 is a rapid reply document from the
19 Department of HUD, which is the Maurice Barksdale-signed 185 -
20 excuse me, rapid reply, I'm sorry, with attachments.
21 Then 36A is a, I believe, two-page -- that is
22 correct -
handwritten notation. Again, it was identified as the
23 handwriting of John Mitchell, and it talks about the Arama
24 partnership.
25 THE COURT: All right. The defendant has argued that

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the connection between Ms. Dean and these documents as to a
2 co-conspirator's statement has not been made basically, as
3 opposed to other objections.
4 The Court is going to do as follows as to these
5 exhibits: That will be Exhibits 9A through H; 10 and the
6 subparts of 10, I think, I think it's A, B, C, and D, I believe;
7 Exhibit 14, 15, 17, 18, 30, and 36A. Two, I believe, 17 and 18,
8 are a different category. They are letters from Ms. Dean. I
9 think they come in as admissions in any event, with the
10 attachments.
11 The other documents, it seems to the Court, that have
12 been identified at trial by John Brennan, Mr. Mitchell's former
13 business partner, and from, as to at least their chain of
14 custody, Mr. Mitchell's daughter, Ms. Jeffcock, and Agent Fogle,
15 who testified he served the subpoena to Ms. Jeffcock and
16 retrieved those records from the boxes that she had preserved of
17 her father's records that she had taken from his office,
18 established certainly the authenticity as to these documents.
19 The calendar entries, that is, the 1985 Daytimer
20 calendar entries of 9A through 9H and the '86 Daytimer, I
21 believe, of the 10A, B, C, and D, all refer to potential or
22 planned at least meetings or lunches with individuals, including
23 Ms. Dean, who have been identified as co-conspirators in the
24 case. The other notes -- the other materials contain handwritten
25 notes related to the mod rehab projects or HUD documents related

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1 to the projects.
2 It seems to the Court that either under the theory the
3 documents as to the calendar entries and the handwritten notes
4 from his business office recovered from there concerning the HUD
5 mod rehab projects or deposits in bank, banking records or
6 calculations he made as to monies received from work on the mod
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7 rehab projects would be admissible either as statements of a
8 co-conspirator doing it in the course of the conspiracy under
9 801(d)(2) or as business records, as testified to by the various
10 witnesses who identified these records.
11 The government also said they could be admissible under
12 Federal Rule 803(3) as statements of declarant's intent and plan.
13 There was some suggestion of that, also, in their argument the
14 other day as to Ms. Dean's calendars. Even though some of the
15 planned meetings did not occur, it certainly showed her intent
16 and plan to have these meetings with individuals.
17 That has some appeal, but I think principally the
18 admissibility is based upon the co-conspirator's statement theory
19 as well as the business records theory, where the foundation has
20 been laid as to most of those records.
2 I do not otherwise admit them under 803(24) or 804(5),
2 because they have sufficient guarantees of trustworthiness. I am
2 leery of doing that where there's no chance to examine the
2 individual on these matters whatsoever since he is deceased, but
2 I do think they're admissible under the theories that I've

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reviewed.

The Court had some concern as to Mr. Wehner's
3 proposition that Ms. Dean has not been sufficiently connected
4 with the conspiracy to show that she's a member thereof and
5 therefore could have these statements and documents attributed
6 against her. I think that's ultimately for the Court to decide
7 at the time we take up the motions for judgment of acquittal as
8 to the sufficiency of the government's evidence, but at least at
9 this time, without commenting upon the ultimate merit of the case
10 at the time of motions for judgment of acquittal, that there has
11 been a sufficient ground laid to admit these documents. So I'll
12 overrule the objections of the defendant and allow in Government
13 9A through H, Government 10A through D, 14, 15, 17, 18, 30, and
14 36A.
15 (Government's Exhibit Nos. 9A thru 9H,
16 10A thru 10D, 14, 15, 17, 18, 30, and
17 36A were received in evidence.)
18 THE COURT: All right, are you ready with your next
19 witness, or what do you want to do?
20 MR. WEHNER: Judge, there's one thing I need to
21 raise.
22 THE COURT: All right.
23 MR. WEHNER: Mr. O'Neill told me last night that he was
24 going to be calling Ronald L. Reynolds as a witness.
25 Mr. Reynolds was a driver at HUD. And I'd like to mark -

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THE COURT: Is he on a witness list?
2 MR. WEHNER: That may not be necessary.
3 I don't remember, but I'm not objecting because he's
4 not, because he isn't, Judge.
5 THE COURT: All right.
6 MR. WEHNER: It's not a surprise issue. It's really a
403 issue.
8 THE COURT: All right.
9 MR. WEHNER: Mr. Reynolds was a driver for HUD, and as
10 I understand his intended testimony, he would testify as to
11 certain restaurants that he drove Ms. Dean to, waited for her,
12 and took her back to HUD.
13 I would object to the admission of that testimony on

14 relevancy grounds and also 403 grounds. I do not think -
I
15 think the record is already replete with references through the
16 calendars and through other testimony establishing that certain
17 lunches occurred. I think that's been established beyond any,
18 beyond any doubt by the evidence that's been put on. I think
19 it's a waste of time to further corroborate that through the
20 testimony of a driver.
21 Secondly, Judge, I think that the witness himself is an
22 unreliable witness because of other statements he has made of
23 which he could have had no knowledge, such as he testifies at one
24 point that he at Ms. Dean's direction picked up Mr. Winn at the
25 airport and drove Mr. Winn back downtown, when Mr. Winn was not a

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1 HUD employee. The true fact of that is that it was not Mr. Winn,-
2 it was another person.
3 And it appears to us that this witness has picked up a
4 lot of information from reading it in the newspapers, including
5 information about Ms. Dean's work habits, that are in his reports
6 of interview. He represents in his reports of interview that he
7 overheard Ms. Dean on a car phone talking about mod rehab, and
8 there was no car phone in the car that Ms. Dean was driven around
9 in.
10 I think he's a problematic witness, and he's not -- his
11 testimony is not trustworthy. So I'd also ask that he be
12 excluded on those grounds as well.
13 THE COURT: All right. What is the government going to
14 use Mr. Reynolds for?
15 MR. O'NEILL: Your Honor, the government would proffer
16 to the Court that what Mr. Reynolds would testify is being a, at
17 the time in question, he was a HUD chauffeur, did drive Ms. Dean
18 around at her request, took her to a number of various places for
19 lunch, some of them quite lengthy.
20 It's corroborative of the testimony already adduced at
2 trial, and the government feels that is relevant to show that
2 Ms. Dean was meeting with these people, and primarily the
2 information will be that she met with John Mitchell on several
2 occasions for lunch.
2 THE COURT: All right. Is he going to go into other

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1 areas that's been referred to by counsel on direct anyway?
2 MR. O'NEILL: The other areas being -
3 THE COURT: She talked on the telephone about mod rehab
4 or that she picked up people at the airport who were developers.
5 MR. O'NEILL: No, Your Honor. The government would
6 tailor his testimony to questions to those areas I've just told
7 you, basically that he took her to a number of various lunches
8 and that -
9 THE COURT: He'd wait two or three hours?
10 MR. O'NEILL: On one specific occasion only, Your
11 Honor, just so the record is clear. And then that Ms. Dean had
12 told him on a number of occasions she was meeting with John
13 Mitchell for lunch and her mother or -
14 MR. WEHNER: Judge, I'll stipulate that Ms. Dean had
15 lunch with John Mitchell during this period of time and, I think,
16 with her mother.
17 THE COURT: All right.
18 MR. WEHNER: I'll stipulate that she had lunch with
19 John Mitchell.
20 THE COURT: All right, I'm going to overrule the
2 objection. I recognize the concern the defendant has and the
2 possible prejudice that could result from having someone come in

2 as a driver before this jury and testify that she had long
2 lunches at expensive restaurants, but I think the government has
2 a right to prove their case and to show that these lunches that

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1 they claim occurred actually occurred at times and that she met
2 with who the government alleges is one of the principal
3 co-conspirators, Mr. Mitchell, whether it was with her mother or
4 not or whether she contests it or not.

5 The only thing I'd be concerned about is where the
6 probative value and weighing the prejudicial effect of the
7 evidence could have a concern is if he gets into areas that it's
8 indicated by Mr. Wehner he may have hearsay or other knowledge
9 that he gained from other sources that is not accurate and would
10 be unfair to have him try to discuss those areas, but he can
11 discuss what he has personal knowledge of and an accurate memory
12 of as to taking her to lunches with various individuals who've
13 been identified as co-conspirators in this case, principally
14 Mr. Mitchell, which she's indicated she doesn't contest in any
15 event.

16 But I'm not going to limit the government, say they
17 can't call a witness who can verify some of these meetings took
18 place. So I'll allow him to be called.

19 MR. O'NEILL: Your Honor, for the Court, I'll try to
20 work out a stipulation with Mr. Wehner if we can, and maybe we
2 can eliminate the issue.

2 THE COURT: All right. What do we have on the next
2 witness here?

2 MS. SWEENEY: Your Honor, it would be Janice Golec.

2 THE COURT: She's going to go into the Baltimore --or

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1 Maryland projects?

2 MS. SWEENEY: Yes, Your Honor.

3 THE COURT: All right. Then we'll proceed with

4 Ms. Golec, and bring the jury in, please.

5 THE DEPUTY MARSHAL: Yes, Your Honor.

6 (Jury in.)

7 THE COURT: All right, good morning, Ladies and
8 Gentlemen.

9 THE JURORS: Good morning.

10 THE COURT: We're ready to go at this time. We've got,
11 the government has their next witness available.

12 MS. SWEENEY: The government calls Janice Golec.

13 THE COURT: All right.

14 JANICE GOLEC, GOVERNMENT'S WITNESS, SWORN

15 DIRECT EXAMINATION

16 BY MS. SWEENEY:

17 Q. Ms. Golec, I'm going to be asking you a series of questions,
18 and I'd ask you to keep your voice up so the members of the jury
19 can hear. Would you please state your name for the record,
20 spelling your last name for the court reporter?

2 A. Janice Golec, G-o-l-e-c.

2 Q. I would ask you to keep your voice up a little bit, and you
2 can adjust the mike if you need to. Are you presently employed,

2 Ms. Golec?

2 A. Yes, I am.

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1 Q. And how are you employed?
2 A. I'm with an insurance company.
3 Q. What is it that you do?
4 A. I run the community relations department for the company.
5 Q. What is your educational background, just briefly, for the
6 jury?
7 A. I've completed my B.S. studies in international relations
8 and political science.
9 Q. Could you describe briefly, very briefly your educational --

10 your employment background after college?
11 A. I worked for a law firm here in Washington, working as a
12 staff assistant to the government relations consultant. I then
13 went to the transition team for the President-elect, went to the
14 White House, then to the Department of Housing and Urban
15 Development.
16 Q. When was it that you started at the Department of Housing
17 and Urban Development?
18 A. In June of 1981.
19 Q. And how long did you remain there?
20 A. Through March of 1989.
21 Q. Did you hold one job during that time period or more than

22 one job?
23 A. I had a number of positions while I was there. I started as
24 a staff assistant to the secretary, then became a special
25 assistant to the secretary, and then became deputy assistant

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1 secretary for program development in the Office of Community
2 Planning and Development.
3 Q. Focusing on the time period 1983 to 1985, what was your
4 particular position at HUD during that period of time?
5 A. For that period of time, I was the special assistant to the
6 secretary.
7 Q. Who was your immediate supervisor during that period of
8 time?
9 A. My first supervisor was Lance Wilson, executive assistant to
10 the secretary, and then Deborah Dean, executive assistant to the
11 secretary.
12 Q. Do you recall when it was that Ms. Dean became your
13 supervisor?
14 A. After Lance had left in late spring of 1984.
15 Q. Did you have particular subject matters or areas that you
16 were responsible for in 1984?
17 A. There were two areas that I was basically responsible for:
18 the non-career hiring, the political appointments, the White
19 House liaison responsibilities, and for the Office of Community
20 Planning and Development.
21 Q. Are you familiar with a project referred to as the Patriots
22 project?
23 A. Yes, I am.
24 Q. Could you give a brief description of that project for the
25 members of the jury?

A. It was scattered-site townhouses located in Baltimore.

2 Q. How did you first hear about the Patriots project?

3 A. Through Jim Lomenick.

4 Q. Who is Mr. Lomenick?

5 A. Jim was someone that I had dated.

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6 Q. What was his relationship to the Patriots project?

7 A. He was responsible for the management of the properties.

8 Q. Do you recall how many apartments were involved in this particular project?

10 A. It was townhouses, and there were somewhere between 70 and 11 80.

12 Q. Without telling us what Mr. Lomenick said, did you have 13 discussions with him with regard to the Patriots project?

14 A. Yes, I did.

15 Q. And as a result of these discussions, did you do anything?

16 Did you take any action?

17 A. Yes, I did.

18 Q. Can you describe for us what it was you did?

19 A. I had asked Silvio DeBartolomeis, who was at that time

20 special assistant to the secretary for housing, to meet with Jim

21 and explain some of the housing programs. I had asked Lance

22 Wilson if he would meet with Jim about the project, and when

23 Lance left, I had asked Deborah if she would meet with Jim about

24 the project.

25 Q. Do you know if the meeting between Mr. Lomenick and the

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1 defendant that you requested occurred?

2 A. Yes, I did.

3 Q. Were you present at the meeting?

4 A. No, I was not.

5 Q. Did you talk to the defendant about it afterwards?

6 A. Yes, in passing.

7 Q. Do you recall what she said and what you said?

8 A. I recall that she said that she had met with Jim and would

9 try and help.

10 Q. I'm sorry, I didn't hear the last part of your answer,

11 Ms. Golec.

12 A. That she would try and help him.

13 Q. Now just for the record, do you recall what time period this

14 would have been?

15 A. In, probably in June of, of '84.

16 Q. Focusing on this same time period, the summer of '84, June

17 of '84, did you go on any business trips with the defendant?

18 A. Yes, I did.

19 Q. Where did the two of you go?

20 A. We went to Baltimore.

2 Q. Again, I'd ask you just to keep your voice up a little,

2 Ms. Golec.

2 With whom did you meet?

2 A. We met with representatives from the office of the mayor and

2 the office of the Neighborhood Progress Administration.

1783

- 1 Q. What is the Neighborhood Progress Administration?
2 A. It's the local public housing authority.
3 Q. Was the Patriots project mentioned during the course of this
4 meeting?
5 A. It was brought up, yes.
6 Q. Was it brought up by either yourself or the defendant?
7 A. Deborah had mentioned it.
8 Q. Can you recall what she said?
9 A. Just that the project would be coming in for funding and

10 that it was a project that was being discussed at HUD.
11 Q. Did you attend any other meetings that summer with Baltimore
12 officials?
13 A. Yes, I did.
14 Q. Can you tell us about the additional meetings that you
15 attended?
16 A. I went to a luncheon with Marion Pines, who was the director
17 of the Neighborhood Progress Administration.
18 Q. Was she one of the individuals who was at the meeting that
19 you previously described for us?
20 A. Yes, she was.
2 Q. Who arranged the luncheon with Ms. Pines?

2 A. I did.
2 Q. And who else attended?
2 A. Jim Lomenick.
2 Q. Did you ever talk to the defendant about this luncheon?

1784

- 1 A. She had mentioned that she had, she knew that I had gone and
2 had told me not, not to do it again.
3 Q. Did Patriots receive funding in fiscal year 1984?
4 A. No, it did not.
5 Q. And for the record, do you recall what type of funding would
6 have been involved in the Patriots project, what program?
7 A. It was mod rehab.
8 Q. Did there come a time when units were awarded to Baltimore?
9 A. Yes, in the following fiscal year.
10 Q. Do you recall when that was that Baltimore received units
11 that fiscal year?
12 A. In, it would have been in late '84, December.
13 Q. Do you recall how many units were allocated to Baltimore at
14 that time?
15 A. 70-some-odd units.
16 Q. Was that the same number that were involved in the Patriots
17 project?
18 A. Yes, it was.
19 Q. Did you have any conversation with the defendant about that
20 allocation?
2 A. In passing, she had mentioned that units had gone to
2 Baltimore.
2 Q. Did she say anything else?
2 A. She just had mentioned that Jim had gotten his units.
2 Q. Now I'm going to focus on a different project, a project

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1 called Baltimore Uplift. Are you also familiar with a project
2 known as Baltimore Uplift?

3 A. Yes, I am.

4 Q. How did you first learn about this project?

5 A. I had seen a number of newspaper articles on it, and I had
6 also attended a meeting on it.

7 Q. How did the newspaper articles come to your attention, do
8 you recall?

9 A. We had daily news clips in the office of the secretary about

10 HUD-related projects.

11 Q. Can you briefly describe the Baltimore Uplift project?

12 A. It was scattered, scattered housing in Baltimore that

13 utilized a number of different kinds of housing subsidies.

14 Q. Were you ever given any assignments regarding Baltimore

15 Uplift?

16 A. Yes. I was asked to attend a meeting in Baltimore with the

17 developer and representatives from Baltimore.

18 Q. Who asked you to attend the meeting?

19 A. Deborah did.

20 Q. Do you recall what she said to you at the time?

2 A. She had asked me to attend the meeting. She said that the,
2 this issue needed -- there were issues related to the Uplift
2 project that needed to be resolved before Jim's project could go
2 forward.

2 Q. You mentioned that the developer attended the meeting. Who

1 was the developer? Do you recall the individual's name?

2 A. Bob Tuttle.

3 Q. Did you know one Bob Tuttle or more than one Bob Tuttle?

4 A. I knew two Bob Tutttles. There was one who is the director
5 of personnel at the white House, and then there was this Bob
6 Tuttle.

7 Q. And how would you describe this Bob Tuttle?

8 A. He was a, a developer.

9 Q. What was your response when the defendant asked you to

10 attend the meeting?

11 A. I didn't want to go.

12 Q. What did you say to her, Ms. Golec?

13 A. I said that I didn't want to go, because I didn't have any,
14 I didn't have any expertise in this area, I wasn't familiar with
15 the programs that were going to be discussed.

16 Q. And why was that? Why were you not familiar with the

17 programs that were going to be discussed?

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- 18 A. At the time, I was a special assistant to the secretary and
19 dealt with community planning and development programs, and this
20 was basically housing programs.
21 Q. Was there at this time a special assistant who was assigned
22 the tasks of dealing with housing issues?
23 A. Yes, there was.
24 Q. Do you have, do you know why that individual was not asked
25 to attend the meeting? Did Ms. Dean tell you?

1787

- 1 A. No, I do not.
2 Q. Do you recall if you spoke to her on one occasion or more
3 than one occasion about the meeting?
4 A. Sometime after that, and I don't believe it was immediately
5 following it, she had mentioned the developer said that I had
6 cost him a million dollars.
7 Q. And what was your response?
8 A. I was pretty upset. I was pretty floored about it.
9 Q. Did she say anything else at that time?

10 A. She had just told me not to worry about it.
11 Q. Now did there come a time when you actually attended the
12 meeting?
13 A. Yes, there did.
14 Q. Prior to attending the meeting, did the defendant describe
15 at all for you the issues that were involved or the project?
16 A. She had basically given me just a brief overview of what the
17 project was about and what the issues were.
18 Q. Did you have any understanding of what your role was at the
19 meeting?
20 A. It was to serve as their representative from the office of
2 the secretary.
2 Q. What did you actually do at the meeting, Ms. Golec?
2 A. Nothing that I -- nothing.
2 Q. Did you speak at the meeting?
2 A. No, not that I can recall.

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- 1 Q. Do you know an individual named Ken Finlayson?
2 A. Yes, I do.
3 Q. And how did you come to know Mr. Finlayson?
4 A. He was a regional administrator at HUD, and it was a
5 political appointment, so I was in my role as White House liaison
6 responsible for processing his papers.
7 Q. We've been focusing on the time period 1983 to 1985. Did
8 there come a time when you left the secretary's office and took
9 another job at HUD?

10 A. Yes.
11 Q. What job was that?
12 A. It was as deputy assistant secretary for program development
13 in the Office of Community Planning and Development.
14 Q. Do you recall when that was, Ms. Golec?
15 A. In September of '85.
16 Q. Was this a promotion, or was it a lateral move within HUD?
17 A. It was a promotion.

18 MS. SWEENEY: No further questions, Your Honor.
19 MR. WEHNER: Your Honor, could I have a few minutes to
20 consult?
2 THE COURT: Sure.

2 MR. WEHNER: Just a few minutes.
2 THE COURT: Do you want to take a short break?
2 MR. WEHNER: Yes, sir.
2 THE COURT: All right.

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1 MR. WEHNER: Very short.
2 THE COURT: All right. Ladies and Gentlemen, we'll
3 have a little early recess. Take a very short, five-minute break
4 then. Remember the admonition of the Court about not talking
5 about the case, all right? Five minutes.
6 (Jury out.)
7 THE COURT: All right, five minutes.
8 (Recess from 10:12 a.m. to 10:25 a.m.)
9 THE COURT: Are you all right?
10 MR. WEHNER: Yes, sir. Thank you for the break.
11 (Jury in.)
12 THE COURT: All right, Ladies and Gentlemen, we're
13 ready to go ahead now with the cross examination.
14 MR. WEHNER: Thank you, Your Honor.
15 Good morning, Ladies and Gentlemen.
16 THE JURORS: Good morning.
17 CROSS EXAMINATION
18 BY MR. WEHNER:
19 Q. Good morning, Miss or Mrs.? Miss?
20 A. Miss.
2 Q. Miss Golec, good morning. I'm Steve Wehner, and I represent
2 Ms. Dean, and I've got a few questions for you. If there's
2 anything you don't understand, please indicate that to me, and
2 I'll be glad to rephrase my question or make it clear to you.
2 I believe you testified on your direct examination that

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1 Jim Lomenick first brought the Patriots project to your
2 attention. Is that accurate?

3 A. Yes, it is.
4 Q. And he was your boyfriend; isn't that correct?
5 A. Yes, he was.
6 Q. How long did you date him?
7 A. For about two years.
8 Q. Okay. And did he -- he talked to you on a frequent basis
9 about the Patriots project; is that correct?

10 A. Yes, it is.

11 Q. Now that was a mod rehab project?

12 A. Yes, it was.

13 Q. And it was in Baltimore?

14 A. Yes, it was.

15 Q. Okay. And he was interested in getting units for Baltimore,

16 was he not?

17 A. Yes, he was.

18 Q. For the Patriots project?

19 A. Yes.

20 Q. And as a result of his interest in that, you helped him in
2 the process; is that correct?

2 A. Yes, that's correct.

2 Q. Okay. And you introduced him to various people at HUD in an
2 effort to help him get these units to Baltimore, correct?

2 A. Yes, I did.

1791

1 Q. And that included Silvio DeBartolomeis, correct?

2 A. Yes, it did.

3 Q. And Lance Wilson?

A. Yes.

5 Q. And I believe you also testified that you introduced him to
6 Ms. Dean; is that correct?

7 A. That is correct.

8 Q. Okay. And he met with these people concerning the Patriots
9 project in Baltimore?

10 A. Yes, he did.

11 Q. Is that your recollection?

12 A. That's my recollection.

13 Q. And he told you that he met with these people concerning the
14 Patriots project; is that correct?

15 A. That is correct.

16 Q. Okay. Now was he working on the Patriots project before or
17 after he began to date you; do you remember?

18 A. He was managing the properties before he and I started
19 dating.

20 Q. Okay. There came a time, did there not, when you introduced
2 or suggested to Mr. Lomenick that he should hire a consultant; is

2 that correct?

2 A. I don't recall. I'm sorry.

2 Q. Do you recall the name of an individual by the name of
2 Joseph Strauss?

1 A. Yes, I do.

2 Q. And do you recall his involvement in the Patriots project?

3 A. I believe Jim had spoken with Jim -- with Joe.

4 Q. And do you recall that Joe Strauss was -- asked for a
5 certain amount of money from the project in order to get the
6 units funded?

7 A. I believe so, yes.

8 Q. And do you recall that Mr. Strauss would not take the

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9 assignment to try to get that funded, because Jim Lomenick was

10 not willing to pay him the amount of money he wanted?

11 MS. SWEENEY: Objection, Your Honor, as to foundation.

12 THE COURT: Pardon me?

13 MS. SWEENEY: AS to foundation, Your Honor.

14 THE COURT: All right. Ask her if she knows, if she

15 knows if it's right or not.

16 MR. WEHNER: She answered yes to the foundation

17 question, Judge, I thought.

18 THE COURT: All right, go ahead.

19 BY MR. WEHNER:

20 Q. It's true that Mr. Strauss did not sign a contract with

2 Mr. Lomenick, is it not?

2 A. Yes, it is.

2 Q. Okay. And he didn't do that, because Mr. Lomenick wasn't
2 willing to pay him the amount of money; isn't that correct?

2 A. That's correct.

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1 Q. Okay. And that information you got from Mr. Lomenick,
2 right?

3 A. Yes, it is.

4 Q. Okay. Now just so we can put this aside, the Patriots
5 project did not get funded, did it?

6 A. Yes, I believe it did.

7 Q. Okay. It did get funded?

8 A. I believe so, yes.

9 Q. Okay. So Patriots actually received units in Baltimore?

10 A. Yes.

11 Q-Okay. Was the project ever finished?

12 A. I • ve come to learn that yes, they sold the project.

13 Q. But the units of mod rehab -- let's put it this way: The
14 funds 3 werei never spent to rehabilitate the units?

15 A. I have come to learn that yes, they were.

16 Q. Is that your understanding that they were?

17 A. That

18 Q. Okay.

19 A. Yes,

20 Q. Okay

2 time that

is my understanding.

And was that part of what was called Patriots?

it was.

But Mr. Lomenick wasn't involved with Patriots at the the mod rehab funding was done; is that correct?

2 A. He was involved as, as the manager of the project when the 2 award was first made, and then the project was sold.

2 Q-Okay And when he was manager of the project, the 2 rehabilitation had not taken place; is that correct?

1 A. That is my understanding.

2 Q. Okay. So when he sold the project, the rehab had not taken 3 place; is that correct?

4 A. That is my understanding.

5 Q. Okay. Now you have talked, what, 15 times to the 6 Independent Counsel, over the last --

7 A. I don't remember how many times, but yes, I have.

8 Q. -- five or six years?

9 A. I have spoken with them, yes.

10 Q. And you've spoken to them many times, correct?

11 A. That's correct.

12 Q. And you spoke to them in detail about the Patriots project, 13 correct?

14 A. I don't remember -- I don't recall speaking in detail about 15 the Patriots project with them.

16 Q. Okay. Do you remember speaking to them in detail about Jim 17 Lomenick?

18 A. I remember Jim Lomenick being discussed, yes.

19 Q. And do you remember the Patriots project being discussed?

20 A. It, it was discussed, yes.

2 Q. Okay. In fact, you first talked to the Independent Counsel

2 in 19-, what, '87? Do you recall?

2 A. I don't recall specifically, but --

2 THE COURT: It wouldn't have been Independent Counsel

2 in 1987.

1 MR. WEHNER: I'm sorry, Your Honor.

2 Q. You first spoke with agents in 1987?

3 A. Yes, I did.

4 Q. And over the next five years, you spoke to them many 5 additional times, correct?

6 A. What do you mean by many times?

7 Q. Well, I've got, many is one, two, three, four, five, six, 8 seven, eight, nine, ten. Many is ten times. I'll be glad to 9 show you this.

10 A. Yes.

11 Q. I'll show you reports of interviews and the grand jury 12 transcript.

13 THE COURT: All right.

14 THE WITNESS: Okay.

15 MR. WEHNER: And I don't think it's necessary to go

16 through them individually unless at this point Mr. O'Neill wants 17 me to identify them.

18 THE COURT: All right, let's go ahead.

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19 BY MR. WEHNER:

20 Q. Does that refresh your recollection that you met with them
21 many times?

22 A. Yes.

23 Q. And in fact, they would record the date you met with them
24 and write down what you had to say and put that down on paper,
25 correct?

A. Correct.

2 Q. That culminated in a grand jury appearance on May 28 of
3 1992, correct?

4 A. That is correct.

5 Q. So is that the most recent record of your recollections
6 about Patriots and Mr. Lomenick is on May 28, 1992? Is that the
7 last time you spoke to the Independent Counsel about it?

8 A. No, it's not.

9 Q. Okay. When, when did you speak to them since May of 1992?

10 A. Between May and, and now.

11 Q. Okay. Was anybody taking notes of those sessions?

12 A. I'm sorry, I don't recall.

13 Q. Okay. Were there agents present in the room?

14 A. Yes, there were.

15 Q. Were they writing something down?

16 A. They could have been.

17 Q. Well, did you see?

18 A. I don't recall. I mean, I don't recall specifically what
19 they were doing. Yes, they were taking notes.

20 MR. WEHNER: Okay, they were taking notes.

21 Could we have those?

22 MR. O'NEILL: They don't exist.

23 THE COURT: Why don't you come up, see what the story

24 is.

25 MR. WEHNER: Excuse me, Your Honor.

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(Bench conference on the record.)

2 THE COURT: Have you got some interview notes, or is
3 she mistaken?

4 MS. SWEENEY: No, Your Honor. We have met for trial
5 prep, but there have not been notes taken.

6 THE COURT: Okay.

7 MR. O'NEILL: Right.

8 THE COURT: Is she talking about you met with her or
9 some other agents? Attorneys met with her as opposed to agents
10 interviewing her again?

11 MS. SWEENEY: There was an agent present at one of the
12 trial prep sessions, but he did not take notes.

13 THE COURT: Okay. And you don't know of any other
14 occasions there were other interviews after May 28?

15 MS. SWEENEY: Not that I'm aware of, Your Honor. As
16 far as I know, all of the Jencks material has been turned over.

17 As Mr. Wehner indicated, many reports of interviews have been
18 turned over involving Ms. Golec, and as far as I'm aware of, Your
19 Honor, all the ones that we possess have been turned over.

20 MR. O'NEILL: Judge, there was one interview that I was
21 even present with a couple months back where we directed the
22 agent not to take notes. It's my custom to usually write down
23 notes.

24 THE COURT: Okay.

25 MR. WEHNER: Well, I just -

okay.

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MR. O'NEILL: Yeah.

2 THE COURT: All right, I think that's a sufficient
3 basis at this point that the government just indicated they've
4 produced whatever notes they have that would be producible under
5 Jencks. If you want to explore more into it, you can.

6 MR. WEHNER: It really wasn't going to be the highlight
7 of my cross examination.

8 THE COURT: All right.

9 MR. WEHNER: I just thought I'd ask if there were

10 anything since the grand jury.

11 THE COURT: Okay.

12 (End of bench conference.)

13 BY MR. WEHNER:

14 Q. So between May 28 of 1992, when you testified in front of
15 the grand jury, and today, you had a couple of discussions with
16 the Independent Counsel?

17 A. That is correct.

18 Q. Okay. And your recollection is that there were notes taken
19 during those sessions?

20 A. That's my recollection, yes.

21 Q. Okay. Do you recall if they spoke to you during those
22 sessions about Patriots?

23 A. Yes, they did.

24 Q. And about Jim Lomenick?

25 A. Yes.

1799

1 Q. Okay. Did they go over your previous testimony on those
2 issues?

3 A. Yes, they did.

4 Q. And did they talk to you about what you had said before?

5 A. Yes, they did.

6 Q. And try to get more detail from you as to what you had said
7 before?

8 A. Yes, they did.

9 Q. Okay. Now in your grand jury testimony, I believe you

10 testified that you first heard about the project when Jim told
11 you about it.

12 A. That's correct.

13 Q. Is that what you remember saying in front of the grand jury,
14 referring you to your grand jury testimony at page 8?

15 A. That's correct.

16 Q. Okay. And I believe that you said in your grand jury that
17 Deborah Gore Dean was present when you discussed the Patriots
18 project in, between January and May of 1984, correct?

19 A. That's correct.

20 Q. And that you had told to her that Jim Lomenick was involved
21 in the project, correct?

22 A. That's correct.

23 Q. Now you further testified that you heard about another

24 Baltimore project and that you had a conversation with Ms. Dean
25 about another Baltimore project, correct?

A. That's correct.

2 Q. Okay. And your recollection is that that was Baltimore
3 Uplift; is that correct?

4 A. That is correct.

5 Q. Now that is your testimony today is that is separate and
6 apart from conversations about Patriots?

7 A. I'm sorry, could you repeat that question?

8 Q. Is your testimony today that that was separate and apart
9 from your conversations about Patriots?

10 A. Not completely, no. Separate and apart?

11 Q. Yes.

12 A. There was one instance where they were discussed together,
13 and that was concerning the meeting in Baltimore.

14 Q. Okay. So on one instance, they were discussed together?

15 A. That is correct.

16 Q. Okay. It's true that from time to time, you were being
17 pressed very hard by Jim Lomenick on the project; isn't that
18 correct?

19 A. That is correct.

20 Q. And that he from time to time would ask for your assistance
21 in getting applications for him?

22 A. That is correct.

23 Q. And typing up applications?

24 A. That's correct.

25 Q. And giving him information about how the selection process

1801

went?

A. That is correct.

3 Q. And you would respond to those, and you would help him with
4 that; isn't that right?

5 A. That is correct.

6 Q. And Mr. Lomenick became very insistent about those, about
7 your help, did he not?

8 A. Yes, he did.

9 Q. And he pressed you and pressed you and pressed you, correct?

10 A. Correct.

11 Q. Okay. Now there was a time, of course, when you were
12 talking to the Independent Counsel about Mr. Lomenick that you
13 did not tell them that he had pressed you and pressed you and
14 pressed you on that project; isn't that right?

15 A. That is correct.

16 Q. And you tried to keep him out of it; isn't that right?

17 A. No, that's not correct.

18 Q. Now isn't it true that on several occasions when you were
19 interviewed by the Independent Counsel, you said that someone had
20 brought that project to your attention and that it was not until
21 you were pressed hard by the Independent Counsel that you
22 admitted that it was Mr. Lomenick?

23 A. I don't believe that's correct.

24 Q. Okay. I want to show you, I'm going to show you a report of
25 interview dated June 10, 1991, and ask you if that reflects that

1802

1 you were asked about your actions regarding the Patriots project,
2 a housing development near Baltimore, and that you stated that
3 someone you knew had asked you how to obtain mod rehab units for
4 a project? Now isn't that what that reflects?

5 A. That's what that reflects, yes.

6 Q. And then it goes on to state that when pressed further, you
7 admitted that the someone was James Lomenick. Isn't that what
8 that reflects?

9 A. That is whoever took these notes' interpretation of it.

10 Q. Okay. Do you disagree with those statements?

11 A. With the --

12 Q. You think they're wrong?

13 A. With the statement that, that it was a problem mentioning
14 Jim's name.

15 Q. So you don't recall having to be pressed to recall his name;
16 is that correct?

17 A. No, I don't recall that.

18 Q. You don't recall that.

19 Do you recall volunteering that?

20 A. No, not necessarily volunteering it, but --

2 Q. Okay. Well, you were trying to protect him at some point,
2 weren't you? I mean, you didn't want to see -- and yourself,

.2 too?

2 A. Exactly.

2 Q. Because you didn't want to be seen to have been doing things

1803

1 for Mr. Lomenick when he was your boyfriend.

2 A. That is correct.

3 Q. Now -- okay. So you had a reason not to be as candid as you
4 might otherwise be; isn't that right?

5 A. That is correct.

6 Q. Okay. Now isn't it true, Ms. Golec, that Deborah Dean told
7 you firmly that you had to stay away from working on a project
8 that involved your boyfriend?

9 A. Yes, she did.

10 Q. And she told you that very firmly, didn't she?

11 A. Yes, she did.

12 Q. And she said, "It's wrong; you can't do it"; isn't that
13 right?

14 A. She told me that I was not to contact -- she very firmly
15 told me I was not to contact anybody with the City of Baltimore
16 on behalf of that project, yes.

17 Q. And that was because you were dating Mr. Lomenick?

18 A. That is correct.

19 Q. And he was the person who stood to gain from the project;
20 isn't that right?

21 A. That is correct.

22 Q. Okay. Because he was the manager, and he stood to make a
23 lot of money if the project went through, right?

24 A. I don't know -- I did not know if he would make a lot of
25 money or not. He was only the manager. He was not a, a partner

1804

1 or owner in the project.

2 Q. But you already testified how much he was pressuring you to
3 get those mod rehab units.

4 A. Yes.

5 Q. So he clearly had a reason to get them, did he not?

6 A. Yes, he did.

7 Q. And yet you were instructed by Ms. Dean not to have anything
8 to do with the project, correct?

9 A. I was told not to have any contact with the City of

10 Baltimore, yes.

11 Q. So you were in a real bind. You had your boyfriend telling
12 you, "I've got to have these units," and you had people at HUD
13 telling you, "You can't have anything to do with this," correct?

14 A. That is correct.

15 Q. That's a hard position to be in.

16 THE COURT: Is that a question or comment?

17 BY MR. WEHNER:

18 Q. That's a hard position to be in, isn't it?

19 THE COURT: All right.

20 MR. WEHNER: I apologize, Your Honor.

2 THE COURT: All right.

2 BY MR. WEHNER:

2 Q. You were in a difficult position at that point, correct?

2 A. Yes.

2 Q. Okay. And I -- now when you were talking about these events

1805

1 to the Independent Counsel, you were worried about the same
2 things you were worried about when you were involved in the
3 Patriots project? In that respect, I mean, it was a difficult
4 position to be in, was it not, being asked about your involvement
5 in Patriots?

6 A. Yes, it was.

7 Q. And you had concerns about telling them about Mr. Lomenick,
8 correct?

9 A. I didn't want to be involved in any of the discussions about

10 anything. I thought it would go away.

11 Q. Okay. And it didn't go away.

12 A. Right.

13 Q. Now, but when you finally decided that it wasn't going to go
14 away, you told them the truth about Mr. Lomenick; isn't that
15 right?

16 A. I would --

17 Q. Did you conceal anything about Mr. Lomenick and Patriots
18 from the Independent Counsel when you finally decided it wasn't
19 going to go away and you had to tell them the truth?

20 A. That's correct.

2 Q. You told them everything?

2 A. That's correct.

2 Q. Okay. And when you talked to them about Patriots, you were
2 telling them the truth; isn't that right?
2 A. I'm sorry, what conversations are you talking about?

1 Q. I'm talking about your conversations with the Independent
2 Counsel.
3 A. When I first talked to them, I was less than candid.
4 Q. Okay.
5 A. I, I did not give full answers or full disclosure. So at
6 that point, no, I was not truthful with them.
7 Q. Okay. When you started talking about Mr. Lomenick, did you
8 give full disclosure?
9 A. No, I did not.

10 Q. What didn't you tell them about Mr. Lomenick the first time
11 you talked to them?
12 A. I'm sorry, I don't -- what do you mean?
13 Q. Well, let's back up for a second. When did you begin to
14 tell the truth about Mr. Lomenick in your interviews with the
15 Independent Counsel?
16 A. After I had obtained counsel.
17 Q. And did you receive some kind of immunity as a result of
18 obtaining counsel?
19 A. No, I did not.
20 Q. Okay. Did you obtain counsel in, what, 1991?
21 A. Yes.
22 Q. And the counsel you obtained advised you to tell the truth
23 about Patriots, correct?
24 A. Yes, they did.
25 Q. All right. Then when you started telling the truth about

1807

1 Patriots, did you not say that you didn't recall any meetings
2 between Lotnenick and Debbie Dean, because it was your impression
3 that Dean would never support Lomenick?
4 A. No, that, that conversation took place before -- I obtained
5 counsel after this interview had taken place.
6 Q. Oh, okay. So you obtained counsel after, and then you began
7 to be truthful; is that accurate?
8 A. That is accurate.
9 Q. Now this interview is dated June 11, 1991, is it not?

10 A. That is correct.
11 Q. June -- I'm sorry, June 10, 1991.
12 A. That's correct.
13 Q. Well, October 2, 1991, that's at a time when you have told
14 the jury that you were being truthful about your involvement with
15 Mr. Lomenick, correct?
16 A. That's correct.
17 Q. Now you didn't say at that point, when you were being
18 truthful with the Independent Counsel, that Ms. Dean had a
19 meeting with Mr. Lomenick about Patriots, did you?
20 A. I'm sorry, I don't recall.
21 Q. Well, do you recall saying that you knew Dean but did not
22 have any contact with her about the Moderate Rehabilitation
23 Program and did not even know if Dean was involved in the
24 Moderate Rehabilitation Program at that time?
25 A. That, that is not correct.

1808

1 Q. I'm sorry.
2 Does it not say in early 1984, you knew Dean but did
3 not have any contact with her about the MRP and did not even know
4 if Dean was involved in the MRP at that time? Isn't that what
5 that says?
6 A. How -- that's what that says --
7 Q. Did they take it down wrong?
8 A. Yes, they did.
9 Q. So you didn't make that statement to them; is that right?

10 A. I said that as I recall, that she was -- that I did not have
11 responsibility for the Mod Rehab Program and contact in that.
12 Q. Well, you talked -- there are nine pages in that interview
13 on October 2, 1991, and this is a point when you're being totally
14 truthful with the Independent Counsel, right?
15 A. Yes.
16 Q. Now I'm looking --
17 MS. SWEENEY: Objection, Your Honor. May we approach?
18 THE COURT: All right. We need to wrap this up.
19 (Bench conference on the record.)
20 THE COURT: Okay.
21 MS. SWEENEY: Your Honor, I've tried to be --

2 THE COURT: what are we getting to?
2 MS. SWEENEY: I've tried to be patient with Mr. Wehner
2 as he comes with a document to refresh the witness' recollection,
2 but, Your Honor, I believe this is a highly improper way of doing

1809

this.
2 MR. WEHNER: Your Honor, I'm not refreshing her
3 recollection; I'm impeaching her.
4 THE COURT: You're impeaching her, I understand that,
5 but you need to focus on something and ask her if she says X, Y,
6 Z. If she says yes or no, then go forward.
7 MR. WEHNER: Okay. I'll move it along a little
8 quicker.
9 THE COURT: Are these redacted as to names of who was
10 present at these interviews? Do we know whether her counsel was
11 there or not there in these interviews?
12 MS. SWEENEY: Yes. This is the October 2, 1991?
13 Counsel was present.
14 THE COURT: But not in June of '91?
15 MS. SWEENEY: No, Your Honor. Her testimony is
16 accurate as to that.
17 THE COURT: I wanted to make sure that was accurate,
18 that's all. All right, let's move forward on it.
19 MR. WEHNER: Okay.
20 (End of bench conference.)
21 BY MR. WEHNER:
22 Q. In the October 2, 1991 interview that consists of nine
23 pages, you testified that you've been totally truthful in that
24 interview with Independent Counsel. Your lawyer is there, right?
25 A. Yes, I believe so.

1810

1 Q. And you've decided that you have to testify and tell the
2 truth. You don't say one word in that interview about Ms. Dean
3 ordering you to attend a meeting, do you?
4 A. I don't recall.
5 MR. WEHNER: well, would you please look and see?
6 Your Honor, the Office of Independent Counsel is
7 willing to stipulate that it doesn't appear in that document.
8 THE COURT: All right, thank you. I appreciate that.
9 BY MR. WEHNER:
10 Q. So when you testified in, or when you were interviewed on
11 October 2, 1991, and were being totally truthful with the
12 Independent Counsel, you did not tell them, did you, that Deborah
13 Dean had told you to go to a meeting?
14 A. They didn't ask me.
15 Q. Well, they were interested in Deborah Dean at that time,
16 weren't they?
17 A. Yes.
18 Q. They certainly asked you about Deborah Dean. I mean, you
19 told them that you once traveled to Baltimore, Maryland, where
20 you gave a speech at a hotel ground-breaking ceremony, that you
2 went with Ms. Dean on a number of occasions in which Ms. Dean
2 gave speeches, right?
2 A. That's correct.
2 Q. I mean, they asked you about Mr. Lomenick and the fact that
2 you spoke to Lance Wilson and told him that Lomenick would be

1811

1 calling him, right?
2 A. That is correct.
3 Q. And that Lomenick was persistent in the pursuit of mod rehab
4 funds for the properties known as Patriots?
5 A. That is correct.
6 Q. And you were certain you would have asked Mr. Lomenick how
7 his meeting with Mr. DeBartolomeis went?
8 A. That is correct.
9 Q. And that you do not recall any specific conversations, but

10 you would have spoken to someone you were friendly with, such as
11 Pam Patenaude?
12 A. That's correct.
13 Q. And you may have spoken to career staff within HUD about
14 obtaining mod rehab materials; isn't that right?
15 A. That is correct.
16 Q. And yet you say in early 1984, Golec knew Dean but did not
17 have any contact with her about the Mod Rehab Program and did not
18 even know if Dean was involved in the Mod Rehab Program at that
19 time. They did ask you about that, didn't they?
20 A. They asked me what my understanding of her role in the
2 project was.

2 Q. And they asked you what your understanding of her role in
2 the project was, correct?
2 A. I'm sorry, in the process.
2 MR. WEHNER: would you read back the last answer,

1812

1 question and answer?

2 (Question and answer read.)

3 BY MR. WEHNER:

4 Q. And isn't it a fact that after Ms. Dean told you not to get
5 involved in that project, that you tried to keep it away from
6 her? Isn't that true?

7 A. I'm sorry, I don't -8

Q. You didn't want her to know that you were involved; isn't
9 that right? You didn't want her to know that you were helping
10 Mr. Lomenick with the Baltimore project; isn't that correct?

11 A. That is not correct.

12 Q. She had told you not to be involved, hadn't she?

13 A. She had told me not to contact anybody from the City of
14 Baltimore.

15 Q. She told you not to contact anybody in the City of
16 Baltimore.

17 A. That's correct.

18 Q. During this entire time that you were working with
19 Mr. Lomenick to attempt to get the mod rehab units for Baltimore,
20 you received copies of correspondence that was being sent back
2 and forth between HUD and Mr. Lomenick, correct?

2 A. I received copies from Jim, yes.

2 Q. Okay. And you, you participated in conversations with Dick
2 Dunnells, Mr. Dick Dunnells, who was the lawyer on the project?

2 A. No. He was the lawyer on another project.

1813

1 Q Okay. Marion Pines, did you talk to her about the

2 project?

3 A Initially, yes.

4 Q You're aware, are you not, Miss Golec, that

5 Miss Dean has been accused to have lied when she told

6 Congress that she wasn't aware of a project known as

7 Baltimore Uplift One? Are you familiar that that's one

8 of the charges against her?

9 A Yes, I am.

10 Q Now, you're familiar, are you not, with the time
11 and the place and the room in which she gave that
12 testimony?

13 A Yes, I am.

14 Q Because you were sitting there?

15 A Yes, I was.

16 Q And you heard the questions and you heard the

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17 answers.

18 A Yes.

19 Q And when you heard the questions and you heard the
20 answers you didn't make any effort to touch Miss Dean on
2 the shoulder and say don't you remember, you're making a

2 mistake?

2 A No, I did not.

2 Q And yet you're testifying here today -- nothing
2 further, Your Honor.

1814

1 THE COURT: All right. Do you have some
2 redirect?

3 Do you want to move that chart out of the
4 way?

5 MS. SWEENEY: Yes, I do have some redirect.

6 THE COURT: All right.

7 why don't you move it?

8 MR. WEHNER: I will move it, Your Honor.

9 THE COURT: Thank you.

10 REDIRECT EXAMINATION

11 BY MS. SWEENEY:

12 Q Miss Golec, during cross-examination you were asked

13 a number of questions about an interview on October 2nd,

14 1991 and I believe you stated that you did not discuss

15 the Baltimore uplift project because you weren't asked

16 about it. Is that an accurate reflection of your

17 testimony on cross-examination?

18 A Yes, it is.

19 Q Did there come a time when you were asked by

20 members of the Independent Counsel's staff about the

2 Baltimore Uplift project?

2 A Yes, there was.

2 Q And did you answer the questions truthfully that

2 were put to you at the subsequent point in time?

2 A Yes, I did.

1 Q During cross-examination Mr. Wehner referred to a
2 period in early 1984. Could you tell us what you mean
3 by early 1984?

4 A I'm sorry, in what regard?

5 Q When you used -- what is your understanding of
6 early 1984? what would that refer to? Would it refer
7 to months or --

8 A I think it was -- for the fiscal year, it was
9 immediately following October 1st.

10 Q October 1st of what year would that be?

11 A '83.

12 Q Do you have an understanding of when the defendant
13 became involved in the Mod Rehab program?

14 A Yes.

15 Q When is it that she became involved in the Mod
16 Rehab program, to your knowledge?

17 A When she became Executive Assistant to the
18 Secretary.

19 Q And when would that have been?

20 A June of 1984.

2 Q Mr. Wehner asked if you had been given immunity.

2 Has the Government made any representations or promises
2 to you in the course of its dealings with you?

2 A No, they have not.

2 Q And what is your understanding of your situation?

1816

1 A That I'm here to testify, to tell the truth, with

2 no promise of anything.

3 Q When is it that you first met the defendant

4 Deborah Gore Dean?

5 A When she was brought on as a non-career appointee

6 in late 1982.

7 Q What was the nature of your relationship while you

8 both worked at HUD?

9 A We were colleagues and became friends.

10 Q You said that you became friends. Could you give

11 us some description of what kind of activities you
12 engaged in together?
13 A Well, we had work related activities and then we

14 socialized and visited with each other and went out.
15 Q Do you know if the defendant provided you any
16 support when you were promoted to the Deputy Assistant
17 Secretary position?
18 A Yes, she was always very kind to me.
19 Q Now, there came a time when the defendant sought a
20 job other than Executive Assistant to the Secretary, is
2 that right?

2 A That is correct.
2 Q And can you tell the members of the jury whether or
2 not you supported her as a candidate for that job?
2 A Yes, I did.

1 Q In 1989 did there come a time when you had a
2 discussion with the defendant about going into business
3 with her?

4 A Yes, she had asked me to come and work for her.

5 Q Did you ultimately go to work for her?

6 A No, I did not.

7 MS. SWEENEY: No further questions, Your

8 Honor.

9 THE COURT: All right.
10 All right, thank you, Miss Golec. You may
11 step down.
12 Ladies and gentlemen, we'll just take a short
13 break. You already had one. I know you didn't spend
14 too much time in Court this morning. We'll try to take
15 another break for about five or six minutes to just
16 refresh yourselves and we'll come back and finish up
17 some testimony this morning.
18 Remember the admonitions of the Court about
19 not talking about the case among yourselves or with
20 anyone else during the break.
2 (Jury dismissed)

2 THE COURT: who is your next witness?
2 MS. SWEENEY: Your Honor, the next witness
2 would be Ken Me Lean, and he's the individual from the
2 Senate.

1818

1 THE COURT: The one you want without the jury.

2 MS. SWEENEY: Yes, sir, that was my motion.

3 MR. WEHNER: Could I be heard on that, Your

4 Honor?

5 THE COURT: Yes, it will be nice to do it

6 post-lunch.

7 MS. SWEENEY: Your Honor, if he's going to be

8 heard outside the presence of the jury we can certainly

9 take him out of order.

10 THE COURT: Let me hear briefly from the

11 counsel from the defendant.

12 I assume it's materiality issues.

13 MR. WEHNER: I agree with the Independent

14 Counsel that the material issue is one for the Court,

15 not for the jury to decide, but the testimony of the

16 witness about the perjury counts is inextricably tied to

17 Miss Dean's defense as to whether she committed perjury

18 and what understanding the members of the Committee had

19 about the questions that were asked and the responses

20 she gave.

2 We have subpoenaed Senator Proxmire because he

2 was the questioner, the person who asked the questions

2 and who received the responses. I don't believe, and

2 I'm not sure how or of what import Mr. Me Lean's

2 testimony can be except possibly as introducing a

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1 document that purports to be the transcript, but if the

2 Court is going to allow him to go further than acting as

3 a custodian of the documents then I believe I have the

4 right to cross-examine him as any other witness

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5 regarding whatever bias or prejudice he or the Committee

6 may have in terms of his testimony as it relates to the

7 perjury that's alleged. I mean materiality is --

8 materiality is a very sub, small issue, Judge.

9 THE COURT: All right. Well, the Government
10 has to prove it.

11 MR. WEHNER: Yes.

12 THE COURT; And the test of materiality
13 according to the case law is whether the false testimony
14 was capable of influencing the tribunal in the issue
15 before it. To use other words, the definition is
16 whether the testimony is material for the proper inquiry
17 of the tribunal.

18 Let me hear from Miss Sweeney about it.

19 MS. SWEENEY: Yes, Your Honor.

20 Your Honor, we do -- we do propose to move the
2 entire transcript of the hearing into evidence. And we

2 believe, Your Honor, that our basis for doing that is a
2 combination of 902-5, making the transcript an official
2 publication and a self-authenticating document, and
2 803-8, as an exception to the hearsay rule, and we would

1820

1 be proposing to offer the entire transcript into

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2 evidence.

3 As Your Honor may have noticed from reading

4 some of the cases that were cited in our memoranda that

5 dealt with the issue as to whether or not the

6 materiality was an issue for the Court and therefore

7 should be heard outside the presence of the jury, in

8 many of those cases determination of materiality is made

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9 without the testimony of a witness. It is made by a
10 review of the transcript and measuring the transcript
11 against the purpose of the particular hearing. In this
12 case it's a confirmation hearing and in the introductory
13 remarks of the Senator, of the Chairman, there are --
14 there's an indication as to how important the
15 nomination -- this particular nomination is in light of
16 the fact that there have been a number of questionable
17 appointments and a lot of scandal surrounding HUD.
18 So, Your Honor, we believe that a finding of
19 materiality can be made even absent the testimony of a
20 witness. By moving to have the testimony outside of the
2 presence of the jury we certainly didn't mean to suggest

2 that Mr. Wehner would not be able to cross-examine the
2 witness. Of course he would be allowed to cross-examine
2 the witness on the issues of materiality which are for
2 Your Honor to decide.

1821

1 what we're trying to avoid, Your Honor, is
2 turning this really into a collateral issue and really a
3 sideshow, bringing in all sorts of extraneous matter and
4 not sticking to the issues at hand which is the
5 materiality of the testimony and whether or not the
6 testimony could influence the hearers of the testimony
7 for the purpose for which the testimony was being

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8 elicited.

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9 MR. WEHNER: May I respond briefly, Your
10 Honor?

11 THE COURT: Yes.

12 MR. WEHNER: That's all well and good, Judge,
13 except that the evidence goes further than Miss Sweeney
14 would like you to suggest. I mean on the perjury. The
15 defense on the perjury counts is going to be that the
16 Senators could not have been misled by the testimony.

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17 Now, they are trying to avoid that cross-examination in
18 front of the jury. That's really what this is all
19 about.
20 Now, Your Honor may rule that I can't do that
21 on my cross-examination with regard to materiality and
22 if this -- this case has been tried pretty openly in the
23 interests of time by everyone in terms of us not making
24 a lot of objections visavis cross-examination, beyond
25 the scope, and things like that. But if Mr. Me Lean is

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1 going to testify as to materiality I think it's going to
2 be very difficult for him not to testify to those other
3 items, including materiality, that do not call for my
4 cross-examination to be as to whether or not it was
5 possible the senators were misled. He was the chief
6 counsel to the Committee. His testimony, if it comes
7 in, is, I suppose, by nature going to be hearsay and --
8 he didn't ask the questions. I don't even know if he

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9 was present or not when the questions were asked.
10 I'm not sure what kind of direct testimony he
11 can give properly and maybe I missed the point of the
12 proffer but --
13 THE COURT: All right.
14 MS. SWEENEY: Your Honor, may I be heard
15 briefly?
16 THE COURT: Yes.
17 MS. SWEENEY: Your Honor, I'm unaware of any
18 legal basis for Mr. Wehner's assertion that Mr. Me Lean
19 is an inappropriate witness by which the Government may
20 address the materiality issue.
21 Moreover, Your Honor, as to his point that the

2 Committee was misled, once again, Your Honor, I'm
2 unaware of any legal basis on which that is even a
2 defense.

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2 THE COURT: As to whether anyone was misled

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1 actually?
2 MS. SWEENEY: Yes, Your Honor.
3 THE COURT: The test of materiality, according
4 to United States versus Hansen, 772 Fed. 2d, 949 says
5 that, "whether the statement has a natural tendency to
6 influence, or was capable of influencing the decision of
7 the tribunal in making a particular determination.
8 Proof of actual reliance on the statement is not
9 required; the Government need may only make a reasonable

10 showing of its potential effects."
11 MS. SWEENEY: Your Honor, in the context of a
12 Judge or even a grand jury, when a Judge hears
13 perjurious testimony or when a grand jury hears
14 perjurious testimony if they know the testimony is
15 perjurious doesn't make it any the less a matter of
16 perjury. Quite the contrary.
17 MR. WEHNER: That's not the issue here. If I
18 say to the Judge, the lights are out in here, and
19 they're on, I'm not committing perjury.
20 THE COURT: What about the issue as to any
2 bias or -- that these witnesses may have had to
2 Miss Dean, being a different political party and
2 whatever other allegations the defendant wants to raise
2 as to bias and prejudice?
2 MS. SWEENEY: Your Honor, I don't believe that

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1 those issues go to materiality. I believe that there's

2 a very old case involving -- that was in this District

3 and perhaps even in the Court of Appeals, that dealt

4 with the issue as to whether or not the bias or

5 prejudice or motivation of a Senator could be brought

6 into issue in this circumstance. I don't have the

7 citation with me, Your Honor, but I'd be glad to obtain

8 it and provide it to the Court.

9 THE COURT: Is it your position, besides

10 saying the materiality is before the Court, which I
11 think is correct, that that then means the defendant
12 can't raise any defense that people would not have been
13 misled or that the defendant did not intend to mislead
14 anybody by her testimony?
15 MS. SWEENEY: Well, Your Honor, that certainly
16 is something that's a matter for the defense during the
17 defense case but the question is how that can be put on.
18 THE COURT: All right. Well, he's your next
19 witness?
20 MS. SWEENEY: Yes, Your Honor.
2 THE COURT: I'll send the jury out to lunch, I

2 guess. I'll take a couple of minutes break and I'll
2 come back and let the jury go and then we'll go ahead.
2 I'm going to listen to the witness out of the
2 presence of the jury at least at this time on the issue

1825

1 of materiality and then we'll take it from there after
2 that as to the extent of cross and whether it goes
3 before the jury or not eventually.

4 All right, I'll take a short break and then
5 we'll be back and take that witness and then go to
6 lunch.

7 (Recess, 11:20 to 11:35 a.m.)

8 THE COURT: All right. Bring the jury back

9 and I'll let them go for lunch.
10 MS. SWEENEY: Your Honor, before we call the

11 witness, I do have -- two citations. The two earliest

12 cases, and I believe that they've been cited extensively
13 since they were decided, are United States versus cross
14 at 170 F Supp. 303. That's in this jurisdiction in
15 1959. The other one is United States -- it's actually
16 the earlier one, United States versus Icardi,
17 I-c-a-r-d-i, and I believe that's at 140 F Supp. 383,

18 that's also from this District and I also have it

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19 written down as 1959.
20 THE COURT: All right. One of those goes to
2 that issue you talked about.

2 MS. SWEENEY: Yes, the bias and prejudice
2 issue.
2 THE COURT: Yes. Thank you.
2 (Jury present)

1826

1 THE COURT: Don't get too comfortable. You
2 can all come in. Don't get like you're staying for
3 awhile.
4 All right, ladies and gentlemen, I'm going to
5 take up a legal issue with the parties. That doesn't
6 mean that you'll be sitting here and waiting for us to
7 do that. I don't want to have you sitting back there 20
8 or 30 minutes as I take up a legal issues. As I
9 explained in the beginning of the case we have legal
10 matters for the Court to decide as opposed to the fact
11 issues that you must decide. So this is one of those
12 times that I am going to take up a legal matter with
13 counsel at this time. And it's going to require
14 sometime out of the presence of the jury to conduct this
15 hearing. So I'm going to let you go for an early and
16 long lunch hour and have you come back to continue with
17 the regular testimony of the case. It's fortunate that
18 it's a nice day. We're going to be back at 1:30 then.
19 Remember in this extra lunch hour you get,
20 again not to talk about the case with anyone else, don't
2 let anybody talk to you about it in any way. See you

2 back at 1:30.
2 (Jury dismissed at 11:40 a.m.)
2 THE COURT: All right.
2 Just for the record, I don't have the

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1 Government's motion in front of me, but the Government
2 requested the Court rule as to the connection with the
3 issue of materiality limited to this narrow area, as to
4 materiality the defense alleged false declarations, that

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5 it be heard outside the presence of the jury and having
6 read Paxson and Hansen in this circuit cited at 861 Fed.
7 2d, 738, that's the Paxson case and the Hansen case
8 which was 772 Fed. 2d, 940, and the cases they cite
9 therein, United States versus Diggs at 613 Fed. 2d, 989,

10 19 -- I don't know the year of the case, it's clear that
11 "whether the statement has a natural tendency to
12 influence or was capable of influencing the decision of
13 the tribunal in making particular determination," goes
14 to the Court, and that "Proof of actual reliance on the
15 statement is not required. The Government need only
16 make a reasonable showing of its potential effects," at
17 least for the purpose of this out-of-Court hearing.
18 I'll await to hear other argument on the
19 proper attack on the evidence of perjury by the
20 defendant later.
21 So I'll grant the motion in limine of the
22 Government on the testimony at this time on the sole
23 issue of materiality being heard outside the presence of
24 the jury.
25 All right.

1828

1 MS. SWEENEY: Your Honor, the Government calls
2 Kenneth Me Lean.
3 (KENNETH MC LEAN, WITNESS FOR GOVERNMENT, SWORN)
4 DIRECT EXAMINATION
5 BY MS. SWEENEY:
6 Q Mr. Me Lean, would you please state your complete
7 name, spelling your last name for the Court reporter?
8 A Yes. My name is Kenneth A. Me Lean. And that's
9 spelled M-c L-e-a-n.

10 Q Mr. Me Lean, could you briefly describe your
11 educational background for the Court?
12 A Yes, I have a bachelor's degree in political
13 science from the University of Iowa and a master's
14 degree in economics from George Washington University.
15 Q Are you presently employed, Mr. Me Lean?
16 A I'm a self-employed consultant.
17 Q Was there a time when you worked for the United
18 States Senate?
19 A Yes, there was.
20 Q And when was that?
21 A That was from 1967 through 1989.
22 Q Did you have one job with the Senate or more than
23 one position?
24 A I had several positions.
25 Q Did there come a point in time where you were

1829

1 working with the Senate Banking Committee in particular?
2 A Yes, over those 22 years I worked for the Senate
3 Banking Committee for 20 years.
4 Q And when did you start with the Senate Banking
5 Committee?
6 A In early 1967.
7 Q What was your position with the Senate Banking
8 Committee?

9 A I was a professional staff member.

10 Q Did there come a point in time where you became the
11 staff director of the Senate Banking Committee?

12 A Yes, there was, two points in time, from 1975
13 through 1981 and from 1987 through 1988.

14 Q What were the duties and responsibilities of the
15 staff director?

16 A My duties essentially were to supervise the work of
17 the staff, to help the Committee with its business, to
18 hold hearings on matters before the Committee, to
19 consider legislation, and to process that legislation
20 through the Senate, the Congress.

2 Q Did the Committee have a role in the nomination and
2 confirmation process?

2 A Yes, it did.

2 Q And can you describe for the Court the role of the
2 Committee in the nomination and the confirmation

1830

1 process?

2 A All nominees requiring the advice and consent of

3 the Senate to positions over which the Committee held

4 jurisdiction were referred to the Committee. The

5 Committee typically would hold hearings on a nomination,

6 report the measure, either favorably or unfavorably, to

7 the Senate or in some rare cases to reject the

8 nomination.

9 Q Now, you mentioned that the Committee had a
10 particular jurisdiction. Could you describe the
11 jurisdiction of the Senate Banking Committee?

12 A Yes, the Committee had jurisdiction over all of the
13 bank regulatory agencies, the Securities and Exchange
14 Commission, and in addition the Department of Housing
15 and Urban Development.

16 Q Now, as staff director for the Senate Banking
17 Committee, did you have any particular duties and
18 responsibilities with regard to the Committee hearings
19 in nomination and confirmation matters?

20 A Yes, I would generally supervise the work of the
2 staff in connection with a nomination hearing.

2 Q And what would that entail, Mr. Me Lean?

2 A Generally getting background information on the -
2 on a prospective nominee, exploring any potential

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2 conflicts of interest. Any items on the financial

1831

1 statement that might be cause for concern. Assisting
2 the members of the Committee in asking questions of the
3 nominee.
4 Q Now, you've mentioned questions that were asked of
5 the nominee. Using the term nominee generally, what
6 would be your role in the preparation of questions?
7 A Generally I would not prepare questions myself. I
8 would usually review the questions that were prepared by
9 members of the staff. In some cases editing and in some
10 cases paring down the list of potential questions.
11 Q Mr. Me Lean, I'm going to hand you a copy of an
12 Exhibit that's been marked Government's Exhibit 212 for
13 identification.
14 THE DEPUTY CLERK: Government's Exhibit 212
15 marked for identification.
16 BY MS. SWEENEY:
17 Q Mr. Me Lean, do you recognize that document?
18 A I do.
19 Q And can you tell us what it is?
20 A This is the record of the hearing on Miss Dean's
21 nomination held on August 6th, 1987, before the Senate
22 Banking Committee.
23 Q Were you the staff director at that time?
24 A Yes, I was.
25 Q And did you attend the hearing?

1832

1 A I did.
2 Q Mr. Me Lean, I'm going to ask you to refer to some
3 questions at pages 20 -- 52, I'm sorry, and 53 of that
4 Exhibit.
5 A All right.
6 MR. WEHNER: I've got some questions on its
7 admissibility before we proceed if it's going to be
8 admitted at this time.
9 THE COURT: Let her ask whatever questions she
10 wants to ask as to what passages they want to bring out
11 and then I'll hear you.
12 MR. WEHNER: Thank you.
13 BY MS. SWEENEY:
14 Q Mr. Me Lean, if you notice, about a quarter of the
15 way down on page 52 there's a question that begins
16 with, "Now, Ms. Dean."
17 A Yes, I see that.
18 Q Could you read for us that question?
19 A All right. The question is repeated because there
20 was some confusion about a program being referred to.
21 Do you want me to read the entire matter including the
22 repetition, or beginning with the second half?
23 Q You can read the question once. Read the second
24 half.

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2 A All right, skipping then to the bottom of the page

1833

1 when it was established that the Chairman was referring

2 to the Mod Rehab program the Chairman starts out by

3 saying --

4 MR. WEHNER: Objection. The question was read

5 it, and he's not reading. He's summarizing. It's an

6 unfair summary as to what the Chairman concluded. It's

7 going to be an issue in this case.

8 THE COURT: All right.

9 MR. WEHNER: And I want the record to reflect

10 that he did not read. He summarized.

11 THE COURT: All right.

12 I think that you should just read the
13 question, and put no interpretation on it.

14 A "The Chairman: well, all right. I'm go slower,
15 too. We received a number of complaints that in 1987,
16 this year, there has been no notification of funds
17 availability to regional offices. This is troublesome
18 because this notification is important to promote
19 applications so that all worthy candidates have a chance
20 to apply, and so that HUD has the chance and the time to
2 rank the applicants.

2 Instead, it is suggested that informal
2 solicitations and unawarded applications from the past
2 are guarded by you, that you personally go through the
2 selections, excluding review by the appropriate staff

1834

1 experts.

2 Furthermore, it is suggested that developers

3 have personally come to you asking for awards.

4 Now, as you know, the proper procedure is for

5 the HUD Washington office to deal with housing
6 authorities and for them to deal with developers.
7 In some cases, the housing authorities have
8 subsequently alerted HUD that these funds aren't even
9 needed.

10 How do you respond to that?"

11 "Miss Dean: well" -

12 Q Mr. Me Lean, let me stop you right there. In your
13 position as staff director for the Senate Banking
14 Committee and as an individual who had responsibility
15 for this nomination and hearing process, can you
16 describe the significance of that question to the
17 Committee confirmation process?

18 A In my opinion, as staff director, this was a highly
19 relevant and important question, important to the
20 fitness of Miss Dean for the position that she was
2 nominated for. Also important to the Committee in its

2 oversight capacity.

2 Q You mentioned the Committee's oversight capacity.

2 Can you elaborate on that?

2 A The Committee has jurisdiction over all HUD

1835

1 programs and frequently had used the nomination process,
2 not only to determine the fitness of the nominee, but
3 also to use the hearing as a way of overseeing HUD
4 programs.

5 Q And could you elaborate for us on how this question
6 related to the fitness of the nominee?

7 A Well, the suggestion that Senator Proxmire's
8 question was concerned about the reversal of the typical

9 procedure for HUD -

10 MR. WEHNER: Objection. Rank hearsay.

11 THE COURT; All right. I think you can answer
12 that question just by asking how as a staff director you
13 believed it concerned her fitness for the position. I'm
14 not sure you can testify as to what Senator Proxmire was
15 thinking.

16 BY MS. SWEENEY:

17 Q Mr. Me Lean, could you confine your answer in your
18 view as staff director how that particular question
19 related to her fitness to serve in the position, without
20 getting into any statements of Senator Proxmire?
2 A Yes. Well, in my view, whether Miss Dean

2 participated in the funding arrangement described in
2 Senator Proxmire's question would have had an important
2 bearing on her fitness to serve in the position to which
2 she was nominated.

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1 Q And could you elaborate on that further,

2 Mr. Me Lean?

3 A Well, the question suggests that the --

4 MR. WEHNER: Objection.

5 THE COURT: I'll allow it. He can say what he

6 understood about the question.

7 A My understanding of the suggestion of the question

8 and the way the Chairman was stating it --

9 MR. WEHNER: Objection.

10 THE COURT: On what basis?

11 MR. WEHNER: He is now testifying as to,
12 quote, where the Chairman is taking us. I don't know
13 who the us is that he's referring to here but it surely
14 doesn't include Mr. Me Lean.

15 THE COURT: Overruled. I think he testified
16 that he understood what the question was and why it did
17 or did not impact upon the Committee's business.
18 Go ahead.

19 A The reason why I thought the question was important
20 was my understanding of the Mod Rehab program was that
2 it was supposed to have originated with local public

2 housing authorities. These local housing authorities

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2 would deal with specific developers, taking into account
2 the need for housing in that particular locality. The
2 application would then work its way up through the HUD

1837

1 bureaucracy, compete with all other projects and finally

2 a decision would be made at the HUD level based upon the

3 merits of all of projects.

4 My understanding of the question was that this

5 process had been reversed and rather than the

6 applications originating with local public housing

7 authorities, developers went directly to Miss Dean who

8 then either approved or rejected the project.

9 Q Now, Mr. Me Lean, could you please read Miss Dean's
10 response to the question that you just read a short time
11 ago?

12 A "Miss Dean: well, to my knowledge, we do not put
13 out a notice of funding availability" --

14 MR. WEHNER: Objection. Judge, that's not
15 even in the transcript where he's supposed to be
16 reading. The next line is a clarification from
17 Miss Dean as to the question. That's a deliberate
18 misrepresentation of the transcript.

19 THE COURT: All right. Let's read the
20 transcript.

2 MS. SWEENEY: Your Honor, that was the next

2 line.

2 THE COURT: Let me see the transcript.

2 THE WITNESS: I'm on page 53.

2 THE COURT: I can take care of it. Just hand

1838

1 roe the transcript.

2 MR. WEHNER: He didn't read "Senator, have you
3 switched programs," and that line is, "Senator, have you
4 switched programs? Are you still on the Secretary's
5 discretionary fund?"

6 THE DEPUTY CLERK: Do you have a copy for the
7 Judge?

8 THE COURT: He read from the bottom of the

9 page of 52.

10 MS. SWEENEY: Yes, Your Honor.
11 THE COURT: And then it's answering the
12 question that he gave on the top of 53. I think the
13 objection was that earlier their man asked that
14 question, there had been a clarification requested as to
15 the program, that Miss Dean -- this Chairman is
16 addressing.
17 MR. WEHNER: Judge, what I heard the witness
18 read was on the top of page 53.
19 THE COURT: well, it's an identical question.
20 It was reasked after Miss Dean said, "okay, would you
2 repeat your question, please," and the chairman

2 indicated he was referring to Mod Rehab funding.
2 You may go ahead and answer it.
2 A "Miss Dean: well, to my knowledge we do not put out
2 a notice of fund ago availability on the Mod Rehab

1839

1 program. I have never seen us do one since I've been at

2 HUD.

3 The program, instead, works that the field

4 offices receive applications from public housing

5 authorities. They are rated and ranked, sent to the

6 regional administrator, who forward them to the

7 Assistant Secretary for Housing, Federal Housing

8 commissioner.

9 The Assistant Secretary for Housing puts
10 together the applications, and, with the Deputy
11 Assistant Secretary for Multi-family Housing, comes to
12 some conclusion as to where they believe these funds
13 could best be used.
14 Once again, they bring it to a panel of
15 people, which is the Undersecretary, the Executive
16 Assistant to the Secretary and the Federal Housing
17 Commissioner. That panel goes solely on information
18 provided by the Assistant Secretary for Housing. He
19 gives us the information, and the three of us make
20 recommendations to the Secretary, who is the person who
2 approves those units.

2 I have never given or approved or pushed or
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2 coerced anyone to help any developer. Those funds go
2 directly to the Public Housing Authority.
2 As a matter of fact, I have regular meetings

1840

1 with public housing authorities where I tell them that
2 they should be dealing directly with developers. A lot
3 of times, public housing authorities send developers to
4 HUD. And they meet with people all over the building.
5 It's a tremendous waste of time, and I let
6 them know that; because those funds go to the public
7 housing authorities."

8 Q Now, Mr. Me Lean, Miss Dean's response describes a
9 panel and describes the panel's role in awarding Mod
10 Rehab funds, including a statement that the panel goes
11 solely on information provided by the Assistant
12 Secretary for Housing, Federal Housing Commissioner. Do
13 you see that portion of the answer?
14 A I do.
15 Q Could you describe for us the significance of a
16 truthful response on that particular subject, the
17 description of the panel, and how the panel processes
18 the information for the purpose of the confirmation
19 hearing?
20 MR. WEHNER: Objection, Your Honor. The
2 significance of the response is not at issue and I don't

2 know what the word significance means, number one.
2 Number two, it's leading, and number three, the basis
2 for any response this witness gives has to be hearsay
2 because he was not a participant in the hearings, he did

1841

1 not ask the questions. I think it's established that he
2 heard them. What he's giving to Your Honor is basically
3 an argument as to whether or not these statements are
4 perjurious, not whether or not the answers -- the
5 questions and the answers are material, and I think the
6 entire line of questioning misreads the issue as to
7 materiality and if this is -- if the significance of
8 these answers is going to be put into question, which it
9 has been now, the cross-examination is going to go into

10 the significance of the answers to those questions and
11 it's going to be a very broad cross-examination that is
12 going to touch on the areas I've previously described
13 for Your Honor and it should be in front of the jury.
14 This has gone far beyond the materiality proffer, the
15 material questions and answers.
16 THE COURT: well, Miss Sweeney, isn't this
17 issue about whether or not these statements tend to
18 mislead the Committee on the issues before it?
19 MS. SWEENEY: I'm sorry, Your Honor?
20 THE COURT: The issue really is whether or not
21 any statements would mislead or tend to mislead the
22 Committee on its consideration of the issues before it
23 as to the nomination of Miss Dean, on the oversight
24 responsibility of HUD.
25 MS. SWEENEY: The question is directed as to

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1 whether or not a truthful response to that was related
2 to the Committee's nomination process and Mr. Me Lean
3 has already testified as to his particular
4 responsibilities as to that particular process, as staff
5 director of the Committee, reviewing the background and
6 the questions and supervising the other individuals on
7 the staff who are preparing for the hearing.

8 THE COURT: All right. The Court is somewhat
9 uncomfortable with having the staff Committee Chairman
10 testify what he thought was significant in the analysis
11 of what's material to the Committee. I'll allow him to
12 answer questions as to -- as staff director in his
13 purview and authority that he had, that was relevant for
14 consideration in his position on the qualifications and
15 the experience of the nominee that he would deem
16 relevant, that he would use in advising his clients, in
17 essence, the Senators. But I do think we're getting a
18 chance to get very far afield in all of his personal
19 opinions about the situation at hand which I don't think
20 is probably the test for the Court to consider.
21 I will overrule the objection and let him

2 answer as to the materiality or not of this response to
2 the Committee's investigation for her fitness for the
2 particular position to which she's nominated and its
2 oversight responsibilities for HUD programs. If he can

1843

1 answer what significance that would have or not, I don't

2 know, but I'll allow him to answer.

3 MS. SWEENEY: Your Honor, I'll rephrase my

4 question.

5 BY MS. SWEENEY:

6 Q Mr. Me Lean, in your position as staff director and

7 with your responsibilities to the confirmation and

8 hearing process, could you describe what role a truthful

9 response to this particular question would have played
10 in the confirmation and nomination process?

11 A Well, the Committee -- in my opinion, the Committee
12 expects truthful answers to all of its inquiries. In my
13 view, this particular question was highly relevant to
14 the nom -- fitness of the nominee, and the Committee
15 would expect a truthful answer.

16 MR. WEHNER: Objection, and move to strike.
17 Judge, it's the same response. It's the same question
18 that was asked previously and he is not entitled to
19 express those types of opinions based strictly on
20 hearsay to him as staff director and have this Court
2 consider them in terms of the issues of materiality. I

2 move to strike the answer and the response to the last
2 two questions.

2 THE COURT: The question as asked,
2 Miss Sweeney, is it pertinent that the answers were

1844

1 untruthful? Is that what you asked?

2 MS. SWEENEY: No, Your Honor, I asked if Mr.
3 Me Lean could describe the role that a truthful response
4 would play in the confirmation and nomination process in
5 his view as a staff director of the Committee.

6 THE COURT: And his answer was that he expects
7 truthful responses.

8 MS. SWEENEY: Yes, Your Honor.

9 THE COURT: How do we get to materiality? I'm

10 lost as to where we're going.

11 MS. SWEENEY: Perhaps, Your Honor, I may be
12 permitted a follow-up question?
13 THE COURT: All right, I'll withhold ruling on
14 it for a minute. Go ahead.
15 BY MS. SWEENEY:
16 Q Mr. Me Lean, how did -- how would a truthful
17 response further the Committee's process in the
18 confirmation and nomination process? In your
19 understanding as staff director for the Committee.
20 A A truthful response to the question would have
2 enabled the Committee to decide on the fitness of Miss
2 Dean to serve for the position.
2 Q And what would your particular role have been with
2 regard to the questions and answers that we have just
2 been looking at?

1845

1 A I'm not sure I understand your question.
2 Q As have staff director for the Committee were you
3 present at the hearing?
4 A I was, yes.
5 Q And what role were you playing with regard to the
6 process as it was at the hearing, as it took place at
7 the hearing?
8 A Are you referring to that particular question?
9 Q Yes. The question and the response.
10 A My recollection is that that particular question
11 was prepared by one of our staff members on the basis
12 of --
13 MR. WEHNER: Objection.
14 THE COURT: I'll let him talk about how it's
15 prepared. Overruled.
16 MR. WEHNER: Judge, we're into double hearsay
17 now.
18 THE COURT: He can talk about the staff
19 director background on the question.
20 A My recollection was that this particular question
2 was prepared by one of our staff members based on
2 information that that staff member had received from HUD
2 employees.
2 BY MS. SWEENEY:
2 Q Mr. Me Lean, I'd like to direct your attention to a

1846

1 question on pages 56 and 57, questions and answers on
2 pages 56 and 57 of the same transcript.
3 A All right.
4 Q Running down to the middle of the page on page 56,
5 do you see a question that begins, "Now Miss Dean," can

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6 you tell us about that?

7 A Yes, I see that.

8 Q And could you read through that question, please?

9 A "The chairman: Now, Miss Dean, can you tell us
10 about your involvement in the deployment of Section
11 Eight? That's the moderate rehabilitation funds for a
12 project known as Baltimore Uplift One?"
13 According to the Washington Post in a story
14 dated October, 1984, there was an abuse of some
15 \$17,000,000; according to HUD staffers in Baltimore,
16 these funds came from the Secretary's discretionary
17 funds.
18 And since you worked closely to the Secretary
19 at the time, what can you tell us about that problem?"
20 "Miss Dean: senator, could you give me the
2 date again?"

2 "The Chairman: Yes. The date is October,
2 1984."
2 "Miss Dean: I was Executive Assistant to the
2 Secretary at that time. I've never heard of Baltimore

1 Uplift One. It was a moderate rehabilitation project.

2 "The Chairman: what's that?"

3 MR. WEHNER: Objection. There's a question

4 mark after the word project, Judge.

5 THE COURT: All right. You can go ahead. I

6 can read it also.

7 A Okay.

8 "The chairman: what's that?"

9 "Miss Dean: You said it was in the Mod Rehab
10 program?"
11 "The chairman: Mod, Section Eight, moderate
12 rehabilitation. That's right."
13 "Miss Dean: There are two explanations why I
14 would not know it. I might not know the name or those
15 funding decisions were made prior to my appointment in
16 June, and the funds were not released from the
17 Department until October.
18 But I've never heard of Baltimore Uplift One.
19 As a matter of fact, no moderate rehabilitation units
20 that I know of. Unless they were sent directly by the
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2 Secretary, have ever gone to my home state of Maryland,

2 simply for that reason, that I sat on the panel."
2 Q Mr. Me Lean, could you describe for us from your
2 viewpoint as staff director for the Committee what role
2 this particular question and answer made with regard to

1848

1 the Committee's confirmation and nomination process?

2 A My recollections of Baltimore Uplift One are hazy

3 today. My understanding of that question was that it

4 was an example of the general pattern suggested in

5 Senator Proxmire's previous question.

6 MR. WEHNER: Objection to the conclusion.

7 THE COURT: All right, I'll allow it.

8 Overruled.

9 A That is, this particular project Baltimore Uplift

10 One, was an example of HUD projects being approved at
11 the departmental level without having been submitted by
12 the local public Housing Authority.

13 Q Was it significant -- what was the role of
14 Miss Dean's knowledge about that particular project with
15 regard to the nomination and confirmation process? What
16 role would that have played?

17 MR. WEHNER: Objection.

18 THE COURT: All right. It's overruled.

19 A Had Miss Dean indicated knowledge about that
20 particular project, the Chairman might have followed up
2 with additional questions concerning the details of that

2 project or, in the alternative, the Committee might have
2 followed up with written inquiries following the
2 hearing.

2 MR. WEHNER: Objection, and move to strike it.

1849

1 THE COURT: All right. The inquiry as to

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2 materiality, as I said before, "has a natural tendency
3 to influence, or was capable of influencing the decision
4 of the tribunal. The Government need only make a
5 reasonable showing of its potential effects." I was
6 reading from Hansen and Diggs. The ruling was 613 Fed.
7 2d 988 at 990. "Proof of actual reliance on the
8 statement is not required; the Government need only make
9 a reasonable showing of its potential effects." If the
10 defendant revealed his intentions it could reasonably
11 have been expected that the Office of Finance would not
12 have honored the payment request. They said it could
13 have, they used the word might.
14 Overruled.

15 BY MS. SWEENEY:
16 Q Mr. Me Lean, the last part of that answer deals
17 with statements of the defendant regarding moderate
18 rehabilitation units for the state of Maryland. Could
19 you describe what effect an answer such as that would
20 have had on a Committee's nomination and confirmation
2 process on the issues that it was considering?

2 MR. WEHNER: The same objection.
2 THE COURT: All right. I'll preserve it for
2 the record.
2 A Well, Miss Dean's answer to the question that she

1850

1 had never heard of Baltimore Uplift One and that further
2 she never even participated in projects involving the
3 State of Maryland closed the door on that line of
4 inquiry.

5 MR. WEHNER: Objection, and move to strike.

6 He has no - objection and move to strike.

7 THE COURT: All right, it's overruled.

8 BY MS. SWEENEY:

9 Q Mr. Me Lean, as staff director, did you have any
10 responsibility for the preparation of follow-up
11 questions during a nomination and confirmation hearing?

12 A I did.

13 Q As staff director did you have any responsibility
14 for follow-up inquiries that might be generated by a
15 confirmation and nomination hearing?

16 A Yes, I do.

17 Q And could you describe for the Court what those
18 responsibilities would have been?

19 A If in the opinion of the staff the hearing was
20 incomplete we would so advise the Chairman and he would
2 direct the appropriate inquiries either to the witness

2 or to other agencies to determine the facts.

2 MR. WEHNER: Objection, hearsay.

2 THE COURT: He can testify to his experience
2 and practice. It's overruled.

1851

1 MS. SWEENEY: Your Honor, based on Mr.

2 Me Lean's testimony and the transcript in its entirety
3 which is available for review by the Court, we'd ask the
4 Court to find that the statements made by Miss Dean that
5 the Government has designated, were material.

6 THE COURT: All right, I'm going to subject to
7 the cross if the defendant wishes to do so at this
8 time -

9 MR. WEHNER: I'm sorry, Your Honor.

10 THE COURT: I said subject to cross if you
11 wish to cross the witness at this time as to materiality
12 issues and then I plan to read through the transcript
13 prior to ruling. Also I'll hear you as to the
14 admissibility of the transcript or not.

15 CROSS-EXAMINATION

16 BY MR. WEHNER:

17 Q Sir, have you had occasion to listen to a tape of
18 the hearing?

19 A No.

20 MR. WEHNER: I'd ask the Government to produce
21 the tape of the hearing, the original that they
22 previously produced in discovery. The transcript is
23 inaccurate. Your Honor.

24 MS. SWEENEY: Your Honor, for the record,
25 these tapes which were provided in discovery are not

1852

1 official records of the Senate. They're a tape that
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2 some witness at the hearing happened to make and
3 provided to the Government.
4 THE COURT: They're not a tape that the
5 transcript was made from?
6 MS. SWEENEY: No, Your Honor, the Senate, as I
7 understand it, did not have a practice of tape recording
8 a particular procedure.
9 MR. WEHNER: It's news to me, Judge. I was

10 just told it was her testimony that was going to be
11 introduced at trial.
12 MS. SWEENEY: We provided these tapes as part
13 of discovery. We provided the transcript as well and we
14 designated the official transcript, Your Honor, as one
15 of our documents in the case in chief and then as the
16 official exhibit.
17 THE COURT: And you weren't going to use the
18 tapes.
19 MS. SWEENEY: No, Your Honor.
20 MR. WEHNER: To be real clear on this, Judge,
2 what is not reflected on the tape is Miss Dean being put
2 under oath, and there's no reflection on the tape that
2 she was ever put under oath, which is absolutely
2 inconsistent with the transcript which has a reflection
2 in parentheses that she was. Now, I think it is clearly

1853

1 relevant and material since they're trying to get the
2 transcript in through this witness for this witness to
3 listen to this tape and to compare it to the transcript
4 and testify to this Court as to whether the transcript
5 accurately reflects what was said.

6 THE COURT: I don't know how we'd verify the
7 tape as being --

8 MR. WEHNER: He can listen to it.

9 MS. SWEENEY: The Government would proffer

10 that if we were to call the individual that made the
11 tape, that that individual would testify that the tape

12 is incomplete.

13 THE COURT: Is incomplete?

14 MS. SWEENEY: Yes, Your Honor, there are gaps
15 in the tape. The tape recorder was apparently not

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16 turned on for portions of the hearing.
17 MR. WEHNER: That's news to the defense, Your
18 Honor. Who made the tape?
19 THE COURT: I don't want to spend my time in
20 this discovery conference we're having. I think if the
2 tape is not an official tape and just made by some

2 attendee at the hearing I'm not sure it can be relied
2 upon for evidentiary purposes.
2 MS. SWEENEY: Your Honor, the Government
2 turned it over in an effort to be complete to Mr. Wehner

1854

1 as to what we had in our possession.

2 THE COURT: Without some verification as to

3 its authenticity and how it was made and whether it was

4 complete or not I don't see how it can be used to verify

5 something that did or did not happen at the hearing. If

6 you want to question -- have the Government tell you who

7 the person is and then interview the person later,

8 that's fine, but I don't think it's going to help to

9 play the tape now and ask the witness that it doesn't
10 have things that show up in the transcript, unless
11 there's some verification that the tape is accurate and
12 complete.

13 I appreciate your feeling that you thought
14 this was a tape of the transcript, an official tape
15 recording. I don't know where the assurances came on
16 that.

17 MR. WEHNER: I think, Your Honor -- quite
18 frankly I think Your Honor is wrong in that issue. I
19 think this tape was produced by the Office of the
20 Independent Counsel as a tape recording of the hearing
2 which occurred in which they alleged that Miss Dean

2 committed perjury.
2 Now, it is not incumbent upon the defense to
2 investigate the Independent Counsel's assertions and
2 statements about their production of evidence in

1855

1 discovery. We are entitled to rely on their
2 representations. They gave us the tape and we even went
3 so far as to ask that the original be produced today so
4 that there was no question that we had monkeyed with the
5 tape.

6 And if the Independent Counsel is in
7 possession of a tape that is inconsistent with the
8 transcript upon which they're going to rely to convict,

9 to attempt to convict the defendant of perjury, then I
10 think it is clearly error for Your Honor not to allow me
11 to cross-examine the witness, through which the
12 Independent Counsel is attempting to introduce the
13 transcript, as to errors in the transcript and
14 inconsistencies between the tape the Independent Counsel
15 produced and the transcript.

16 And given Your Honor's ruling, I would ask
17 that the original tape be sealed and made a part of the
18 record.

19 THE COURT: As I understand it, and perhaps
20 I'm misunderstanding the proffer, that there was at
2 discovery produced a transcript of the hearing. That's

2 the official transcript adopted by the Committee.
2 Secondly, there was produced a tape recording
2 and that the Independent Counsel does not represent it
2 was the tape recording as officially adopted by the

1856

1 Committee or authorized to be made by the Committee, but
2 a tape recording of someone who attended the Committee.

3 I think if there are parts of the transcript
4 that match parts on the tape in the sense of the
5 timeframe of the questions on there and you think that
6 the transcriber took the question wrong or the answer

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7 wrong, it's one thing. Perhaps you can challenge

8 that,. But to say that the tape recording doesn't have

9 something in it like the oath without some evidence that
10 the tape recording was taken at the time -- the tape

11 recorder was running at the time the oath was given, I
12 don't see how that comes into play.

13 MS. SWEENEY: Your Honor, pursuant to rule 16
14 we provided every version of the transcript or the
15 hearing that we had. That included the Court reporter's
16 typewritten transcript, the typewritten transcript that
17 was corrected by the defendant, and returned to the
18 Committee. But the document that is being offered into
19 evidence pursuant to 902-5 and 803-8 is the official
20 Senate transcript. The official record.

21 MR. WEHNER: Your Honor, the official -- the
22 fact that it's official doesn't make it accurate, and it
23 is true, they produced this tape. And they purported it
24 to be a tape recording of the hearing, and I think
25 clearly I am entitled to cross-examine on discrepancies

1857

1 between the record, the printed record, and the tape

2 recording.

3 THE COURT: well, you're saying the fact that

4 they produced it authenticates the tape recording being

5 accurate?

6 MR. WEHNER: No, but I'm saying it raises

7 questions and it's proper cross-examination as to the

8 accuracy of the transcript.

9 THE COURT: I'll have to have more

10 verification about the tape recording. I just don't
11 think because they happen to have a tape recording of
12 some parts of the hearing that makes it an accurate
13 reproduction of what occurred that could be used in
14 evidence or cross-examination of witnesses.

15 I think you have to call the person who made
16 the tape recording to verify what it is.

17 MR. WEHNER: Judge, I just have to have a good

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18 faith basis. That's the question on cross-examination.
19 THE COURT: You can ask the question you want,
20 but I don't know if playing the tape as evidence to
2 listen to the tape, and then presume that the tape

2 recording is correct over the transcript. I don't know
2 how you make that leap, that if the tape recording
2 doesn't reflect something that occurred that is
2 reflected in the transcript, then the transcript is

1858

1 wrong without some verification that the tape recording
2 is accurate and complete.

3 MR. WEHNER: Well, would the letter from the
4 Independent Counsel stating what the tape recording is
5 give Your Honor some confidence?

6 THE COURT: I'm not questioning it's a tape
7 recording of some parts of the hearing process. I don't
8 know if it's all of it. If it's turned on and off at

9 times. I have no idea. But for those reasons I'm not
10 going to have the tape recording used as evidence of
11 what the testimony was or was not at the hearing without
12 some authentication and verification of the accuracy of
13 the tape, regardless of whether it was produced by the
14 Independent Counsel or by some other person who was
15 there who took it, without some testimony of the people
16 that took it that it's accurate and complete and covers
17 the areas that were testified to by Miss Dean, covers
18 the hearing that she testified at.

19 MR. WEHNER: I would ask that the original
20 tape be sealed and made part of the record.
2 THE COURT: I think that can be done. I don't

2 have any concern about that. I don't see without
2 something more about the tape that it can be used for
2 evidentiary purposes.
2 MR. WEHNER: Your Honor, that's like telling

1859

1 me that I have to go interview the FBI agents to verify
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2 that they took a 302.
3 THE COURT: That's very different. That's a
4 very different concept. I think the tape recording -5
all we know is that somebody in the hearing room at
6 times turned on a tape recorder during her hearing.
7 MR. WEHNER: Judge, we know that the
8 Independent Counsel said that that was a tape recording
9 of the hearing.
10 THE COURT: That's not what they're saying to
11 me.
12 MR. WEHNER: I'll bring the letter into the
13 Court.
14 THE COURT: I accept their proffer as given so
15 far that it's not a complete tape recording of the
16 hearing.
17 All right. That's the ruling.
18 Do you want other matters of this witness now
19 or -
20 MR. WEHNER: Yes, sir. Could we seal the
2 tape?
2 THE COURT: You can make the tape as an
2 exhibit, mark it as an Exhibit for this hearing just so
2 it's preserved for the record.
2 MR. WEHNER: I'd like to know if I could have

1860

1 a stipulation from the Independent Counsel that the
2 passages reflected in the transcript of Miss Dean being
3 told to raise her right hand and being put under oath
4 does not appear on the tape recording.
5 MS. SWEENEY: Your Honor, I'd have to listen
6 to the tape again.
7 THE COURT: If we keep it as an Exhibit we can
8 see whether that's true or not.
9 MR. WEHNER: I note for the record, today I
10 asked that the original tape be brought, and I have been
11 given two tape recordings. I do not know which, if
12 either, is the appropriate tape recording but --
13 MS. SWEENEY: Your Honor, we provided two
14 cassettes. Apparently they each contain some portion of
15 the original tape recording and I really resent
16 Mr. Wehner's insinuations that somehow there's something
17 wrong with the tape recordings.
18 MR. WEHNER: There's nothing wrong with the
19 tape. I don't say that there's anything wrong with the
20 tape recording. I think there's something wrong with
2 the transcript. I'll stipulate that the tapes are

2 accurate.
2 THE COURT: That's not the issue before me
2 right now. I've already ruled on the tapes.
2 MR. WEHNER: I certainly didn't mean to infer

1861

1 that they monkeyed with the tape. If Miss Sweeney got
2 that impression/ I really didn't mean to infer that.
3 I mark these for identification as Dean
4 Exhibit 60 and Dean Exhibit 59 and they're Sanyo
5 mini-tapes.
6 THE DEPUTY CLERK: Dean's Exhibits 59 and 60
7 marked for identification.
8 (Defendant's Exhibit 59 and 60
9 marked for Identification)

10 BY MR. WEHNER:
11 Q Are you aware that the proceedings in front of the
12 sub-committee or the Committee were tape recorded?
13 A No, I was not.
14 Q Are there provisions for tape recording those
15 proceedings?
16 A No. By the Committee?
17 Q By anyone who is present at the Committee.
18 A The hearings are open to the public, so any member
19 of the public can come in and tape record it. There
20 were no rules prohibiting it.
21 Q Was there any rule providing for the tape recording
22 of the testimony?
23 A By the Committee? The Committee did not tape
24 record hearings.
25 Q Did anybody on the staff tape record hearings?

1862

1 A Not for my knowledge.
2 Q Were they on television?
3 A I don't believe so, but I can't --I don't
4 remember.
5 Q Does the Committee keep an archive of whatever may
6 have been recorded on television?
7 A That I do not know.
8 Q You were a staff director, weren't you?
9 A Right.

10 Q Was there an archive when you were a staff
11 director?
12 A I don't believe our hearings would be routinely
13 carried on C-Span.
14 Q That wasn't the question. Did you keep an archive
15 of the taped hearings when you were staff director? Is
16 there an archive of tape recordings?
17 MS. SWEENEY: Objection, Your Honor.
18 THE COURT: I don't think he testified that he
19 had tape recordings at the hearing.
20 BY MR. WEHNER:
21 Q Was there an archive when you were staff director
22 of tape recordings?
23 A The Committee did not have tapes of its hearings.
24 If the hearings were televised they would have been the

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2 property of C-Span.

1863

1 Q Were there any records kept by the Committee of
2 tape recordings or television recording of the hearings?

3 A Not to my knowledge.

4 Q So you know of no archive, no place where tape
5 recordings or tv recordings can be found, is that
6 correct?

7 A By the Committee.

8 Q And you include the staff on the Committee because
9 you were staff director, is that right?

10 A That's right.

11 Q Do you know of any staffers who made tape
12 recordings of the hearing particularly involving

13 Miss Dean?

14 A Not to my knowledge.

15 Q So you have no knowledge of any tape recordings
16 being made of Miss Dean's testimony, is that correct?

17 A That's correct.

18 Q When the testimony is transcribed how is it
19 transcribed?

20 A The Committee has a reporting service and the court
2 reporter furnishes preliminary copies to the Committee.
2 They are sent to the witnesses for routine corrections.
2 Those corrections are then sent to the printer and the
2 printed record is prepared by the General Printing
2 Office. GPO.

1864

1 Q Do you keep the preliminary drafts in files at the
2 Committee?

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3 A I'm not sure whether the Committee keeps them or

4 the court reporting service keeps them.

5 Q Is the court reporting service similar to the one

6 that's used in this courtroom?

7 MS. SWEENEY: Your Honor, is this discovery or

8 is this cross-examination on the issues that are before

9 the Court?

10 THE COURT; I'll allow him a little more
11 leeway in developing about this record of the transcript
12 that's been offered as evidence in the case as to its
13 admissibility.

14 Go ahead.

15 A Could you repeat the question?

16 Q Is it the similar type of transcript that is being
17 kept in this courtroom today by the court reporter?

18 A We had a court reporter who performed similar
19 functions to the court reporter performing. He or she
20 would take down testimony and transcribe it and send
2 written copies back to the Committee.

2 Q And did you receive the written copies in this case
2 of Miss Dean's testimony?

2 A I don't recall receiving them. It was a matter of
2 routine I generally would.

1865

1 Q Did you review them as to whether they were

2 accurate visavis what you heard at the hearings since

3 you personally attended?

4 A My general practice was to simply send copies to

5 the witnesses and ask them for corrections.

6 Q So you didn't review it.

7 A I did not have a general practice of reviewing for

8 accuracy, that's correct.

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9 Q And of course you don't have a specific

10 recollection today of Miss Dean being put under oath, do
11 you?

12 A That's correct.

13 Q As a matter of fact, it's common for witnesses to
14 be called in front of the Committee that are Government
15 employees and not be put under oath, isn't it?

16 A Not in connection with a nomination hearing.

17 Q In connection with other hearings, with oversight
18 responsibilities?

19 A Typically witnesses who are not sworn in in
20 connection with other hearings, other than nomination
2 hearings.

2 Q And you're responsible to -- you were responsible
2 for Senator Proxmire at the time this nomination was
2 pending, were you not?

2 A That's right.

1866

1 Q And Senator Proxmire did not want to see this

2 nomination confirmed, isn't that correct?

3 A No, that's not correct.

4 Q And Senator Proxmire, in fact, did everything he

5 could to prevent this nominee from being confirmed,

6 isn't that right?

7 A Senator Proxmire had doubts about the nominee and

8 was trying to get the facts.

9 Q Senator Proxmire had on occasion requested that Mod
10 Rehab units be sent to the State of Wisconsin, isn't
11 that correct?

12 MS. SWEENEY: Objection, Your Honor.

13 THE COURT: All right. Is your objection to
14 relevance?

15 MS. SWEENEY: Yes, Your Honor.

16 THE COURT: What's the relevance?

17 MR. WEHNER: It's impeaching his credibility
18 as to his direct testimony, Your Honor, showing bias or
19 prejudice against Miss Dean, the defendant, against whom
20 he is testifying, and it is showing his bias and
2 prejudice against her, which is clearly permissible

2 cross-examination.

2 THE COURT: The bias and prejudice in this
2 particular witness I don't know. Are you talking about
2 Senator Proxmire's bias and prejudice?

1867

1 MR. WEHNER: He just testified he worked for

2 Senator Proxmire.

3 THE COURT: I'm going to sustain it as to this

4 witness at least. The objection is not relevant as to

5 Senator Proxmire's bias and prejudice.

6 BY MR. WEHNER:

7 Q It's true, is it not, that you sent Bart Naylor,

8 one of your subordinates, to try to dig up negative

9 facts about Miss Dean, isn't that correct?

10 MS. SWEENEY: Objection, Your Honor.

11 THE COURT: I'll allow that. I think that

12 goes to his bias and prejudice.

13 A We received negative allegations about Miss Dean
14 from HUD employees and I asked Bart Naylor to check out
15 the -- to try to verify those allegations one way or the

16 other.

17 Q And isn't it true that you sent him to the lobby of
18 the HUD building to pass out flyers saying that if
19 anybody had negative information about Miss Dean they
20 should call the Committee?

2 A No, that's not true.

2 Q Isn't it true that he did that?

2 A I have no knowledge that he did.

2 Q Isn't it true that Miss Dean's attorney at that
2 time, Mr. Terry Linzner, contacted you and asked you to

1868

1 look into at what Mr. Naylor was doing and you refused
2 to do that?

3 A I have no recollection of that.

4 Q You have no recollection receiving letters on behalf
5 of Miss Dean asking you to please stop the abuse of your
6 staff?

7 A I have a recollection of a letter from Mr. Linzner
8 sometime in November complaining about Mr. Naylor and

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9 complaining about the fact that the Committee had not
10 held a meeting to approve or vote on Miss Dean's
11 nomination.
12 Q And you never bothered to respond to the letter?
13 A That's correct.
14 Q You simply ignored it, is that correct?
15 A That's correct.
16 Q Bart Naylor has recently been fired from the
17 Committee, has he not?
18 A No.
19 Q He no longer works for the Committee?
20 A That's correct.
2 Q In fact, you were successful in keeping Miss Dean
2 from being nominated for her position, isn't that
2 correct?
2 THE COURT: Not nominated, confirmed.
2 BY MR. WEHNER:

1869

1 Q Being confirmed for her position, isn't that true?
2 A No.
3 Q Isn't it true that Senator Proxmire at one time
4 said that he had nailed her to the cross?
5 A I'm not aware of any such statement by Senator
6 Proxmire.
7 Q You're aware that he testified to that in front of
8 the Lantos Committee?
9 A No, I'm not aware of it.
10 Q And you were the staff director for his Committee?
1 A Could I have the date of that testimony?
1 MR. WEHNER: If Your Honor will give me a
1 minute I want to find that exact reference.
1 THE COURT: What I want to do is take a
1 break. I have two people waiting in my office for a
1 meeting I was to hold at lunch at twelve o'clock. I'll
1 take a short witness and be back. We'll be back at
1 1:20.
1 (Lunch recess, 12:30 to 1:20 p.m.)
20
2
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1870

AFTERNOON SESSION

2 (1:40 p.m.)
3 (Defendant present, Jury out.)
4 THE COURT: All right, let's see where we were. You've
5 been questioning the witness. If we can get him back, we can
6 continue.
7 MR. WEHNER: Yes, sir. We've been questioning
8 Mr. McLean.
9 THE COURT: All right.
10 MR. WEHNER: Your Honor, to complete the record with
11 regard to the tape recording, I'd like to introduce for the
12 purpose of this limited hearing what I've marked as Dean Exhibit
13 186, and I've already shown it to Independent Counsel, which is
14 the letter that accompanied the tape recordings when they were
15 produced to me.
16 (Defendant's Exhibit No. 186 was

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17 marked for identification.)
18 MR. WEHNER: I'd note that they reflect the following
19 in the third paragraph: "Similarly, although it is not directly
20 relevant to the present narrow case, I thought you would want a
21 recording of your client's testimony before the Senate Banking
22 Committee on August 6, 1987. A copy of the audiotape is
23 enclosed." And that's the original that's been made a part of
24 the record.
25 THE COURT: All right, what exhibit number is that?

1871

THE CLERK: 186.

2 THE COURT: All right, that's from Jo Ann Harris,
3 Associate Independent Counsel. All right.
4 MS. SWEENEY: Your Honor?
THE COURT: Yes.
6 MS. SWEENEY: For the sake, just so that the record may
7 also be clear, the first time that Mr. Wehner raised any question
8 with me about the tape or the source of the tape was yesterday
9 afternoon, after we adjourned, and at that time, I told him that
10 it was a bootlegged tape, that I would bring it today, and that I
11 understood that it wasn't complete.
12 THE COURT: All right, accepting that representation.
13 MR. WEHNER: Your Honor, for the record, I'd renew my
14 request that you allow this witness, who was present at the
15 hearing, to review the transcript, visual transcript and the tape
16 recording as produced by Ms. Harris to determine whether the
17 transcript is an accurate reflection of the testimony.
18 THE COURT: No. All right, I've overruled that, and
19 I'm not changing the ruling I made before lunch.
20 MR. WEHNER: Yes, Your Honor.
21 THE COURT: It's denied. All right.
22 MR. WEHNER: Yes, Your Honor.
23 THE COURT: All right.
24 MR. WEHNER: I didn't have the letter before lunch.
25 THE COURT: I understand.

1872

1 MR. WEHNER: I just wanted to complete the record.
2 THE COURT: All right.
3 KENNETH MC LEAN, GOVERNMENT'S WITNESS, PREVIOUSLY SWORN
4 CROSS EXAMINATION (Cont'd.)
5 BY MR. WEHNER:
6 Q. Sir, I'm going to show you what purports to be Part 3 of the
7 hearings before the Employment and Housing Subcommittee of the
8 Committee on Government Operations, House of Representatives, and
9 on page 753 of that volume, I'd ask you to read for the record
10 what Mr. Proxmire said in lines 5 and 6 and 7.
11 A. "Mr. Proxmire: That's about as obvious as it can be. I
12 think you are 100 percent correct. I think you nailed her to the
13 cross. That is not a very good analogy, is it?"
14 "Mr. Schumer: --"
15 Q. Just what Mr. Proxmire said, thank you, sir.
16 So it is true that Senator Proxmire said that you,
17 regarding to the House committee -- subcommittee, had nailed
18 Ms. Dean to the cross, - isn't that correct?
19 A. In those hearings conducted in 1989.
20 Q. Now directing your attention back to the time when you were
2 staff director and Ms. Dean's nomination was pending, I asked you
2 a few questions regarding whether or not you had been -- whether

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2 or not Senator Proxmire had personally attempted to keep Ms. Dean
2 from being confirmed. Do you recall that?
2 A. I recall your questions, yes.

1 Q. And I believe you stated that you had no such knowledge;
2 isn't that correct?

A. That's correct.

4 Q. Let me show you -- well, I'm going to ask you isn't it true
5 that Senator Armstrong, Senator Cranston, Senator Hecht, Senator
6 Shelby, Senator Worth, Senator Dixon, Senator Chaffee, Senator
7 Gam, Senator Heinz, and Senator Sasser, as well as Senator
8 D'Amato and Senator Dodd requested that Senator Proxmire confirm
9 Ms. Dean in the post to which she had been nominated?

10 A. I recall receiving a letter later on that year signed by a
11 number of senators. I'm not sure that's the absolute correct
12 list, but there was such a letter asking that the committee hold
13 a meeting to consider the nomination of Ms. Dean.

14 Q. And what -- and Senator Proxmire refused to do that, did he
15 not?

16 A. He declined to hold such a meeting.

17 Q. And it's still your testimony that he did not personally;
18 want to see this nomination denied? Is that your testimony?

19 A. He had -- I think my testimony was he had doubts about the
20 nomination.

2 Q. Are you familiar with the number of times Senator Tom
2 Proxmire had requested that mod rehab units be sent to the State
2 of Wisconsin?

2 A. No, I'm not.

2 Q. You had no knowledge of that at all in terms of your

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1 position as staff director?

2 A. No. It would be fairly routine for Senator Proxmire to
3 write letters on behalf of constituents concerning applications
4 for HUD funds, but I have --

5 Q. As a matter of fact, it was widely known that senators did
6 that, wasn't it?

7 A. That's correct.

8 Q. Widely known that that's a political process, isn't that
9 correct?

10 A. I'm not sure what you mean by a political process.

11 Q. Well, you're a politician, so I'll apply your definition to
12 "political." what's your definition of "political"?

13 A. Members of Congress would routinely support requests for
14 funding on behalf of their constituents.

15 Q. And that's political, is it not?

16 A. I beg your pardon?

17 Q. That is political, is it not? ;

18 A. That is exercising the job of being a member of Congress, as
19 most members see it.

20 Q. That's political, is it not?

2 A. If you choose to define it that way, I will accept that

2 definition.

2 Q. Did you ever hear Senator Proxmire say that the nominee had
2 a nice figure?

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2 A. No, I don't recall that.

1875

1 Q. Do you ever remember him making that comment?
2 MS. SWEENEY: Objection, Your Honor.
3 THE COURT: All right, I'll sustain it. Let's get to
4 matters that are relevant to here.
MR. WEHNER: This is relevant to the cross -
THE COURT: This is not relevant to the examination of
this witness.
8 MR. WEHNER: Very well, Your Honor. I have nothing
9 further, Your Honor.
10 THE COURT: All right. She may have some redirect for
11 you.
12 THE WITNESS: Oh.
13 THE COURT: That is, Ms. Sweeney may.
14 REDIRECT EXAMINATION
15 BY MS. SWEENEY:
16 Q. Mr. McLean, I'm going to show you a document that's been
17 marked as Government's Exhibit 212A for identification purposes
18 THE CLERK: Government's Exhibit 212A marked for
19 identification.
20 (Government's Exhibit No. 212A was
21 marked for identification.)
22 THE WITNESS: All right.
23 BY MS. SWEENEY:
24 Q. And I ask if you recognize that document?
25 A. This appears to be the original transcript of the hearing as

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1 submitted by Ace Federal Reporters on the nomination hearing.
2 Q. And I'd ask you to focus your attention on the first page of
3 that document and then also to leaf through it and to see if you
4 can tell which copy this was, whether this was the copy that you
5 indicated would have been circulated to the witness?
6 THE COURT: What number is this?
7 THE CLERK: 212A.
8 THE COURT: 212A?
9 THE WITNESS: This appears to be the original
10 transcript that was circulated to the witnesses.
11 BY MS. SWEENEY:
12 Q. And does the cover sheet indicate to which witness this
13 particular copy was circulated?
14 A. Yes, it does. It was indicated it was circulated to
15 Ms. Dean.
16 Q. Mr. McLean, I show you a document that's previously been
17 marked Government's Exhibit 212B for identification. I ask if
18 you recognize that document?
19 THE CLERK: 212B marked for identification.
20 (Government's Exhibit No. 212B was
21 marked for identification.)
22 THE WITNESS: This appears to be another copy of the
23 original transcript prepared by the reporting service and
24 forwarded to the committee by Rachel Jacobson, the assistant
25 chief clerk.

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1 MS. SWEENEY: Your Honor, at this time, the government
2 offers Government's Exhibits 212A and 212B into evidence.

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3 MR. WEHNER: We object because of the restriction Your
4 Honor has placed upon our ability to cross-examine the witness
5 regarding the accuracy of the transcripts.
6 THE COURT: All right. They were offered, you said,
7 what, under Rule 803?
8 MS. SWEENEY: Your Honor, we're offering the official
9 transcript under 902(5) and 803(8). In addition, Your Honor,
10 I've now handed the witness the transcript that was circulated to
11 Ms. Dean and returned by her, as well as the certified copy that
12 was sent to the committee by the court reporter.
13 THE COURT: All right. Let me just -
14 MS. SWEENEY: Your Honor, the government is offering
15 these in light of Mr. Wehner's challenge to the official
16 transcript.
17 THE COURT: I understand. All right, I'm going to :
18 overrule the objection of the defendant on the basis he's given
19 as to the admissibility of the original transcript as well as the
20 circulated and changed transcript that have been lodged now with
21 the Court. It appears to the Court that under the rules cited by
22 counsel for the Independent Counsel, that they are admissible as
23 official public documents or otherwise identified.
24 The fact that the defendant has not been allowed cross
25 examination by use of the, quote, bootlegged tape, unquote, I

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1 don't think prohibits their admissibility in any fashion as
2 official government records.
3 All right, I'll admit then the exhibits.
4 (Government Exhibit Nos. 212A and 212B
5 were received in evidence.)
6 THE COURT: Do you have any other questions of this
7 witness?
8 MS. SWEENEY: No, Your Honor.
9 THE COURT: Okay. You can step down. Thank you, sir.
10 THE WITNESS: Thank you.
11 (Witness excused.)
12 THE COURT: Let me ask counsel for the government,
13 since the tape has been made an issue, you referred to it as a
14 bootlegged tape, and the letter referred to it as a tape -- the
15 Independent Counsel, Ms. Harris, had produced it as a tape
16 recording of your client's testimony before the committee. I
17 think for the record there should be some clarification exactly
18 what they're talking about.
19 MS. SWEENEY: Your Honor, the tape was provided to us
20 by an individual named Tom Casey, who at that time was serving in
21 the Office of Legislative Affairs at HUD and apparently in that
22 role accompanied Ms. Dean to the hearing.
23 THE COURT: All right. So it was not provided by a
24 staffer on the Senate committee?
25 MS. SWEENEY: No, Your Honor, it was not.

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1 THE COURT: The Senate Banking Committee or anyone
2 connected with the Senate Banking Committee?
3 MS. SWEENEY: No, Your Honor.
4 THE COURT: All right. Can I see the transcript, the
5 official transcript, please? 212, is that the official
6 transcript?
7 MS. SWEENEY: Yes, Your Honor.
8 THE COURT: All right. That's in committee reprint

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9 form from the U.S. Government Printing Office, 1987, Government's
10 Exhibit 212, concerning the nomination of Deborah Gore Dean of
11 Maryland to be assistant secretary of Housing and Urban
12 Development.
13 I just want to review the opening remarks and then what
14 the committee is looking into. It indicates the witness was
15 sworn in the opening remarks. I note that that's been challenged
16 by the defendant as not being shown on the tape recording.
17 All right, Senator Proxmire has indicated in the
18 opening statements, his opening statement -- and then there are
19 opening statements by other senators that were put into the
20 record, obviously were not there, but just submitted them for the
21 record that I have not reviewed --in his opening statement,
22 there is concerns of the committee. He's concerned about a
23 number of questionable appointments at HUD in recent years.
24 There's been much concern expressed about the
25 nomination to fill this particular HUD position, reviewed

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1 allegations against other individuals who had been at HUD, and
2 then indicated that there are other episodes still to be
3 revealed, scandalous episodes, and that the confirmation
4 responsibilities must be taken seriously by the committee.
5 He talks about the serious nature of the particular
6 position that's involved, and they need a highly qualified
7 candidate, the highest quality of public servant. And there are
8 statements in, by senators supporting Ms. Dean as well, and
9 Ms. Dean's statement.
10 All right. So the committee's area of inquiry is,
11 obviously, as to, according to the statement of the chairman,
12 Senator Proxmire, was to the confirmation for the nomination of
13 Deborah Gore Dean as assistant secretary for Community Planning
14 and Development, Department of Housing and Urban Development,
15 that there was a concern about the appointment, concern about the
16 status of others who had been at HUD under the present
17 administration, a reference to the work that HUD does and this
18 particular assistant secretary would do, following the rules and
19 procedures of HUD in accordance with the Congressional mandates,
20 reference to the type of candidate that should be appointed, and
21 reference to prior alleged scandals in the recent past at HUD.
22 The questions asked concerned a general question
23 concerning the awarding of funds to the Mod Rehab Program and
24 more specific questions pointed out as to the Baltimore Uplift
25 One as testified to by the staff director and counsel to the

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1 committee as important questions concerning the candidate's
2 fitness for the position that was being examined within the
3 purview of that committee's authority, and as to the oversight
4 HUD programs that come under the committee's jurisdiction as
5 well.
6 It seems to the Court that the questions asked in light
7 of the case law that we've reviewed, I've already gone through a
8 couple of times, that the issue of materiality is a question of
9 law to be decided by the Court and that the questions asked
10 specifically went to the area that the committee was charged with
11 investigating, that is, the nominee's qualities for the post to
12 which she was nominated and the oversight of HUD programs, when
13 they had received information apparently that would reflect upon
14 those, her ability to or qualities to hold the job and the
15 programs that the committee oversaw.
16 Both of the areas went into by counsel for the

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17 government indicate to the Court that the testimony certainly;was
18 capable of influencing the committee on the issues before it, and
19 as it's material to their inquiry as to her qualities for service
20 as the assistant secretary or as to their oversight responsi21
bilities to the HUD programs, and the testimony, it seems to the
22 Court, establishes along with the transcript itself that the
23 government has made a reasonable showing of potential effects
24 that this testimony could have a tendency to influence or
25 certainly was capable of influencing a decision of the committee

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1 in considering the witness1 qualifications and fitness for the
2 position and handling of the programs under her authority at HUD.
3 whether or not the committee finally acted on the
4 answers given to those questions or not I don't think is of
5 import. It's obvious to the Court that these questions did fall
6 within the purview of the committee's jurisdiction and were, can
7 be considered to have a tendency to influence the decision-making
8 process with which they were concerned.
9 So I will find that the government has established
10 materiality of these alleged false declarations from the
11 testimony of the witness and from the transcript that's been
12 admitted.
13 All right, who's your next witness at this point?
14 MS. SWEENEY: Your Honor, there are two or three brief
15 matters that would be appropriate to have before the jury through
16 Mr. McLean, unless Mr. Wehner is willing to stipulate that there
17 was a quorum of the committee present at the time the testimony
18 was given and that the committee was authorized to administer the
19 oath. The transcript itself reflects that the oath was
20 administered, and that would be the third element that's before
21 the jury.
22 THE COURT: That there was a quorum present on the day
23 in question -
24 MS. SWEENEY: Yes, Your Honor.
25 THE COURT: -
that Ms. Dean testified and that -

1883

1 MS. SWEENEY: The committee was authorized pursuant to
2 statute and rule to administer the oath.
3 THE COURT: All right.
4 MS. SWEENEY: As I said, Your Honor, the government
5 will not call a witness if Mr. Wehner is willing to stipulate to
6 those, to those particular matters.
7 THE COURT: All right. Well, I've already ruled you
8 established that the questions were material, the subject matter
9 was within the jurisdiction of the Congressional committee, and
10 that this, I take it there's no objection this was a duly author11
ized committee of the United States Congress, and that falls
12 within the purview of the statute as a department of the
13 government.
14 MS. SWEENEY: Yes, Your Honor.
15 THE COURT: Mr. Wehner, do you want this gentleman to
16 come back and talk about a quorum being present and that they
17 were legally authorized to give oaths at this hearing? That's
18 not conceding an oath was given. Or would you like him to
19 testify?
20 MR. WEHNER: If Mr. McLean would be advised that he may
21 be recalled in the defendant's case, I would agree to that
22 stipulation.

23 THE COURT: He may be recalled, I don't know. I could
24 advise him he could be subject to being called. I don't know
25 if -

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1 MR. WEHNER: Pardon me, Your Honor?
2 THE COURT: I don't know where he lives or where he -
3 is he here in town? I don't know whether you can subpoena him or
4 not.
5 MR. WEHNER: well, that's why I want to -- that's why
6 we'd like him to be advised as to that. Then I'm willing to
7 stipulate as long as I know I can find him, but if I'm not going
8 to be able to subpoena him, I will not stipulate.
9 THE COURT: well, I don't know if -- that's neither
10 here nor there about his testimony.
11 Do you have any control over this witness?
12 MS. SWEENEY: No, Your Honor. I do not.
13 THE COURT: All right. well, I'm not going to bind him
14 to return without a subpoena on him, and if you want to call him,
15 then you can call him. we'll have him testify to a quorum and
16 that they had the capacity to give an oath, and if the defendant
17 wants him, they can subpoena him.
18 MR. WEHNER: Can I have one minute to talk to
19 Mr. McLean?
20 THE COURT: Sure.
21 MR. WEHNER: I may be able to resolve it that way.
22 THE COURT: Ali right.
23 who's your next witness?
24 MR. O'NEILL: Judge, I'll read a couple stipulations
25 into the record and then Thomas Demery.

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1 THE COURT: We ought to try to finish him today if we
2 can.
3 Yes, sir?
4 MR. WEHNER: Your Honor, Claire Sylvia, who is an
5 attorney on the Senate legal staff representing Mr. McLean, has
6 acknowledged to me that she would accept a subpoena if issued by
7 the defense, which is acceptable to me. She has reserved any
8 motions to quash, et cetera.
9 THE COURT: All right.
10 MR. WEHNER: That's all I was concerned about, Judge.
11 THE COURT: All right, that's fine. Okay. Well, then
12 we'll stipulate to the fact that -- and you can put it in the
13 record at this time if you'd like, Ms. Sweeney -that
14 a quorum
15 was present and that the committee is authorized to issue oaths.
16 Is that what you want?
16 MS. SWEENEY: To administer the oath, yes.
17 THE COURT: Pardon me?
18 MS. SWEENEY: Yes.
19 THE COURT: All right. why don't you just say that for
20 the record so we have it on the record -2
MS. SWEENEY: Yes, Your Honor.
2 THE COURT: -- with no objection.
2 MS. SWEENEY: At this time, the government wishes to
2 put on the record that there has been a stipulation between the
2 defense and the government that a quorum was present of the

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1 Senate Banking Committee on August 6, 1987, at the time that
2 Ms. Dean testified and appeared before the committee and that the
3 Senate Banking Committee was duly authorized to administer the
4 oath.
5 MR. WEHNER: We agree to that stipulation, Your Honor.
6 THE COURT: All right. If Ms. Dean agrees- to it,
7 that's fine, then.
8 All right, we can bring the jury in. We'll go ahead
9 with some other stipulations you had and then Mr. Demery, as I
10 understand it.
11 MR. O'NEILL: Stipulations and Mr. Demery.
12 THE COURT: What?
13 MR. O'NEILL: Stipulations and Mr. Demery.
14 THE COURT: Right.
15 MR. O'NEILL: I'm sorry, Judge.
16 THE COURT: Either one -- I don't know how you want to
17 do it.
18 MR. O'NEILL: I thought you said stipulations to
19 Mr. Demery.
20 THE COURT: Oh, no, no. Stipulations and Mr. Demery.
21 MR. O'NEILL: Sorry, Judge.
22 (Jury in.)
23 THE COURT: All right, Ladies and Gentlemen, time to go
24 back to work. We've finished our work over lunch here, so now
25 we're ready to go back to work again.

1887

1 The government will proceed with their next evidence.
2 MR. O'NEILL: Yes, Your Honor. At this time, before
3 the government calls another witness, the government would read
4 three separate stipulations to the jury.
5 The first one, stipulations or agreements between the
6 two sides: "It is hereby stipulated and agreed by and between
7 the United States and the defendant that if Ronald L. Reynolds
8 was called to testify, he would testify that from 1980 to 1989,
9 he was a driver for the HUD motor pool. During that period of
10 time, he drove Deborah Gore Dean to lunch on several occasions
11 when she said that she was meeting John Mitchell for lunch."
12 The second stipulation: "It is hereby stipulated and
13 agreed by and between the United States and the defendant that if
14 called to testify, Norman Larsen would testify that in 1987, he
15 was employed at the Georgetown Club. On November 30, 1987, a
16 party was held for Deborah Gore Dean at the Georgetown Club.
17 Subsequent to that party, John Mitchell, the former attorney .
18 general, came to the Georgetown Club and paid for the party by
19 check. Government's Exhibit 238 is a true and accurate copy of
20 that check. Government's Exhibit 238A is a true and accurate
21 copy of the account summary for the same month as Government's
22 Exhibit 238."
23 And at this time, Judge, I'd publish the check and the
24 summary, with the Court's permission.
25 THE COURT: All right.

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1 MR. WEHNER: We've agreed to the stipulations, Your
2 Honor, and have no objection to the publication.
3 THE COURT: All right, thank you.
4 MR. O'NEILL: And while we do that, the third
5 stipulation would be, "If called to testify, David Gitlitz would
6 testify that he and Philip Winn once met with Deborah Gore Dean
7 and her mother regarding the desire to develop the Gore

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8 family-owned property of Marwood."
9 MR. WEHNER: We agree to that stipulation, Your Honor.
10 THE COURT: All right, thank you.
11 MR. O'NEILL: At this time, Your Honor, the government
12 would call Thomas Demery.
13 THE COURT: All right, thank you.
14 THOMAS T. DEMERY, GOVERNMENT'S WITNESS, SWORN
15 DIRECT EXAMINATION
16 BY MR. O'NEILL:
17 Q. Mr. Demery, I will be asking you a series of questions. I'd
18 ask you to speak in a loud voice and clearly so everyone can hear
19 you on this jury.
20 will you please state your name for the record,
2 spelling your last name for the court reporter?
2 A. Thomas T. Demery, D-e-m-e-r-y.
2 Q. Mr. Demery, what, if anything, has been your primary
2 occupation throughout your adult life?
2 A. Real estate development and finance.

1 Q. How long have you been in the real estate field?
2 A. Approximately 22 years.
3 Q. Did there come a point in time when you first went to the
4 United States Department of Housing and Urban Development as an
5 employee?
6 A. Yes.
7 Q. When did that occur?
8 A. I was a HUD contractor from 1981 to 1986. Then in 1986, I
9 became assistant secretary for housing/federal housing

10 commissioner until 1989.
11 Q. Now you stated in 1981, you became a HUD contractor. What
12 would be the duties or responsibilities of a HUD contractor?
13 what did you do?
14 A. My duties were to advise the Office of Multi-Family Housing
15 in Washington, D.C., on matters pertaining to the collection of
16 delinquent multi-family debt in the States of Michigan and Ohio.
17 Q. How long did you remain in that position?
18 A. Until my nomination was announced by the White House in
19 August of 1986.
20 Q. And what was that nomination for?
21 A. The office of assistant secretary for housing/federal
22 housing commissioner.
23 Q. And how did you become the assistant secretary for
24 housing/FHA commissioner?
25 A. I had approached the Office of Presidential Personnel. I

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1 had worked hard to receive that nomination once the position
2 became vacant, and that task began a couple years before I got
3 the call.
4 Q. And did there come a point in time when you received that
5 nomination?

A. Yes.
7 Q. Can you describe for the Ladies and Gentlemen of the Jury
8 what happens after you're nominated?
9 A. In my case, I was nominated in August. I moved to
10 Washington, D.C. I was a, I think the appropriate title was a
11 consultant of some sort pending my confirmation hearings. Once

12 my hearings were held and I was confirmed by the United States
13 Senate, I was sworn in.

14 Q. When were you sworn in?

15 A. October 21, 1986.

16 Q. As the assistant secretary for housing/FHA commissioner,
17 what, if anything, are your duties and responsibilities?

18 A. My duties were to head the Office of Housing for HUD, and
19 that office handled all matters pertaining to the Federal Housing
20 Administration and federal housing programs, including the
2 section 8 program.

2 Q. Now, Mr. Deraery, did there come a point in time when you
2 pled guilty to two felony charges?

2 A. Yes.

2 Q. When did you enter those pleas?

1 A. June 17 of this year.

2 Q. What did you plead guilty to?

3 A. Accepting a gratuity and obstructing the grand jury.

4 Q. And what was involved in that, sir?

5 A. The gratuity charge involved accepting favorable terms and
6 administration of a second mortgage on my home, and the
7 obstructing the grand jury charge dealt with producing a false
8 receipt in response to a subpoena.

9 Q. Okay. What did that false receipt involve? What was, what

10 was that around? Let me withdraw that; that doesn't make any
11 sense.

12 The false receipt, what does that involve?

13 A. It was a receipt acknowledging receipt of payment for the
14 use of a condominium in Vail, Colorado.

15 Q. Who owned that Colorado condominium?

16 A. Phil Winn.

17 Q. Now did you enter into a plea agreement with the United •
18 States government?

19 A. Yes, I did.

20 Q. What, if anything, is your understanding as to what that
2 agreement requires you to do?

2 A. To cooperate and give truthful testimony.

2 Q. Have you been sentenced as of today?

2 A. No.

2 Q. Do you have a sentencing date?

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A. No.

2 Q. Mr. Demery, let's return to the time when you became the
3 assistant secretary for housing/FHA commissioner. At the time
4 you accepted that position, were you aware of the Moderate
5 Rehabilitation Program?

6 A. I had been briefed on all the programs of, of housing. That
7 was one, yes.

8 Q. And when did you first have any actual hands-on experience
9 with the Mod Rehab Program?

10 A. Hands-on experience I would say was in late October/early

11 November.

12 Q. And can you describe for the Ladies and Gentlemen of the
13 Jury what, if anything, was that hands-on experience? How did
14 you become involved in the Mod Rehab Program?

15 A. I had a conversation with Ms. Dean, I believe it was in her
16 office, where there were approximately nine PHAs that were to
17 receive funding. She gave me the nine PHAs that were to receive
18 funding, and I then initiated the funding process.

19 Q. At that time, based on your experience, how was the Mod
20 Rehab Program being administered?

21 MR. WEHNER: Your Honor, he's testified his first
22 experience was in October 1986.

23 THE COURT: To the extent of his knowledge, he can say
24 if he knows.

25 THE WITNESS: Could you repeat the question?

1893

BY MR. O'NEILL:

2 Q. Sure. Using His Honor's wording, to the extent of your
3 knowledge, how was the mod rehab being administered at that time,
4 the program?

5 A. It was a program that was administered on a discretionary
6 basis, and I was told what to fund.

7 Q. And who told you what to fund?

8 A. Ms. Dean.

9 Q. At that time, what was the defendant's position at HUD?

10 A. She was executive assistant to the secretary.

11 Q. And when you first arrived at HUD as a contract consultant,
12 who was the secretary of HUD?

13 A. Samuel Pierce.

14 Q. Did you have any dealings with him during the period of time
15 that you were a contract consultant?

16 A. No.

17 Q. Now you stated there came a time when you became the
18 assistant secretary for housing. Can you describe your dealings
19 with Samuel Pierce thereafter? How often did they occur?

20 A. The regular staff meeting was a weekly event, which occurred
21 generally Tuesday mornings, and whenever there was testimony that
22 had, the secretary had to give for, during budget hearings or any
23 special hearings, generally there was a lot of activity preparing
24 for those hearings, and on occasion, as issues would arise, I
25 would meet with and consult with the secretary.

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1 Q. How often would you meet with him? would you say it's
2 daily? weekly? monthly? How would you describe it?

3 A. Putting aside the regular weekly meetings and the, the
4 annual budget process, I'd say three times a month on an average.

5 Q. Mr. Demery, again based on your experience, how would you
6 describe his management style?

7 A. The management style for HUD was detached. He left --it
8 was --he did not get involved to any significant degree.

9 Q. Now previously you've mentioned, you testified as to certain

10 projects or allocations that were made in late October of 1986.

11 Can you describe what occurred in relation to these projects in

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12 the funding process?

13 A. The PHAs which were selected for funding letters were
14 secured, letters were secured from the files that were held by
15 Susan Zagame's staff. The funding paperwork was then initiated
16 and executed by the appropriate people, including myself.

17 Q. who made the decision on what projects to fund or what
18 allocations to make?

19 A. Initially Deborah.

20 Q. Okay. And how did that come about?

2 A. As I said, I would visit with her in her office, or

2 subsequent to that, early November or late -- excuse me, late
2 October/early November meeting, on occasions she came down into
2 my office and would give me some direction.

2 Q. Directing your attention to the fall of 1986, how often did

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1 you sign funding documents for the Mod Rehab Program?

2 A. I signed approximately a dozen documents.

3 Q. And can you describe -- well, let me ask you this: was the
4 funding, was the procedure or process by which you funded them
5 similar each time?

6 A. Yes.

7 Q. Can you describe that for the Ladies and Gentlemen of the
8 Jury?

9 A. The PHAs which were selected for funding was given to me

10 either verbally or in writing after meeting with and consulting
11 with Ms. Dean, and I would then contact the appropriate offices
12 within my office for production of paperwork and --

13 Q. Did there come a point in time that you objected to the way
14 the Mod Rehab Program was being run?

15 A. In December of 1986, I had wanted some clarification from
16 Ms. Dean as to what the procedure, how the procedure was to work.

17 In January of 1987, I attempted to initiate some mod rehab
18 fundings independent of discussions with Ms. Dean. My deputy for
19 multi-family housing, who is part of the signature chain for
20 these, for the paperwork to go through, refused to sign off
2 without -- refused to sign off.

2 Q. why did he refuse to sign off?

2 A. He refused to sign off because he was, he told me that he
2 was not able to sign off unless Ms. Dean told him it was okay.

2 That then prompted me to request a meeting with Secretary Pierce,

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1 which occurred a few days following that event.

2 Q. Now we'll get to that meeting with Sam Pierce in a, in a
3 moment. During this time period of approximately December of
4 1986, based on your experience, what was Secretary Pierce's
5 involvement in the Mod Rehab Program?

6 A. He had no direct involvement with me.

7 Q. I would direct your attention to the time frame between
8 Christmas and New Year's of 1986, and did there come a point in
9 time when you attended a meeting along with Secretary Pierce at

10 which the Mod Rehab Program was discussed?

11 A. Yes. It was a, I believe it was a budget meeting, and he at

12 that meeting asked a question of, I'm not sure to whom it was

13 specifically directed, but he asked the question --

14 MR. WEHNER: Objection. Hearsay.

15 THE COURT: All right.

16 MR. O'NEILL: I'll withdraw it, Your Honor.

17 THE COURT: All right, withdrawn.

18 BY MR. O'NEILL:

19 Q. Now, Mr. Demery, did there come a point in time you had this

20 meeting with Secretary Pierce?

2 A. Yes.

2 Q. And where was that held?

2 A. In his office.

2 Q. Who was present at that?

2 A. Secretary Pierce, Ms. Dean, and myself.

1897

1 Q. And was a discussion held at that time?

2 A. Yes.

3 Q. Without telling us what that discussion was, what, if

4 anything, occurred thereafter?

5 A. The discussion was exclusively directed towards the Mod

6 Rehab Program.

7 Q. Now you cannot get into the discussion, again, because it

8 would be hearsay. What, if anything, happened as a result of

9 this meeting?

10 A. As a result of the meeting, a new procedure was established

11 whereby Ms. Dean, myself, and either the under secretary of HUD

12 or the general counsel of HUD would form a mod rehab selection

13 committee to make future mod rehab selections.

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14 Q. Did there come a point in time when that committee did start
15 acting on mod rehab allocation processes?

16 A. Yes.

17 Q. When did that occur?

18 A. The first meeting was early March of 1987.

19 Q. When was the next meeting?

20 A. Early April 1987.

2 Q. Did there come a point in time when to your knowledge the

2 defendant, Deborah Gore Dean, left the Department of Housing and
2 Urban Development?

2 A. Yes.

2 Q. And when was that?

1898

1 A. July of 1987.

2 Q. How many such committee meetings occurred from January of
3 1987, when you told us it started, to the time that she left the
4 Department of Housing and Urban Development?

5 A. Two.

6 Q. Can you describe for the Ladies and Gentlemen of the Jury
7 what, if anything, occurred at these two funding meetings? How
8 did they come about? What transpired in the meetings?

9 A. Generally, Ms. Dean and I would meet and review PHA requests
10 that had come to her attention, to my attention. We would
11 discuss, we would discuss them. We would generally come to a
12 consensus.

13 We would either then schedule a more formal meeting -
14 this would be more of an informal session. The formal session
15 would be scheduled following the informal session, or the formal
16 session would have been scheduled and she and I would have met
17 shortly before the scheduled meeting.

18 Q. Mr. Demery, at this time, I would show you a document
19 previously marked as Government's Exhibit 161 for identification
20 purposes. I believe there has been a stipulation.

2 So at this time, if it's not in evidence, Your Honor,

2 I'd move it into evidence.

2 MR. WEHNER: No objection, Your Honor.

2 THE COURT: All right, 161 will be admitted.

2 BY MR. O'NEILL:

1899

1 Q. Mr. Demery, I'd ask you to look at this and describe it for
2 the jury, please, if you would?

3 A. This is a copy of a memorandum I would prepare following the
4 formal funding meeting that would -- it was addressed to my
5 staff, my two deputy assistant secretaries that would be
6 responsible for generating the paperwork; the committee members,
7 Ms. Dean and Mr. Dorsy, were copied; and basically it would
8 memorialize the decisions made at that meeting.

9 Q. If I may, I would direct your attention to two notations.

10 First, there is one for Metro Dade, and can you see what the
11 notations next to Metro Dade are?

12 A. Yes. Under the column that would be the number of units,
13 there is, there are three separate line notations: "153 one
14 bedrooms, 200 -- excuse me, 48 two bedrooms, and 2 zero

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15 bedrooms."

16 Q. What is the total of that, by the way?

17 A. 203.

18 Q. At that time, did you know where those 203 units were going?

19 A. They were going to Metro Dade.

20 Q. Have you ever heard of an individual by the name of Claude
2 Dorsy?

2 A. No.

2 Q. How about Jim Mitchell?

2 A. Jim Mitchell?

2 Q. Not a HUD employee Jim Mitchell.

1900

1 A. Oh, no.

2 Q. I'd also ask you to look two notations down from that, and
3 does it show an allocation for Prince George's County?

4 A. Yes.

5 Q. And how many units went to Prince George's County?

6 A. 88.

7 MR. O'NEILL: Your Honor, at this time, I'd ask to
8 publish this to the jury.

9 THE COURT: All right.

10 BY MR. O'NEILL:

11 Q. Mr. Demery, at this time, I would show you a document

12 previously marked as Government's Exhibit 164 for identification,

13 and since there is a stipulation, I will move it into evidence at

14 this time if it is not.

15 MR. WEHNER: No objection.

16 THE COURT: What's the number again?

17 MR. O'NEILL: 164, Your Honor.

18 THE COURT: 164 is admitted.

19 THE CLERK: That's already been admitted.

20 THE COURT: All right.

21 BY MR. O'NEILL:

22 Q. Mr. Demery, I'd ask you to explain to the Ladies and

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23 Gentlemen of the Jury what that document is.

24 A. This is referred to as a rapid reply letter. It is

25 requesting the issuance of a HUD Form 185, which is the funding

1901

1 document for mod rehab.

2 Q. And how many units are being funded on that?

3 A. 1,710.

4 Q. Directing your attention to that document, was there a
5 funding committee meeting for that?

6 A. Yes It --

7 Q. Was it the one you just referred to?

8 A. Yes

9 MR. O'NEILL: Your Honor, at this time, I would ask the

10 Court's permission to publish this document.

11

12 BY MR. O

13 Q. Mr.

14 165 , and

15

THE COURT: All right, 164 will be published.

NEILL:

Demery, at this time, I'd show you Government's Exhibit
again, there is a stipulation.

If it's not in evidence, I would move it into evidence

16 at this time, Your Honor.

17 THE CLERK: That's already in.

18 THE COURT: which number is that, 165?

19 THE CLERK: Yes.

20 MR. O'NEILL: Thanks, Gloria.

21 Q-Mr. Demery, I'd ask you what is that document?

22 A. This is the Form 185.

23 Q. And the jury has heard information about a Form 185. Can

24 you just briefly say what that is?

25 A. The 185 form is the form which was sent then to the regions

1902

1 for processing and funding.

2 Q. Mr. Demery, at this time, I show you Government's Exhibit

3 183.

4 THE CLERK: 183 marked for identification, Government's

5 Exhibit 183.

6 (Government' s Exhibit No. 183 was

7 marked for identification.)

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8 BY MR. O'NEILL:

9 Q. Mr. Demery, I'd ask you to look at this. Can you tell us

10 what it is?

11 A. This is a rapid reply letter for the nine PHAS I referred to

12 earlier.

13 Q. Was it signed by you, sir?

14 A. Yes.

15 MR. O'NEILL : Your Honor, at this time, I'd move it

16 into evidence as Government's Exhibit 183.

17 MR. WEHNER: No objection, Your Honor.

18 THE COURT: All right, the rapid reply letter will be

19 admitted.

20 (Government' s Exhibit No. 183 was

2 received in evidence.)

2 BY MR. O'NEILL:

2 Q. Mr. Demery, what is the date of that document?

2 A. October 30, 1986 •

2 Q. Now you've just mentioned about the several projects that

1903

1 you've testified to earlier. When did this funding occur? Do
2 you understand?

3 Let me rephrase that. When did you begin as assistant
4 secretary for housing/FHA commissioner?

5 A. I was sworn in on the 21st of October, 1986.

6 Q. Was this document prepared pursuant to a committee meeting?

7 A. No.

8 Q. How is this, how did this funding come about?

9 A. Ms. Dean requested that funding occur for nine PHAS.

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10 Q. I would direct your attention to a notation under Region IV,
11 and how many units are going to the City of Atlanta?
12 A. 200 two-bedroom units.
13 Q. At that time, did you know who the developer on that project
14 was?
15 A. No.
16 Q. Have you ever heard the name Nicholas Bazan?
17 A. No.
18 Q. Are you familiar with an individual by the name of Lou
19 Kitchin?
20 A. Yes.
21 Q. How do you know Mr. Kitchin?
22 A. Ms. Dean introduced me to him.
23 Q. Did you know him as of October 30 of 1986?
24 A. Not that I recall.
25 MR. O'NEILL: Your Honor, at this time, I'd publish

Government's Exhibit 183.

2 THE COURT: All right.

3 BY MR. O'NEILL:

4 Q. Mr. Demery, I'll now show you a document previously marked
5 as Government's Exhibit 184.

6 THE CLERK: It's already in evidence.

7 BY MR. O'NEILL:

8 Q. Mr. Demery, since it's already in evidence, would you just
9 tell the jury what that is?

10 A. This is the 185. This is part of the -- this is one of the
11 185 forms that was as a consequence of the rapid reply memo.

12 Q. That we just looked at?

13 A. Yes.

14 MR. O'NEILL: Your Honor, at this time, I'd ask to
15 publish Government's Exhibit 184 to the jury.

16 THE COURT: All right.

17 BY MR. O'NEILL:

18 Q. At this time, Mr. Demery, I'm showing you what's previously
19 been marked as Government's Exhibit 204A for identification, and
20 I'd ask you if you recognize it, sir?

21 A. Yes. This is one of the Form 185s that was generated as a
22 result of the rapid, one of the earlier rapid reply memos you
23 showed me.

24 Q. And this was --is this pursuant to a committee meeting?

25 A. Yes.

1905

MR. O'NEILL: Your Honor, at this time -- does it bear
2 your signature, sir?

3 THE WITNESS: Yes, it does.

4 MR. O'NEILL: Your Honor, at this time, I'd move into
5 evidence Government's Exhibit 204A.

6 MR. WEHNER: No objection.

7 THE COURT: All right, 204A is admitted.

8 (Government's Exhibit No. 204A was

9 received in evidence.)

10 BY MR. O'NEILL:

11 Q. Mr. Demery, at this time, I would show you Government's
12 Exhibit 240.

13 THE CLERK: That's already in.

14 BY MR. O'NEILL:

15 Q. I'd ask you if you recognize that, sir?

16 A. Yes. This is -

yes, I do.

17 Q. What do you recognize that to be?

18 A. This is a letter dated November 13, 1986, to a Ms. Amy
19 Schiff, in San Jose, California, signed by Secretary Pierce,
20 concerning a request for mod rehab assistance to Santa Clara
21 County, and on the bottom is a handwritten note to me from
22 Ms. Dean saying, "Tom, 20 two-bedroom units to Santa Clara.
23 Zagame has details. Deborah."

24 MR. O'NEILL: Your Honor, at this time, I'd move it
25 into evidence as Government's Exhibit 240.

1906

1 MR. WEHNER:

2 THE COURT:

3 240.

4 BY MR. O'NEILL:

No objection.

All right, it will be admitted, Government

5 Q. Mr. Demery, is that one of the notes you referred to earlier
6 when you first arrived as assistant secretary for housing?

7 A. Yes.

8 Q. Mr. Demery, I would show you Government's Exhibit 247 for

9 identification.

10 THE CLERK:

11 identification.

12

13

14 BY MR. O'NEILL:

Government's Exhibit 247 marked for

(Government's Exhibit No. 247 was
marked for identification.)

15 Q. Mr. Demery, I would show you Government's Exhibit 247 for
16 identification, and I'd ask if you recognize that, sir?

17 A. Yes, I do.

18 Q. What do you recognize that to be?

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19 A. This is a written directive to fund 15 two-bedroom units for
20 Massachusetts Housing Finance Agency for use in Plymouth County,
21 Massachusetts, written by Ms. Dean and given to me in

22 November/December '86.

23 Q. Does that bear two handwritings?

24 A. Yes. Following the line "for use in Plymouth County," my
25 hand then writes in blue ink "mod rehab" and in black ink "Ross

1907

1 has backup 85 units already funded." That's when Ms. Dean told
2 me the backup information could be found.

3 MR. O'NEILL: Your Honor, at this time, I'd move into
4 evidence Government's Exhibit 247.

5 MR. WEHNER: No objection, Your Honor.

6 THE COURT: All right, 247 is admitted.

7 (Government's Exhibit No. 247 was
8 received in evidence.)

9 BY MR. O'NEILL:

10 Q. At this time, Mr. Demery, I'd show you what's previously
11 been marked as Government's Exhibit 248.

12 THE CLERK: Government's Exhibit 248 marked for
13 identification.

14 (Government's Exhibit No. 248 was
15 marked for identification.)

16 BY MR. O'NEILL:

17 Q. I'd ask you if you recognize that, sir?

18 A. Yes. This is a note that Ms. Dean sent me concerning the
19 Tennessee Housing Development Agency for 216 units and the State
20 of New Jersey for 326 units.

21 MR. O'NEILL: I move it into evidence, Your Honor, as
22 Government's Exhibit 248.

23 MR. WEHNER: No objection.

24 THE COURT: All right. No objection, it will be
25 admitted.

1908

(Government's Exhibit No. 248 was
received in evidence.)

BY MR. O'NEILL:

4 Q. Mr. Demery, I would show you Government's Exhibit 249 for
5 purposes of identification.

6 THE CLERK: Government's Exhibit 249 marked for
7 identification.

(Government's Exhibit No. 249 was
marked for identification.)

10 BY MR. O'NEILL:

11 Q. And I'd ask you, sir, if you recognize this?

12 A. Yes This is a listing of PHA funding requests prepared
13 sometime in January -
14 in December or January -
15 December '86/

16 January of '87. Most of it is in my hand. There are three » lines
17 that are in Ms. Dean's hand.

18 MR. O'NEILL: Your Honor, I'd move it into evidence as
19 Government's Exhibit 249.

20 MR. WEHNER: No objection, Your Honor.

21 THE COURT: All right, 249 is admitted. You may
22 publish it.

23 (Government's Exhibit No. 249 was
received in evidence.)

BY MR. O'NEILL:

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24 Q. Mr. Demery, I would show you Government's Exhibit 250 for
25 identification.

THE CLERK: Government's Exhibit 250 marked for
identification.

3 (Government's Exhibit No. 250 was
4 marked for identification.)

5 BY MR. O'NEILL:

6 Q. I'd ask you, sir, if you recognize this?

7 A. Yes. This is a note dated 2-17-86 -
excuse me, 12-17-86 to

8 me from Ms. Dean requesting copies of the rapid replies, rapid
9 reply memos on mod rehab projects that have gone out in fiscal
10 year 1987.

11 MR. O'NEILL: Your Honor, I'd move this into evidence
12 as Government's Exhibit 250.

13 MR. WEHNER: No objection, Your Honor.

14 THE COURT: All right. No objection, they're admitted,
15 250.

16 (Government's Exhibit No. 250 was
17 received in evidence.)

18 MR. O'NEILL: Your Honor, I have no further questions
19 at this time.

20 THE COURT: All right. Let's start some cross now and
21 see how long we go.

22 MR. WEHNER: Yes, Your Honor. What time would Your
23 Honor like me to finish?

#

24 THE COURT: We'll start now and probably around 3:10,
25 3:15 take a break.

1910

1 MR. WEHNER: Yes, Your Honor.

2 CROSS EXAMINATION

3 BY MR. WEHNER:

4 Q. Mr. Demery, my name is Steve Wehner. I represent Ms. Dean.

5 Mr. Demery, you during your tenure at HUD were a
6 relatively ambitious individual at HUD, were you not?

7 A. Yes.

8 Q. And you aspired to take Samuel Piercel's position; isn't that
9 correct?

10 A. No.

11 Q. You had no intention during any of your career at HUD to
12 become secretary at HUD?

13 A. Yes, I did, but I misunderstood your question if that's what
14 you meant. I didn't intend to replace him.

15 Q. You didn't intend to replace him.

16 A. Right.

17 Q. You intended to take his job after he left?

18 A. I, I attempted to be named secretary in the next
19 administration.

20 Q. And you attempted to become secretary of HUD by enlisting
2 the support of many people; isn't that correct?

2 A. Yes.

2 Q. And you had enlisted the support, did you not, of Craig
2 Fuller, Bob Teeter, Lou Kitchin, Boyden Grey, Fred Fielding, Rick
2 Shelby?

1911

1 A. Some of those people, not all of them. Those were all
2 people that were, whose support was needed, but I didn't speak to
3 all of them.
4 Q. And you wanted these individuals to support you?
5 A. Yes.
6 Q. Did you speak to Mr. Kitchin about that support?
7 A. Yes.
8 Q. And he agreed to support you, did he not?
9 A. Yes.

10 Q. And is it not true that that was as a direct result of the
11 mod rehab units that you funded for him when you were in the
12 position, the presidentially appointed position of federal
13 housing commissioner?
14 A. You'd have to ask Mr. Kitchin. I don't know.
15 Q. Don't you think that had a lot to do with his support for
16 you for the position? wouldn't that make sense?
17 A. It wasn't discussed. :
18 Q. You did fund mod rehab projects for Mr. Kitchin; isn't that
19 correct?
20 A. I funded mod rehab requests, yes.
21 Q. For Mr. Kitchin, isn't that correct he was involved in mod
22 rehab projects that you funded? Isn't that right?
23 A. Yes.
24 Q. Now you have also -- you were not only an ambitious person,
25 but you also during your tenure at HUD tried to get Ms. Dean and

1912

1 Secretary Pierce into serious trouble, didn't you?
2 A. I don't know what you're referring to.
3 Q. Do you recall if there was an occasion when there was an
4 inspector general's investigation?
5 A. There were several, yes.
6 Q. Do you recall one that dealt with the mod rehab problems at
7 HUD?
8 A. Yes, I do.
9 Q. One that was called, the name was something like Tom Demery

10 Mod Rehab or something like that, had your name on the title?
11 A. Yes.
12 Q. Do you recall having meetings with the inspector general
13 during that investigation in which you told them they were going
14 down the wrong track?
15 A. Yes.
16 Q. And that they should be looking at Pierce and Dean?
17 A. I don't recall mentioning Secretary Pierce's name.
18 Q. You don't recall mentioning Secretary Pierce's name.
19 Isn't it a fact that you lied to Secretary Pierce about
20 where mod rehab units were going in your meetings with him?
21 A. I'm, I don't know what you're talking about.
22 Q. Isn't it true, sir, that you were, that you knew that Joseph
23 Strauss, a former HUD employee, was consulting on some mod rehab
24 programs, and you intentionally concealed that from Deborah Dean
25 and Sam Pierce?

1913

1 A. In January of 1987, Mr. -- prior to January of 1987,
2 Mr. Strauss had contacted me on behalf of some PHAs in Puerto
3 Rico. When I was asked who was behind the requests for Puerto
4 Rico, I gave the names of Mr. Holtzman, Mr. Waldman, and I don't,
5 I think perhaps --
6 Q. Mr. Carmen?
7 A. Mr. Carmen, yes. I did not mention Mr. Strauss.
8 Q. And the reason you didn't mention Mr. Strauss, isn't it
9 true, is that because you knew that the secretary did not want

10 units going to a project that was associated with Joe Strauss;
11 isn't that right?

12 A. I don't -- no, that isn't right.

13 Q. When --

14 A. I know that Ms. Dean and Mr. Strauss had difficulties with
15 each other.

16 Q. Oh.

17 MR. O'NEILL: Objection, Your Honor.

18 THE COURT: All right, I'll sustain the objection to
19 the, I don't know if you'd call it a comment, but to the noise by
20 counsel.

21 MR. WEHNER: It was kind of a comment and a combination
22 noise of disbelief, Judge.

23 MR. O'NEILL: Objection once again, Judge.

24 THE COURT: I'll sustain that and strike the comments
25 of counsel. It has no bearing on the case.

BY MR. WEHNER:

2 Q. So you did not tell the secretary or Ms. Dean -- now wait a
3 minute now. Why didn't you tell the secretary that Joe Strauss
4 was behind it if Ms. Dean was against it?

5 A. The secretary knew that Joe Strauss was involved with those
6 projects.

7 Q. Did you tell him?

8 A. No, I did not.

9 Q. You lied to him when he first

10 you, sir? Isn't it true that he
11 projects, and you gave three name
12 name?

13 A. I gave an incomplete answer,

14 Q. And you didn't give Joe Stra

15 A. I gave an incomplete answer.

16 Q. To the secretary of HUD, correct?

17 A. Correct.

18 Q. And he later found out who those units were going to, isn't
19 it correct, sir, when Ms. Dean came to him and said they were
20 going for Joe Strauss, and he came back and checked; isn't that
21 correct?

22 A. No, that's not correct. He knew at that meeting. He
23 already knew.

24 Q. He knew when you were lying to him you were lying to him?

25 A. He knew I was giving an incomplete answer.

1915

1 Q. He knew you were giving an incomplete answer when you were
2 talking to him?

3 A. Correct.

4 Q. Is that your testimony, that he knew you were giving him an
5 incomplete answer?

6 A. Yes, that's my testimony, because immediately upon finishing
7 my answer, he said, "That's not all. Those aren't the only
8 people."

9 Q. You were concealing that Joe Strauss was involved in that

10 project to try to get it funded, weren't you?

11 A. I was -- I gave an incomplete answer because of the enmity
12 that existed between Joe Strauss and Deborah Dean and my
13 uncertainty as to what exactly was going on. That was the whole
14 point of the meeting, Mr. Wehner.

15 Q. And you gave that incomplete answer to Secretary Pierce?

16 A. That's correct.

17 Q. Okay. Now you have testified -- you testified publicly on
18 television, as a matter of fact, regarding certain of the
19 inspector general allegations at HUD; isn't that right?

20 A. Yes.

2 Q. And those were on C-Span, were they not?

2 A. Yes, they were.

2 Q. And were you put under oath --

2 A. Yes, I was.

2 Q. -- during those hearings?

1 A. Yes, I was.

2 Q. And did you swear to tell the truth?

3 A. Yes, I did.

4 Q. And did you tell the truth?

5 A. Yes, I did.

6 Q. You told the utter and complete truth in front of those --

7 on those hearings?

8 A. Yes, I did.

9 Q. Okay. You haven't been --

10 perjury, did you?

11 A. No, I did not.

you didn't plead guilty to

12 Q. Okay. Is that because you've never committed perjury?
13 A. Of course.
14 Q. Okay. And you told the truth in front of the Lantos
15 committee in the same fashion as you're telling the truth today,
16 correct?
17 A. Correct.
18 Q. I mean, you've been put under oath today, correct?
19 A. Yes.
20 Q. And you had the same obligation you have today as when you
2 were in front of the Lantos committee? You recognize that?
2 A. Yes, I do. I know a lot more than I did before the Lantos
2 committee. I've had an opportunity to look at documents and
2 spend a lot more time on issues than I did when I testified in
2 front of Chairman Lantos.

1917

1 Q. Okay. So you may have made some mistakes in front of the
2 Lantos committee, but they certainly wouldn't have been
3 intentional; is that what you're saying?
4 A. Yes.
5 MR. WEHNER: Okay. No intentional perjury, no lies,
6 just mistakes, okay.
7 Well, I would, with permission of the Court, I'd like
8 to play a portion of the testimony to the witness.
9 THE COURT: why don't you come up to the bench, and
10 we'll see what it covers.
11 (Bench conference on the record.)
12 THE COURT: what area do you want to use for
13 impeachment purposes?
14 MR. WEHNER: Your Honor, I intend to play one, two -
15 five pages of the testimony, which is his introductory statement
16 after the inspector general's report was issued, in which he
17 basically, there are a number of -- there are a lot of
18 inconsistent statements in there, but the main reason I want to
19 play it is because he is attempting in there to shift the blame
20 for any problems to Secretary Pierce and Ms. Dean, and No. 2,
2 that there are statements in there that are inconsistent with
2 other statements he has given and statements in which he, in my
2 judgment, he perjures himself in front of the Lantos committee,
2 and he's just testified that he was truthful in front of the
2 Lantos committee.

1918

1 THE COURT: Are you aware of this?
2 MR. O'NEILL: I'm aware of his testimony, Your Honor.
3 THE COURT: what this goes to?
4 MR. O'NEILL: If you want to hear from the government,
5 the government can divine no legal basis for doing such. It's
6 not proper cross examination. You must ask him, direct him to
7 something and say, "Is that what you said?"
8 MR. WEHNER: I'll do that, Judge, but I think I'm
9 entitled to do that in the most effective way possible, which is
10 using a videotape of him.
11 THE COURT: well, I think you do have to ask specific
12 questions and get specific responses from him. I don't know how
13 you can arrange the video to play specific responses you think in
14 here go to a precise question you've asked him, he denies it, and
15 he testified X or he said X. To put his whole report on in
16 video -
17 MR. WEHNER: Not the whole report, just four pages.
18 THE COURT: Four pages on video, unless it goes to
19 specific issues, I mean, you did ask him, I think, already didn't
20 he try to put the blame over on somebody else, and here he does

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2 say, "I say that because the inspector general has a statement
2 from the secretary's executive assistant, who stated that for 42
2 of the 59 months covered by the report period, that she
2 functioned as the focal point of the Moderate Rehabilitation
2 Program. Yet there is barely a mention made of that focal point

1919

1 in the 700-page report which bears my name."
2 And he denies he ever talked to HUD officials about
3 moderate rehab programs.
4 MR. WEHNER: well, that's a good example, Judge. I
5 mean, he denies talking to HUD officials, and that's just not the
6 case. He talked to Joe Strauss, for example, which is already
7 established, and he says that he didn't talk to any former HUD
8 officials, and that's one of 30 maybe, not that I intend to go
9 through them all, but that's a good example, and that he lied to
10 Sam Pierce or gave an incomplete answer to Sam Pierce about Joe
11 Strauss.
12 THE COURT: well, I only see a couple of those things
13 so far that get into specific issues that would reflect his
14 testimony today.
15 MR. WEHNER: Your Honor -
16 THE COURT: If you can pick out a couple lines on the
17 television where he says that, as opposed to just reading what he
18 said, that's all right, but I don't want to play the four pages,
19 because it gets into a lot of extraneous things.
20 MR. WEHNER: I can pick out a couple and play those.
2 THE COURT: why don't you do that. That's fine.
2 MR. WEHNER: Yes.
2 THE COURT: will this work on here? what do you have
2 to do? Do you have to set a machine up or something?
2 MR. WEHNER: No, sir, it's all set, but I would go to

1920

1 the direct place. So if we could break?
2 THE COURT: I'll take a break and let you get to the
3 couple places you want.
4 MR. WEHNER: Thank you, Judge.
5 THE COURT: All right.
6 (End of bench conference.)
7 THE COURT: All right, we're going to take a short
8 afternoon break, Ladies and Gentlemen, so we can set up a machine
9 here to work and give you your afternoon break as well at the
10 same time. So remember the admonition of the Court.
1 we'll take about a 10-minute recess. Remember the
1 admonition to not talk about the case with anyone or among
1 yourselves. Come back after you get your snack.

1

1 THE COURT:

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(Jury out.)
All right, ten minutes.

1921

1 (Recess, 3:00 p.m. to 3:25 p.m.)
2 THE COURT: All right.
3 Have you got those two segments picked out?
4 MR. WEHNER: Yes, sir, and I understand that I
5 can cut it off quickly with the remote. I've been
6 instructed.
7 (Jury present)
8 THE COURT: All right, we're ready to resume
9 the cross-examination.

10 BY MR. WEHNER:
11 Q Mr. Demery, I would like to show you what I've
12 marked as Dean Exhibit 190.
13 THE DEPUTY CLERK: Dean's Exhibit 190 marked
14 for identification.
15 (Defendant's Exhibit 190 marked for
16 Identification)
17 BY MR. WEHNER:
18 Q Which purports to be a memo that was written from
19 you to Secretary Pierce. I ask you if you recognize it?
20 A Yes, I do.
2 Q And that memo is written in response to the
2 Inspector General's report on Mod Rehab, was it not?
2 A No, it was written in response to a memo that the
2 Inspector General wrote, dated October 24, 1988.
2 Q Do you recall telling Secretary Pierce that, "Each

1922

1 funding action with regard to the moderate
2 rehabilitation program occurred as a result of specific
3 written or verbal communications with PHA's, elected and
4 public officials, and regional or area HUD personnel?"
5 A Are you reading from my letter?
6 Q Yes, I am.
7 A May I?
8 MR. O'NEILL: Objection, Your Honor.
9 THE COURT: All right, I think - the
10 objection is the use of the memo. It's not in evidence
11 but I'll overrule the objection and let him ask him
12 whether he recalls saying that.
13 BY MR. WEHNER:
14 Q Do you recall saying that to the Secretary?
15 A Yes, I wrote that.
16 Q Now, the Government showed you Government Exhibit
17 198 which had been introduced into evidence which is a
18 memorandum or a letter to Secretary Samuel Pierce from
19 Alvin D. Moore dealing with Section Eight Mod Rehab
20 units in Metro-Dade County, Florida. Do you recall that
2 memo?
2 I should call it a letter. Do you recall that
2 letter?

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2 A Not offhand, no.

2 Q Do you recall ever having seen that before?

1923

1 A It's possible. Metro-Dade sent a lot in. I don't

2 recall that particular one.

3 Q Would you -- do you recognize your handwriting in

4 the upper righthand corner of that exhibit? The word

5 funded?

6 A Oh, I -- it could be my handwriting.

7 Q Well, it does appear to be your writing, does it

8 not?

9 A It's close to it, yeah.

10 Q Now, I'm going to show you what I've marked for
11 identification as Dean Exhibit 189?

12 THE DEPUTY CLERK: Dean Exhibit 189 marked for
13 identification.

14 (Defendant's Exhibit 189 marked
15 for Identification)

16 BY MR. WEHNER:

17 Q Which is another copy of that memo. I'm sorry,
18 that letter. And it has few more items written on it
19 than Government Exhibit 198, including some numbers down
20 in the lower righthand corner. Now, those numbers are
2 in your handwriting, are they not?

2 A No, they're not.

2 Q Those are not your handwriting?

2 A No, it's not.

2 Q Who was your Executive Assistant?

1924

1 A At what time?

2 Q February 13th, 1987.

3 A I believe it was Nancy Murray.

4 Q Now, you testified concerning Lou Kitchin and your
5 knowledge of Lou Kitchin in the direct examination by
6 Independent Counsel. You had a practice, did you not,
7 of keeping a personal walletsized phone directory of
8 people that were important to you?

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9 A I had a practice of keeping a small card that had
10 frequently dialed numbers on it, yes.
11 Q And Mr. Kitchin's name and number were on there,
12 were they not?
13 A I - I don't recall.
14 Q I show you what I've marked for identification as
15 Dean Exhibit 191?
16 THE DEPUTY CLERK: Dean Exhibit 191 marked for
17 identification.
18 (Defendant's Exhibit 191 marked
19 for Identification)
20 BY MR. WEHNER:
21 Q And ask you if that refreshes your recollection as
22 to whether you kept Lou Kitchin's telephone number in
23 that index card, as you recall it?
24 A I assume that's his number? That number doesn't -25
Q You can't assume anything.

1925

1 A It says Lou with a 404 phone number and if you're
2 telling me that's Lou Kitchin's phone number then -
3 Q What I'm asking you, does this refresh your
4 recollection that you kept that information on your
5 list?
6 A I generally made a practice of including complete
7 initials. That one is just notated Lou. If that's Lou
8 Kitchin's phone number, then, yeah, it was on my list.
9 Q What was the purpose of keeping that list?
10 A Frequently -- mainly convenience. Numbers that
11 were frequently used. I could keep it in my wallet
12 without having to carry around my phone directory.
13 Q So you were frequently in contact with Mr. Kitchin,
14 is that correct?
15 A I was in contact with Mr. Kitchin in '88, yeah.
16 Q And I believe you testified that you first met him
17 when?
18 A My first recollection in meeting him was outside of
19 the Secretary's suite. I was entering it as he and
20 Miss Dean were leaving it, and to my recollection that's
2 when - she introduced me to him at that time.
2 Q When do you recall that being?
2 A In the spring of '87.
2 Q And your recollection is it could not have been
2 before the spring of '87?

1926

1 A That's the first time I remember meeting him. When
2 I arrived in Washington, you know, a parade of people
3 went through my office to introduce themselves. I -
4 it's possible he was part of the parade.
5 Q And you could have met him as early as, say,
6 January of '77?
7 A '87?
8 Q I'm sorry, '87.
9 A It's possible.
10 Q You could have met him as early as October or
11 November of '86?
12 A I don't remember meeting him until the spring of
13 '87.
14 Q But it's possible you met him earlier.
15 A I have no recollection of meeting him earlier.
16 Q You testified on direct examination, sir, that
17 when - almost immediately after you got to HUD you
18 received a list of Mod Rehab projects to be funded. Do

19 you remember that?

20 A Yes.

2 Q And you said that was approximately three days
2 after you arrived at HUD you got this list, and you
2 asked what it was and you said that Miss Dean told you
2 that these were to be funded. Is that essentially your
2 testimony?

1 A Essentially, yes.

2 Q Now, you haven't always said that about that list,
3 have you? In fact, you've given different testimony
4 about that list in the past?

5 A I'm unfamiliar with what you're referring.

6 Q Well, you previously testified that you hadn't
7 committed any perjury in May or when you testified in
8 front of the Committee on Banking, Finance and Urban
9 Affairs of the House of Representatives and there you
10 were asked by the chairman of that Committee, Chairman
11 Gonzalez, page 59, the third, fourth, eighth line from
12 the bottom, "Chairman Gonzalez: Do you recall any
13 particular emphasis on the -
14 Mr. Demery: No, I recall three days after
15 getting to HUD being given a list of non-fund, non-PHA
16 requests which I was told the Secretary" -that's
17 Secretary Pierce, is it not?

18 A Yes.

19 Q "Wanted funding." That's not Miss Dean wanted the
20 funding, that's the Secretary wanted them funded, is
2 that correct? Is that your testimony in front of the
2 Committee?

2 A Yes.

2 Q "I asked what is this list, and she
2 said - "

1928

1 "Chairman Gonzalez: with respect to the
2 moderate rehab."

3 "Mr. Demery: Yes."

4 "Chairman Gonzalez: You were informed this
5 was what the Secretary wanted?"

6 •Mr. Demery: Right

7 A Yes.

8 Q "Chairman Gonzalez: was this by virtue of, say, an
9 interoffice memo, or what was the source of your
10 information that this was the Secretary's desire?"

11 "Mr. Demery: well, I got a letter, a note
12 from his Executive Assistant that said please let me
13 know whether action is taken on these requests as it's
14 very important, and I asked her -I

called her about it
15 and said -"

16 "Chairman Gonzalez: That was Miss Dean."

17 "Mr. Demery: Yes. I asked her what did this
18 mean and she explained that the Secretary, it was a
19 brand new fiscal year, and the Secretary had some
20 funding decisions he wanted me to implement, so I did."
2 Do you recall giving that testimony under oath
2 to Chairman Gonzalez?

2 A Yes, I do.

2 Q Now, this is one of several times that you had
2 occasion to testify in Congress, isn't that correct?

1929

1 A Yes.
2 Q And did you testify on one occasion -
3 MR. O'NEILL: Objection, Your Honor.
4 THE COURT: I'm not sure what -I
haven't
5 heard the question yet. Go ahead.
6 BY MR. WEHNER:
7 Q Did you testify on one occasion that, "None of the
8 former HUD officials ever talked to me about moderate
9 rehab?"
10 A I have to see the transcript. I don't -11
MR. WEHNER: It's marked May 8th, 1989.
12 MR. O'NEILL: Judge, I still object to the
13 manner in which it's being presented.
14 THE COURT: I'd like to speed this along a
15 little bit. Why don't you come up?
16 (Bench conference)
17 THE COURT: You're sort of asking the question
18 from the transcript. I think you could ask him is it
19 true that all the funding decisions, whatever it says
20 there -
2 MR. WEHNER: I can do it that way, Judge.
2 THE COURT: And see whether he says yes or no.
2 MR. WEHNER: I can do it that way. No
2 problem.
2 MR. O'NEILL: That will be fine.

1930

1 THE COURT: It will be quicker that way.
2 MR. WEHNER: No problem.
3 (Bench conference concluded)
4 BY MR. WEHNER:
5 Q Did former HUD officials come and see you and talk
6 to you about Mod Rehab units?
7 A Yes.
8 MR. WEHNER: With the Court's permission, I'll
9 play the tape.
10 MR. O'NEILL: I would like to know at what
11 point, Judge, what -12
THE COURT: Do you want to just lay a little
13 bit of foundation as to when and where this occurred
14 before you play it?
15 BY MR. WEHNER:
16 Q You testified on May 8th, 1999 as a former HUD
17 Assistant Secretary for Housing, accompanied by Jerris
18 Leonard, counsel. Do you recall that?
19 A It wasn't 1999.
20 MR. WEHNER: 1989.
2 THE COURT: All right. I'll allow it to be
2 played.
2 (Portion of videotape played)
2 A It was difficult for me to understand what I was
2 saying up there. Can I read what was played? The

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1 fidelity, especially at the beginning, was not very

2 clear.

3 Q Sure. The portion that was played is page 53

4 beginning with the words "I have" and ending with the

5 word "rehab."

6 A Okay. That's a correct statement.

7 Q I understand. Now, did you testify on another

8 occasion -- well, I'll ask you the question in a

9 different way. Did you meet with developers regarding

10 the allocation of Mod Rehab units when you were at HUD?

11 A I met with developers concerning all programs of
12 HUD. I assume Mod Rehab was part of it, yes, as a
13 general practice.

14 MR. WEHNER: With the Court's permission.

15 (Portion of videotape played)

16 THE COURT: All right, I'll allow him to ask
17 the question. That doesn't go directly to developers.

18 MR. WEHNER: I'll withdraw that, Your Honor.

19 THE COURT: All right.

20 BY MR. WEHNER:

21 Q Mr. Demery, of the several times that you testified
22 up on Capitol Hill you were asked many questions as to
23 whether or not you had met with consultants or
24 developers, isn't that correct?

25 A I was asked those questions, yes.

1932

1 Q And you responded to those questions, correct?

2 A Yes.

3 Q Okay. To the best of your knowledge did you tell
4 the truth when you responded to those questions?

5 A Yes.

6 Q Did you testify when you were up there that you
7 were contacted by Mr. Louis Kitchin concerning Mod Rehab
8 developments?

9 A I don't recall the testimony.

10 Q Okay.

11 A I mean there were pages and pages of testimony.

12 Q Absolutely. I'm going to show what you I've marked
13 for identification as Dean exhibit 192?

14 THE DEPUTY CLERK: Dean Exhibit 192 marked for
15 identification.

16 (Defendant's Exhibit 192 marked

17 for Identification)
18 BY MR. WEHNER:
19 Q And ask if that refreshes your recollection as to
20 when you would have first met Mr. Lou Kitchin?
2 A There's no date on it.
2 That's not where the date belongs
2 Q It does not refresh your recollection as to when
2 you first met Mr. Kitchin?
2 A It's undated.

1933

1 Q Isn't it true, sir, that you first met him when he
2 came by your office and called your office for an
3 appointment in January of 1987?
4 A I have an appointment calendar. If he's on my
5 appointment calendar, then that's when I met him. I do
6 not recall meeting him at that time.
7 Q Isn't it true that he came by to see you and that
8 you met him before then?
9 A I have no idea.
10 Q Okay.
11 A If I had an appointment with him, then I met him.
12 If he stopped by and I wasn't there then - I don't
13 know.
14 Q I'll show you what I've marked for identification
15 as Dean exhibit 193?
16 THE DEPUTY CLERK: Dean exhibit 193 marked for
17 identification.
18 (Defendant's Exhibit 193 marked
19 for Identification)
20 BY MR. WEHNER:
2 Q And ask you if that appears to be your book
2 calendar?
2 A Yes, it does.
2 Q And looking at Thursday, January 29th, I ask you if
2 that refreshes your recollection as to whether you had

1934

1 met Lou Kitchin at least much earlier than the spring of
2 1987?
3 A Yes, he had a courtesy call appointment at 11
4 o'clock on that date.
5 Q So you clearly had met him prior to the spring,
6 isn't that correct? And January is not the spring.
7 A I must have, yes. I don't recall that meeting.
8 And I think my testimony was the first time I recall
9 meeting him was outside of the Secretary's office suite.
10 Q In April.
11 A In the spring. I don't know if it was March or
12 April.
13 Q Well, you would agree, would you not, that your
14 memory is now refreshed that you met him prior to the
15 spring of 1987, would you not?
16 A I will - yes, I will agree he had an appointment
17 with me at the end of January. I don't recall meeting
18 him then.
19 Q Okay.
20 A I don't recall.
21 Q Okay. And yet you recall meeting him in April, or
22 the spring?
23 A I can tell you where I remember first meeting him.

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24 That was outside the Secretary's suite. As to the date
25 I don't -- I'm not -- I cannot recall with precision

1935

1 what month it was.
2 Q Okay. So you're sure where you met him.
3 A And I recall --
4 Q But you're not sure when?
5 A That's correct, and I recall Ms. Dean introducing
6 me to Mr. Kitchin.
7 Q Outside the Secretary's suite, correct?
8 A I was going in. She was coming out -- they were
9 coming out. Right by the corridor, yes.

10 Q Okay. Now, you were asked by the Committee on
11 several occasions about the selection of units in the
12 Mod Rehab project, and do you recall being asked, "Do
13 you think the ones that were selected, the PHA's that
14 were selected in your judgment were always the best,
15 given the number of units available, which were very
16 competitive?"

17 A What was your question?
18 Q Do you recall being asked that question.
19 A Generally, yes.
20 Q And do you recall giving the answer, "yes?"
2 A Yes.
2 Q Do you recall the question, "They were always the
2 best ones. Then I don't know why you want to bring in
2 Debbie and the Secretary in terms of saying that if they
2 were always the best and the buck does stop with you

1936

1 since you were head of the selection Committee," do you
2 recall being asked that?
3 A No, I don't.
4 MR. O'NEILL: Once again, Your Honor, I'm
5 going to object to the manner in which the questions are
6 being asked.
7 THE COURT: All right, I'll allow it at this
8 time, just for clarity.
9 BY MR. WEHNER:
10 Q Do you recall being asked that question?
11 A Yes.
12 MR. WEHNER: I have nothing further, Your
13 Honor.
14 THE COURT: Redirect?
15 MR. O'NEILL: Yes, Your Honor.
16 REDIRECT EXAMINATION
17 BY MR. O'NEILL:
18 Q Mr. Demery, you were asked questions on
19 cross-examination by Mr. Wehner concerning getting that
20 list approximately three days after you began as the
2 Assistant Secretary for Housing-FHA Commissioner. Do
2 you recall those questions?
2 A Yes.
2 Q From whom did you get that list?
2 A Miss Dean.

1937

1 Q Did you have any conversations with the Secretary

2 about that list?

3 A No.

4 Q Now, you were asked questions on cross-examination

5 about the committee. And I believe from your earlier

6 testimony, correct me if I'm wrong, you said the

7 committee met twice from January, 1987 until the time

8 the defendant Deborah Gore Dean left the Department of

9 Housing and Urban Development?

10 A Yes.

11 Q How did that committee operate in terms of
12 selecting which projects to be funded?

13 A Basically it was a consensus between Miss Dean and
14 I and prior to the meeting of the committee and when the
15 committee convened I presented to third committee member
16 the consensus that Miss Dean and I had reached.

17 Q How did you and Miss Dean reach a consensus? What
18 procedure did you go through to gain that consensus?

19 A The deliberative process consisted of verifying
20 requests on file from the PHA, as well as any additional
2 considerations that we were aware of at the time such as

2 Congressional interest or local interest, as well as any
2 contacts on behalf of the PHA requests. Any support
2 from whatever source.

2 Q Mr. Demery, I'll show you a document that's

1938

1 formerly been marked as Government's exhibit 208 for
2 identification. It's not in evidence, so I'd ask you
3 not to read it out loud.

4 A I'm sorry, what?

5 Q I would just ask you to review that, please, if you
6 would. Do not read it out loud and don't make any
7 reference to it. It's not in evidence.

8 THE DEPUTY CLERK: What exhibit was that, Mr.
9 O'Neill?

10 MR. O'NEILL: 208.

11 THE DEPUTY CLERK: 208?

12 Government's Exhibit 208 marked for
13 identification.

14 (Government's Exhibit 208 marked
15 for Identification)

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16 BY MR. O'NEILL:

17 Q Now, I would also show you Government's Exhibit 209
18 for identification?

19 THE DEPUTY CLERK: Government's Exhibit 209
20 marked for identification.

2 (Government's Exhibit 209 marked
2 for Identification)

2 BY MR. O'NEILL:

2 Q And I'd ask you again, do not refer to it out loud
2 because it is not in evidence.

1939

1 Mr. Demery, do you recall the specific
2 allocation of 203 units to a project in Dade County,
3 Florida in the spring of 1987?

4 A I recall 203 units being allocated to Dade County,
5 yes.

6 Q Did you know who the developers were in that
7 project?

8 A No.

9 Q Did you know who the consultant was on that
10 project?

11 A No.

12 Q Did you push for that project?

13 A Excuse me, at the time Ms. Dean and I were
14 reviewing the funding applications from the PHA. As I
15 said, as a part of the process each would let the other
16 know any contacts that were made. It's very possible at
17 that time I was told, I just don't remember.

18 Q Did you have anything to do with the funding of
19 that project?

20 A In an official capacity, yes.

2 Q How about in an unofficial capacity?

2 A Well, I presented it to the committee, but I was
2 not the initial contact on behalf of the PHA.

2 Q Who was, if you know?

2 A It was brought to my attention by Miss Dean.

1940

1 MR. O'NEILL: I have no further questions.

2 Thank you.

3 MR. WEHNER: One question, Judge?

4 THE COURT: All right.

5 RE-CROSS EXAMINATION

6 BY MR. WEHNER:

7 Q You were informed, were you not, sir, that
8 Secretary Pierce spoke through Miss Dean for purposes of
9 the Mod Rehab program?

10 MR. O'NEILL: Objection, Your Honor. It's
11 hearsay earlier, it's hearsay now.

12 THE COURT: All right. I'll sustain it.

13 BY MR. WEHNER:

14 Q Your understanding was that Miss Dean spoke for
15 Secretary Pierce on the Mod Rehab program, isn't that

16 correct?

17 MR. O'NEILL: Objection, Your Honor.

18 MR. WEHNER: Judge, that's not hearsay.

19 THE COURT: Thank you for telling me.

20 MR. WEHNER: Sorry, Judge. It's been a long
2 three weeks.

2 THE COURT: I'll overrule the objection. You

2 can answer

2 BY MR. WEHNER:

2 Q You had an understanding, did you not, that

1941

1 Miss Dean spoke for the Secretary on Mod Rehab, isn't

2 that correct?

3 THE WITNESS: Is it okay to answer it now?

4 THE COURT: Yes.

5 Yes

6 MR. WEHNER: Nothing further.

7 THE COURT: Do you have any further redirect?

8 MR. O'NEILL: No, Your Honor, thank you.

9 THE COURT: Thank you, sir. You may step

10 down.

11 Your next witness?

12 MR. O'NEILL: Your Honor, at this time the

13 Government would move into evidence a number of

14 documents and I will read a stipulation.

15 Judge, if we can approach for a second?

16 (Bench conference)

17 THE COURT: Yes.

18 MR. O'NEILL: Judge, that probably just about

19 finishes us. We have one witness which might be a

20 summary document witness who will introduce the summary

2 document chart that we spoke of at the beginning of the

2 trial. Steve figures there might be some objections

2 there. We can talk about that. That would about finish

2 it. We have to put some documents in evidence which

2 haven't - we haven't addressed that fact yet. That's a

1942

1 question of putting it on the record, so we figured we'd
2 bring it to your attention.

3 MR. WEHNER: Judge, if the summary witness is

4 based upon the testimony of the trial I will not object

5 to the summaries because there's no witness. I would

6 only object to the summary charts if they misrepresent

7 what was said. I doubt that that's going to be the

8 case.

9 MR. O'NEILL: we'll try to give them to Steve

10 tomorrow. The summary document charts would be only

11 those documents that were admitted into evidence during

12 the trial, so we don't think there will be any necessity

13 of calling the witness, but we're prepared to do so if

14 need be.

15 THE COURT: We've got a half a day tomorrow.

16 MR. O'NEILL: Right. We would expect fully to

17 rest tomorrow.

18 THE COURT: I'm just trying to plan it for the

19 jury then. There are some documents now you want to put

20 in?

2 MR. O'NEILL: It might be easier to do it

2 tomorrow.

2 THE COURT: Well, we'll need sometime after we

2 rest for motions. We'll get the jury in here. Do you

t want to put the documents in before the jury, with a

2

1943

1 summary witness, before you rest? I can bring them in

2 here for an hour.

3 MR. O'NEILL: It should be done, for the

4 record, I guess but whether it needs to be done in front

5 of the jury - it wouldn't be referred to until probably

6 closing argument.

7 THE COURT: I can explain to them later it was

8 outside their presence just for the matter of expedition

9 but they are evidence like any other evidence. They

10 will just not see it because it's just a matter of

11 expedition to get it done when they're not here.

12 MR. WEHNER: I do not object to proceeding in

13 that fashion either with those exhibits or with the

14 proposed chart.

15 MS. SWEENEY: It's actually charts.

16 MR. WEHNER: Plural.

17 THE COURT: And then we can take up the

18 documents and Giglio motions and judgment of acquittal

19 motions.

20 MR. O'NEILL: That's right.

2 THE COURT: And you'll be ready to go

2 tomorrow.

2 MR. WEHNER: I would prefer to have the

2 weekend, Judge, because I want to give you a written

2 brief on some issues. I would really prefer to do that

1944

1 Monday.

2 THE COURT: Then you would have some witnesses

3 that are available starting next week.

4 MR. WEHNER: Yes, I think our case will

5 probably take three days, four days, tops.

6 THE COURT: we have a holiday the following

7 weekend, so we lose an extra day there.

8 MR. O'NEILL: And you're off Friday.

9 THE COURT: On this case. So we'll have to
10 finish the following week sometime, and maybe rebuttal.
11 Well, let me do this. If you don't want - I
12 don't blame you for wanting to make sure that you're
13 ready for the motions for judgment of acquittal. Maybe
14 what we'll do is have the jury come in. We'll look at
15 those documents and have the jury come in at ten o'clock
16 and have the documents come in in front of the jury and
17 the charts, whatever you want and then I'll explain to
18 the jury that they've got the rest of the day and they
19 can come in on until Monday afternoon. So we can take
20 up these matters Monday morning.

2 MR. WEHNER: Would Your Honor intend for us to

2 be ready to put on our first witness Tuesday morning?

2 THE COURT: I was thinking Monday afternoon.

2 MR. WEHNER: Okay. I was thinking about when
2 you wanted to do the rule 29. If you give me the

1945

1 weekend to work on the 29. You would have that argument

2 Monday afternoon.

3 THE COURT: Monday morning. We'll finish with

4 evidence here. Then they'll rest formally tomorrow and

5 I'll recess the rest of the day tomorrow and it will be

6 fairly early and you'll have all weekend to prepare

7 motions for judgment of acquittal and be ready for that

8 at 9:30 Monday morning. We'll do that for a couple of

9 hours and I'll try to make an immediate ruling.

10 MS. SWEENEY: If you're going to do something
11 in writing is it possible that we would be able to get
12 it on Sunday?

13 MR. WEHNER: Yes, but I have no idea what time
14 on Sunday you'll get it. I mean I can't help you with
15 that, Paula. I'm sorry, I'll do the best I can.

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16 MS. SWEENEY: I was just asking as a way of
17 moving this along.
18 MR. WEHNER: I got something from you at 10:30
19 last night.
20 MR. O'NEILL: That was not from me, for the
2 record, I was sleeping.

2 MR. WEHNER: I'll do the best I can.
2 MS. SWEENEY: I appreciate it.
2 THE COURT: All right. we'll do that. I'll
2 tell the jury. Thank you.

1946

1 (Bench conference concluded)
2 THE COURT: Ladies and gentlemen, let me tell

3 you where we are in the progress of the case. I've just
4 had a conference with counsel about it. Tomorrow is a
5 short day because I have another matter I must take up
6 in another case. Tomorrow the Government expects to
7 introduce documents and charts concerning the
8 allegations in this case which will be summaries of
9 various matters that have occurred already in the

10 testimony and I believe that we can get that done
11 tomorrow morning in good time and you'll be out tomorrow
12 afternoon, as I previously announced.
13 We're going to start late Monday and the
14 reason is I expect the Government, unless they review
15 tonight and think otherwise, to announce that they rest
16 their case in chief tomorrow. That is, their primary
17 case will be completed. The case is moving more swiftly
18 than we anticipated.
19 After the Government finishes its case in
20 chief then the defendant has an opportunity, but no
2 obligation, to put on any evidence, has an opportunity
2 to do so, and the defendant has announced he intends to
2 put on some evidence in the case. So that the defendant
2 will be given her chance beginning Monday to put in
2 evidence in the case and once that's concluded the

1947

1 Government has a limited circumstance to put some
2 rebuttal evidence in. I don't think the case will
3 finish next week totally but probably will the week
4 thereafter. That would be the week of the 11th of
5 October, the 11th being a holiday, Columbus Day, so

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6 sometime in the week of the 11th of October, and by the

7 15th I would hope that we may complete the testimonial

8 phase of the case, the evidentiary phase of the case,

9 and may have completed the case and submitted the case

10 to the jury for deliberation purposes.

11 what we're going to do now is recess and have
12 the documents in tomorrow morning and then you'll be
13 given the day off. I'll have you come in late Monday
14 because once the Government rests I have to take up
15 legal matters with counsel for a while before we begin
16 the defendant's case. So you're going to come in Monday
17 after lunch. You'll get credit for the day but you'll
18 come in after lunch on Monday.
19 Tomorrow morning you should be out by 11,
20 11:30 and Monday you will start at 1:30, start at 1:30
2 in the afternoon Monday. If you come here at 9:30

2 you're going to have a long wait. 1:30 Monday
2 afternoon.

2 All right, you're going to get a recess
2 overnight. We have the same admonitions always. You

1948

1 don't read, watch or listen about anything in this case,

2 don't talk to anybody about it during the break. We

3 start tomorrow morning at 9:30. It's a short day

4 tomorrow, make your plans, and also you will have a

5 shorter day Monday beginning Monday afternoon.

6 As I said, I expect the evidentiary phase will

7 be completed maybe by the end of next week and then it

8 will be before you for deliberations.

9 All right. Thank you.

10 (Jury dismissed)

11 THE COURT: All right. We'll see you all
12 tomorrow morning then after you get a chance to look at
13 these documents.

14 MR. O'NEILL: Yes, Your Honor.

15 (Proceedings recessed at 4:07 p.m. to resume

allbinders as word for experiment.txt
16 October 1, 1993 at 9:30 a.m.)
17 Certificate of Official Reporters
18 It is certified by the undersigned Official Court
19 Reporters of the United States District Court for the
20 District of Columbia that the foregoing is the official
2 record of the proceedings indicated.

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA

3 UNITED STATES OF AMERICA f4 - VERSUS5
DEBORAH GORE DEAN,
6 DEFENDANT
7

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DOCKET NO.
CRIMINAL NO. 92-181

WASHINGTON, D.C.
OCTOBER 1, 1993

10:00 A.M.
VOLUME XV

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TRANSCRIPT OF
THE HONORABLE
UNITED STATES
AND A JURY.
APPEARANCES:
FOR THE GOVERNMENT:
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FOR THE DEFENDANT:
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COURT REPORTERS:
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PAGES

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(COMPUTER-AID TRANSCRIPT

TRIAL BEFORE
THOMAS F. HOGAN,
DISTRICT JUDGE,

ROBERT O'NEILL, ESQ
PAULA SWEENEY, ESQ.
OFFICE OF INDEPENDENT COUNSEL
444 NORTH CAPITOL STREET, N.W.
WASHINGTON, D.C. 20001

STEPHEN VINCENT WEHNER, ESQ.
513 CAPITOL COURT, N.E.
WASHINGTON, D.C. 20002

ANNELIESE J. THOMSON,
SANTA THERESA ZIZZO

U.S. DISTRICT COURT,
3RD & CONSTITUTION AVE., N.W.
WASHINGTON, D.C. 2 0001
1949-1998

OF STENOTYPE NOTES)

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5 31B 1973
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7 51 1973
8 87 1975
9 94 1975
10 96 1975
11 9 8 1976
12 99B 1976
13 99C 1977
14 106 1977
15 106A 1977
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20 123 1979
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2 157 1980
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1951

1 EXHIBITS: FOR IDENTIFICATION IN EVIDENCE

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1 PROCEEDING S
2 THE DEPUTY CLERK: Criminal number 92-181,
3 United States of America versus Deborah Gore Dean. We
4 have Robert O'Neill and Paula Sweeney for the
5 Government. Stephen Wehner for the defendant.
6 THE COURT: All right. Good morning, counsel.
7 MR. O'NEILL: Good morning, Your Honor.
8 MR. WEHNER: Good morning, Your Honor.
9 THE COURT: Have we got those exhibits ready
10 to go?
11 MR. O'NEILL: Yes, Your Honor. We would read
12 a number of them into the record once the jury is
13 present.
14 Mr. Wehner and Miss Sweeney and myself have
15 been speaking about a number of things. There will be
16 one stipulation, Your Honor.
17 We found the reporter for the Senate hearing
18 and he was able to locate his tapes and there will be a
19 stipulation that Miss Dean was sworn at that time. He
20 did have copies of the cassette tapes that he kept.
2 THE COURT: Of -
2 MR. O'NEILL: Of the hearing, of her being
2 sworn
2 THE COURT: Tape recorded statements?
2 MR. O'NEILL: Yes.

1953

1 THE COURT: Different tapes from what we had
2 the other day.
3 MR. O'NEILL: Yes, he had his official tape
4 recordings that he went through and there was the oath,
5 and I can represent for the Court that he did play those
6 in front of me, and Senator Proxmire put the defendant
7 under oath, but the stipulation is just that an oath was
8 administered and the like. So that was taken care of.
9 We've also shown to Mr. Wehner this morning a
10 number of charts. Let me just take them in a different

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11 order. There's one, if I may send a copy up to the
12 Court, it's entitled MRP project figures and it will be
13 black and white, Your Honor. All the charts will be
14 black and white since Your Honor expressed some
15 discomfort with color in the original charts. The only
16 difference that we come with Mr. Wehner is a project
17 line call the date of funding allocation by
18 headquarters, it's the fourth column, Your Honor, and
19 those dates were as to the rapid replies, and Mr. Wehner
20 has requested that we use the date of the 185. Did I
2 say - it was the rapid replies, and we'll use the
2 185's. So we will change those dates to reflect the
2 dates of the 185's.
2 And we still have the summary documents of the
2 charts that Mr. Wehner has looked to and I don't know -

1954

1 and I'll just file a copy of our motion to the Court on
2 that. It just details summary documents, Your Honor.
3 That's the original, I guess.
4 THE COURT; I've gone through these for the
5 motion to admit these summary documents as to 1006.
6 I'll just ask as to one of the latter ones. The Kitchin
7 projects, the next to the last is January 15, '87
8 through March 30th, '87. I just don't recall testimony
9 about Schoenberger asking Dean to do things. That draws
10 a blank.
11 MS. SWEENEY: Your Honor, that's based on a
12 document, Government exhibit 196, that I believe has
13 been stipulated to by the defense.
14 THE COURT: And 198A as well?
15 MS. SWEENEY: I believe that's the case. Your
16 Honor, if -17
THE COURT: I guess I didn't read through
18 those documents.
19 MS. SWEENEY: If there are documents - the
20 point of the charts is to refer only to documents that
2 are in evidence in and of themselves. If there are
2 documents that are not in evidence or don't come in this
2 morning through the additional stipulations they will be
2 blacked out of the charts, Your Honor.
2 THE COURT: All right, 196, 198A.

1955

1 THE DEPUTY CLERK: That has been admitted. I
2 thought you were asking me was 196 been admitted.
3 THE COURT: Has it been admitted?
4 THE DEPUTY CLERK: Yes, it has.
5 THE COURT: What about 198A?
6 THE DEPUTY CLERK: 198A also has been
7 admitted.
8 THE COURT: I just don't recall it.
9 All right. Has counsel for the defendant had
10 a chance to look at these exhibits as well as the
11 summary charts?
12 MR. WEHNER: Your Honor, we've had plenty to
13 of time to look at the exhibits and reflect on them, so
14 that's not a problem with us. In terms of the ones that
15 are on the charts, we've had time to look at the charts
16 visavis the exhibits. We just got the charts this
17 morning. We've been going through them.
18 I'm informed by the Independent Counsel that

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19 they desire to use the charts to go to the jury. And
20 that the jury would take them back with them when they
21 deliberate.
22 So the first objection we have is that we do
23 not believe that it is appropriate for those to go to
24 the jury because they draw – argumentative conclusions
25 within the documents themselves and are more properly

1956

1 used for argument as opposed to be used during jury
2 deliberations, and I'll point the Court to the first few
3 examples of that that we've seen. These aren't
4 numbered. This one is entitled Necho Allen exception
5 rents. It starts with September 13th, 1984.

6 THE COURT: All right.

7 MR. WEHNER: At the bottom of that chart it

8 says, reflecting on February 28th, Dean asked for HUD

9 Philadelphia request and the draft denial. That's based
10 on, I believe, Government Exhibit 109A and frankly,
11 Judge, I think it's fair for the Government to argue

12 that that occurred based on that exhibit but it's not

13 fair to conclude that that's what occurred, and I think
14 if Your Honor would look specifically at that exhibit
15 their conclusion is based upon a little note that's in
16 the upper lefthand corner, it says return to Deb Dean
17 for her request to Jim Hamernick for this action
18 February 28th. Well, to say that that means Dean asked
19 for HUD Philadelphia request and the draft denial,
20 overstates entirely what the evidence is, and that's a
21 conclusion based on what the evidence says.
22 Now, this type of conclusion is through the
23 entire set of exhibits. And I think it goes beyond a
24 summary chart as provided for under 1006.
25 If you look at, for example, the second Necho

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1 Allen page which is March 1st, March 15th, it says

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2 Rosenthal paid Sankin \$10,000. Government Exhibit 111.

3 Dean schedules lunch with Sankin, Government Exhibit

4 5D. Putting those two items directly together with

5 Sankin's name in caps and Dean's name in caps is not a

6 fair summary. It's clearly fair argument, Judge, that

7 since they happened on the same day, they must be

8 related, look at how closely these things tie together.

9 The circumstantial evidence is that she must have known,
10 but for the jury to see this in a highlighted fashion in
11 the jury room takes - really takes a transcript of the
12 prosecutors' closing with them, and it's not evidence.
13 The evidence is Government Exhibits 111 and 5D, and
14 that's subject to my interpretation as well.

15 So I think it draws conclusions and it's
16 argumentative. And I don't mean to go through all of
17 these individually, Judge, but I'll go through a few
18 more to show you how these objections go through the

19 entire chart.

20 If you look at South Florida One, on the
21 September 18th entry, it says Dean called Funding
22 Control Office with changes to Zagame's Mod Rehab list.
23 Cancels most units for Washington, D. C , that has
24 absolutely no relevance to this case, Judge, that units
25 were canceled for Washington, D. C. It may have

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1 relevance that units were canceled but it's an unfair
2 summary of that process to say that they were canceled
3 for Washington, D. C. to this jury. That's argument
4 that somehow they should be, I guess, prejudiced against
5 Miss Dean because certain projects in Washington, D. C.
6 weren't funded. And I think that's really a transparent
7 attempt to get that highlighted to the jury and I find
8 that highly objectionable, to highlight that type of
9 evidence that I think even the Independent Counsel would

10 agree is of marginal, at best, relevance.

11 Arama, July 5th.

12 THE COURT: Yes.

13 MR. WEHNER: It states Dean promises Nunn at

14 Mitchell's business address that Arama will get units.

15 That's an arguable interpretation of that letter, Judge,

16 the word promise. My interpretation of that letter is

17 that, and I will argue this to the jury, it's no secret,

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18 that that funding decision had long been made prior to
19 that and Your Honor will, I think, remember testimony to
20 that effect and that Miss Dean was in the Executive
2 Secretariat at the time, when she could not have in
2 influenced the process if she would have wanted to. I
2 recognize Your Honor doesn't have to accept that but
2 these are jury arguments and this is what the
2 Independent Counsel wants to use them for.

1959

1 so I think it's a summary of their arguments
2 that may be permissible in terms of using it for their
3 closing, but to send this back to the jury simply gives
4 the jury again their interpretation of the evidence time
5 and time again through the use of the charts and I think
6 the case - I just got the memo this morning and I'm not
7 objecting to it but the case law that they cite appears
8 to me, without having looked at the specific cases, to
9 limit the use of the summary charts to summaries of the
10 evidence, not argumentative summaries of the evidence,
11 and I think there's a clear difference because you're
12 talking here about true summaries of documents and
13 you're talking about their interpretation of what the
14 evidence shows as to a particular document or as to a
15 particular conversation. And they are clearly entitled
16 to argue that to the jury.
17 I do not believe they are clearly entitled
18 under any set of circumstances to have their argument
19 back in the jury room with them. If that were the case,
20 I think I would be entitled to put a counter-chart back
2 to the jury summarizing from my position what the

2 Government's evidence shows, listing all the other
2 events that interrelate here, with my conclusion.
2 For example, under Arama, July 5th, they say
2 Dean promises Nunn. I would put Dean, no responsibility

1960

1 for Mod Rehab, at Executive Secretariat. Reports to
2 Nunn at Mitchell's office that over one month ago Mod
3 Rehab units were funded for that project. Now, I think

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4 that's as fair a summary and Mr. O'Neill won't agree,
5 I'm sure, but I could put that same type of summary on a
6 chart like this and it would be supported by the
7 evidence.
8 So my initial objection is that the charts
9 should not be submitted to the jury during their

10 deliberations.
11 I have secondary objections, Your Honor, to
12 certain of the events that are described as to their use
13 in closing argument, but I frankly -- with all due
14 respect, I think those are less compelling than my
15 arguments as to why they should not go to the jury and I
16 am not prepared to go through a comparison of exhibits
17 visavis dates, et cetera, right now, to determine what I
18 might object to, to Mr. O'Neill using in his closing. I
19 just haven't had time to do that kind of analysis.
20 If Your Honor rules that they are not going to
2 go to the jury, obviously my objections are going to be
2 much fewer because I think clearly they are entitled to
2 argue fair inferences from the evidence which these
2 charts may reflect. But I don't think they're entitled
2 to have their closings in the jury room.

1961

1 THE COURT: All right. Thank you.
2 Has the Government had a chance to look at
3 these in the light of these possible objections -4
MS. SWEENEY: Yes, Your Honor.
5 THE COURT: - being argumentative or
6 conclusory?
7 MS. SWEENEY: Your Honor, every effort was
8 made to keep the descriptions as neutral as possible.
9 For example, our reference to all of the calendar
10 entries merely uses the term scheduled to meet, unless
11 we have a receipt confirming that the actual luncheon
12 took place or a thank you letter saying thanks for
13 having lunch with me on June 7th, that type of thing.
14 As to the individual entries that Mr. Wehner
15 has pointed to, on the July 5th date, the term used in
16 the letter is assure, "let me assure you that all
17 necessary paperwork for the units will be transmitted by
18 the end of this week." we would have no difficulty with
19 changing promises to assure or even to tell, but we
20 really did attempt to make very very neutral
21 descriptions of the documents actually in evidence and
22 to quote them or paraphrase them in a shorter fashion
23 where that was possible.
24 Your Honor, we believe that this - the
25 decision on this matter as to whether or not these can

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1 be used in evidence under Rule 1006 in this jurisdiction
2 is controlled by United States versus Lemire.

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3 THE COURT: All right. Judge Johnson's case.

4 MS. SWEENEY: Yes, and similar arguments were

5 made in that case to the ones that Mr. Wehner has made

6 this morning and the Court of Appeals found that the

7 type of concerns that he's been addressing could be

8 appropriately addressed by means of a limiting in

9 instruction, and the particular limiting instruction in
10 that case that was given to the jury is quoted at
11 footnote 32 in the Lemire case, and in that case, Your
12 Honor, the Court recognized three types of protections,
13 the limiting instruction, voir dire of the witness, in
14 this case it would be Special Agent Batts who could
15 testify to the preparation of the charts, and
16 cross-examination of Special Agent Batts as to how they
17 were put together, and those were the three protections
18 that the Lemire Court recognized as applicable to the
19 defendant's concerns.

20 THE COURT: They do raise some concerns as to
2 the action words, the verbs that appear, assure,

2 promises or arranges, and the juxtaposition of when
2 things happened and if there are other explanations that
2 are really available from the evidence as well. This is
2 an interpretation as opposed to factual evidence. I

1963

1 don't know something - for instance, in the Arama July
2 5th letter, indicates that these units were previously
3 funded.

4 MS. SWEENEY: No, Your Honor, there's no
5 indication of that.

6 Your Honor, may I hand up Exhibit 27?

7 THE COURT: All right.

8 "Paperwork for the units will be accomplished
9 by the end of week."

10 MS. SWEENEY: Another exhibit on that
11 particular project is the actual funding document which
12 is dated July 16, 1984.

13 THE COURT: well, what I'll do is as follows.

14 I'll go through these myself and I have to take the time
15 today and look at some of these exhibits. I think that
16 the Government tried -- in essence, that under the
17 decision in this Circuit under rule 1006 the charts
18 summarizing complex evidence have been allowed to be
19 admitted into evidence. The charts themselves will go
20 to the jury room if they are a fair summary for the jury
2 to help organize and evaluate complex or voluminous
2 evidence.

2 MS. SWEENEY: And, Your Honor, that's been
2 applied in many of the cases cited in our brief where

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2 the charts have been used to present the evidence in a

1964

1 chronological fashion and to help the jury organize
2 evidence that's come in in a fragmentary way and where
3 it would be very difficult for them otherwise to put the
4 exhibits together.

5 THE COURT: It was done in the Tarantino case
6 and some others I've tried as well, and approved by this
7 Circuit, although there we made sure that there was
8 phraseology used in the chart as to -- and that case
9 involved cash flow matters, various bank deposits and
10 laundering of drug money.

11 As long as they are neutral, I think, even
12 though the underlying evidence is before the jury as
13 well, it still can be -- aid the jury to comprehend the
14 case with the charts and put them together with the

15 evidence that was admitted.
16 I do think the danger is that the charts
17 become the only evidence in the case and the jury just
18 follows down the charts without going to the underlying
19 evidence and making sure that the charts adequately
20 represent the evidence and they're not distracted by the
2 charts in reviewing the entire case that's been put
2 before them.
2 MS. SWEENEY: Your Honor, that's why the
2 limiting instruction that's quoted at footnote 32 is
2 important.

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1 If there are particular entries that
2 Mr. Wehner would like to call to the Government's
3 attention or the Court would like to call to the

allbinders as word for experiment.txt
4 Government's attention in terms of language we certainly

5 could take another look and see if there is language

6 that can be worked out.

7 THE COURT: All right.

8 what I'll do, as I said, I will go through

9 these myself and have the defendant go through these if
10 he wishes and point out other areas beyond what he's
11 already pointed out, that he thinks raises concerns and,
12 we can then modify the charts because I don't think the
13 jury has to have them before them at this time. We
14 could let the jury see them Monday afternoon before the
15 defendant begins her case, if that's what you wish to
16 do.

17 MS. SWEENEY: Thank you, Your Honor.

18 THE COURT: But I will make a basic ruling, I
19 believe, in this case that the multiple exhibits, the
20 multiple dates, the multiple projects and complex
2 scenarios of going through HUD with these applications

2 and the rehab funding chronology with the various
2 players that have been introduced to the jury, all the
2 witnesses, that a summary chart will not be
2 inappropriate. It merely depends upon the nature of the

1966

1 chart, what the jury would be allowed to take to the

2 jury room. And I recognize the potential prejudice to

3 the defendant.

4 I certainly would be concerned about having

5 the juxtaposition of these various dates and times and

6 meetings but I'm not sure that's not fair, if the

7 meetings actually did occur or the meetings were

8 actually scheduled. That's what the facts showed.

9 All right. I will then have you, Mr. Wehner,

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10 look this over today and we'll take it up on Monday
11 morning as to changes to be made in the chart or you can
12 talk to counsel over the weekend, and if it's on the
13 computer apparently changes can be made rather rapidly
14 so the jury can see them, or I'll just leave it
15 especially for the Government to introduce that chart
16 before the Government actually closes its case.
17 MR. WEHNER: Just to put the Independent
18 Counsel and Your Honor on some kind of notice, if the
19 charts are admitted to the jury room what I would intend
20 to do would be to use the charts as well in my closing,
2 make my interpretation of certain events on the same

2 charts and turn them essentially into counter-charts and
2 ask that those be submitted to the jury as well.
2 THE COURT: I can take it up, whatever you
2 submit to go to the jury. You certainly can use it for

1967

1 argument if it's relevant to the case. As to whether or
2 not the interpretations go to the jury is another
3 matter. It's just to have facts set forth in these
4 charts, nothing else. That's what I think the language,
5 promises, et cetera, can be changed and some of the
6 juxtapositions.
7 MR. WEHNER: Yes, that may be that I may not
8 be entitled to do that based upon the final analysis of
9 the charts.
10 THE COURT: That's fine. I think you can
11 attack the charts.
12 MR. WEHNER: And we may put in -- we may
13 simply, if they ultimately end up being neutral charts
14 on our defense, we may just put in counter-charts of the
15 evidence.
16 I'm trying to, given Your Honor's initial
17 ruling on the admissibility to the jury, I'm just trying
18 to alert everybody that I was -- I don't have any
19 discovery of counter-charts, but we may do that.
20 THE COURT: Let me just ask, have you got some
2 exhibits that have been agreed to?
2 MR. O'NEILL: Yes, Judge, there's a number of
2 documents that just for one reason or another didn't get
2 in evidence yet. Some were handwriting stipulations.
2 Some were other types of stipulations, specifically

1968

1 financial documents, and some are self-authenticating
2 HUD documents. There's a list here that I have, there's
3 approximately 35 documents.
4 THE COURT: And they're coming in by
5 stipulation or by witness?
6 MR. O'NEILL: Various things, Your Honor, not
7 by witnesses, stipulations. There are a number of
8 handwriting stipulations that we entered into earlier
9 and those documents need to go in. There were some that

10 were earlier stipulations of financial records, things

1 like that, a lot of checks which were -- evidence was
1 talked about, but at that point in time there was no

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1 entering it in, and then there's some
1 self-authenticating HUD documents that we'll move in.
1 So there's one row, and then some others.

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1 We would offer to put them into evidence and then
2 publish them briefly and go through that.
3 THE COURT: All right, that's fine.
4 MR. O'NEILL: Then the government would be resting.
5 THE COURT: Are there objections to these exhibits, do
6 you know, that have not been resolved?
7 MR. WEHNER: I doubt it.
8 THE COURT: Let's have the jury in, and we'll begin
9 that process and get them in this morning.
10 MR. WEHNER: Yes. I doubt if we have any, but we'll
11 look at them one by one.
12 MR. O'NEILL: I'll hand them to Steve one by one.
13 THE COURT: well, the presenter makes it rather rapid.
14 That works out well. I had our courtroom clerk in yesterday to
15 watch that process. The court does not have one of those
16 machines, but she was impressed by its use to speed up
17 documentary-type cases, either civil or criminal.
18 All right, we're ready to go.
19 THE DEPUTY MARSHAL: Yes, Your Honor.
20 THE COURT: Is this the U.S. Attorney's machine, or is
2 this the FBI's?
2 MR. O'NEILL: Justice.
2 THE COURT: Justice? Is this the one I had at the last
2 trial?
2 MR. O'NEILL: No.

1970

1 THE COURT: I just wanted to see how many were
2 available. We have some more big trials coming up.
3 (Jury in.)
4 THE COURT: All right, Ladies and Gentlemen, good
5 morning. I'm glad you're ready to go.
6 I just discussed with counsel where we are, and we're
7 going to proceed with documents today. The government is going
8 to introduce documents. There will not be any live witnesses, as
9 I had mentioned yesterday. we'll have various documents the
10 government wants to introduce in evidence either through
11 stipulation or through the rules of evidence that permit a
12 document to be introduced without a witness identifying it
13 because it's what we call self-authenticating, that is, an
14 official government record.
15 After that, today -- and that will take an hour or so,
16 I suspect, a little bit more, maybe an hour and a half --we will
17 be in recess until Monday afternoon. There's one other group of
18 documents we are still reviewing that have to be considered, and
19 we'll probably not have those available for you until Monday

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20 afternoon.

2 So we're still basically on track where we were
2 yesterday. All right, we'll have the government begin this
2 morning then their document introduction.

2 MR. O'NEILL: Your Honor, at this time, I would read a
2 stipulation to the jury.

1971

1 THE COURT: All right.

2 MR. O'NEILL: "It is hereby stipulated and agreed by
3 and between the United States and the defendant that:
4 "1. The Committee on Banking, Housing and Urban
5 Affairs of the United States Senate, the Senate Banking
6 Committee, is a body duly authorized by law to administer oaths;
7 "2. On August 6, 1987, the Senate Banking Committee
8 had a quorum present at the hearing on the nomination and
9 confirmation of Deborah Gore Dean to be assistant secretary of
10 Community, Planning and Development;
11 "3. On August 6, 1987, the defendant, Deborah Gore
12 Dean, took an oath to testify truly before the Senate Banking
13 Committee."

14 THE COURT: All right. That's stipulated to by counsel
15 and the defendant.

16 MR. WEHNER: That's correct, Your Honor.

17 THE COURT: All right, thank you.

18 MR. O'NEILL: Your Honor -

19 THE COURT: Let me just mention one thing, Ladies and
20 Gentlemen of the Jury. You've been hearing the word
21 "stipulation" a lot, and it was mentioned it's an agreed
22 statement of facts. A stipulation may be one of a couple of
23 things.

24 A stipulation is a fact, is an agreed statement of fact
25 between counsel and the defendant, and you are to regard the

1972

1 stipulated facts as undisputed evidence, and then a stipulation
2 is an agreement. It also can be a stipulation of testimony, that
3 is, an agreed statement between counsel and the defendant of
4 testimony a witness would have given if the witness had been in
5 court, and again, if there's stipulated testimony, it's
6 considered as undisputed evidence in the case as to what the
7 witness would have testified.

8 A stipulation should be treated like evidence in the
9 case, except they are undisputed evidence. They are facts that
10 have been established by the stipulation or testimony that's been
11 established by the stipulation.

12 All right.

13 MR. O'NEILL: Thank you, Your Honor. At this time,
14 Your Honor, the government would move into evidence Government's
15 Exhibit 28, pursuant to a handwriting stipulation.

16 THE COURT: All right, Government 28 will be admitted.
17 (Government's Exhibit No. 28 was
18 received in evidence.)

19 MR. O'NEILL: I would ask to publish it to the jury,
20 Your Honor.

21 THE COURT: All right, it may be published.

22 MR. O'NEILL: At this time, Your Honor, I move into
23 evidence Government's Exhibit 3IB, pursuant to a
24 self-authenticated document.

25 THE COURT: All right. 28 was admitted for the

1973

1 handwriting beside the document itself; am I correct?
2 MR. O'NEILL Yes, Your Honor.
3 THE COURT: All right. That's a signature of
4 Ms. Dean's?
5 MR. O'NEILL Yes, Your Honor.
6 THE COURT: All right.
7 MR. O'NEILL It's a handwriting stipulation.
8 THE COURT: All right. What's the next number, please?
9 MR. O'NEILL 3IB, Your Honor.
10 THE COURT: All right, that HUD document will be
11 admitted.
12 (Government's Exhibit No. 3IB was
13 received in evidence.)
14 MR. O'NEILL : Next, Your Honor, the government would
15 offer Government's Exhibit 49 pursuant to a stipulation.
16 THE COURT: All right, 49 by a stipulation will be
17 admitted. -"
18 (Government's Exhibit No. 49 was
19 received in evidence.)
20 MR. O'NEILL : Your Honor, the government would offer
2 Government's] Sxhibit ! 51 pursuant to a stipulation.
2 THE COURT: All right, 51 by a stipulation will be
2 admitted, with no objections.
2 (Government's Exhibit No. 51 was
2 received in evidence.)

1974

1 MR. O'NEILL: Your Honor, the government would offer
2 Government's Exhibit 54A pursuant to a stipulation.
3 THE COURT: All right, Government 54A by stipulation
4 will be admitted, no objections.
5 (Government's Exhibit No. 54A was
6 received in evidence.)
7 MR. O'NEILL: Your Honor, the government would offer
8 Government's Exhibit 54B pursuant to stipulation.
9 THE COURT: All right, Government 54B will be admitted
10 by stipulation with no objection.
11 (Government's Exhibit No. 54B was
12 received in evidence.)
13 MR. O'NEILL: Your Honor, pursuant to stipulation
14 again, the government would offer Government's Exhibit 54C.
15 THE COURT: All right, Government's 54C is admitted by
16 stipulation, no objection.
17 (Government's Exhibit No. 54C was
18 received in evidence.)
19 MR. O'NEILL: Pursuant to stipulation, the government
20 would offer into evidence Government's Exhibit 83.
2 THE COURT: All right, Government 83 will be admitted
2 by stipulation, no objection.
2 (Government's Exhibit No. 83 was
2 received in evidence.)
2 MR. O'NEILL: Again, pursuant to stipulation, Your

1975

1 Honor, the government would offer into evidence Government's
2 Exhibit 87.
3 THE COURT: All right. No objection, by stipulation,
4 87 will be admitted.
5 (Government's Exhibit No. 87 was
6 received in evidence.)
7 MR. O'NEILL At this time, Your Honor, the government
8 would offer into evidence Government's Exhibit 94 pursuant to

9 stipulation.

10 THE COURT: All right, Government's 94 will be admitted

11 by stipulation without objection.

12 (Government's Exhibit No. 94 was

13 received in evidence.)

14 MR. O'NEILL : I need to slow down a little here, Judge.

15 THE COURT: All right. You didn't get 87 up on the

16 screen yet.

17 MR. O'NEILL : At this time, Your Honor, the government

18 would introduce into < evidence Government's Exhibit 96 pursuant to

19 stipulation.

20 THE COURT: All right, Government's Exhibit 96 pursuant

21 to stipulation is admitted without objection.

22 (Government's Exhibit No. 96 was

23 received in evidence.)

24 MR. O'NEILL : At this time, Your Honor, the government

25 would introduce into < svidence Government's Exhibit 97 pursuant to

1976

1 stipulation.

2 THE COURT: All right, Government 97 will be admitted

3 pursuant to stipulation, no objection.

4 (Government's Exhibit No. 97 was

5 received in evidence.)

6 MR. O'NEILL: At this time, Your Honor, the government

7 would introduce into evidence Government's Exhibit 98 pursuant to

8 stipulation.

9 THE COURT: All right, Government 98 is admitted

10 without objection by stipulation.

11 (Government's Exhibit No. 98 was

12 received in evidence.)

13 MR. O'NEILL: At this time, Your Honor, the government

14 would introduce into evidence Government's Exhibit 99B pursuant

15 to stipulation.

16 THE COURT: All right, Government 99B will admitted

17 pursuant to stipulation without objection.

18 (Government's Exhibit No. 99B was

19 received in evidence.)

20 MR. O'NEILL: At this time, pursuant to stipulation,

2 Your Honor, the government would introduce Government's Exhibit

2 99C.

2 THE COURT: All right, Government's 99C is admitted by

2 stipulation without objection.

2

1977

1 (Government's Exhibit No. 99C was

2 received in evidence.)

3 MR. O'NEILL: At this time, Your Honor, the government

4 would introduce Government's Exhibit 106, a self-authenticated

HUD document.

6 THE COURT: All right, the Court will admit 106 -

7 MR. WEHNER: Yes, sir.

8 THE COURT: -

without objection pursuant to

9 stipulation. It's a HUD document.

10 (Government's Exhibit No. 106 was

11 received in evidence.)

12 MR. O'NEILL: Your Honor, at this time, the government

13 would introduce Government's Exhibit No. 106A as a self14

authenticated HUD document.

15 THE COURT: All right, 106A will be admitted as a

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16 self-authenticated HUD document without objection.
17 (Government's Exhibit No. 106A was
18 received in evidence.)
19 MR. O'NEILL: Your Honor, at this time, the government
20 would introduce into evidence Government's Exhibit 109 as a
2 self-authenticated HUD document.
2 THE COURT: All right, 109 will be admitted, a
2 self-authenticated HUD document, with no objection.
2 (Government's Exhibit No. 109 was
2 received in evidence.)

1978

1 MR. O'NEILL: And at this time, Your Honor, I would
2 move into evidence Government's Exhibit 109A as a self3
authenticated HUD document.
4 THE COURT: All right, 109A will be admitted with no
5 objection, a self-authenticated document.
6 (Government's Exhibit No. 109A was
7 received in evidence.)
8 MR. O'NEILL: Your Honor, at this time, the government
9 would move into evidence Government's Exhibit 119 pursuant to a
10 handwriting stipulation.
11 THE COURT: This is by stipulation on 119?
12 MR. O'NEILL: Yes, sir.
13 THE COURT: All right, 119 will be admitted by-
14 stipulation, no objection.
15 (Government's Exhibit No. 119 was
16 received in evidence.)
17 MR. O'NEILL: Your Honor, at this time, the government
18 would introduce into evidence Government's Exhibit 122 pursuant
19 to stipulation.
20 THE COURT: All right, Government 122 is admitted by
2 stipulation, no objection.
2 (Government's Exhibit No. 122 was
2 received in evidence.)
2 MR. O'NEILL: At this time, Your Honor, the government
2 would introduce into evidence Government's Exhibit 123 as a self

authenticated HUD document.
2 THE COURT: All right, Government 123, a self3
authenticated document, will be admitted.
4 (Government's Exhibit No. 123 was
5 received in evidence.)
6 MR. O'NEILL: At this time, Your Honor, the government
7 would introduce into evidence Government's Exhibit 124A as a
8 self-authenticated HUD document.
9 THE COURT: All right, 124A is admitted, self10
authenticated document, no objection.
11 (Government's Exhibit No. 124A was
12 received in evidence.)
13 MR. O'NEILL: At this time, Your Honor, the government
14 would introduce into evidence Government's Exhibit 125 as a
15 self-authenticated HUD document.
16 THE COURT: All right, Government's Exhibit 125, a
17 self-authenticated document, will be admitted with no objection.
18 (Government's Exhibit No. 125 was
19 received in evidence.)
20 MR. O'NEILL: Your Honor, at this time, the government
21 would introduce into evidence Government's Exhibit 157 as a
22 self-authenticated HUD document.
23 THE COURT: All right, 157, a self-authenticated HUD
24 document, will be admitted with no objection.
25

1980

1 (Government's Exhibit No. 157 was
2 received in evidence.)

3 MR. O'NEILL: At this time, Your Honor, the government
4 will introduce into evidence Government's Exhibit 158 as a
self-authenticated HUD document.

6 THE COURT: All right, Exhibit 158, a self
authenticated document, is admitted, no objection.

8 (Government's Exhibit No. 158 was
9 received in evidence.)

10 MR. O'NEILL: Your Honor, at this time, the government
11 would introduce Government's Exhibit 172 pursuant to stipulation.

12 THE COURT: All right then?

13 MR. O'NEILL: Yes, Your Honor, with one slight
14 revision.

15 MR. O'NEILL: Judge, just so the record is clear, there
16 was something on there that has nothing to do with the case.

17 THE COURT: All right, you can delete that.

18 All right, 172 is admitted, would be admitted by-
19 stipulation, no objection.

20 (Government's Exhibit No. 172 was
2 received in evidence.)

2 MR. O'NEILL: At this time, Your Honor, the government
2 would introduce into evidence Government's Exhibit 181 pursuant
2 to a handwriting stipulation.

2 THE COURT: All right, Government 181 is admitted by a

1981

1 stipulation, no objection.

2 (Government's Exhibit No. 181 was
3 received in evidence.)

4 MR. O'NEILL: At this time, Your Honor, the government
5 will introduce into evidence Government's Exhibit 182, as a
6 self-authenticated HUD document.

7 THE COURT: All right. Then Government 182, a
8 self-authenticated HUD document, will be admitted, no objection.

9 (Government's Exhibit No. 182 was
10 received in evidence.)

11 MR. WEHNER: Judge, the record reflects we've asked
12 that the second two pages of that exhibit be replaced with
13 xeroxes that are more readable for the jury.

14 MR. O'NEILL: That's correct, Your Honor.

15 THE COURT: That's fine, thank you. They'll be
16 replaced.

17 MR. O'NEILL: Your Honor, at this time, pursuant to;a
18 handwritten stipulation as well as self-authenticated document,
19 the government would move into evidence Government's Exhibit 185.

20 THE COURT: All right, Government's 185 is admitted
2 without objection as stipulated to.

2 (Government's Exhibit No. 185 was
2 received in evidence.)

2 MR. O'NEILL: At this time, Your Honor, the government
2 would move into evidence Government's Exhibit 189 pursuant to a

1982

1 handwriting stipulation.

2 THE COURT: 189 is a stipulated handwriting exhibit,

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3 it's admitted then without objection.
4 (Government's Exhibit No. 189 was
5 received in evidence.)
6 MR. O'NEILL: Your Honor, at this time, the government
7 would move into evidence Government's Exhibit 199 pursuant to
8 stipulation.
9 THE COURT: All right, Government's 199 is admitted
10 pursuant to stipulation, no objection.
11 (Government's Exhibit No. 199 was
12 received in evidence.)
13 MR. O'NEILL: Once again, Your Honor, pursuant to
14 stipulation, the government would introduce into evidence
15 Government's Exhibit 200.
16 THE COURT: 200 is admitted pursuant to stipulation, no
17 objection.
18 (Government's Exhibit No. 200 was
19 received in evidence.)
20 MR. O'NEILL: At this time, Your Honor, the government
21 would introduce into evidence Government's Exhibit 204 as a
22 self-authenticated HUD document.
23 THE COURT: All right. 204 will be admitted as a
24 self-authenticated document, no objection.
25

1983

1 (Government's Exhibit No. 204 was
2 received in evidence.)
3 MR. O'NEILL : At this time, Your Honor, the government
4 would introduce into evidence Government's Exhibit 208A pursuant
5 to stipulation.
6 THE COURT: All right, Government 208A pursuant to
7 stipulation will be admitted, no objection.
8 (Government's Exhibit No. 208A was
9 received in evidence.)
10 MR. O'NEILL : At this time, Your Honor, the government
11 would introduce into evidence Government's Exhibit 210 pursuant
12 to a stipulation.
13 THE COURT: All right, Government 210 will be admitted
14 pursuant to stipulation, no objection.
15 (Government's Exhibit No. 210 was
16 received in evidence.)
17 MR. O'NEILL : At this time, Your Honor, the government
18 would introduce into evidence pursuant to stipulation
19 Government's Exhibit 246.
20 THE COURT: All right, Government's 246 pursuant to
2 stipulation will be admitted.
2 (Government's Exhibit No. 246 was
2 received in evidence.)
2 MR. O'NEILL : At this time, Your Honor, the government
2 would introduce into evidence Government's Exhibit 212 as a

1 public document.
2 MR. WEHNER: May we approach?
3 THE COURT: Sure.
4 (Bench conference on the record.)
5 THE COURT: Let's see 212. For the record, that's the
6 hearing for the Committee on Banking, et al., August 6, '87, with
7 the testimony of Deborah Gore Dean materials. All right.
8 MR. WEHNER: I don't object, Judge, to the
9 admissibility of the document except insofar as to reserve my
10 objections to redactions before it's sent out with the jury.
11 MR. O'NEILL: Okay. Since Steve raised that now,
12 Judge, we were planning to read a couple of the provisions of the
13 subject of this. Do you want to know what they are now so

14 that -

15 THE COURT: There are some areas that you wanted to
16 redact?

17 MR. O'NEILL: No, no. We were going to publish it to
18 the jury just by reading.

19 THE COURT: You mean the title?

20 MR. O'NEILL: No, the, the parts that are relevant to
2 this case.

2 THE COURT: Oh, I see. You wanted to read her
2 testimony as to the perjury charges?

2 MR. WEHNER: Judge, I don't know what they are going to
2 read, but I'm going to argue that the passages before and after

1985

1 are relevant to the perjury counts, and if they are going to read
2 portions of it in, I would probably ask that other portions be
3 read it.

4 And I, frankly, am not sure it's necessary to do that
5 today. I mean, Mr. O'Neill is clearly, or Ms. Sweeney is clearly
6 entitled to put that on the screen in closing argument. I mean,
7 it says what it says. It's admitted except for redactions. I'm
8 not sure it's necessary to get into what --to read it to the
9 jury at this point.

10 THE COURT: I think they have a right to read to the
11 jury after they put the document in evidence the principal areas
12 of her testimony they've alleged are perjurious, and I think if
13 you wish, I can --if you want to point out the additional
14 phrases before or after you think that are relevant, I can have
15 them read the whole paragraph or whatever you want at this time.

16 MR. WEHNER: Sure.

17 THE COURT: Are you going to read these marked ones?

18 MR. O'NEILL: No.

19 MS. SWEENEY: We have actually a copy that's been
20 marked, Your Honor, and if Mr. Wehner would like to look at this
2 and mark some additional -2

THE COURT: He can expand a little bit if he wants to.

2 I know there is one talking about which HUD program, et cetera.

2 I'll admit that in open court, 212.

2 (End of bench conference.)

1 THE COURT: All right, 212 would be admitted as
2 discussed as a public document.

3 (Government's Exhibit No. 212 was
4 received in evidence.)

5 THE COURT: All right, Ladies and Gentlemen, the 212 is
6 a hearing before the Senate Banking Committee on the nomination
7 of Deborah Gore Dean to be assistant secretary on August 6, 1987.
8 It's a very thick document, so you'll have an opportunity to read
9 it during deliberations. You won't get to read it all now on the

10 screen. There will be some parts the government in a minute will
11 point out to you as relevant to their case.

0 12 Ladies and Gentlemen, all the documents that have been
13 introduced in the trial in this case or will be introduced in the
14 future in the trial of this case as evidence you'll get to read
15 carefully, as opposed to just seeing it for a while on the screen
16 during deliberations. They'll all be available to you.

17 All right, we're ready to proceed then? Thank you.

18 MS. SWEENEY: Yes, Your Honor. Referring to page 52 of
19 the hearing, starting with the chairman:

20 "THE CHAIRMAN: Now, Ms. Dean, we have received a

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2 number of complaints that in 1987, this year, there has been no
2 notification of funds availability at regional offices.
2 "This is troublesome, because this notification is

2 important to promote applications so that all worthy candidates

2

have a chance to reply and so that HUD has the chance and the

1987

1 time to rank the applicants.
2 "Instead, it is suggested that informal solicitations
3 and unawarded applications from the past are guarded by you, that
4 you personally go through the selections, excluding reviews by
5 the appropriate staff experts.
6 "Furthermore, it is suggested that developers have
7 personally come to you asking for awards. As you know, the
8 proper procedure is for the HUD Washington office to deal with
9 housing authorities and for them to deal with developers.
10 "In some cases, the housing authorities have
11 subsequently alerted HUD that these funds aren't even needed.
12 "How do you respond to that?
13 "MS. DEAN: Senator, have you switched programs? Are
14 you still on the secretary's discretionary fund?
15 "THE CHAIRMAN: I'm sorry, will you -
you're speaking
16 clearly but, I think, a little too fast for my slow mind, so will
17 you -
18 "MS. DEAN: I've always thought you talked too fast for
19 me.
20 "MS. DEAN: Have you switched programs, or are you
21 still referring to the secretary's discretionary fund? Because
22 we don't put out notices to the field for funding applications in
23 that program.
24 "THE CHAIRMAN: Mod rehab.
25 "MS. DEAN: Okay. Would you repeat your question,

1988

1 please?
2 "THE CHAIRMAN: well, all right. I'll go slower, too.
3 we received a number of complaints that in 1987, this year, there
4 has been no notification of funds availability to regional
5 offices. This is troublesome because this notification is
6 important to promote applications so that all worthy candidates
7 have a chance to apply and that HUD has the chance and the time
8 to rank the applicants.
9 "Instead, it is suggested that informal solicitations
10 and unawarded applications from the past are guarded by you and
11 that you personally go through the selections, excluding review
12 by the appropriate staff experts.
13 "Furthermore, it is suggested that developers have
14 personally come to you asking for awards.
15 "Now as you know, the proper procedure is for the HUD
16 Washington office to deal with the housing authorities and for
17 them to deal with developers.
18 "MS. DEAN: well, to my knowledge, we do not put out a
19 notice of funding availability on the Mod Rehab Program."

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20 THE COURT: You skipped a few lines, I think,
2 Ms. Sweeney, just inadvertently, at least the ones on the screen
2 It has another few lines. After "developer," it goes to "In some
2 cases." Am I right now?
2 MS. SWEENEY: Yes, Your Honor. I indicated to
2 Mr. Wehner that I was not going to read those couple of lines,

1989

1 but I'd be more than happy to.
2 MR. WEHNER: That's fine.
3 MS. SWEENEY: Okay. Do you want us to read them?
4 MR. WEHNER: Sure.
5 MS. SWEENEY: Fine, okay.
6 "In some cases, the housing authorities have
7 subsequently alerted HUD that these funds aren't even needed.
8 "How do you respond to that?"
9 "MS. DEAN: well, to my knowledge, we do not put out a
10 notice of funding availability on the Mod Rehab Program. I have
11 never seen us do one since I've been at HUD.
12 "The program instead works that the field offices
13 receive applications from public housing authorities. They are
14 rated and ranked, sent to the regional administrator, who forward
15 them to the assistant secretary for housing, federal housing
16 commissioner.
17 "The assistant secretary for housing puts together the
18 applications and, with the deputy assistant secretary for
19 multi-family housing, comes to some conclusion as to where they
20 believe these funds could best be used.
21 "Once again, they bring it to a panel of people, which
22 is the under secretary, the executive assistant to the secretary,
23 and the federal housing commissioner. That panel goes solely on
24 information provided by the assistant secretary for housing. He
25 gives us the information, and the three of us make

1990

1 recommendations to the secretary, who is the person who approves
2 those units.
3 "I have never given or approved or pushed or coerced
4 anyone to help any developer. Those funds go directly to the
5 public housing authority.
6 "As a matter of fact, I have regular meetings with
7 public housing authorities where I tell them that they should be
8 dealing directly with developers. A lot of times, public housing
9 authorities send developers to HUD, and they meet with people all
10 over the building. It's a tremendous waste of time, and I let
11 them know that, because those funds go to the public housing
12 authorities."
13 Referring to page 56 of the transcript:
14 "THE CHAIRMAN: Now, Ms. Dean, can you tell us about
15 your involvement in the deployment of Section 8? That's the
16 moderate rehabilitation funds for a project known as Baltimore
17 Uplift One. According to the Washington Post in a story dated
18 October 1984, there was an abuse of some \$17 million. According
19 to HUD staffers in Baltimore, these funds came from the
20 secretary's discretionary fund, and since you worked closely to
2 the secretary at that time, what can you tell us about that
2 problem?
2 "MS. DEAN: Senator, could you give me the date again?
2 "THE CHAIRMAN: Yes. The date is October 1984.
2 "MS. DEAN: I was executive assistant to the secretary

1991

1 at that time. I've never heard of Baltimore Uplift One. It was
2 a Moderate Rehabilitation Project?
3 "THE CHAIRMAN: What's that?
4 "MS. DEAN: You said it was in the Mod Rehab Program?
5 "THE CHAIRMAN: Mod, Section 8, moderate
6 rehabilitation. That's right.
7 "MS. DEAN: There are two explanations why I would not
8 know it. I might not know the name, or those funding decisions
9 were made prior to my appointment in June and the funds were not
10 released from the department until October.
11 "But I've never heard of Baltimore Uplift One. As a
12 matter of fact, no moderate rehabilitation units that I know of,
13 unless they were sent directly by the secretary, have ever gone
14 to my home state of Maryland, simply for that reason -- that I
15 sat on the panel."
16 MR. O'NEILL: Your Honor, that concludes the
17 presentation of the government's case. »
18 THE COURT: All right. With the exception of the
19 additional documents discussed this morning, then the government,
20 Ladies and Gentlemen, is resting their case in chief, as I
21 explained the other day. So we're going to recess for the day in
22 this case for you all. There are going to be legal matters for
23 us to take up, and then Monday afternoon, we should be prepared
24 to go forward.
25 So we'll have you back here at 1:30 on Monday, please.

1992

1 It's a nice recess for you, but you've been very attentive and
2 deserve a break anyway. So we'll see you back here at 1:30 in
3 the afternoon Monday. Remember that time.
4 Remember also now it's a long recess, so if there
5 happens to be any publicity about this case, if it's in the
6 newspapers or television or radio, if someone tries to mention it
7 to you at home because they've read about it or something, please
8 don't read, listen, or watch anything about this case. Don't
9 talk among yourselves going home or, if you see each other this
10 weekend, talk about the case in any fashion or on the way out
11 today.
12 It's very important that you listen to the admonition
13 not to do so, because as I've explained to you many times, you
14 have to determine this case on only what you hear in this
15 courtroom that's admitted into evidence, and on no other basis
16 except my instructions do you make your final determination in
17 this case.
18 Have a very pleasant weekend, and we'll see you back
19 here on Monday at 1:30 in the afternoon. All right, you're free
20 to go. Thank you.
21 (Jury out.)
22 THE COURT: All right, counsel, what's the schedule on
23 Monday morning? I'll get you in here Monday morning so we can
24 take care of these arguments and these documents as well.
25 MR. O'NEILL: Judge, there was one matter I mentioned

1993

1 with Mr. Wehner this morning. Obviously, he's under time
2 constraints filing a written Rule 29 motion. We, of course,
3 would like to respond in writing to his Rule 29 motion.
4 As he was saying yesterday and again as we spoke this

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5 morning, it will be very difficult for him to get something
6 before probably Monday morning. I would have no problem with
7 arguing orally Monday morning, and then we had thought if you
8 want to proceed with the witnesses and we could file something,
9 say, Tuesday morning, then you could have it. Whatever the
10 Court -
11 obviously, that was between us, as opposed to whatever
12 Your Honor wants to do.
13 THE COURT: Just reserve on the ruling until we get the
14 written material in? It depends somewhat on what I think of the
15 case on Monday morning after I hear argument, but I'm not opposed
16 to doing that.
17 MR. O'NEILL: We would then need time to respond in
18 writing.
19 THE COURT: But I would like to be able to move forward
20 with the case.
21 well, I think he should get his work done when he can
22 get it done, and then Monday morning, we'll hold the arguments,
23 and if you wish to submit something in writing, I can see about
24 reserving any argument for a while and see if we can go ahead.
25 If there are certain areas I want to rule on, I may go ahead and
rule on them. Let me just see how we look Monday morning.

1994

1 MR. WEHNER: Judge, it may help Mr. O'Neill, my
2 writing, I think --my writing will be limited to the conspiracy
3 counts, and I will be only arguing the perjury counts -
4 THE COURT: Orally?
5 MR. WEHNER: -
6 orally.
7 THE COURT: All right.
8 MR. WEHNER: And I don't think I have any case law up
9 my sleeve that the whole world is not well aware of.
10 THE COURT: All right.
11 MR. WEHNER: But I'm not going to be filing anything on
12 the perjury counts, frankly, because I just don't have the time
13 to get to it and do the job I want to, but it will be on those
14 conspiracy counts.
15 MR. O'NEILL: would you be able to do it by noon
16 Sunday, or do you think that would be -
17 MR. WEHNER: I tell you what: I know that I will have
18 a draft ready sometime Sunday afternoon, and if you don't hold me
19 to the draft, I'll be glad to fax you a draft or get you a draft
20 as soon as I do that. I don't have any problem with that.
21 THE COURT: If you still need a little more time, we
22 can take it up Monday. we can hear it orally. If you want to
23 put something in writing, I can hold off.
24 MR. WEHNER: Your Honor, we would ask that the tape -
25 we would like to play the tape recording of the testimony.
MR. O'NEILL: Okay. So we have to get that.

1 MR. WEHNER: So we would ask Independent Counsel to
2 produce that official tape recording. We would intend to play
3 that in our defense case.
4 MR. O'NEILL: Okay. Judge, just so the record is
5 clear, we can get that, but the court reporter has it.
6 THE COURT: You don't have it?
7 MR. O'NEILL: No. We did not keep custody of it.
8 THE COURT: Do you know if it's true and accurate? I
9 mean, he can certify it's a true and accurate copy of what went
10 on?
11 MR. O'NEILL: Yes. He has it, for the record, Judge,

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12 and we do have a copy --we can get that from him. He took it
13 with him this morning as he left the courthouse. That shouldn't
14 be a problem.

15 THE COURT: I see, all right.

16 MS. SWEENEY: For the record, Your Honor, it is the
17 court reporter's copy of the tape. It's the court reporter's
18 original copy of the tape recording.

19 THE COURT: well, if you can all stipulate that it's
20 true and accurate, that's fine. Otherwise, you may have to get
21 him in here and have him say it's accurate and that it reflects
22 the transcript.

23 MR. O'NEILL: That should be no problem, Judge.

24 MR. WEHNER: Absolutely.

25 MR. O'NEILL: It's his copy.

1996

1 MR. WEHNER: If the Independent Counsel is willing to
2 stipulate it's true and accurate, I will, because I'm sure it is.

3 THE COURT: You might want to listen to it to make sure
4 over the intervening years something hasn't deteriorated the tape
5 and you can't hear things or something. I have no idea what's
6 happened over the last several years with it.

7 MR. WEHNER: That's true. I've had very little success
8 in arguing that a court reporter's transcript doesn't accurately
9 reflect what was said in a hearing, although I've tried on
10 occasion.

11 MS. SWEENEY: Why am I not surprised?

12 THE COURT: There have been some judges that wish they
13 could change the transcript as well.

14 All right. well, we'll see you all 9:30 Monday
15 morning.

16 MR. O'NEILL: Thank you, Your Honor.

17 THE COURT: And we'll be ready to go at that time.

18 You'll have a witness or so on Monday afternoon, you think?

19 MR. WEHNER: Yes, sir, I will.

20 THE COURT: Or exhibits or whatever you want to
2 introduce?

2 MR. WEHNER: I have told Mr. O'Neill where we are on
2 our witnesses, and I think that with the exception of Ms. Dean's
2 testimony, we would probably be limited to six, seven witnesses,
2 in that range, most of which I anticipate the cross is going to

1997

1 be brief, and the direct may be brief as well.

2 The way this case has been tried has surprised me a
3 little bit, because we're going to be introducing a lot of
4 exhibits, but I think that those exhibits have come in through
5 the case-in-chief testimony, the government's case-in-chief
6 testimony, or will come in over no objection, because at least 99
7 percent of them came out of the Office of Independent Counsel's
8 documents, and Your Honor's rulings on hearsay issues will be
9 consistent, I'm sure, in terms of documents, like Mitchell
10 documents, for example, were found out in Marti Mitchell's
11 place -

12 THE COURT: I see.

13 MR. WEHNER: -

like things of that nature we'll be
14 introducing.

15 I don't know if Mr. O'Neill will object, but I would
16 anticipate there won't be much legal argument as to their
17 admissibility, because Your Honor has already considered most of
18 those arguments.

19 THE COURT: Ms. Dean is going to take the stand at this
20 time you anticipate anyway?

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2 MR. WEHNER: Yes, sir. And I think her direct will
2 probably be four to five hours total, which may be a whole day.
2 I've told Mr. O'Neill she is not going to be the first witness,
2 nor is she going to be the last witness.
2 THE COURT: All right.

1998

1 MR. WEHNER: Best guess, she'd start Wednesday.
2 THE COURT: All right, fine.
3 THE DEFENDANT: I feel like a race horse.
4
5
6
7
8
9
THE COURT: All right, we'll be ready to go then at
9:30 on Monday morning with the arguments and with the witnesses
as necessary on Monday afternoon.
MR. WEHNER: I'm sorry, Judge, did I say best guess
Wednesday? Best guess is actually Tuesday, I'm sorry.
THE COURT: All right.
10 MR. WEHNER: Best guess is probably Tuesday afternoon.
11
12
13
THE COURT: All right. Then we'll see you Monday.
(Recess from 11:20 a.m., to 9:30 a.m., October 4, 1993.)
14 CERTIFICATE OF THE REPORTERS
15
16
17
We certify that the foregoing is a correct transcript of the
record of proceedings in the above-entitled matter.
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1999

ORIGINAL

1 UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
2
UNITED STATES OF AMERICA, Criminal No. 92-181-01
3
vs . Washington, D.C.
4 October 4, 1993
DEBORAH GORE DEAN, 10:20 a.m.
5
Defendant. FILED
6
oc v -4*7995

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7

TRANSCRIPT OF JURY TRIAL ,A;c !JLn
8 BEFORE THE HONORABLE THOMAS F. HOGAN"
UNITED STATES DISTRICT JUDGE

9

VOLUME XVI

10

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2 Washington, D.C. 2 0001

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(Pages 1999 - 2106)

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COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

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6

7

WITNESSES ON BEHALF OF

THE DEFENDANT-

Susan Withington

Janet Whitman

Bruce E. Clinton

10

11 GOVERNMENT'S:

12 No. 511

13

14 DEFENDANT'S:

15 No. 208

16 209

17 210

18 213 and 214

19

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PROCEEDING S

2 (Defendant present, Jury out.)
3 THE CLERK: Criminal No. 92-181, United States of
4 America v. Deborah Gore Dean. We have Robert O'Neill and Paula
5 Sweeney for the government, Stephen Wehner for Ms. Dean.
6 THE COURT: All right, good morning, counsel.
7 MR. WEHNER: Good morning.
8 THE COURT: I appreciate all the briefing that I've
9 just received and had a chance to review this morning.
10 I'd like to talk to counsel and the defendant at the
11 bench about an unrelated matter for a minute, unrelated to these
12 motions.
13 (Bench conference on the record.)
14 THE COURT: Just for the record, in case somebody says
15 something, my law clerk wandered in Ms. Dean's shop unknowingly
16 over the weekend with her mother when she was just visiting, who
17 is not from here in town, and ran into Ms. Dean in her shop, not
18 knowing it was Ms. Dean's shop, but I think that's all that
19 happened. All right?
20 MR. O'NEILL: Thanks, Judge.
21 THE COURT: All right.
22 (End of bench conference.)
23 THE COURT: All right, we've had filed with the
24 Court -- did you file the originals yet, Mr. Wehner?
25 MR. WEHNER: No, sir. I can give you another copy.

2002

1 THE COURT: Okay. We have had copies delivered to
Page 1126

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2 chambers, and the original will be filed with the Court -
3 MR. WEHNER: I can hand the original up now, Your
4 Honor.
5 THE COURT: All right. Of the defendant's motions for
6 judgment of acquittal as to all counts of the indictment, but
7 focusing primarily on, essentially on the conspiracy counts. The
8 government has taken an opportunity, I'm not sure when all of
9 this was done, but the government also put together an opposition
10 to the motion for judgment of acquittal as well, and the original
11 of that can be filed with the Court.
12 I'd like to hear from the defendant on this at this
13 time and then from the government.
14 MR. WEHNER: Thank you, Your Honor. Just so the record
15 is clear as to the timing, I fax'd early yesterday morning,
16 Saturday morning, a draft of our brief to the Independent
17 Counsel. It was basically complete except for the trial tran- -
18 it was complete except for the transcript notations, which we
19 added yesterday, but the law was there, so that may have allowed
20 them to get a leg up on where we were.
2 MS. SWEENEY: Excuse me, Your Honor, just for the
2 record, I believe Mr. Wehner said Saturday. I think he means
2 Sunday.
2 MR. WEHNER: I said yesterday.
2 THE COURT: Early Sunday morning? All right.

2003

1 MR. WEHNER: Didn't I say yesterday?
2 THE COURT: That's all right. I think you said
3 Saturday and then yesterday. It doesn't matter.
4 MR. WEHNER: It was yesterday.
5 THE COURT: You all got it done and that's fine.
6 MR. WEHNER: Yeah, it was yesterday.
7 THE COURT: All right.
8 MR. WEHNER: Your Honor, I'd like to make a couple of
9 brief statements with regard to the overall conspiracy counts,
10 because I think that our argument is outlined in the brief fairly
11 well in terms of the basic proposition that we have talked about
12 throughout this trial, that inference upon inference upon
13 inference cannot equal a conspiracy, that social accommodations
14 with one another cannot equal an a conspiracy, association by
15 itself is not enough to establish a conspiracy. That line of
16 cases, I think, is fairly well established in terms of the
17 criminal law.
18 Now counter to that, of course, is the fact that, as I
19 agree with the Independent Counsel, circumstantial evidence is as
20 significant or as important or as admissible or as meaningful as
2 direct evidence is. I think that's true except in a case when
2 you have direct evidence from the government's own witnesses and
2 where the direct evidence is contrary to the circumstantial
2 evidence, I believe that taking the evidence in the light most
2 favorable to the government does not allow you to ignore the

2004

1 direct evidence, because it is the government's own witnesses who
2 have testified, as we have established in, as we have established
3 through both direct and cross examination.
4 And I'll give you a good example of that, Judge, and
5 although Ms. Sweeney or whoever wrote the government's brief
6 takes the position that we only move to dismiss the first couple
7 of conspiracies, we move to dismiss each and every count of the
8 indictment.
9 I'll give you an example of the Kitchin matter in terms

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10 of the gratuities. One of the reasons that that count should be
11 dismissed is because there's no evidence that it falls within the
12 statute of limitations, and we filed a motion to dismiss that
13 count pretrial in front of Judge Gesell, I believe, and of
14 course, ruling on that was reserved.
15 But if Your Honor looks at that check, you'll see that
16 it was dated over five years before the initial indictment, not
17 the superseding indictment, but the initial indictment was
18 returned, and then, of course, the superseding indictment falls
19 far out of that loop. But I point that out to your Court. So
20 you need to go back to the date of the initial indictment.
2 In terms of the perjury charges, it's an extremely
2 fact-bound argument, Judge, but the key to the argument on the
2 perjury charges is that Senator Proxmire limited his question to
2 the year 1987. Now that is directly out of the transcript. So
2 all of the testimony with regard to the process through which mod

2005

1 rehab funds were distributed or allocated through December 31,
2 1986, are by definition irrelevant to Ms. Dean's responses
3 concerning year 1987. He didn't say, he didn't say "fiscal
4 year." He said "in 1987."
5 And if you look at her responses to that testimony
6 compared to the testimony that was elicited from the witness
7 stand for 1987, there is an extreme parseness -sparseness,
I
8 should say, although parseness might be a good word, too --of
9 testimony from which you could, taken in the light most favorable
10 to the government, rationally conclude that Ms. Dean committed
11 perjury..
12 Because, for example, Barksdale, Janet Hale, all the
13 federal housing commissioners prior to January 1987 testified in
14 a manner that taken in the light most favorable to the
15 government, the mod rehab units were distributed inconsistently
16 with the testimony of Ms. Dean before that committee. But if you
17 look at the testimony of Mr. Demery, who was the appropriate
18 housing commissioner at the appropriate period of time, he did
19 not testify, in my judgment, to anything that's inconsistent with
20 Ms. Dean's testimony in response to Proxmire's question.
2 And as Your Honor knows, you have to look, especially
2 in a perjury case, extremely closely at the verbatim question and
2 the verbatim answer, because technicalities are enough.
2 I'd also point Your Honor to the issue on the perjury
2 points that Senator Proxmire never even asked a question, that

2006

1 what he said was, "How do you respond to this?" after an
2 extremely lengthy colloquy that he was -it
wasn't a colloquy,
3 soliloquy -- that he repeated twice because there was
4 misunderstanding apparently as reflected in the transcript on the
5 part of Ms. Dean.
6 And I, frankly, have not come up with a good way to
7 articulate that, the argument to the Court, but it strikes me
8 that if someone says to you, "How do you respond to this?" that
9 is an entirely different matter than saying, "Ms. Dean, how are
10 mod rehab units awarded?"
11 One calls for an extremely specific answer; the other
12 one calls for, in my judgment, for a broad generality of what she
13 believed that day at that time.
14 And I am not sure that a question that says, "How do
15 you respond to that?" can be perjurious by definition, because
16 she responded like that, just grammatically. She could have
17 said, "I can't respond," she could have said, "I can respond," or

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18 she could have given the response she gave. I don't know that
19 any response she gave can by definition be perjurious in response
20 to a question, "How do you respond to that?"
2 The problem with regard to the conspiracy counts
2 overall, Your Honor, is this, and it's a classic -I'll
save
2 that for later. The basis for the argument is really the
2 Zeialer case out of the D.C. Circuit. As Your Honor knows,
2 it's a recent case concerning this precise issue, and like most

2007

1 cases today, it arises out of a drug transaction, and it talks
2 about whether there is sufficient evidence attaching Ms. Zeigler
3 to constructive possession of cocaine, and the Court of Appeals
4 there goes through and repeats the standards to be applied by the
5 Court, and it's especially appropriate to this case, I believe,
6 because the Court basically holds there that at Rule 29 time,
7 there is an issue to be determined by the Court, and a defendant
8 is entitled to have those issues presented prior to presenting
9 her defense, even if she's going to take the stand and her
10 testimony is going to be considered by the jury.
11 Now Ms. Dean is going to be testifying in this case. I
12 don't know how she's going to come across to the jury. I hope
13 and believe and predict she is going to come across credibly, and
14 she is going to deny the criminal allegations found in the
15 indictment.
16 For this purpose, however, I don't think it is fair or
17 proper at Rule 29 time for the Court to take a string and a line
18 of innocent characterizations of relationships where there is no
19 direct or, frankly, timely circumstantial evidence of the corrupt
20 intent or a corrupt intent or a willful joining of a criminal
2 conspiracy on the part of Ms. Dean.
2 If she willfully joined the conspiracy, Judge, the
2 government's evidence doesn't prove it. If she willfully joined
2 a conspiracy with John Mitchell, the evidence doesn't prove it.
2 At the light most favorable to the government, it proves that

2008

1 John Mitchell and Jack Brennan and others were out doing business
2 deals to create income maybe, maybe based upon their
3 relationship, their stated relationship, the apparent
4 relationship, the known relationship, the informed relationship,
5 the circumstantially proved relationship between Ms. Dean and the
6 other charged co-conspirators.
7 The criminal intent circumstantially in this case is
8 actually direct evidence against the other co-conspirators, but
9 none of it runs as to Ms. Dean, because you can't show the
10 willful connection.
11 when a Rick Shelby testifies that he intentionally kept
12 facts from Ms. Dean about his business dealings with John
13 Mitchell, when a Mr. Martinez, although he's proffered by the
14 government to say that there's going to be a co-conspirator
15 statement coming in that Ms. Dean was the father -- the daughter
16 of John Mitchell and that doesn't occur and Martinez instead
17 testifies that he doesn't know Ms. Dean from Adams, when you have
18 the links between the conspirators and Ms. Dean so attenuated
19 that not one of them can testify as to her knowing and willful
20 involvement in a conspiracy, then I do not believe that the
2 circumstantial evidence of the co-conspirators' guilt and
2 criminal intent can be properly calculated to be properly used
2 against Ms. Dean.
2 And I think that's one of the problems -
I'm sorry,
2 Judge.

2009

1 THE COURT: That's all right, go ahead. I was just
2 reviewing in my mind the evidence as to each of the three counts
3 of the conspiracy and the argument, what can be inferred from her
4 conferences and meetings or sending correspondence.
5 For instance, in the first count, Mr. Mitchell and, I
6 believe, Mr. Shelby, there's correspondence to Mr. Mitchell
7 indicating the release of the units for presumably his client, if
8 you look at his notes and her notes, but what else would you have
9 the government do to try to show some linkage between the two
10 from what an inference could be made that she was helping
11 Mr. Mitchell because of her fondness for him, regardless if she
12 made any money or not from it, and that she was helping in
13 contravention of the policy of the agency as to, I guess in the
14 words of the statute, as to impede the normal workings of the
15 agency?
16 The conspiracy charge is such a broad charge that's
17 been approved by the courts, the 371 charge. I was doing some
18 reviewing over the weekend now, and it's broad enough, it says,
19 in accordance with the Supreme Court, in its terms to include any
20 conspiracy for a purpose of impairing -- I'm sorry, impairing,
2 obstructing, or defeating the lawful function of any department
2 of the government.
2 what kind of inferences are available to take -- just
2 take the Mitchell scenario, for instance, and the evidence there.
2 And I'm not sure I accept your argument the Sixth Circuit rule

2010

1 applies here, that if there are differing inferences that can be
2 made, then it must fall.
3 MR. WEHNER: I understand.
4 THE COURT: I think the Treadwell case probably
5 controls here. Or Judge Revercomb had issued a written opinion,
6 the most recent one, I think, on 371, U.S. v. Recognition
7 Equipment, at 725 F.Supp. 587. I don't know if it's the most
8 recent one, but it's one where he talked about the Rule 29
9 standard vis-a-vis the conspiracy counts that involved corruption
10 in the post office, where he granted judgment of acquittal to the
11 defendants in that count, as again, your similar argument you
12 have here, but we don't get into the same language the Sixth
13 Circuit followed, although he did cite an old rule that says if a
14 reasonable mind must be in balance as between guilt and
15 innocence, a verdict of guilt cannot be sustained.
16 But let me go back to the facts with the first count,
17 in the Mitchell-Shelby conspiracy that's alleged. As I
18 understand it, your argument is that Mitchell and Shelby may have
19 been in a conspiracy, but there's no evidence you can infer that
20 Ms. Dean ever joined in their conspiracy and acted intentionally
2 to further its purposes.
2 MR. WEHNER: I won't concede that Mitchell and Shelby
2 were involved in a criminal conspiracy.
2 THE COURT: All right.
2 MR. WEHNER: They were clearly in a business

2011

1 relationship. I will not concede that that was a criminal
2 conspiracy, because I know nothing that prohibits John Mitchell

3 and Rick Shelby and Jack Brennan doing what they did. I know of
4 no statute.
5 I know it looks, it smells, and it may be morally
6 repugnant, but I don't know where you get a statute that says
7 that kind of conduct is illegal, nor would that kind of conduct
8 fall within a conspiracy to defraud the United States. I mean, I
9 don't know that they have any duty as citizens to not do that, to
10 take advantage of the system.
11 I'm not sure, Judge. I won't concede that was a
12 criminal conspiracy. I'll concede that it smelled. I will not
13 concede it's a criminal conspiracy.
14 THE COURT: well, then if it involves an influence upon
15 a public official in her duties she is to carry out through
16 either familial circumstances or monetary circumstances, as
17 alleged in Mr. Kitchin's case, does it make it enough at that
18 point -
19 MR. WEHNER: I don't think it does, Judge.
20 THE COURT: --to change the business arrangement to a
2 conspiracy to defraud the government of her best services?
2 MR. WEHNER: The reason I don't think it does is
2 because I think you have to look at it from two, from two
2 perspectives. One is if, if there is no criminal conspiracy
2 among Mitchell, et al., there is no criminal conspiracy for

2012

1 Ms. Dean to join, regardless of how much it smells.
2 But secondly, if you look at what has been proven that
3 connects Ms. -- that allegedly connects Ms. Dean to the
4 conspiracy, they are less than innocent. I mean, I recognize the
5 line of cases talking about that overt acts can be as simple as
6 walking across the street and in something like that, they don't
7 have to be necessarily criminal, but if you look at the acts that
8 they charge, the evidence they have that connects Ms. Dean to the
9 conspiracy, it is no different than what a public official could,
10 would, and does legally with respect to these programs.
11 In other words, the letter, for example, that goes from
12 Ms. Dean to John Mitchell, that funding decision had already been
13 made, according to the testimony. Maurice Barksdale, the
14 government's witness, said, "I never talked to her about it."
15 And she writes a letter after, as Mr. Barksdale
16 testified, the decisions were out of his office and public
17 knowledge, within hours. Everybody knew it, according to
18 Mr. Barksdale.
19 Now I don't think it's enough to connect Deborah Gore
20 Dean to a criminal conspiracy with John Mitchell and Rick Shelby
2 because she wrote a letter that stated what had already occurred
2 out of HUD that was general public knowledge.
2 The government makes this deal about, quote, internal
2 government documents. I don't know what an internal government
2 document is, but it doesn't appear in any criminal statute that

2013

1 I've been able to find. There are secret documents, there are
2 non-secret documents. Internal government documents is almost,
3 what's the word, an oxymoron.
4 The only statute that deals with government documents
5 is FOIA, and under FOIA, all of these documents are discoverable.
6 If Your Honor looks at the statute, there's no exception that
7 covers these documents. And I don't know what negative inference
8 you can get from an internal government document. I'm not sure
9 what that means from a criminal law perspective.
10 And I don't think it's fair to permit the government to
11 take words that are criminal in nature and use them to describe
12 innocent acts and therefore make them criminal.

13 The other evidence -
what is the other evidence that
14 links Ms. Dean to that conspiracy? I don't know of any.
15 with regard -- I don't want to leave anything out, Your
16 Honor, although I'll be very brief on these issues.
17 THE COURT: All right.
18 MR. WEHNER: With regard to the, with regard to the -
19 I will adopt my perjury count statements for my false statement
20 arguments, if the Court will allow.
2 with regard to the perjury count dealing with the, or
2 Ms. Dean states that no units were sent to Maryland unless they
2 were sent directly by the secretary, Sam Pierce didn't appear,
2 Judge. There is no evidence from which you can infer the
2 negative, that Sam Pierce didn't send them to Maryland.

2014

1 Now you can clearly infer from the evidence that
2 Ms. Dean had something to do with them going to Maryland, but
3 that's not what she said up in front of the Senate. What she
4 said was they were sent directly by the, by the secretary.
5 Now that can't mean that Sam Pierce, without anybody
6 else's knowledge at HUD, sent them to Maryland. That can't -
as
7 Your Honor knows from seeing the case, it just doesn't never work
8 that way. Sam Pierce sending them directly to Maryland involves
9 a number of people, so it doesn't mean that he just did it one
10 day.
11 Any fair inference from that is that Sam Pierce, by
12 directly sending them to Maryland, was aware of Ms. Dean's
13 Maryland residency and that he did it notwithstanding the fact
14 that she was from Maryland or notwithstanding what she disclosed
15 to him, in other words, a disclosure of whatever conflict of
16 interest occurred.
17 It's absurd to think that Ms. Dean would testify that,
18 as the government would have you believe, that no units were ever
19 sent to Maryland. I mean, that's simply, frankly, that's an
20 idiotic answer. Of course, units went to Maryland. They went to
2 most every state, but the phrase "unless directly sent by the
2 secretary" clearly modifies that, in my judgment, to suggest that
2 Sam Pierce directed that they be sent there, notwithstanding Ms.
2 Dean's political interest in Maryland or her relationships to
2 Maryland.

2015

1 Finally, with regard to the perjury count involving
2 Baltimore Uplift One -3
THE COURT: That's where she said she has never heard
4 of it?
5 MR. WEHNER: Yes. My recollection, Judge -- and I've
6 been through these transcripts, but not on every issue -
is that
7 there was one witness that testified that they had mentioned this
8 to Ms. Dean. I don't know of any circumstantial evidence that
9 connects Ms. Dean to Baltimore --to knowledge about it.
10 THE COURT: Didn't the Golec woman -11
MR. WEHNER: That's the one. I think that's the
12 witness I remember that she testified that she mentioned it to.
13 THE COURT: well, there was other testimony by another
14 witness that she was concerned about Golec's involvement in that
15 project because of her boyfriend's interest in it.
16 MR. WEHNER: Yes, sir, but that is, leads exactly into
17 my argument, which is there is a distinct lack of proof as to
18 whether they were talking about Patriots or Baltimore Uplift, and
19 if you look at the transcripts and you look at the questions and

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20 the answers, I believe that the government would have you believe
2 that they have shown that they were one and the same to Ms. Dean;
2 therefore, she knew about both.
2 And it is true, in fact, that they are related,
2 according to the government's evidence. It is not at all clear
2 that Ms. Dean was aware of the nomenclature "Baltimore Uplift,"

2016

1 and if you will look at the transcript, it is equally clear that
2 Ms. Dean actually asks for clarification of what that project is,
3 asks if it's a mod rehab, and responds that she never heard of
4 it.
5 Now that's an entirely different kettle of fish, pardon
6 me, Judge, than saying, "I don't know of any Mod Rehab Project in
7 Baltimore," or, "I don't know of anything that involved public
8 housing in Baltimore," or, "I don't know about money that was
9 sent to Baltimore."
10 Having -- she was clearly even on the transcript trying
11 to search her recollection, in my mind, argued inferentially from
12 the transcript, as to Baltimore Uplift, those two words. Maybe
13 "One" was in there, I don't remember. But that's a very specific
14 name for a very specific project.
15 And I don't believe that the senator, frankly, knew
16 exactly what he was asking about, either, because he was
17 referring to a newspaper article that mentioned Baltimore Uplift,
18 and there is clearly some confusion on his part as to whether
19 it's a Mod Rehab Program or a public housing program or what is
20 it, and without further specific identification, I don't know
2 that a, that a rational trier of fact could conclude based on the
2 direct evidence that Ms. Dean knew those precise terms,
2 "Baltimore Uplift One."
2 And finally, the last -- this transcript is probably on
2 file, but I don't have it yet, Your Honor.

2017

1 THE COURT: All right.
2 MR. WEHNER: The only witness that testified to funding
3 practices during 1987 was Thomas Demery, and I believe, I recall
4 his testimony to the effect that there was a committee in place
5 and that, in fact, the committee, notwithstanding input of
6 Ms. Dean, was making the funding decisions.
7 with regard to the "solely" statement by Ms. Dean, the
8 evidence, I believe, taken in the light most favorable to the
9 government, shows that Mr. Demery was providing all of the
10 information about the mod rehab allocations with the exception of
11 political input, because that's what the federal housing
12 commissioner's job was. All of them, in fact, testified,
13 including Mr. Demery, as to what the process was in terms of
14 getting the letters in from the PHAs, et cetera, et cetera.
15 And given the testimony on direct about the various
16 political influences that were at play in the allocation of mod
17 rehab units, I think it is totally unreasonable to expect that
18 Ms. Dean could have intended to mislead the very body that was
19 participating in the political influence. And these senators
20 were trying to get mod rehab units sent to their states, and to
2 say that "solely" means no political influence was involved
2 strikes me as just bizarre.
2 She could -- and it does not go to whether she did
2 mislead them, Judge; it goes to whether she intended to mislead
2 them, which is an element of the statute. I understand the law

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1 that suggests that you don't have to factually mislead, but I'm
2 not arguing that you have to factually mislead. I'm saying how
3 could she have intended to mislead them when she knew, in fact,
4 that they knew that political influence was involved?
5 And I made this argument to the Court briefly when we
6 were talking about co-conspirator statements: If I am under oath
7 on the witness stand and say to the Court and the jury, "The
8 lights are off," and they're on, that's not perjury. You know
9 it's not perjury, the jury knows it's not perjury, and everybody
10 in the courtroom knows it's not perjury. Maybe I lost my sight,
11 but that's not perjury.
12 And I think evidence that the light is on, Judge,
13 clearly shows, would go to the intent of the witness as to
14 whether they were going to commit perjury or not, whether they
15 intended to commit perjury, and it's that type of perjury count
16 that the government has alleged.
17 It's not appropriate to look at the perjury counts
18 simply in the entire --in the brief context of the question and
19 answer, as Your Honor knows, and the transcript, the entire
20 transcript makes clear that while I will admit that clearly her
2 responses are material, that there was no intent to deceive any
2 of the people that were sitting there because of the context in
2 which the answers were given.
2 THE COURT: All right, thank you.
2 If the government please, Ms. Sweeney?

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1 MS. SWEENEY: Yes, Your Honor.
2 THE COURT: Ms. Sweeney, let me ask you a fundamental
3 question about the conspiracy counts. You agree that there's
4 certainly an inference, if not direct evidence, I think there's
5 direct evidence from which you could conclude that these mod
6 rehabilitation funds were considered to be totally discretionary
7 and that there was an opinion from the legal office to that
8 effect?
9 MS. SWEENEY: Your Honor, there, there was a great deal
10 of testimony about that legal opinion, and many of the witnesses
11 indicated their understanding that the funds were discretionary.
12 However, those same witnesses indicated that even though the
13 funds were discretionary, they were still subject to two
14 particular types of rules and regulations, the first one being
15 that projects could not be awarded on a project-specific basis.
16 And as Your Honor may recall, Sherrill Nettles-Hawkins,
17 Ms. Dean's personal secretary, indicated that Ms. Dean herself
18 told her that the projects were not supposed to be project
19 specific and therefore the letters were to be designed to remove
20 any specific project names and asked her to pass that information
2 along to the consultants and developers that were seeking
2 Ms. Dean's assistance.
2 The second type of rule and regulation that the
2 decisions were subject to were the standards of conduct, the HUD
2 standards of conduct, and those are the standards that prohibited

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1 a HUD employee from making a decision where there was personal
2 gain, family gain, a decision outside normal official channels.
3 And as Your Honor will recall, the witnesses almost
4 uniformly testified that those standards apply to discretionary
5 decisions. Those witnesses included Susan Zagame, David White.
6 Mr. White testified and through him the government put on a

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7 letter that was sent to Ms. Dean very early in her tenure
8 indicating that she should take care not to take action in
9 matters where there was a friendship involved.
10 So, Your Honor, not only were those rules applicable,
11 but Ms. Dean was well on notice that they governed these
12 decisions.
13 THE COURT: The government, I believe -
I don't
14 believe there's any evidence that any of the projects that
15 received funds through these consultants, in quotes, that
16 opportuned themselves of Ms. Dean were other than qualified
17 projects; that is, they were all qualified projects, they met all
18 the regulations and rules of HUD to receive these monies.
19 MS. SWEENEY: I believe Your Honor is referring to the
20 testimony by PHA employees from Metro Dade. Pat Sharifi, who was
2 in charge of the reviewing the applications, testified that a
2 very, very minimal and cursory review was applied by the PHA
2 simply looking at the paperwork when the project came in to see
2 if it met very minimal standards.
2 THE COURT: I just meant I don't think there's any

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1 contrary evidence that any of the projects were not in accordance
2 with HUD regulations -
3 MS. SWEENEY: No, Your Honor -
4 THE COURT: -
for the minimum standards that the
5 projects had to meet before they could be considered.
6 I mean, there's no evidence that there was some
7 reaching out and taking on projects and having them approved that
8 were not in accordance with HUD regulations.
9 MS. SWEENEY: No, Your Honor, although the evidence, we
10 believe, does show that specific projects were selected, in
11 effect, by HUD headquarters.
12 THE COURT: well, I understand that. There were
13 various projects either in the pipelines or you may have some
14 evidence you infer they had to go find a project to get put into
15 the pipeline but that the projects once filed were in accordance
16 with whatever the rules were to qualify projects for HUD mod
17 rehab funding.
18 MS. SWEENEY: Yes, Your Honor. It is our view that a
19 government official, though, may not pick and choose among
20 qualified projects based on personal gain.
2 THE COURT: All right, that's what I was getting to.
2 Then the argument of the 371 conspiracy is that you
2 don't have to show some financial loss to the government, you
2 know, but I guess it's your argument that that statute was
2 designed to protect the integrity of the agency's operations.

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1 MS. SWEENEY: Yes, Your Honor.
2 THE COURT: I'm just trying to get from there where if
3 you have discretionary funding, if you have qualified projects,
4 and then you have a selection process that comes through
5 political routes, as opposed to through the agency route, and all
6 that's, that's established at this point for my consideration of
7 the Rule 29 level, does that add up to evidence of a conspiracy
8 to defraud the United States?
9 I'm contrasting that to if you take an example, assume
10 for a minute a senator calls the secretary's office at HUD of the
11 same party and requests mod rehab units to his particular locale
12 and eventually these mod rehab units are granted, and it's

13 evident that the secretary wanted to satisfy the senator's
14 request because he's a leading senator in the same party and may
15 have control over the budget.—Does that make it an illegal
16 conspiracy at that point?

17 MS. SWEENEY: Your Honor, we have not charged any of
18 those types of transactions in this case, and we -

19 THE COURT: But is that akin to what happened here?

20 MS. SWEENEY: No, Your Honor. We do not believe that
21 it is. And we disagree with Mr. Wehner's characterization of the
22 decisions in this case as political. We believe that they were
23 not political, but rather, that they were motivated by personal
24 and family gain and not by political considerations. And, Your
25 Honor, I believe that that is, in fact, a very important

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distinction.

2 THE COURT: well, there weren't a lot of Democrats that
3 got these awards, if it wasn't political.

4 MS. SWEENEY: well, Your Honor, in the case of -

5 THE COURT: Not a lot of democratic consultants, I
6 guess, that were capable of getting these awards, as opposed to
7 Republican consultants.

8 MS. SWEENEY: Your Honor, many of the consultants and
9 developers involved in this case did happen to be, did happen to
10 be Republican. The case I can think of that is the exception to
11 that is the Patriots project, where there is no testimony
12 whatsoever about the, Mr. Lomenick's particular party
13 affiliation, but at the time that that award was made, Baltimore
14 was a democratic city.

15 So, Your Honor, I believe that the evidence, while it
16 is, it is a coincidence perhaps or, perhaps a telling coincidence
17 that the beneficiaries were Republicans, we do not believe that
18 that was the motivating factor, but rather, it was the personal
19 interests, the personal financial and family interests that
20 motivated Ms. Dean's decisions.

21 Another consultant whose party affiliation was not
22 addressed was that of Andrew Sankin. There again, Your Honor,
23 the evidence shows that Ms. Dean was motivated by Mr. Sankin's
24 services that were being provided to her family and not by any
25 sort of party affiliation.

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1 THE COURT: where do we get to her intent that I can
2 infer to join in these conspiracies, three different
3 conspiracies, and to defraud the government or impede the
4 operations of the agency illegally? I'm a little concerned about
5 the requisite intent.

6 If you take the first conspiracy, her relationship with
7 Mr. Mitchell, what is it the government has shown that she knew
8 about this relationship with Mr. Shelby and that he would make
9 these hundreds of thousands of dollars from actions that arguably
10 she could influence for him?

11 MS. SWEENEY: well, Your Honor, the first count
12 involving Mr. Mitchell does not only deal with Mr. Shelby, but
13 rather with the projects that involved Nunn and Martinez as well.

14 THE COURT: Right, Mr. Nunn, too.

15 MS. SWEENEY: And the evidence establishes that as
16 early as 1983, Ms. Dean was aware of Mr. Mitchell's interest in
17 projects involving Nunn and Martinez and even prior to Arama
18 began to furnish to Mr. Mitchell information from HUD that was of
19 interest to Nunn and Martinez.

20 The evidence also shows that Ms. Dean had worked with

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2 Mr. Mitchell and Mr. Brennan at Global Research International and
2 was familiar with their business prior to even coming to HUD.
2 Thereafter, Your Honor, on the Arama project, the
2 letter dated July 5, 1984, establishes that Ms. Dean had a
2 conversation with General Mitchell about the funding and in that

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1 conversation apparently assured him that the funds were going to
2 be provided to that particular project. This was at a time when
3 the evidence shows that Ms. Dean was well aware of Mr. Mitchell's
4 personal dire financial circumstances.

5 In addition, Your Honor, Mr. Brennan, following his
6 contacts with Dean on the second Nunn project, the South Florida
7 project, testified that he called and thanked Dean for her
8 assistance. We believe that all of this evidence is more than
9 sufficient to show that Ms. Dean had knowledge as to what these
10 individuals were doing.

11 THE COURT: But would the theory the government
12 proposes in these conspiracy counts make a criminal conspiracy
13 out of anyone who knows someone in a government agency that
14 grants funding to various projects, who takes that person to
15 lunch and asks questions about various projects, and then is
16 eventually successful in obtaining approval of a particular
17 project without more? I mean, is that, if you meet a government
18 official and you talk to him about a project and then you
19 eventually get the project, can you infer from that there was
20 something wrong in that meeting?

2 MS. SWEENEY: Your Honor, the "more" here is that all
2 of these individuals were providing something to the defendant or
2 to her family. In the case of Mr. -

2 THE COURT: I think it's -- I thought in your brief it
2 was that you don't need any particular advantage shown to the

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1 conspirator in this type of charge.

2 MS. SWEENEY: Well, Your Honor, that is, that is argued
3 in the brief as well, but here in fact, the evidence also does
4 indicate, Your Honor, that there was this, this personal and
5 family benefit aspect to each of the conspiracies.

6 THE COURT: But what I'm concerned about is the breadth
7 of the statute, the way it's been interpreted trying to be used
8 is that it seems to me that many people in Washington could not
9 do business -

I don't know if that's good or bad -
but could

10 not do business without running afoul of this statute. If people
11 talk over projects they're interested in with government decision
12 makers in an effort to convince them that their side is correct,
13 it seems to me the argument could be made therefore that they
14 have deprived the government of its loyal services of their
15 servant by having influence brought to bear upon the decision.
16 I don't think the statute is that broad.

17 MS. SWEENEY: Your Honor, we believe that in denying
18 the Rule 29, the Court need not go that far. In this case, it's
19 not -- take, for example, Count 2 involving Mr. Sankin. The
20 evidence is quite strong that at the very time that he is
2 approaching the defendant on a number of these projects, he's
2 simultaneously meeting with her at HUD, discussing the Stanley
2 Arms, discussing the closing on her co-op.

2 And he himself testified that he recognized the
2 relationship between the benefits he was providing her family and

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1 the benefits that she was providing him as a HUD consultant. So,
2 Your Honor -
3 THE COURT: There was some testimony he received fees
4 for that work at Stanley Arms, 6 percent of the rents, as I
5 recall.
6 MS. SWEENEY: Your Honor, he testified that he received
7 the management fee, but as to the hardship rent provision, he
8 testified as to the market value of that and as to the amount of
9 time and effort involved and said when he asked the defendant for
10 payment for that additional service, he did not dare press it for
11 fear that it would harm his ability to secure HUD benefits.
12 THE COURT: He thought he had a disagreement with her
13 over what he should get paid for that or not.
14 I mean, the issue really is for the Court, it seems to
15 me, is as to sufficiency of the evidence under the Rule 29
16 formula we apply in this circuit, which, I think, is a little
17 different than the Sixth Circuit the defendant cited, although as
18 Judge Revercomb says, you should take a hard look at the
19 evidence, and you view it in the light most favorable to the
20 government. He says this Court is obligated to take a hard look
2 at the evidence and accord the government the benefit of only
2 legitimate inferences and not engage in any fanciful speculations
2 or bizarre reconstruction of the evidence.
2 MS. SWEENEY: Your Honor, we believe that the, as we
2 note in our brief, that the factual circumstances here are far

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1 stronger than the facts presented in the Treadwell case.
2 THE COURT: well, Treadwell. I recall there were
3 allegations of personal benefit going to her, as I recall that
4 case, a substantial size.
5 MS. SWEENEY: Yes, Your Honor. And in this case, we
6 also -
7 THE COURT: I'm talking about cars and lots of money
8 and things, as opposed to here we have the one \$4,000 check with
9 Kitchin. With Mr. Mitchell, the allegation is he was broke, so
10 she wanted to get him money, but then also he paid for her
11 birthday party.
12 MS. SWEENEY: Your Honor, the Mitchell birthday party
13 check and the Christmas gift check have been introduced as
14 evidence of the kind of typical family sharing of financial
15 benefit, and, Your Honor, we believe that that is why benefiting
16 family members as well as one's self has been held to be
17 cognizable under 371.
18 THE COURT: I recognize there is another HUD case from
19 another circuit on that.
20 MS. SWEENEY: Yes, Your Honor. And then there's the
2 Tham case from the Ninth Circuit.
2 THE COURT: Right.
2 MS. SWEENEY: Gallup and Conover.
2 THE COURT: Gallup is another one.
2 But the inference still has to be made through some

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1 evidence that there was a conspiracy between herself and
2 Mr. Mitchell and Mr. Shelby to influence the decision-making
3 process improperly at HUD as to these discretionary funds.
4 Let's look to the first count, as to the first awards,
5 or the second group with Shelby, and then we can go to the Nunn
6 groups, but throughout that, you have some meetings and lunches
7 and her forwarding correspondence in the Nunn case about an award

8 has been made and the units will be definitely funded, and then
9 your evidence as to the close relationship between Mr. Mitchell
10 and herself, where she considered him her surrogate father, and
11 from that there's to be an inference drawn that she had agreed
12 with him to enter into a conspiracy to defraud the United States
13 for his profit, which she wanted.

14 Is that what you're saying basically?

15 MS. SWEENEY: Yes, Your Honor. In that, in that
16 particular circumstance, the evidence shows that Mr. Shelby first
17 contacted Mr. Mitchell and then contacted the defendant and that
18 over the -- at the same time that this project was going forward
19 and Mr. Shelby was working on it, that he met on several
20 occasions with Ms. Dean, on several occasions with Mr. Mitchell,
2 and on a couple of occasions with them at the same time,
2 including one luncheon on a day prior to a letter where he
2 forwards Ms. Dean material on what he calls the Miami mod rehab.
2 As was the case in the Nunn matters, Mr. Mitchell is
2 getting a fee from Mr. Shelby but doesn't appear in any of the

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1 documents. His role is concealed from anybody -
from everybody,
2 including the individual who ultimately is paying his fee, that
3 being Mr. Fine.
4 I did want to note, Your Honor, that you may notice
5 that some of the transcript cites remain blank in the brief and
6 that we will be completing them and submitting them to Your Honor
7 perhaps later today.

8 THE COURT: That's no problem. I understand the rush
9 you've been in, and I appreciate the work that's already been
10 done.

1 Let me go to the perjury counts for a minute then.
1 Mr. Wehner included those in his argument, although not in the
1 written form. As I recall, he's got three issues he raised at
1 least or maybe four, the four counts, but one was the year '87
1 was only referred to in part of this panel answer.

1 MS. SWEENEY: Your Honor, while we disagree that the
1 answers -- that the answer was limited to the year 1987, we
1 recognize that the question does use the term "1987," without
1 limiting it by calendar year or fiscal year.

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1 MS. SWEENEY: In any event, even if the Court
2 were to find that Mr. Wehner was correct in arguing that
3 the answer was similarly limited, there is more than
4 sufficient evidence about Miss Dean's role in two
5 particular projects that occurred not only within fiscal

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6 year '87 but also within calendar year '87, that being

7 the Metro-Dade project for 203 units to Claude Dorsey

8 and Jim Mitchell in which Mr. Kitchin was the

9 consultant, and the Eastern Avenue projects for 88 units
10 to Prince Georges County involve Mr. Shelby and

11 Mr. Sankin and the Altman Brothers.

12 The testimony by the developers and the
13 consultants, particularly the consultants in those
14 cases, including Jack Jennings, Mr. Kitchin's employee,
15 indicated that Miss Dean played a rather significant
16 role in the funding of those two particular awards.
17 And therefore, Your Honor, while we disagree
18 that the answer was limited to calendar year or fiscal
19 year '87, we believe that even if the Court were to find
20 that that was correct, that that perjury count -- that
21 there's more than sufficient evidence on the perjury
22 count.

23 One other topic that Mr. Wehner mentioned was
24 the Baltimore Uplift One perjury and, Your Honor, on
25 that perjury count we rely on the testimony of not one

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1 but rather three witnesses.

2 Miss Golec's testimony is the fullest on that

3 particular matter and she indicates that she -- she

4 indicated that Baltimore Uplift One was a project that

5 the Secretary's office had had an interest in and had

6 had -- had seen press clippings in the Secretary's press

7 clipping circulation about that particular project.

8 That subsequent to that time Miss Dean assigned her the

9 task of going to a Baltimore Uplift meeting and asked
10 her to accompany Bob Tuttle, the non-white House Bob
11 Tuttle, to that particular meeting.

12 Silvio DeBartolomeis also testified that he
13 had discussed Baltimore Uplift with Miss Dean, and
14 Sherrill Nettles-Hawkins indicated that Bob Tuttle, the
15 non-white House Bob Tuttle, had contacted Miss Dean on a
16 number of occasions, and similarly Miss Dean had placed

17 calls to him.
18 So, Your Honor, we believe that the testimony
19 of all three of those witnesses supports the perjury and
20 concealment counts based on Baltimore Uplift One.
2 THE COURT: All right.
2 To go back for a minute to the first perjury
2 count and the scheme to falsify, conceal and cover up,
2 the Secretary did indicate -- the Senator did indicate,
2 "We received a number of complaints that, in 1987, this

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1 year, there have been no notification of funds
2 availability to the regional offices." And then he goes
3 on and instead asked about the application process and
4 she answered concerning the panel of people which were
5 the Undersecretary, the Assistant to the Secretary and
6 the Federal Housing Commissioner. "That panel goes
7 solely on information provided by the Assistant
8 Secretary for Housing." He also argued that solely, as
9 related, didn't cover political input because everyone
10 knew there was political input.
11 MS. SWEENEY: Again, Your Honor, this is not a
12 case about a Senator supporting the 203-unit award to
13 Metro-Dade or a Senator supporting the 88-unit award to
14 Prince Georges County, but rather this is a case about
15 Miss Dean steering those awards, supporting those
16 awards, among others, based on the consultants and the
17 developers who were behind those particular awards.
18 So we disagree with -- we just think
19 Mr. Wehner's argument about Senators is completely
20 irrelevant. That's not the question that Senator
2 Proxmire put. He was asking about developers

2 backdoor PHA's. He wasn't asking about HDD's
2 response to Congressional support.
2 THE COURT: All right.
2 I think the final one was the response about

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1 sending units to the home State of Maryland, and she
2 didn't do that because she was from there, but she
3 answered, "Unless and of course they were sent directly
4 by the Secretary, if they would have gone to my home
5 state of Maryland," and that -- there's no evidence
6 that -- about the Secretary sending them or not that
7 would make this a perjurious statement.

8 MS. SWEENEY: Your Honor, the tenor of that

9 rather gratuitous comment by Miss Dean indicating to the
10 members of the panel that while she sat on the panel no
11 units had ever gone to the State of Maryland, and in
12 fact suggesting that she recused herself, runs contrary
13 to the fact that we know she did participate in
14 decisions involving Patriots, decisions involving
15 Foxglenn and decisions involving Eastern Avenue, all of
16 which were in the State of Maryland, and, in fact, a
17 number of individuals including both Mr. Shelby and
18 Mr. Sankin indicated that the defendant had told them
19 she was particularly interested in the State of Maryland
20 and that she had political ambitions in that particular
2 jurisdiction.

2 THE COURT: All right. If you look carefully
2 at the perjury counts she indicated once the Secretary
2 sent them she didn't partake in them. You can have
2 other implications in that answer.

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1 The first one refers to the year 1987, it says
2 in the year 1987, again looking at it as perjury, you
3 can consider precisely the question and the answer. Let
4 me ask you with respect to the question that was asked
5 where he concludes, how do you respond to this, which is
6 not a proper type, I guess that's obvious, of question

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7 to be based on perjury. It was a broad question as

8 opposed to did you do X,Y & Z, and how do you respond to

9 these general allegations.

10 MS. SWEENEY: Your Honor, I'm not sure that I
11 completely follow Mr. Wehner's point. Miss Dean, as he
12 candidly stated, then did go on to provide an answer.
13 The Government has introduced the transcript that she
14 subsequently had an opportunity to review and mark up*
15 So even if there were some suggestion that she was
16 startled by the question or a difficulty with the
17 question at the time that it was propounded, even after
18 the fact, Your Honor, she had an opportunity to review
19 that testimony and to make appropriate - whatever
20 changes she deemed appropriate.
2 But, Your Honor, I guess I'm not aware of any

2 legal mazes supporting the idea that how do you respond
2 is not an appropriate question.
2 THE COURT: All right. Thank you.
2 Does the defendant want to respond briefly?

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1 MS. SWEENEY: Thank you.

2 MR. WEHNER: Briefly, Judge.

3 I point out to the Court that the flow of
4 benefits alleged by the Government, by the Independent
5 Counsel from Ms. Dean and her family to Mr. Sankin and
6 Mr. Mitchell, the benefits went the other way, Judge,
7 and I think the fairest inference and the only inference
8 that can be drawn from her testimony is that Miss Dean

9 gave Mr. Sankin a position as opposed to benefits
10 running from Mr. Sankin to Miss Dean and that John
11 Mitchell got a roof over his head from Miss Dean's
12 family. I don't think the Government can have it both
13 ways. To argue that benefits going from Miss Dean,
14 feelings from Miss Dean going to Mr. Mitchell, are
15 illustrative of her corrupt nature because he was

16 involved in the Mod Rehab business and at the same time
17 argue that the benefits that he gave to her or for her
18 family were some kind of reward for that effort.

19 Secondly, Judge, the testimony from Mr. Sankin
20 is singular in nature in that it very precisely shows
2 out the failure of the Independent Counsel's case and
2 it's especially singular in what Miss Sweeney said.
2 Because when she argued that his reluctance and as to
2 why he was reluctant to send Miss Dean this supposed
2 bill for services, there's not one ounce of evidence

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1 that that was anywhere except swirling around in that
2 man's head. That can't as a matter of law be attributed
3 to Miss Dean. Maybe he was troubled, I doubt it, but
4 I'll grant you that. Maybe he was. Maybe he thought it
5 would hurt his relationship.

6 But, Judge, this is what happens when you mix
7 politics in a criminal law. And what has happened in
8 this case is that the Independent Counsel decided that

9 Miss Dean had committed a crime and then attempted to
10 put the evidence together to prove it, as opposed to
11 determining a crime had been committed and then setting
12 out to see who did it, because the real criminals in
13 this case, if there are criminals in this case, have
14 walked.

15 But I won't argue my subsequent arguments to
16 the Court.

17 THE COURT: All right.

18 Well, I had one other question I wanted to
19 address and I forgot, Miss Sweeney, there was an
20 argument made on the statute of limitations bearing on
2 the Lou Kitchin check. That was over five years ago.

2 And Judge Gesell preserved on that. I do not recall
2 that. Was that still held open?

2 MS. SWEENEY: Your Honor, I have not reviewed
2 Judge Gesell's ruling in quite sometime. In response

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1 THE COURT: Have you got the exhibit there
2 we've introduced?

3 MS. SWEENEY: Yes, Your Honor, I believe it's
4 dated the 29th.

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5 THE COURT: All right. That's Government's
6 Exhibit 203.
7 MS. SWEENEY: Your Honor, let me hand up -8
it's stipulated to. It's actually dated April 20th.
9 MR. WEHNER: we'll stipulate to that, Your
10 Honor.
11 THE COURT: You can look at it again. It's
12 certainly not a two and I don't see a nine on there. In
13 the back the negotiation, at least with the bank stamp
14 on it is May 5th.
15 MR. WEHNER: Yes, sir.
16 MS. SWEENEY: Yes, Your Honor, and the bank
17 records indicate that I misspoke, that the deposit is on
18 May 6th. It's Government's Exhibits 203A and 203B which
19 I'm handing up to the Court.
20 THE COURT: It was deposited, I think, on the
2 5th but was credited on the 6th, according to the
2 deposit slip, and your argument is you can go on the
2 statute from that time as opposed to the date of writing
2 the check.
2 MS. SWEENEY: Yes, Your Honor.

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1 THE COURT: All right.
2 Let me go through this. I'm going to issue
3 rulings at this time, on the rule 29 motions.
4 As I said, I'll be guided by the law in this
5 Circuit. I think it's United States versus Treadwell,
6 760 Fed. 2d at 333, and there's a consideration of the
7 types of evidence the Court can consider in considering
8 the rule 29 motion that "no legal distinction may be
9 drawn between direct and circumstantial evidence."
10 Judge Revercomb, in the Recognition Equipment case cited
11 previously, indicated that in considering a 29 motion,
12 this Court must view the evidence in the light most
13 favorable to the Government, giving full play to the
14 right of the trier of fact to determine credibility,
15 weigh the evidence and draw justifiable inferences of
16 fact. A reasonable mind might fairly conclude guilt
17 beyond a reasonable doubt. Citing Treadwell that I just
18 referred to.
19 Additionally he stated, "Although the evidence
20 must be viewed in the light most favorable to the
2 Government the Court is obligated to take a hard look at

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2 the evidence and according the benefit of all legitimate
2 inferences," citing United States versus Singleton at
2 702 Fed. 2d 1163, a 1983 case. "Moreover, the Court is
2 not required to view the evidence through a

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1 dirty window pane and assume that evidence which
2 otherwise can be explained as equally innocent must be
3 evidence of guilt." This is clearly not the standard
4 rule 29, which is citing Judge Revercomb's
5 opinion. "And, rather, in order to find legitimate
6 non-speculative inference of guilt the Government must
7 articulate a rational basis on the evidence upon which
8 that inference can arise."
9 while the Court has substantial concerns on
10 some of the evidence in this case and its proper import
11 and recognizes the political realities that surround
12 particularly the Department of Housing and Urban
13 Development since its inception, the Court is going to
14 deny the motions for judgment of acquittal to the
15 conspiracy counts for the following reasons.

16 The main argument by the defendant is
17 basically as follows, as I perceive it in his well
18 drafted motion for judgment of acquittal, that the
19 defendant knowingly and intentionally joined a
20 conspiracy to defraud the United States, and that there
21 are equally probable explanations for her conduct which,
22 as I judge the evidence at this stage, even giving the
23 inference to the Government still would not lead to
24 evidence that we can conclude beyond a reasonable doubt
25 that one could find guilt at this stage of the case. In

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1 other words, the defendant could rest at this stage of
2 the case and put no evidence on and argue as he has done

3 that the evidence has equal probabilities of guilt or
4 innocence in either side. Therefore, there could not be
5 a reasonable doubt standard met.

6 Looking at the evidence of intent in proof of
7 these conspiracies that Miss Dean would have joined in,
8 according to the Government, and have partaken in to

9 defraud the Government of her loyal services, first
10 under section 371 as charged, the Government has to
11 prove that two or more persons formed an agreement to
12 commit an offense to defraud the United States. That
13 the defendant knowingly participated in the conspiracy
14 in an attempt to commit at least one of the offenses
15 charged to defraud the United States and that at least
16 one overt act was committed in furtherance of the common
17 scheme. That's reliance upon Treadwell. Simply to
18 deprive the United States of its lawful Governmental
19 functions is enough in relation to 371, that's Glasser
20 versus United States, 315 U.S. 60.
2 As I said, the statute and language in the

2 statute, interpreted very broadly, prohibits a
2 conspiracy to defraud the United States "in any manner
2 or for any purpose. There's no requirement that
2 conspiracy to defraud constitutes a conspiracy to commit

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a 1 any acts that would be otherwise unlawful." That's

2 United States versus Winkle, 587 Fed. 2d 705,708, a
3 Fifth Circuit case, a '78 case.
4 As I indicated earlier, the Supreme Court had
5 said years ago that 371 "is broad enough in its terms to
6 include any conspiracy for the purpose of impairing,
7 obstructing or defeating the lawful function of any
8 department of Government." The case of Hass versus
9 Henkel, 216 U.S. 462. And they need not have any loss
10 to the Government, monetary loss to the Government, so
11 long as the conspiracy interferes or obstructs the
12 Government's normal function, and that's cited in re
13 Sealed case, 676 Fed. 2d 793, a D.C. Circuit '82 case.
14 It has not been raised by the defendant, I
15 guess, but to forestall any second-guessing the Court
16 also considered whether Me Nally versus United States,
17 483 U.S. 350, an '87 mail fraud decision, somehow
18 limited the scope of 371, and the Supreme Court
19 specifically distinguished between the mail fraud
20 statute and 371, at 358 note eight.
2 Additionally that has been followed by other

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2 case law now. There is a recent case on Lexis, United
2 States versus Curran, United States District Court,
2 Eastern District of Pennsylvania, April 20, 1993. It
2 came out of the U.S. Attorney's Office of Philadelphia.

a 1 Judge Van Antwerpen ruled, this is not a Fed. Supp.

2

3 case, so it's cited in 1993 westlaw 137459, that a

4 conspiracy to defraud the United States must allege

5 deprivation of money and property is true in the mail

6 fraud statute essentially as opposed to the intangible

7 right of the citizenry to good Government. Me Nally's

8 narrow definition of defraud does not extend to the

9 conspiracy charge to defraud funds under 371 but does

10 not require the agreement to defraud the Government of
11 money or property. And held that the statute at issue,
12 371, "endorsed the use of 371 against schemes directed
13 at the deprivation of tangible rights to Governmental
14 integrity.

15 On that background on the 371 we have to
16 consider each of the counts alleged against Miss Dean.

17 As the Court had indicated while it has some
18 skepticism, frankly, of the nature of the charges in
19 that it does believe that essentially political
20 arrangements are made, on conduct that -- that resulted
21 in conduct which as counsel for the defendant has said
22 may smell, may stink were his words, and it is quite
23 unfortunate in the Court's view and inappropriate. The
24 issue is whether there is sufficient evidence for the
25 jury to consider whether or not there was an illegal
26 conspiracy in violation of 371.

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1 Count one covered three projects, the Arama

2 project, that is Marbilt Development in Florida,

3 involving Mr. Martinez who employed Mr. Nunn as a
4 political consultant or as a, quote, housing consultant
5 when he had had difficulty securing approval from the
6 regional office of his – and field offices of his
7 projects that were time bound. He needed something
8 decided.

9 There is evidence that documents were

10 exchanged and information given to Miss Dean from
11 Mr. Mitchell and letters between Mr. Martinez and
12 Mr. Nunn, and Mr. Nunn's testimony bearing contracts to
13 Mr. Mitchell to share the fees in this business, after
14 an unsuccessful attempt to develop a cellular phone
15 business, and that Mr. Mitchell made substantial funds
16 when the projects accrued.
17 The Government had shown evidence of delivery
18 of correspondence to Mr. Nunn at Mr. Mitchell's business
19 address, notifying that the units would be definitely
20 funded, although there's argument made that that was
2 public knowledge, and that there are documents forwarded

2 to the Authority for the funding process. And
2 substantial payments eventually to Mr. Mitchell.
2 The second part of the first count is the
2 South Florida One project in Dade County, again

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involving Mr. Nunn and Mr. Martinez, specifically
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identifying a project by the number of units.
3

Mr. Brennan becomes involved. Miss Dean helps forward
4

correspondence regarding the project and the request

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5 which is forwarded to the funding office at Miss Dean's

6 request to fund this project can be inferred from the

7 evidence.

8 And again there are meetings with Mr. Mitchell

9 and Miss Dean as may be expected in the relationship,
10 but they're also in the timeframe of this award
11 eventually, as well as Mr. Nunn and Mr. Mitchell meeting
12 together and Mr. Mitchell receiving the fees to his
13 business. And there's direct communications between
14 Mr. Nunn and Miss Dean about the projects allegedly.
15 Part three of that is the Park Towers project
16 which involved Mr. Mitchell, Mr. Shelby and Martin
17 Fine. And Mr. Feinberg arranged for Mr. Shelby to be
18 involved. And again there's allegations of Shelby and
19 Mitchell meeting and discussions eventually of
20 Mr. Feinberg and Mr. Fine working out a fee for the Park
2

Towers units if they can be awarded.
2

The meetings occurred obviously between Mr.
2 Shelby and Miss Dean, the meetings were scheduled. It's
2

inferred that they met, Miss Dean, Mr. Shelby and
2

Mr. Mitchell. Mr. Shelby sent information to Miss Dean

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1 about the project and the rapid replies were issued for

2 the units to be sent to Dade and those documents

3 forwarded to Mr. Shelby and forwarded to his employer.

4 Eventually again there were payments made and

5 again correspondence occurring – occurred regarding

6 further lunches with Mr. Shelby and Miss Dean, regarding

7 further problems in the project, and eventually after

8 the continued meetings there was a waiver which concerns

9 Park Towers, the continued meetings with Mr. Shelby and
10 Miss Dean and some with Mr. Mitchell and eventually,
11 according to the Government, Shelby's organization of
12 Miss Dean's campaign for appointment to be Assistant
13 Secretary. with various correspondence as to Mr. Shelby
14 thanking Miss Dean for her work in the past year, et
15 cetera. And the payments made by the contractors for
16 the services rendered by Mr. Shelby and Mr. Mitchell.
17 The issue really is as to those factors
18 allowing inference that Miss Dean corruptly joined in
19 this group of consultants who are representing these
20 developers to get their particular projects funded at
2 higher levels of HUD as opposed to going through the

2 cumbersome, apparently time consuming, according to
2 Martinez, years, in consideration of applications in the
2 normal process, once these funds were understood to be
2 discretionary through the Secretary.

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1 The Court's concluded, although it says it has
2 some concerns, but has concluded at least for now that
3 given the Government legitimate inferences that it's
4 entitled to a rule 29 from the evidence before it where
5 there's obvious meetings, favors such as lunches and
6 dinners and an association between Miss Dean and the
7 consultant, in this case, Mr. Shelby, the relationship
8 with Mr. Mitchell, the evidence how she thought of him
9 and treated him, that there can be inferred on the 371
10 statute sufficient evidence that there was an
11 arrangement where she would receive at least intangible
12 benefits from the relationship and the favoritism,
13 although I'm not sure even under the statute you have to
14 show it, though I think the Government has shown it,
15 through helping her surrogate father and her friend
16 Mr. Shelby.
17 Certainly as to Mr. Shelby it can't be
18 disputed that she realized he was making money from
19 these projects that she was directing. The evidence
20 shows, I think in the light most favorable to the
21 Government, the awards of these units to the respective
22 Housing Authority were framed in such a way they would

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23 of necessity have to go to a particular developer that
24 these consultants were representing. Later on there
25 were some units that did not -- some units did not make

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1 it to the developer that the parties had wished.
2 Count two, conspiracy based on the same
3 offense as count one, the 371. In this case it's
4 Mr. Shelby again and Mr. Sankin and the Gore family
5 allegedly being tangentially beneficiaries of services
6 rendered by Mr. Sankin.
7 This involved first the rents at the Necho
8 Allen Hotel project, the firm of Mr. Rosenthal, I
9 believe, from which Mr. Sankin received \$10,000.
10 Mr. Sankin being a young non-practicing lawyer
11 interested in getting into HUD work, introduced through
12 others to Miss Dean.
13 This involved a project that had not been
14 approved at the local office and request for
15 consideration of rent exceptions that had been turned
16 down.
17 Miss Dean had meetings and lunches with
18 Mr. Sankin. Her schedule indicates he spent a
19 considerable amount of time in looking at the family
20 apartment project. And then there's evidence that
21 Mr. Rosenthal had some confirmation that there would be
22 an exception to the rents that Mr. Sankin told him would
23 be granted after he had met with Miss Dean.
24 Miss Dean intervened as to the denial and it
25 continued to be issued at the local level of the home

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1 office and she authorized an autopen on the approval of
2 exception rents, according to the Government's evidence
3 at least, which went forward and Mr. Rosenthal thanked
4 Miss Dean for her services in obtaining that exception.
5 The Regent Street project. Mr. Rosenthal had
6 again retained Mr. Sankin. Mr. Sankin and Miss Dean
7 meet, arranged for lunch with Mr. Rosenthal. And
8 Miss Dean again inquires about assisting on the Regent
9 Street project at HUD and although again I'm taking into

10 account as I suggested to counsel for the Government, I
11 think all these projects probably qualify for Mod Rehab
12 funding, and the funding was to be looked upon as
13 discretionary, at least that's the Government's
14 evidence, still there's evidence in the Regent Street as
15 well as these others that Miss Dean interceded again in
16 the Regent Street project, dealt with Mr. Rosenthal
17 directly, and there was issued rapid reply for some of
18 the Regent Street projects -- Regent Street -- rehab
19 units for Philadelphia, Pennsylvania went to Regent
20 Street.

2 That subsequently there were meetings with
2 Mr. Sankin and Miss Dean again and eventually that
2 matter was resolved, although there were some fee
2 disputes with Mr. Sankin.
2 The next one is the Alameda Towers project

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0 1 which involved Mr. Broussard as well as Mr. Sankin. And
2 again Miss Dean met with the individual involved,
3 Mr. Sankin, and that was for the -- Mr. Rubi's project.
4 Again, the fees were paid in that case to Mr. Sankin.
5 The allegation of the Government is that
6 through all these Mr. Sankin was managing the Stanley
7 Arms for her family. There's an argument that the
8 charges originally, the Government argued, were below
9 market rate and Judge Gesell issued an order to explain
10 what that means in the context of Sankin's management
11 services and I think the argument is on the increased
12 value that he got from the family through the increased
13 rent exception which he was not finally fully paid
14 beyond the six percent rent although he got six percent
15 of the increased rent, but it does show a relationship
16 between the two that's mutually beneficial.
17 Finally, there was the Foxglenn Apartment
18 project in P.G. County, Maryland with Mr. Sankin and
19 Shelby, it was the Altman Brothers, and the Eastern
20 Avenue project, which again was Mr. Sankin and Shelby
21 for the Altraan Brothers.
22 Foxglenn, again there were meetings involved
23 with Mr. Shelby and Miss Dean and Mr. Shelby had a
24 lucrative consulting contract and also there were
25 substantial meetings, according to the calendars at

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1 least, between Mr. Sankin and Miss Dean, as well as
Page 1153

2 Mr. Shelby in the same timeframe.

3 Mr. Sankin's notes indicate he discussed Mod

4 Rehab and that eventually payments were made in

5 substantial sums because the project eventually was

6 approved.

7 It also involved eventually Mr. Sankin giving

8 \$3000 to a senate campaign for the Republican Senator in

9 Maryland, close to the time that Miss Dean listed lunch

10 with Miss Chavez on her calendar, Miss Chavez's

11 reception on her calendar.

12 Eventually again Mr. Shelby had supported

13 Miss Dean for the Assistant Secretary position, as I

14 mentioned earlier, and Mr. Shelby again wrote thank you

15 notes to Miss Dean for her help in the last few years.

16 There's also allegations of business gifts

17 being bought for Miss Dean by Mr. Sankin.

18 Finally, the Eastern Avenue project in which

19 again there are similar meetings, although some of these

20 overlap, in the same timeframe. This is back in '87.

2 There are similar meetings.

2 Although at this time Mr. Demery and Mr. Dorsy

2 are involved and they do approve this meeting for P.G.

2 County for 88 units. Again, meetings with Mr. Shelby

2 and Mr. Sankin, and the units eventually are approved.

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1 And, again, the same factors the Court

2 considered in count one as for the relationship between

3 the parties, Mr. Sankin entertaining and contributing

4 monies to the Maryland Senatorial candidate on the

5 Republican side, the purchase of gifts, and the doing of

6 services and the relationship with Shelby, entertaining

7 her as well, providing support for her in her Assistant

8 Secretary's position as well as her desire to curry

9 favor with the Republican side on her own aspects of
10 running for office in the future can lead the Court to
11 conclude that the Government has sufficient evidence
12 to proceed on count two and, again, reviewing the case
13 law in section 371 where the Courts have found there's
14 no requirement that the conspiracy to defraud
15 constitutes a conspiracy of acts that would otherwise be
16 unlawful.
17 It seems to me the evidence is sufficient in
18 the inference in favor of the Government that there's
19 conspiracy for the purpose of impairing the lawful
20 function of the Department of Housing and Urban
2 Development and in the awarding of these projects even

2 though it did not incur any monetary loss to the
2 Government. These projects were otherwise acceptable
2 projects.
2 The final count, count three, the conspiracy,

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1 again, this is the Lou Kitchin group. It goes through

2 1986, Heritage Village. And Mr. Kitchin's meetings with

3 Mr. Dean -- Miss Dean, I'm sorry. And Mr. Kitchin's

4 being briefed on the requirements of HUD as to units.

5 Miss Dean sent Demery a Mod Rehab list of

6 particular units for particular PHA's, including one for

7 Atlanta, Georgia. Again, Mr. Kitchin is supporting

8 Miss Dean for her position as Assistant Secretary. She

9 communicates to Mr. Kitchin about his client Plateau
10 Mortgage, and then there's evidence she asked Mr. Demery

11 to look into some other projects, one in Woodcrest,
12 California, again a Kitchin client potentially,
13 involving Miss Dean. There's also Springwood-Cutlerwood
14 in Florida involving Mr. Dorsy and Mr. Mitchell.
15 Without going through all the meetings again,
16 there's no question Mr. Dean -- Miss Dean and

17 Mr. Kitchin met a substantial number of times and

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18 generated correspondence, inquiries to Miss Dean on his

19 behalf.

20 Mr. Kitchin was paid substantial sums or his
21 partner was.

22 And that there came a time when -- in April of
23 1987 Mr. Kitchin loaned, according to this check, to
24 Miss Dean \$4000. At the time he was doing business with
25 her, and according to his partner was advised he should

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1 not do this. And that 4000 remains in some part at

2 least unpaid.

3 That, again, the efforts of Mr. Kitchin were

4 successful in securing these properties in general, and

5 it involved Miss Dean's action at HUD in getting some

6 approvals, including the Woodcrest, California matter in

7 which she took an interest in making sure it would be

8 approved.

9 Again, for the reasons stated in the first two
10 counts I believe that the Government has shown
11 sufficient information and it would be concluded, giving
12 inference to the Government of these facts that have
13 been shown, that Miss Dean agreed with Mr. Kitchin in
14 exchange for his support and favoritism in supporting
15 her for her Assistant Secretary's position, and the
16 \$4000 loan and the gratuities such as the dinners and
17 lunches, that could be seen to deprive the United States
18 of its lawful -- her loyalty and interfere with the
19 lawful Government functions under 371.

20 Count four, for the record, the defendant
2 actually said in his written motion he's moving to

2 dismiss all counts, so he didn't argue as to count four
2 except as to the recitation of the barring of the date.
2 That's an illegal gratuity. I believe the Government
2 has shown that their indictment was filed prior to the

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1 negotiation of the check and therefore the statute would
Page 1156

2 not bar the operation of the illegal gratuity attending
3 to that action, and that there's sufficient evidence
4 that she received this and cashed the check made out to
5 her at the time she was doing business at her employment
6 at HUD, that Mr. Kitchin was doing business with HUD,
7 which she was involved in.

8 counts five and six have been -- five has been

9 dismissed. well, it's been redone. It's now count five
10 and six are the perjury scheme to falsify.
11 Count five is the statement that "the panel
12 goes solely on information provided by the Assistant
13 Secretary of Housing." This was on April 6, 1987, after
14 being sworn and before a quorum of the United States
15 Senate Banking Committee that was duly authorized to
16 investigate the qualifications of Miss Dean to be
17 Assistant Secretary and to review HUD's programs,
18 particularly Mod Rehab programs being administered and
19 her role in that program, and she answered the question
20 that did begin with, "we received a number of complaints
2 in 1987 this year," and then the question went ahead and

2 Deborah Dean was asked how do you respond to that.
2 well, it was not a question, I think, a lawyer would ask
2 that he was trying to frame for a prosecutor in a
2 perjury case. Actually it was one that a Senator asked

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1 who was interested in political matters. But the answer
2 by Miss Dean indicates the program does not work through
3 publication of notices and she indicated that -- she
4 said "the way it works, the field offices receive
5 applications from the Public Housing Authorities. They
6 are rated and ranked and sent to the regional
7 administrator who forwarded them to the Assistant

8 Secretary for Housing, Federal Housing Commissioner.

9 The Assistant Secretary for Housing puts
10 together the applications and, with the Assistant
11 Secretary for Multi-Family Housing, comes to some
12 conclusion as to where they believe the funds could best
13 be used.
14 Once again, they bring it to a panel of
15 people, which is the Undersecretary, the Executive
16 Assistant to the Secretary and the Federal Housing
17 Commissioner. That panel goes solely on information
18 provided by the Assistant Secretary for Housing. He
19 gives us the information and the three of us make
20 recommendations to the Secretary, who is the person who
2 approves those units."

2 The Government has alleged in count seven that
2 that was part of a scheme to falsify or conceal, and
2 cover-up, by this testimony as the reality of what was
2 occurring. And that she had knowingly and willfully

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1 testified contrary to material matters which she knew to
2 be untrue and as to this scheme covered up and did so
3 and to cover up her true role in how the fundings were
4 actually made.

5 I do think the Government in the perjury
6 counts has to be exactly precise and I do think the
7 question was a rather openended question which she
8 answered the way she did.

9 I believe that as to 1987, the testimony has
10 been there was a panel established, there's been some
11 testimony by one individual who was involved in the
12 panel, but there was testimony by Mr. Demery that he was
13 quite concerned about how the assignments were being
14 made and he insisted upon input and he did have input
15 into the process and they did meet and discuss these
16 matters.
17 There's no question that the information was
18 solely not from, at least from the Government's evidence
19 given these inferences now in their favor, was solely
20 not from the Assistant Secretary for Housing and that he
2 gives the information and they make recommendations to

2 the Secretary which indicates that based on only that
2 information, the argument is, well, everyone knew this
2 was political. That's Miss Dean's answer. Whether or
2 not it misled the Senators or she intended to mislead

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1 the Senators is a matter of argument. I don't think
2 it's perjurious enough for the Court to rule on at the
3 Rule 29 motion stage.
4 So I'm going to deny the motion to dismiss
5 under rule 29 counts -- I guess now counts five and six,
6 perjury and the scheme to falsify or cover up on the
7 grounds that although it may be limited to 1987
8 strictly, in her answer there's information in that
9 answer that -- for the Court which indicates in favor of
10 the Government at this time that she meant to conceal
11 and falsify her answer as to how the process went
12 forward and what information she relied upon and the
13 input of this information to this panel.
14 As to counts seven and eight, it's perjury
15 before the Banking Committee, count seven, which is
16 Miss Dean responded as follows: Senator Proxmire
17 stated, "Furthermore, it is suggested that developers
18 personally come to you asking for awards. Now, as you
19 know, the proper procedure is for the HUD Washington
20 office to deal with housing authorities and for them to
2 deal with the developers," and she responded to that

2 statement, it's not the other statement but in the same
2 type context, Miss Dean stated in part, "I have never
2 given or approved or pushed or coerced anyone to help
2 any developer. Those funds go directly to the Public

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1 Housing Authority.
2 As a matter of fact, I have regular meetings

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3 with the public housing authorities where I tell them
4 that they should be dealing directly with developers. A
5 lot of times, public housing authorities send developers
6 to HUD. And they meet with people all over the
7 building. It's a tremendous waste of time, and I let
8 them know that because those funds go directly to the
9 public housing authorities."

10 And count eight charges the same thing in the
11 context of a scheme to falsify or cover up.
12 Again, it appears to the Court there's
13 sufficient evidence to go to the jury on that count on
14 the basis of the testimony that was given at that
15 hearing and the testimony here at trial, as to the
16 meetings with the developers and the input they may have
17 had into the process directly or indirectly.
18 The next counts I believe are nine and ten,
19 perjury and the scheme again to falsify or cover up on
20 the response to the question asked by the Chairman
2 regarding an alleged \$17,00,000 scandal reported by the

2 Washington Post, on a HUD funded project called
2 Baltimore Uplift One.
2 The argument has been there's some confusion
2 about the language and what was used. Count nine

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1 indicates that the Chairman asked about the project
2 known as Baltimore Uplift One, about the Washington Post
3 story and then she said, "Senator, could you give me the
4 date again?" He said, "Yes. The date is October,
5 19 8 4."
6 Miss Dean: "I was Executive Assistant to the
7 Secretary at that time. I've never heard of Baltimore
8 Uplift One. It was a moderate rehabilitation project?"
9 The Chairman: "What's that?"
10 Miss Dean: "You said it was in the Mod Rehab
11 program?"
12 The Chairman: "Mod, Section Eight, moderate
13 rehabilitation. That's right."
14 She gives two explanations why she may have
15 known it but at the end she said she never heard of
16 Baltimore Uplift One, and there's an indication that
17 name was used. There may have been names that would
18 have been used and she could have been confused with
19 other projects. There was testimony that that name was
20 used and she was familiar with it although she's
21 testifying sometime later after this had arisen.
22 The same with the identical count, and I think
23 there's sufficient evidence to go to the jury.

24 The final counts are 11 and 12, the perjury
25 counts, as to projects awarded in her home State of

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(\ 1 Maryland. She made the following statement. "I believe,
2 as a matter of fact, no moderate rehabilitation units
3 that I know of, unless they were sent directly by the
4 Secretary, have ever gone to my home State of Maryland,
5 simply for that reason, that I sat on the panel."
6 Again, there's testimony she was aware of and
7 did have involvement with projects in the State of
8 Maryland although not as to perhaps requesting the final
9 awards be made to those projects, had some involvement
10 with, and input into the funding process. Although her
11 testimony is limited by her statement unless they're
12 sent directly by the Secretary and, again, the reason,
13 that I sat on the panel.
14 Again, we're talking about the '87 timeframe
15 that may limit that question somewhat in its
16 implication, but at this point it seems to the Court the
17 Government has produced evidence from witnesses who
18 indicated she was involved in Maryland projects and knew
19 that and that the caveat unless sent directly by the
20 Secretary does not seem to me mean that she cannot be
2 charged as she has in these counts with the evidence
2 before this Court at this stage of the case.
2 I'm going to deny the motion to those counts
2 as well, both 11 and 12, and find that sufficient
2 evidence exists to go to the jury for those counts.

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1 All right, those will be the reasons for the
2 Court denying the motions for judgment of acquittal at
3 this stage of the case, recognizing they can be renewed
4 at the conclusion of the case.
5 All right. We had motions to quash filed.
6 MR. WEHNER: I'm sorry, Your Honor?
7 THE COURT: We had motions to quash by the
8 Senate. Are they coming in this afternoon for
9 consideration or not?
10 MR. WEHNER: I don't know, Judge. I have not
11 talked to Claire Sylvia since the motions were filed. I
12 got them on Friday.
13 THE COURT: Are the subpoenas due to be
14 returned today? Are they to come in today to testify?
15 MR. WEHNER: No, Wednesday.
16 THE COURT: Wednesday. They will want to come
17 in at sometime to consider those.
18 MR. WEHNER: Your Honor, I'll be glad to
19 contact them at this time.
20 THE COURT: well, I think we should do it
2 tomorrow.
2 MR. WEHNER: Tomorrow morning?
2 THE COURT: And so we're clear as to where
2 we're going in the case.
2 what do you have for this afternoon? Also the

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1 chart we'll talk about. what do you have for this

2 afternoon?

3 MR. WEHNER: Your Honor, I believe I have

4 three witnesses that are ready to testify this

5 afternoon, not including Miss Dean.

6 THE COURT: Have you had a chance, I know

7 you've been very busy both sides with these motions,

8 have you had a chance to look at the chart that was

9 revised this morning?

10 MR. WEHNER: No, sir.

11 THE COURT: All right. I'll indicate to
12 Independent Counsel, I will withhold ruling on the chart
13 until counsel for Miss Dean have a chance to go through
14 it. I've reviewed it only very briefly this morning
15 when I was supplied it and I appreciate counsel redoing
16 the chart again, but I will leave the case open for that
17 purpose and have the Government rest in all other
18 respects unless there's some other documents they have
19 not finished putting in and then announce to the jury
20 we're going to proceed with the defendant's case this
2 afternoon. But as far as the Government's case is

2 concerned, the chart still remains to be put in.
2 They're not waiving their rights to put that chart in by
2 starting the defendant's case. The defendant simply
2 hasn't had a chance to review it yet a second time.

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1 I still have some concerns about the chart, to

2 be candid with counsel, even in a brief review of it

3 this morning, and it may be best used for argument, but

4 I'll hear counsel about it.

5 All right, I'll take a recess now. I'm not

6 going to do anything further at this time. It's 12:30.

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7 we have to be back at 1:30 for the jury.

8 MR. WEHNER: Your Honor, could I approach the

9 bench for two minutes on the issue of the witnesses this
10 afternoon?

11 THE COURT: Yes. Do you want counsel here?

12 MR. WEHNER: Yes, sir, I didn't want to do

13 this in open Court.

14 (Bench conference)

15 MR. WEHNER: One of the witnesses we're

16 calling this afternoon is Janet Whitman, and

17 Miss Whitman who basically will testify that she was a

18 real estate agent, that Lou Kitchin was interested in

19 buying the Watergate condominium, et cetera, et cetera,

20 and the Independent Counsel is aware of that testimony.

2 The reason I want to make a motion in limine

2 regarding her cross-examination at this point is because

2 I understand that she made a statement to the grand jury

2 that at some point Miss Dean dabbled or experimented or

2 did something with cocaine and I would like to make sure

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(i 1 that there's no reference to that. I'd like to make
2 sure that nothing of that comes out on cross.

3 THE COURT: I think that's fair. I don't see

4 how this would be relevant to the issues before the

5 jury.

6 MR. O'NEILL: That's no problem, Judge. We're

7 not going to elicit the -in

the grand jury I think she

8 was specifically asked about that. So she answered. We

9 will not ask anything about that.

10 THE COURT: All right.

11 MR. WEHNER: The other two witnesses, just so

12 you know, are Bruce Clinton and Withington,

13 Miss Withington.

14 THE COURT: Does anybody have any Fifth

15 Amendment problems that you can recall, now or later?

16 MR. WEHNER: I do. Miss Dean. • No, sir.

17 At this point Mr. O'Neill has agreed that

18 Secretary Pierce is unavailable for the purposes of the

19 hearsay rule, so I don't intend to try to subpoena him

20 and take up everybody's time.

2 MR. O'NEILL: There doesn't seem to be any

2 need to have Pierce come down here and invoke the Fifth.

2 I would think everybody here would be quite surprised if

2 he didn't.

#

2 THE COURT: well, I won't say anything. I'll

bite my tongue on those motions as to where he was,

but -- all right.

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(Bench conference concluded)

THE COURT: All right, 1:30.

(Lunch recess, 12:25 to 1:30 p.m.)

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2068

AFT ERNOON SESSION

(1:55 p.m.)

3
4 THE
5 I think we're
6 MR.
7 THE
8 All
9 THE
10 THE

(Defendant present, Jury out.)

COURT: One of the jurors was late but is now here.
ready to proceed.

WEHNER: Yes, sir.

COURT: Okay? All right.
right, you can bring the jury in.

DEPUTY MARSHAL: Yes, Your Honor.

COURT: Does the government have any more documents

11 or anything beyond the chart, or have you officially rested

12 except for the chart?

13 MR.
14 THE
15 MR.
16 up last week.
17 THE
18 reply -19
MR.
20 THE
21 let them know
22
23 THE
24 THE
25 THE

O'NEILL:
COURT:
O'NEILL:

COURT:

There are a series of charts.
Right.
And then there's the figures that we set

You changed the dates of the rapid

O'NEILL: That's it. There's no more documents.
COURT: I'll inform them you've rested, but I'll
about the charts in a little bit.

COURT:
JURORS:
COURT:

(Jury in.)
Good afternoon.
Good afternoon.
I'm glad you all got here now. Ladies and

2069

1 Gentlemen, as you'll recall when we broke last Friday, the
2 government announced it intended to rest its case in chief. We
3 had a couple of matters to consider, legal issues we've taken up
4 and resolved, and the government has some charts it's proposed
5 that I'm still in the process of having reviewed. But excluding
6 that, the government has completed their case in chief and has
7 rested at this time.
8 As I mentioned to you on Friday, the defendant has an
9 opportunity but no burden absolutely under the presumptions of
10 innocence to produce evidence, and the defendant has announced
11 she intends to call certain witnesses and produce certain
12 evidence in this case. We're now turning towards the defendant's
13 side of the case, and what that means is defendant -
counsel for
14 the defendant, for Ms. Dean will put on witnesses, will call
15 witnesses who will testify on direct in her case and be
16 cross-examined now by the government, the Independent Counsel.
17 So we're at a different stage of the case.

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18 Once that finishes, then the government has a limited
19 opportunity to put on any rebuttal evidence that may be
20 appropriate. Then the evidentiary phase of the case is
2 completed.
2 I expect we'll take the rest of the week probably in
2 defendant's case, but we'll see how long it takes. Okay?
2 MR. WEHNER: Yes, Your Honor.
2 THE COURT: All right.

2070

MR. WEHNER: Your Honor, Ms. Dean calls Susan
2 Withington.
3 THE COURT: All right.
4 SUSAN WITHINGTON, DEFENDANT'S WITNESS, SWORN

DIRECT EXAMINATION

BY MR. WEHNER:

7 Q. Ms. Withington, do you know Deborah Gore Dean?
8 A. No.
9 Q. Have you ever met her?

10 A. No.
11 Q. Directing your attention to the time period 1986 and 1987,
12 what was your profession at the time?
13 A. I was a real estate broker.
14 Q. And how long had you been a real estate broker in the
15 District of Columbia?
16 A. Since 1980.
17 Q. Did you have occasion on, during that time period in '86 and
18 '87 to meet a person by the name of Gordon Dean?
19 A. Yes.

20 Q. would you please explain to the jury what occurred and how

21 you came to meet him?
22 A. I met Gordon, I think, back in 1983, when I sold him the
23 apartment that he lived in at 700 New Hampshire Avenue, and then
24 subsequently, he, I rented it for him when he moved out of the
25 area, and then I, he listed it for me for sale, with me for sale.

2071

1 Q. That address is the Watergate Complex, is it not?
2 A. Yes, it's the Watergate South Cooperative.
3 Q. Okay. Directing your attention to the name of Louis
4 Kitchin, did you have occasion to hear that name before?
5 A. Yes.
6 Q. And how did you come to hear that name?
7 A. During the time that I had the listing, Gordon called me and
8 said that his sister had someone, a friend or acquaintance
9 interested in purchasing the apartment. As a matter of fact, he

10 said that he was going to buy it.

11 And at that time, I said we needed a contract, and he
12 said that I should talk with Janet Whitman, who is another real
13 estate agent, who would be acting as the selling agent.
14 Q. Was the condominium ultimately sold?
15 A. Yes.
16 Q. I should say was the apartment ultimately sold?
17 A. It was ultimately sold.
18 Q. But it was not purchased by Mr. Kitchin; isn't that correct?
19 A. Correct.
20 MR. WEHNER: Nothing further, Your Honor.
2 THE COURT: All right.

2 CROSS EXAMINATION

2 BY MR. O'NEILL:

2 Q. Ms. Withington, did you ever meet Louis Kitchin?

2 A. No.

1 Q. Ms. Withington, to your knowledge, am I correct that
2 Mr. Kitchin never entered into a contract to buy Gordon Dean's
3 apartment?
4 A. Not to my knowledge.
5 MR. O'NEILL: Thank you, ma'am.
6 MR. WEHNER: Thank you very much, ma'am.
7 THE COURT: Nothing else? All right, thank you. I
8 appreciate it.
9 (Witness excused.)
10 MR. WEHNER: Your Honor, may I walk out and get our
11 next witness?
12 THE COURT: Certainly.
13 MR. WEHNER: Thank you. May I use your side door,
14 Judge? It would save me a few minutes.
15 THE COURT: Yes. You've got to hold it open, or it
16 will lock on you.
17 MR. WEHNER: Yes.
18 JANET WHITMAN, DEFENDANT'S WITNESS, SWORN
19 DIRECT EXAMINATION
20 BY MR. WEHNER:
2 Q. Your name is Janet Whitman?
2 A. Yes. Yes.
2 Q. Do you know an individual by the name of Susan Withington?
2 A. I know of her, and I've spoken to her on the phone many
2 times. I've never actually met her.

2073

1 Q. Directing your attention to the time period of 1986 and
2 1987, did you have occasion to represent an individual with
3 relationship to the purchase of a condominium, Unit 1412 at the
4 Watergate Complex?
5 A. Yes, I did.
6 Q. Who was that person that you represented?
7 A. Mr. Lou Kitchin.
8 Q. As a result of your representation to Mr. Kitchin, did you
9 have conversations with Ms. Withington?

10 A. Yes, I did.
11 Q. And why did you have conversations with her?
12 A. She was the listing agent of Unit 1412. Is that the number
13 you gave me, 14- -- what was the number you just said?
14 Anyway, she was the listing agent of the apartment that

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15 I was showing to Mr. Lou Kitchin.
16 Q. Okay. Let me show you what I've marked for identification

17 as Dean Exhibit 208.

18 THE CLERK:

19

20

2 BY MR. WEHNER:

Dean Exhibit 208 marked for identification.
(Defendant's Exhibit No. 208 was
marked for identification.)

2 Q. And ask you if you recognize this document?

2 A. Yes, I do.

2 Q. What is it?

2 A. These are my notes that I made to myself about that time

1 that I showed Mr. Kitchin the apartment, and it is Unit 1412 at

(*

2 the Watergate, Susan Withington being the listing broker. I have
3 made notations here of her phone number. I was probably having a
4 conversation with her as I jotted down the list price, what she
5 thought it might sell for, the fact that it was going to be
6 advertised in tomorrow's paper and that my client should
7 therefore hurry up and make an offer.

8 Q. Did you have --

9 A. These are my notes.

10 Q. Did you have conversations with Mr. Kitchin prior to that
11 date?

12 A. Yes. I met him -- Deborah introduced me to him. I showed
13 him 10 or more apartments at the Watergate and, I believe, at a
14 building in the southwest area, also, prior to the Watergate. He
15 liked the Watergate. He decided on this unit and wanted to
16 proceed and make an offer.

17 Q. Let me show you what I've marked for identification as Dean
18 Exhibit 209.

19 THE CLERK: Dean Exhibit 209 marked for identification.

20 (Defendant's Exhibit No. 209 was

2 marked for identification.)

2 BY MR. WEHNER:

2 Q. I ask if you recognize this document?

2 A. These are also notes to myself. This is a list of things to
2 do on the Friday after the Thursday that I had shown Mr. Kitchin

a the apartment.

2 Q. Yes?

3 A. And right there for myself to do in the morning is to talk
4 to Lou Kitchin and Deborah regarding the apartment, and I have
5 written down the name Gordon, and that is the, who is the owner
6 of the apartment, Gordon Dean, being Deborah's brother. And I
7 also have Susan Withington's name to call next.

8 Q. Let me show you what I've marked for identification as Dean
9 Exhibit 210 and ask you if you recognize that?

10 THE CLERK: Dean Exhibit 210 marked for identification.

11 (Defendant's Exhibit No. 210 was
12 marked for identification.)

13 THE WITNESS: These are also notes to myself. This is
14 my plan to pick up Lou Kitchin and Deborah at 3:00 on Thursday to
15 show him the 10 apartments that I had lined up, and I was to pick
16 them up at 3:00 on Thursday at HUD.

17 BY MR. WEHNER:

18 Q. Okay. Did, in fact, that appointment take place?

19 A. Yes. I did, in fact, pick up Deborah and Mr. Kitchin. We
20 got in my car. We went to the building in the southwest area.
21 He didn't like that building very much.

22 We then proceeded on to the Watergate, and I showed him
23 about maybe eight or nine apartments there, one of which was the
24 one he decided that he liked and wanted to make an offer on.

25 Q. And was that the one owned by Ms. Dean's brother?

1 A. Yes, it was.

(

2 Q. Did you proceed from there to have drinks or cocktails?

3 A. Yes. That Thursday, after we looked at the apartments, it
4 was, you know, approaching maybe five or six o'clock, we went to
5 The Guards, and the three of us had cocktails: Deborah,
6 Mr. Kitchin, and myself.

7 Q. Directing your attention to, subsequent to that time period
8 when you had the cocktails at The Guards, did Mr. Kitchin
9 continue to express an interest in purchasing the condominium?

10 A. Yes, he did. He returned to Atlanta, and we spoke on the
11 phone quite a few times. He asked me to send him a contract of
12 purchase, which I did.

13 At the Watergate, there's a specific contract. It has
14 to be a Watergate contract. And I remember Fed Ex-ing it to him
15 in Atlanta, a blank one, maybe somewhat filled in, and talking to
16 him on the telephone long distance, encouraging him to go ahead
17 and fill it out and sign it and send it back to me so I could
18 present it for him.

19 Q. Did you ever, in fact, receive that contract back from him?

20 A. No, I never did, nor did I receive a deposit check from him.

2 Q. Let me show you what's been marked for identification as

2 Dean Exhibits 213 and 214 and ask you if you can identify those?

2

THE CLERK: Dean Exhibits 213 and 214 marked for

2

identification.

2

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1 (Defendant's Exhibit Nos. 213 and 214
2 were marked for identification.)

3 THE WITNESS: Okay. These are pages from my diary of
4 that year of April, and I have made notes to myself. One of them
5 is the fact that he's coming back to Washington, and this was to
6 jog myself to proceed and pursue with him, encouraging him to go
7 ahead and buy the unit.

8 MR. WEHNER: Your Honor, at this time, I'd move the
9 admission of Dean Exhibits 208, -9, -10 -

10 THE WITNESS:
11 return to town.

12 MR. WEHNER:

13 MR. O'NEILL:

14 Your Honor.

And this one is to call him prior to his

-- -13, and -14.

Objection to the legal admissibility,

15 THE COURT: Let me talk to you about it a second.

16 (Bench conference on the record.)

17 THE COURT: Your objection is to their legal
18 admissibility?

19 MR. O'NEILL: Yes.

20 THE COURT: What does that mean?

2 MR. O'NEILL: I have no problem referring to them,
2 letting her read them, but the notes I don't think come into the
2 evidence. The calendars maybe might be a little different, if
2 Steve wants to make sure that she kept that in the regular course
2 of business and everything else.

2078

1 MR. WEHNER: I can establish that she kept these notes
2 in the regular course of business, Judge. I'm just trying to cut
3 through this. She's a real estate agent. She kept these as part
4 of her business.

5 I'd

6 government in

7 THE

8 came from the

9 MR.

10 THE

11 recollection?

12 MR.

point out to the Court they came from the
the first place.

COURT: That doesn't make them admissible that they

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government.

WEHNER: Sure.

COURT: They weren't used to refresh her
I'm not sure what they were used for.

WEHNER: No. They were contemporaneous notes of

13 events that occurred on that day that she keeps as business
14 records.

15 THE COURT: If he establishes they're business records,
16 are you still objecting to them?

17 MR. O'NEILL:

18 records.

19 THE COURT:

20 MR. O'NEILL:

2 going to say business

2 her before, she might

2 past.

2 THE COURT:

2 not.

There was nothing said about business

If he establishes that?

We've met her. I'm not so sure she's
record, although if Steve has spoken with
say that. She hasn't said that in the

Lay out a foundation, see if you can or

MR. WEHNER: Sure.

MR. O'NEILL: Okay.

3

2

(End of bench conference.)

4 BY MR. WEHNER:

5 Q. With regard to these exhibits, and directing your attention
6 specifically to 1986 and 1987, was it your practice to make your
7 notes in the regular course of your business?

8 A. Yes, very much so.

9 Q. And did you make all of those in the regular course of your

10 business?

11 A. Yes.

12 Q. And were they made contemporaneously with the events as they

a

13 took place?
14 A. Yes, most definitely.
15 MR. WEHNER: I'd renew my --
16 MR. O'NEILL: No objection, Your Honor.
17 THE COURT: All right. We'll admit them, 208, -9, -10,
18 -13, and -14, as business records.
19 (Defendant's Exhibit Nos. 208 thru 210,
20

213, and 214 were received in
21

evidence.)
22 BY MR. WEHNER:
23 Q. Directing your attention to approximately the same time
24 period, did you have an understanding as to what, if any, role
25 Ms. Dean was to have in relationship to the condominium purchased

1 by Mr. Kitchin?
2 A. She was going to decorate it for him. Deborah has always
3 had an interest in interior design and antiques, and it was her
4 plan to furnish it for him, as she has for many other people.
5 MR. WEHNER: Nothing further, Your Honor.
6 THE COURT: All right.
7 CROSS EXAMINATION
8 BY MR. O'NEILL:
9 Q. Ms. Whitman, good morning -- good afternoon. Tell the jury

10 how long you've been friends with Ms. Dean.
11 A. Since 1967, the fall of 1967.
12 Q. And would you say she's one of your closest friends?
13 A. She has been during my lifetime.
14 Q. Okay. Now, Ms. Whitman, when did you first meet Lou
15 Kitchin?
16 A. I met him on that Thursday at 3:00 at HUD, when I picked he
17 and Deborah up to show him apartments.
18 Q. And that was in early 1987?
19 A. Yes, I believe January.
20 Q. And is it fair to say you met him on approximately five to
2 ten occasions during the calendar year 1987?

2 A. That is very fair, yes.
2 Q. And on each of those occasions, is it fair to say that you
2 met him at The Guards restaurant?
2 A. Yes, not --

2081

1 Q. Other than the one time that you went and looked at the
2 apartments?
3 A. I believe I showed him apartments twice.
4 Q. Okay. And what was that other time you showed him
5 apartments?
6 A. I'm not sure. It was subsequent to that first time.
7 Q. Do you have any notes suggesting when that might be?
8 A. No.

9 Q. Now on this first time you did show him the apartments, am I

10 correct that was in January of 1987?

11 A. I believe so.

12 Q. And am I also correct that you picked him up at HUD?

13 A. Yes, I'm sure of that.

14 Q. And he was with Deborah Dean at that time?

15 A. Yes.

16 Q. Okay. Did you go into HUD, or did they come out?

17 A. I might have called from the lobby, because I was sort of
18 just illegally parked in a circular driveway, and it was easier
19 to just call up and have them come down. I believe that's what
20 happened.

2 Q. Now, Ms. Whitman, you showed Mr. Kitchin several apartments;

2 is that correct?

2 A. Yes.

2 Q. And one of those apartments was owned by Gordon Dean?

2 A. Correct.

2082

1 Q. And you've testified that Mr. Kitchin was interested in that
2 apartment?

3 A. Very much so.

4 Q. Now you testified at one point you even sent him a contract.

5 A. Yes, I did.

6 Q. And do you have a copy of that contract, ma'am?

7 A. I do not, but I do have in my notes the fact that I picked
8 it up from Susan Withington. She left it for me at the
9 Watergate. As I noted to you earlier, it had to be a Watergate

10 contract.

11 Q. And did you note in your notes as to whether you ever took
12 that contract and sent it down to Louis Kitchin?

13 A. I remember sending it to him via Federal Express, I
14 remember, or some other overnight carrier, and I remember after
15 he had it talking to him on the phone about it and going through
16 it.

17 Q. Now, Ms. Whitman, do you remember talking to people at the
18 Office of Independent Counsel on February 5 of this year?

19 A. Yes, I do.

20 Q. And was I one of those people that were there?

2 A. Yes, you were.

2 Q. I'd show you a memorandum, and I'll mark it as Government's

2 Exhibit 510 --

2 MS. SWEENEY: 513.

2 MR. O'NEILL: I'm informed it's 513, Your Honor.

2083

1 THE COURT: All right.

2 MR. O'NEILL: Is that right, Gloria?

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3 THE CLERK: Just a moment. The last one I have is 510.

4 MR. O'NEILL Okay.

5 MS. SWEENEY 511.

6 MR. O'NEILL 511. Thank you, Gloria.

7 (Government's Exhibit No. 511 was

8 marked for identification.)

9 BY MR. O'NEILL:

10 Q-And I direct your attention -

you can't read this out loud,

11 because it's not in evidence. Have you had a chance to look at

12 that'. >

13 A. Yes.

14 Q. Now, Ms. Whitman, I'd ask you as to your testimony, did you

15 send a contract to -

16 A. I remember sending him a contract.

17 Q. Okay.

18 A. I don't know who wrote what you just showed me, but it

19 wasn't me.

20 Q. Well, did you remember sending him a contract in February of

21 this year?

22 A. Say that again?

23 Q. Did you remember sending a contract to Lou Kitchin when you

24 were asked about that in February of this year?

25 A. Did I remember? I don't know what I said that day.

2084

1 Q. Well, you'd agree that your memory would be better in

2 February than it would be now as to events that happened before?

3 A. My memory is probably better now. The more time goes on,

4 the more I think about it, the more I can remember.

5 Q. So you've had time to think about this?

6 A. Um-hum.

7 Q. And you're represented by counsel today, right, ma'am?

8 A. Um-hum.

9 Q. Why are you represented by counsel?

10 A. I don't know what to say to that.

11 Q. Well, I'm asking you.

12 A. I thought it was the thing to do.

13 Q. Are you paying for it?

14 A. Yes.

15 Q. And how much are you paying?

16 MR. WEHNER: Objection, Judge.

17 THE COURT: All right, I'll sustain it. It's not

18 relevant.

19 THE WITNESS: Initially when I was --

20 BY MR. O'NEILL:

2 Q. Excuse me, ma'am. And is that your testimony, that you're
2 paying for counsel?

2 A. Yes, I am paying for my own counsel, with my own money which
2 I have earned.

2 Q. And what are you doing right now, ma'am?

A. I sell real estate.

2 Q. Okay. Are you very good at your job?

3 A. I'm pretty good.

4 I also have a salaried position as an office manager

5 for a real estate company, which doesn't pay much, but I also

6 sell on the side, and I've been pretty lucky and had some sales.

7 Q. Now you do not have a copy of the contract that you sent

8 Mr. Kitchin; is that correct?

9 A. No, I do not, but it was a standard Watergate contract.

10 Q. Now you stated that Mr. Kitchin was going to have Ms. Dean

11 furnish her apartment.

12 A. Yes, that's correct.

13 Q. And did you hear them talk about money to do that?

14 A. No, I did not.

15 Q. Did you ever hear of them talk about any loans or anything

16 like that?

17 A. No.

18 Q. Now Mr. Kitchin never bought that apartment; is that

19 correct, Ms. Whitman?

20 A. Not that I know of. He did not buy it through me. I, in

21 fact, don't know if he ever bought it or not.

22 Q. Have you ever seen Mr. Kitchin after those events in 1987?

23 A. No, I have not.

24 Q. Did you ever see him with Ms. Dean after that?

25 A. I really don't think so, no.

2086

1 Q. Now as to the apartment, did you ever see an executed sales

2 contract?

3 A. No, I never saw an executed sales contract.

4 Q. And did you ever receive a commission for it?

5 A. Never received a commission for it.

6 Q. If it had sold through Mr. Kitchin, would you have received
7 a sales commission?

8 A. If he had bought it through me as his agent, I would have

9 received a sales commission. He could have bought it without me,

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10 and because it's a co-op, it's not published, he could have
11 bought it and I wouldn't have known about it, but he didn't buy
12 it through me.
13 MR. O'NEILL: That's all I have. Thank you.

14 THE COURT:
15 MR. WEHNER:
16 THE COURT:
17 MR. WEHNER:
18 THE COURT:
19 can step down.

Any redirect?
One second, Your Honor?
All right.
Nothing further, Your Honor.
All right. Thank you, Ms. Whitman. You

20 THE WITNESS: Thank you.
2 (Witness excused.)
2 MR. WEHNER: Your Honor, if I could make the same run
2 on our next witness?
2 THE COURT: All right.
2

1 BRUCE E. CLINTON, DEFENDANT'S WITNESS, SWORN

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2 DIRECT EXAMINATION
3 BY MR. WEHNER:
4 Q. Mr. Clinton, you know who Deborah Gore Dean is, do you not?
5 A. Yes, I do.
6 THE COURT: Could I get his name for the record?
7 MR. WEHNER: Yes, Your Honor. Bruce Clinton,
8 C-1-i-n-t-o-n.
9 THE COURT: Thank you.

10 THE WITNESS: "E" is the middle initial, Your Honor.
11 THE COURT: Thank you.
12 BY MR. WEHNER:
13 Q. Mr. Clinton, you have had in your career dealings with HUD;
14 is that correct?
15 A. Yes, I have.
16 Q. Would you please describe to the jury your dealings with
17 HUD, when they began and generally what they consisted of?
18 A. My companies began its dealings with HUD in roughly 1973 or
19 1974, and I was interested in some projects that were in default
20 in the western suburbs of Chicago, and that evolved into an
2 appointment of our companies as managing agents for two very

2 large, very troubled projects in Chicago totaling about 2,000
2 units.
2 The first transaction was not related to the second.
2 It's just that we started with them in '73 or '74.

1 Q. would you describe what occurred with those projects over
2 time up until the present, please, sir?

3 A. It's a long story. Beginning in October of 1975, my
4 companies, as I said, were appointed managing agents of these two
5 large, high-rise structures in the city. Both of them were in
6 just deplorable condition, and we took on the management
7 responsibility.

8 In 1981, we acquired one of the two projects, a project
9 called Regents Park, and subject to what's called a provisional
10 workout agreement with HUD, we agreed to invest virtually 100
11 percent of our resources, both financial and, and human, in the
12 rehabilitation of this very unusual project. It's right on the
13 south side of the city, and it's right on the edge of the
14 University of Chicago.

15 And from '81 to about the fourth quarter of 1985, we
16 undertook to fulfill our commitments under the provisional
17 workout agreement.

18 Q. During that time period, were you in contact with the local
19 Chicago HUD office?

20 A. Very extensively.

2 Q. And what was your understanding as to the way, as to your
2 relationship with them at that time?

2 A. Well, I suspect in this forum I can't really do it justice,
2 but I would say probably in all fairness, in the entire United
2 States, the most highly visible adversary relationship with HUD

1 of any ongoing real estate company probably was ours. We have

(i

2 had massive battles, substantial litigation.

I don't know if you want me to go into this much

4 detail, but in December of 1992, just last December 20, I was the

5 subject of a "60 Minutes" -- a 15-minute segment of "60 Minutes."

6 All of the Chicago newspapers covered the matter in front-page

7 stories and extensive articles. A number of other television

8 stations and networks have covered the thing. The Wall Street

9 Journal covered it.

10 I'm not sure that's responsive to your question,

11 counsel, but my own judgment would be that there probably

12 wouldn't be any more high-profile adversarial relationship in

13 that troubled agency's history than mine.

14 Q. Okay. Directing your attention to the time period 1983 and

15 1984, was your relationship with HUD troubled at that time?

16 A. 1983, I'm sorry, would you ask --

17 Q. Well, let's take it '83 to '87 is probably a fairer

18 question.

19 A. '83 to '87, was it troubled? In the extreme, yes.

20 Q. Directing your attention to that same time period, did you

have occasion to meet Deborah Gore Dean?

2 A. Yes, I did.

2 Q. And how did you have occasion to meet Ms. Dean?

2 A. It's --

2 Q. Well, let's stop for a second. What was your understanding

2090

1 before you met her as to who she was?

2 A. Before I met her, I had only heard of her by reputation very
3 peripherally. I didn't even have a clear understanding of who
4 she was. I knew she was some official. I mean, I knew the name;
5 it's a well known name, but I really didn't know much about her
6 at all up until the time I first met her.

7 Q. Okay. When approximately do you recall meeting her?

8 A. I'm going to say I think it was about 1986, maybe '87,
9 probably, yeah, right around '86-'87 period.

10 Q. Okay. And for purposes of the trial, we deal in best
11 recollections, so please don't guess. Just give us your best
12 recollection. And your best recollection is it was in 1986 or
13 1987?

14 A. Yes. I would say more likely '87 but -

15 Q. Okay. How did you meet Ms. Dean?

16 A. I'm a little uncomfortable trying to express the answer out
17 of context. If you could visualize a prolonged period of
18 intensive community and political and, and media attention
19 focused on this project -- if I may explain first of all, what
20 happened was we cut a deal with HUD that said that HUD would,
2 would -- we would take over this project, we would buy the
2 troubled project, we would fix it up, and we would overcome
2 community resistance to the project, and if we were successful
2 and only if we were successful, HUD was obligated to restructure
2 the mortgage.

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1 So to be clear with you, we acquired title, but the
2 restructuring of the mortgage, the restructuring of the long-term
3 financial obligations on the project was discretionary as to HUD.
4 The problem was the only deal they would cut was you had to put
5 all your money in and five years of your human resources in on
6 the front end, and then HUD at the end of the day, if they liked
7 what you did, would say, "well, okay, you did a good job. Here's
8 a restructured mortgage."
9 So with that, with that background, what took place was
10 we did our undertakings, and by, by an order stipulated in
11 federal court in Chicago, we did an exemplary job. It was
12 really, not to be too self-serving, but it was a spectacular
13 result. It really was very successful.
14 So we wound up with the project completely
15 reconstituted and really a very, very good operating project. We
16 then approached HUD in, I think, December of 1985 or 1986 and
17 asked them to fulfill their commitments. Beginning in 1985 and
18 until high noon of April Fool's Day this year, we struggled with
19 HUD through one administration after another to try to get them
20 to consummate their transaction.
2 In that context, understandably at the outset, it was
2 really just a dispute between a private sector firm -- I've got a
2 group of small companies, and we aren't exactly, I guess the
2 Washington term is movers and shakers. We weren't anything like
2 that. So we, we were basically trying to go about the process of

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1 getting them to fulfill their commitments.
2 And as this thing went along and as more and more
3 people became aware of the problems and it picked up more
4 community support, I'm talking about grass roots support, more
5 and more people in the political process became involved.
6 As a result of that, in about 1987 roughly, I was asked
7 to attend a meeting in the office of Congressman Henry Hyde, who
8 was a prominent Republican member of Congress from Illinois, and
9 through an intermediary friend -- I didn't know Congressman Hyde
10 that well at all, but through an intermediary friend, I attended
11 this meeting. Representing the Secretary of Housing as his
12 executive assistant was Deborah Gore Dean, and that was the first
13 time I met her.
14 Q. And did you take part in a meeting with Ms. Dean?
15 A. I did. There was a meeting at that time.
16 Q. Okay. What is -- give us your understanding of what
17 occurred at the meeting based on your attendance there.
18 A. Well, Ms. Dean showed up late and expressed right off the
19 bat that she was appearing in behalf of the Secretary of Housing,
20 Mr. Pierce. She listened carefully, took notes. At the end of
2 the meeting, she said, "I will take this matter back, and I will
2 conduct an investigation of the matter, and I will be in touch
2 with your counsel and let him know if anything can be done or if
2 anything will be done, and if so, what."
2 If I may say parenthetically, when I left that meeting,

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1 you can imagine I made it my business to find out every single
2 thing I could about who Deborah Dean was and what her background
3 was and what role she played and how the decision-making process
4 flowed in HUD, because it seemed to me that at that moment in

5 time, our destiny rested in the hands of this little lady that
6 walked in the room.

7 Q. Did you come to an understanding of what Ms. Dean's role was
8 at HUD?

9 A. Oh, yes, very much so.

10 Q. And what was that understanding?

11 A. Ms. Dean was, in the parlance of organization, Ms. Dean was
12 a staff person. She was an administrative assistant to the
13 president --to the secretary. She had a capacity to develop an
14 opinion, to advise the secretary, to recommend her point of view,
15 but I was absolutely positive that she was at no time in a
16 position of discretionary authority in terms of the disposition
17 of our matter; that is, she could not -- she couldn't say yes or
18 no. What she could do would be to advise the secretary. And she
19 spoke for him. She would do investigations for him of things,
20 and then she would advise him.

2 And my understanding, candidly, was that she had a very

2 forceful, very sometimes exasperating style, and she stepped on a
2 lot of toes.

2 So my, in all honesty, my view was if we could win over

2 Ms. Dean, if we could win her over to our side of the issue, we

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1 were well on the way to getting the damn thing finished, and
2 that's what I wanted to do.

3 Q. Based on your conversations and your experience at that
4 time, did you form an opinion as to her honesty, character, and
5 integrity?

6 A. Counsel, my reason for being here today, I am not under
7 subpoena; I came here today voluntarily, because I wanted to say
8 in this courtroom that at no time, in any way, under any
9 circumstances did Ms. Dean in any way even cut a corner, to the
10 best of our knowledge, and, and our dealings with her extended I
11 don't know how many months in all, but absolutely positively I
12 want to say to you that she -- and our experience wasn't
13 necessarily always pleasant, wasn't accessible. You couldn't
14 reach her by phone. I mean, it was a kind of a helter-skelter
15 thing.

16 But in terms of the fundamental integrity of the way in
17 which she went about the thing, at all times, every position that
18 she took -- and if you folks live in this area, you know, as they
19 say, don't watch what they say; watch what they do. The nature,
20 the way in which she behaved was absolutely inconsistent with
2 someone who was dealing for her own account, the kinds of
2 comments that she would make, the kinds of decisions that she
2 made.

2 I don't want to go on too much, but let me just say

2 that in our situation, we had a firm deal, and we expected the

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1 government to live up to the deal that they made with us, and
2 when Ms. Dean got into the thing and got involved, at the end of
3 the day, she insisted on still a better deal, and my position was
4 hell, no. A deal is a deal. You should do what you agreed to.

5 And her position was that in the interests of fairness and the
6 interests of trying to protect the department's interests, she
7 wanted a little bit better deal. We ultimately agreed.

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8 But I can only say emphatically that in every single
9 respect, she seemed to be motivated by the things that she

10 thought were best for the program or, in the alternative, for

11 Secretary Pierce.

12 MR. WEHNER: I have nothing further, Your Honor.

13 CROSS EXAMINATION

14 BY MR. O'NEILL:

15 Q. Mr. Clinton, is it fair to say you're not a very big fan of

16 HUD?

17 A. Definitely.

18 Q. And is it fair to say you're not a very big fan of Tom

19 Demery?

20 A. That is also true.

2 Q. Okay. Now your dealings on Regents Park at first were
2 principally with Tom Demery; is that correct?

2 A. No, sir.

2 Q. Okay, excuse me. Let me go to the 1987 time frame.

2 A. Then you would be right. I had a brief period of time when

2096

1 I was dealing with Mr. Demery.

2 Q. And is it fair to say that at that time, his title was
3 Assistant Secretary for Housing?

4 A. Yes, sir. FHA commissioner, right.

5 Q. And you found him pretty much hard to move on this issue.

6 He seemed to be predisposed against you. Would that be a fair
7 assessment in your opinion?

8 A. No, sir.

9 Q. Okay. Did you find that his assessment of what the value of

10 the property was differed quite substantially with your own?

11 A. I don't want to be troublesome to you, counsel --

12 Q. No, that's fine.

13 A. Let me answer you this way: Our perception of Mr. Demery --

14 and I don't know Mr. Demery well. As you say, I don't have a

15 particularly high regard for him, but my perception of Mr. Demery

16 is exactly the distinction I was trying to draw earlier.

17 Mr. Demery always had two or three agendas floating at

18 any one time. He just didn't have a clear understanding of where

19 he was. We had heard parenthetically that Mr. Demery's interest

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20 was to take Regents Park from us by declining to consummate the
2 deal that had been made, to take Regents Park from us and turn it

2 over to a man with whom he had done business before he became
2 assistant secretary.

2 That kind of distinction at no time ever occurred with

2 Ms. Dean. That was the point I'm trying to make.

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1 Q. Let's get to that. You keep talking about a deal that had
2 originally been made.

3 A. Yes, sir.

4 Q. Was that made with a former FHA commissioner at HUD at the
5 very beginning?

6 A. You know, I don't know the answer to that. It was made, it
7 was made with a competent authority at HUD, and that's what the
8 federal district court found in Chicago, so -

9 Q. Let me see if this refreshes your recollection. Was the
10 previous FHA commissioner that made the original deal Philip
11 Winn?

12 A. No.

13 Q. Okay.

14 A. No. Can I just clarify this? Because I think I know what
15 you -16

Q. Go right ahead.

17 A. Philip Winn at one of the transition points of this whole
18 process had some dealings on it, but as I recall, Mr. Winn never
19 actually even entered into a firm decision on it.

20 Q. When you say he had some dealings, was that in his private
2 capacity, or was it in his capacity at HUD?

2 A. I'm talking in response to your question only in his
2 capacity at HUD. After he left HUD, he became a consultant, and
2 I was, I was tangentially involved with him then. He was really
2 a consultant of the University of Chicago.

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1 Q. Okay. Later on, a community group with the University of
2 Chicago -- and does the name Jonathan, I think it's Kleinbard --

3 A. Kleinbard, yes. He's vice president of the university.

4 Q. Did they hire Philip Winn as a consultant?

5 A. Yes, they did.

6 Q. Now, Mr. Clinton, there was an appraisal issue as to the
7 value of the property, was there not?

8 A. There were roughly a dozen appraisals.

9 Q. Okay. Let's talk about 1987. Is it fair to say at that

10 time, you had submitted an appraisal issue that the property was
11 worth approximately \$19 million?

12 A. I honestly don't remember, but I'm sure you're probably
13 right if it says that.

14 Q. And further to refresh your recollection, Tom Demery said
15 that the property was worth \$33 million, and that's what you'd
16 have to pay HUD, and that was one of the big trouble spots?

17 A. I know nothing about what Mr. Demery testified to, but I
18 want to tell you emphatically that was not the case. Mr. Demery
19 took the position that A, in the first instance, he didn't know
20 what it was worth. In the second instance, the 19 million
2 sounded fine.

2 Then when he was, when he was striving to become
2 confirmed as assistant secretary, his position was he didn't want
2 to take any position on value or dispose of the matter until
2 after his confirmation. After his confirmation, sir, he took the

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1 position that, in fact, the value was irrelevant to the way he
2 intended to administer the program, and the value, as he put it,
3 floated. All he wanted to do was to get a structure of a deal.
4 So I'm not being argumentative, believe me. All I'm
5 trying to say is Mr. Demery never took any honest-to-goodness
6 factual position. It was always just sort of evolving around
7 some other point.
8 Q. So you had trouble dealing with Tom Demery on this issue?
9 A. Anybody who wasn't in a certain click had trouble dealing
10 with Mr. Demery.
11 Q. And you didn't have any problems with Ms. Dean on this
12 issue?
13 A. I had plenty of problems with Ms. Dean. This is not a love
14 feast with Ms. Dean. All I say about Ms. Dean was her clear
15 motivation, her way of conducting her business was altogether
16 different than sort of a rat pack of guys that were involved in
17 HUD at that time.
18 Q. It's your testimony, I gather, that Tom Demery had a hidden
19 interest in Regents Park going to someone else?
20 A. That was what I heard. I'm not saying that that's factual.
2 I'm saying that that was the rumour in Chicago at that time.
2 Q. And you felt that to be true by your dealings with him?
2 A. In all honestly, I probably did, yes, although I don't have
2 any facts to that.
2 Q. And, Mr. Clinton, you find it rather abhorrent that a

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1 government official would have a hidden interest, don't you?
2 A. You know, it sounds altruistic. I suppose all of us have a
3 hidden interest. I think that what I find difficult is the
4 extent to which so many people at that particular time in history
5 were subrogating or, or putting in an inferior position the
6 legitimate interests of a community or of the programs or of the
7 National Housing Act in pursuit of their own private agendas, and
8 I thought Mr. Demery was. I never thought Ms. Dean was.
9 Q. Okay. So for Regents Park, you found it distasteful that
10 Tom Demery, who should have been looking out for the community,
11 was actually looking out for someone he favored; is that true?
12 A. I felt, I felt Mr. Demery, for whatever reason, was not
13 willing to go ahead and, and consummate the transaction that had
14 been agreed to by a prior administration. I heard that one of
15 the explanations -- there were two explanations that were
16 offered, if you want me to say, counsel.
17 One was that he had another major developer in Chicago
18 that he wanted to hand the deal to, and the second possibility
19 was that he was upset because Senator Dixon, who was very
20 interested in our case, had inquired of him -- he was a member of
2 the House -- I'm sorry, of the Senate Banking Committee, I think
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blank)
2 it is, the committee that confirms the Assistant Secretary for
2 Housing -- inquired of Mr. Demery prior to his confirmation, and
2 word reached me through the University of Chicago, as a matter of
2 fact, that Mr. Demery took the position that I attempted to

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1 impede his confirmation or inject myself into his confirmation.
2 In fact, I wouldn't have had the capacity to if I wanted to.
3 So those were the two explanations that were offered
4 generally and widely. It's been written in the press and on
5 television, everything. Those were the explanations that were
6 given as to Mr. Demery's resistance to consummating the
7 transaction.

8 Q. Are you finished, sir?

9 A. I'm sorry. Yes, sir.

10 Q. Now let me ask my question again: Was it because you felt
11 Tom Demery had a hidden interest that you felt you couldn't deal
12 with him? And did you find that distasteful?

13 A. I felt that was one possibility.

14 Q. Is there something wrong with a government official having a
15 hidden interest when dealing with the private citizens?

16 A. If it interferes with their competent and, and honorable
17 discharge of their responsibilities, you bet I do.

18 Q. Thank you, sir.

19 A. Not at all.

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20 THE COURT: Is that all?

2 MR. WEHNER: Yes, Your Honor.

2 May we approach?

2 THE COURT: Sure.

2 MR. WEHNER: Thank you, Mr. Clinton.

2 THE COURT: Thank you, sir. You can be excused.

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1 (Witness excused.)

2 (Bench conference on the record.)

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Yes?
That's it for today.
Okay. Did you want --
I'm sorry it went so fast.
Did you want to -- off the record.
We have Ms. Dean tomorrow.
But you want to wait for Ms. Dean?
Yes, sir. She needs to get a good night's

All right.
Thank you, Your Honor.
Have you looked at that chart yet?
No, sir.
I want to take it up tomorrow morning then,

get your, advise the counsel who filed the motion

18 to quash to come in tomorrow morning and take that up.
19 MR. WEHNER: I'll take that up right after this is
20 over.
2 THE COURT: we'll take that up at 9:30 and have the
2 jury come in at 10:00
2 MR. O'NEILL : Thanks, Judge.
2 MR. WEHNER: Thanks, Judge.
2 THE COURT: You all had better start thinking about

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instructions.
2 MR. O'NEILL: Yes, sir.
3 MR. WEHNER: Judge, mine are going to be pretty fact
4 bound in terms -- I don't think, based on Your Honor's ruling, I
5 could argue too much on what the law is.
6 THE COURT: You had suggested an instruction about a
7 theory of defense type.
8 MR. WEHNER: Yes, sir. That's what I'm looking at

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9 primarily in that regard in terms of scheduling. It strikes
10 me -- and I discussed this with Mr. O'Neill -
11 that we'll
12 probably be finished with this case on Wednesday, and if we can
13 have a charge conference Thursday and close Tuesday, that's
14 acceptable to both sides.
15 THE COURT: Sure, okay. Yes, because Friday I'm tied
16 up in this FBI case all day, so Thursday would be the best way to
17 do it. If it works out time-wise, that's fine.
18 MR. O'NEILL: Judge, in terms of instructions then,
19 obviously, not to put any time frame, but what would be, what
20 would you like? I know you'd like it as soon as possible.
21 THE COURT: All I want is any particular substantive
22 ones you have.
23 MR. O'NEILL: Okay.
24 THE COURT: I'll give standard, everyday ones, and I
25 can give you a pretty good example of those, but if you have any
particular ways you want to express the conspiracy and perjury

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1 instructions, I have a copy of the ones used in George by
2 independent counsel recently which go to perjury and the same
3 kind of coverup charges, as well as the conspiracies I've given
4 and other people have given in that area, but you can supply the
5 particular ones you want. You don't need the general impeachment
6 or whatever.
7 MR. O'NEILL: Okay.
8 THE COURT: I'll have that printed up and give them to
9 you all to look at.
10 (End of bench conference.)
11 THE COURT: All right. Ladies and Gentlemen, the
12 schedule is such we got through these witnesses in an hour
13 instead of two hours. We all thought it would take a lot longer
14 today. So we're going to have to let you go for this evening.
15 We would have had you come in in a different time frame if I had
16 known that, but things went a lot faster on both sides than we
17 anticipated.
18 Your afternoon snack has already been ordered, and we
19 have to pay for it, so you're welcome to stay around for it if
20 you want, or you can leave without waiting for it. If you leave
21 and there are any cookies left, we'll take care of them. You
22 don't have to worry about that.
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23 We're going to let you go then. Tomorrow there will be
24 testimony of witnesses and on Wednesday, and perhaps we may be,
25 we just talked over time frame, concluding the witnesses this

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1 week and then arguments to the jury and my instructions to you
2 next week. Next week is a holiday week. Monday the 14th is
3 Columbus Day, which will be an official holiday --or the 12th,
4 whatever that day is. The 11th is Monday, would be a holiday.
5 So we'd probably come back on the 12th then for, if
6 we're as advanced as we think we are, for closing arguments,
7 instructions, and beginning deliberations. That's subject to
8 modification, depending on how long the witnesses take for the
9 rest of this week. But in any event, I think we can safely say
10 by sometime next week, the case will be to you for a deliberation
11 stage, either Tuesday, Wednesday, or Thursday next week if you're
12 looking at your schedule for getting back to your normal lives.
13 All right, we'll take a recess now. Again, it's a
14 Monday night football with the Redskins, so you may watch it, but

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15 just try to get a little rest so you'll be here tomorrow.
16 We expect a full day tomorrow. I am going to start a
17 half-an-hour late tomorrow, because I have some other matters to
18 take up, so it will be 10:00. So if you do stay up until one
19 watching the game, you don't have to get here until ten in the
20 morning, all right? Not 9:30, but 10:00 tomorrow morning. So
2 we'll see you tomorrow morning at 10:00 a.m. please.
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2 Remember the admonitions again. There may be something
2 in the paper, on the news, radio, television, or in the newspaper
2 about it, and I don't want you to listen, to watch, or read
2 anything about this case. If there are any articles about it, be

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1 very careful. Don't let anyone talk to you about it or show you
2 those articles or talk among yourselves on the way out tonight.
3 we'll see you back tomorrow morning at 10:00 in the
4 morning. Tomorrow afternoon, we'll sit until about 4:30. I have
5 another matter at 4:30, so you'll be out by 4:30 in the
6 afternoon. It will be a regular day wednesday. We'll see about
7 Thursday, all right? We will not be sitting this Friday, not
8 this Friday at all, this Friday. All right.
9 (Jury out.)
10 THE COURT: All right, we'll take up tomorrow morning
11 at 9:30 the motions to quash the witnesses and the charts and
12 diagrams that have been offered by the government, and then we'll
13 go ahead with the witnesses starting tomorrow and into wednesday,
14 see where you are then as to the charge conference on Thursday or
15 if we're still finishing witnesses. All right.
16 (Recess from 2:44 p.m., to 9:30 a.m., October 5, 1993.)
17
18 CERTIFICATE OF THE REPORTERS
19 We certify that the foregoing is a correct transcript of
20 the record of proceedings in the above-entitled matter.

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

3 UNITED STATES OF AMERICA,

- VERSUS- DOCKET NO.
CRIMINAL NO. 92-181
5 DEBORAH GORE DEAN,
WASHINGTON, D.C.
DEFENDANT OCTOBER 5, 1993

9:35 A.M.
VOLUME XVII

FILED

TRANSCRIPT OF TRIAL BEFORE

THE HONORABLE THOMAS F. HOGAN, QCT -6 1995

UNITED STATES DISTRICT JUDGE,
AND A JURY. CLERK U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

APPEARANCES:

FOR THE GOVERNMENT: ROBERT O'NEILL, ESQ

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OFFICE OF SENATE LEGAL COUNSEL

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COURT REPORTERS: ANNELIESE J. THOMSON,
SANTA THERESA ZIZZO

U.S. DISTRICT COURT,
3RD & CONSTITUTION AVE., N.W.
WASHINGTON, D.C. 20001
PAGES 2107-2273

(COMPUTER-AIDED TRANSCRIPT OF STENOTYPE NOTES)

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3 DR. J. BAUGH
4 T. HOLMES
5 D. DEAN
6 EXHIBITS:
7 FOR THE DEFT.
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1 PROCEEDING S
2 THE DEPUTY CLERK: Criminal number 92-181,
3 United States of America versus Deborah Gore Dean. We
4 have Robert O'Neill and Paula Sweeney for the
5 Government. Stephen Wehner for Miss Dean.
6 THE COURT: Good morning.
7 MR. WEHNER: Good morning, Your Honor.
8 THE COURT: we've got motions to quash I want
9 to take up this morning and then also the charts if
10 they're ready to be considered.
11 Are counsel here for the motions to quash.
12 MS. SYLVIA: Yes, Your Honor.
13 THE COURT: Good morning. For the record
14 you're -
15 MS. SYLVIA: Good morning, I'm Claire Sylvia
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16 from the Office of Senate Legal Counsel and I'm
17 representing former Senator Proxmire, Bart Naylor and
18 Lory Brenneman.
19 THE COURT: All right. You filed a motion to
20 quash, in part, a subpoena for the Clerk and the motions
21 to quash the testimony of Mr. Proxmire and Mr. Naylor.
22 Is one of Mr. Proxmire's objections was,
23 besides it not being material, is that he does not
24 remember anything?
25 MS. SYLVIA: That's right.

2111

1 THE COURT: Does he have some illness or is he
2 such a busy person he doesn't remember what he did?
3 MS. SYLVIA: No. He's 77 years old. This all
4 took place six years ago and he just doesn't have a very
5 clear memory of what took place at the time. He can
6 certainly come in and say that.
7 We invited the defendant's counsel and the
8 defendant to come interview him, which they did, and
9 they asked him about his memory of the events and he
10 recounted that he didn't recall, that he had tried to
11 read the transcript and see if he could remember the
12 events, and he still didn't remember. So he could
13 testify based on having read that but not having a
14 direct recollection.
15 THE COURT: So he couldn't testify as to any
16 misrepresentations or not Miss Dean may have made to him
17 and how that would have affected the process of the
18 Committee.
19 MS. SYLVIA: He can testify to, as a general
20 matter, whether that kind of question might be important
21 to the Committee. He can testify based on a direct
22 recollection of the actual events but all of that will
23 go to the question of materiality which the Court's
24 already ruled upon.
25 THE COURT: All right. Mr. Naylor, the

2112

1 objection is on what basis? There's no relevant
2 testimony he could give?
3 MS. SYLVIA: Right, the objection would be
4 similar to that made on behalf of former Senator
5 Proxmire, that Mr. Naylor, who was the investigator for
6 the Committee at the time, could only testify about the
7 materiality of the questions. He helped investigate and
8 prepare the questions, but all that would go to the
9 issue of whether the questions were material to the
10 Committee, and the Court's already ruled on that.
11 Beyond that, Mr. Naylor doesn't have any
12 testimony that would be relevant to the issues in the
13 case.

14 THE COURT: There was some cross-examination
15 of an issue of materiality as to Mr. Naylor's actions in
16 this matter, political motivations. His recruiting
17 witnesses against Miss Dean, et cetera.

18 MS. SYLVIA: That's right, but the defense
19 counsel had an opportunity to cross-examine Ken Me Lean,
20 who was the staff director at the time, about that. We
2 don't think bias of the Committee members or the people

2 who work for them is an issue that can be inquired
2 into. It's not relevant to the issue of materiality.
2 And we cited a couple of cases to that effects, Cross
2 and Icardi in the motion to quash Senator Proxmire's

2113

1 subpoena, but nevertheless the defendant's counsel did
2 have a chance to ask those questions and didn't indicate
3 that he needed to ask further questions of Mr. Naylor
4 during that hearing.

5 THE COURT: All right.
6 And finally, the -- all right. The clerk of
7 the Committee, Brenneman, seeks to quash documents that
8 were subpoenaed, either in general all HUD type
9 documents or particular ones they say are communications
10 relating to the inquiry between the Committee members
11 and staff members on the ground, they're what, they're
12 privileged?

13 MS. SYLVIA: That's right, they're internal
14 communications between members and their staff which are
15 privileged under the Speech and Debate Clause, but we
16 have provided the defendant and her counsel access to
17 all the documents from the nomination hearing and from
18 the files on the defendant from the HUD Mod Rehab

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19 investigation, other than internal notes and memoranda.
20 THE COURT: All right.
2 MS. SYLVIA: All the documents that relate to
2 her specifically.
2 THE COURT: And that Speech and Debate Clause,
2 the authority you cited for that – is there one federal
2 rules decision case?

2114

1 MS. SYLVIA: It was a case out of the District
2 Court of Maine. That's about the specific proposition
3 about internal communications, but the other cases cited
4 there would also support the proposition that anything
5 that the members do in their legislative capacity which
6 is related to consideration of legislation or other
7 matters such as nominations which are under the
8 jurisdiction of the Senate will be protected under the
9 clause, but the Committee hasn't chosen to assert the
10 privilege with respect to all of the documents, just the
11 internal communications.
12 THE COURT: All right. Okay.
13 Thank you, Miss Sylvia.
14 All right, Mr. Wehner. Good morning.
15 MR. WEHNER: Thank you, Your Honor. Good
16 morning.
17 Your Honor, the premise of the motion to quash
18 is wrong. The Supreme Court held in United States v
19 Brewster, "The political activities including
20 constituent service, newsletters, speech outside of
2 Congress and the lobbying of executive agencies is not
2 covered by the clause." That's specific language out of
2 the United States Supreme Court.
2 There is no Speech and Debate Clause issue
2 raised by the issuance of these subpoenas.

2115

1 The testimony expected to be elicited from
2 Mr. Proxmire is directly relevant to Miss Dean's intent
3 when she was answering the questions. It is not
4 relevant to materiality. It may be additionally
5 relevant to materiality, but we don't subpoena him on

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6 that issue. Your Honor has already ruled on
7 materiality. You could have found it material based
8 on -9

THE COURT: Explain to me how her intent was
10 tied into what Senator Proxmire heard?

11 MR. WEHNER: No, sir, it's not tied into what
12 Senator Proxmire heard. The evidence regarding intent
13 is by definition circumstantial. It's circumstantial
14 for the Government and it's circumstantial for the
15 defense.

16 From the defense perspective the central
17 premise of Senator Proxmire's -- of Senator Proxmire's
18 statements and Senator Proxmire's attitude and what
19 Senator Proxmire knew at the time goes directly to
20 whether Miss Dean intended to mislead or intended to
2 testify falsely in front of the Committee.
2 The reason it goes to that, Judge, is because
2 none of this occurred in a vacuum, none of this occurred
2 in a vacuum. This was not a situation in which a
2 witness was called up there that was -- had not been

2116

1 involved in controversy previously, that was not well

2 known to the Committee, that had not been investigated,

3 put upon, harassed, taken unpopular positions, denied

4 Congressional requests, accepted Congressional requests,

5 overruled requests that the Department backed down on

6 fair housing legislation, worked around certain

7 Senators, made certain Senators angry, so angry that

8 they were happy that they had nailed her to the cross,

9 which is a matter of record. And that evidence goes to
10 show circumstantially that Miss Dean would not have
11 intended to mislead the very Senator who was out to get
12 her. That makes no sense, Judge.

13 Secondly, if Miss Dean testifies, which I
14 anticipate that she will, what she meant by the
15 responses to her questions -- by the responses to his
16 questions, because of his knowledge and her prior
17 dealings with him, that is directly corroborative of her
18 testimony.

19 Now, I hate to go back to the same analogy,
20 it's kind of the lights on analogy.

2 THE COURT: If Senator Proxmire had one

2 understanding, what about all the other members of the
2 committee who had to vote and pass on this candidate as
2 to her qualifications and fitness for office in the

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2 management of HUD programs? wouldn't you have to call

2117

1 each member in under your theory to show what her intent

2 was, the circumstantial theory again?

3 MR. WEHNER: No. I couldn't do that, I don't

4 think.

5 Number one, I couldn't do that because Senator

6 Proxmire kept this from coming to a vote and prevented

7 it from even being voted on, and the issue as to alleged

8 perjury was investigated and dropped by the General

9 Accounting Office based on her testimony.

10 But, number two, this is not a disinterested
11 questioner, Judge. This is someone with a motive and a
12 bias and a reason to do what he was doing, and I submit
13 to you it's very different from the type of set-up that
14 you would normally see in a perjury case where the
15 prosecutor is asking questions in the grand jury, or a
16 Judge is supervising the questions. This was a
17 political circus.

18 And the testimony -- if Proxmire actually gets
19 on the witness stand under oath and says he doesn't
20 remember, which I take some -- I'm a little bit
2 incredulous that he would actually do that. We've had

2 witnesses here talking about events that are ten years
2 ago that are fairly fresh in their minds apparently.
2 And during our interview with Senator Proxmire frankly,
2 Judge, he was hostile, but as an officer of the Court I

2118

1 can represent to the Judge I don't know what he's going

2 to say when he gets on the witness stand.

3 He said at that point that he didn't remember

4 much and referred us to his -- to his recorded questions

5 and Miss Dean's answers and his testimony in front of
6 the Lantos Committee.

7 And if Your Honor will recall, he was one of
8 the individuals who basically congratulated the Lantos

9 Committee for uncovering all this scandal of HUD.

10 I'm afraid I've lost track of Your Honor's

11 question.

12 THE COURT: well, we were focusing on this
13 intent issue as to its relevance in Mr. Proxmire's
14 testimony, and other members of the Committee, and you
15 indicated he had prohibited it from coming to a vote, so
16 they couldn't vote on her qualifications. But let me
17 move on a bit beyond Senator Proxmire to Bart Naylor as
18 to, again, his relevance of his bias or prejudice
19 against Miss Dean while he was working for the
20 Committee, as material or relevant to her answers that
2 she gave to questions asked by Senator Proxmire.

2 MR. WEHNER: I don't think his bias against
2 Miss Dean or the bias -- let me be absolutely clear on
2 this, Judge, or the bias against Senator Proxmire
2 against Miss Dean or the bias of Bart Naylor against

2119

1 Miss Dean is the basis for calling them. They have a
2 bias, but that's not the basis. The basis is that the
3 circumstantial evidence surrounding the time, the exact
4 time that these statements were made, is such that
5 Miss Dean was under such tremendous pressure, that she
6 had been investigated so far, the actions of Bart
7 Naylor -- that Bart Naylor undertook, the action that
8 Senator Proxmire undertook, that she would have had to

9 have been crazy to intentionally commit perjury in front
10 of that Committee.

11 Now, Judge, this is not bias. It's not
12 materiality. It's circumstantial evidence of her intent

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13 on the precise day she answered the questions.
14 THE COURT: All right.
15 Let me go to the final witness, Lory Brenneman
16 as Clerk, who indicates that he produced certain records
17 for you that were relevant to Miss Dean's subpoena,
18 excluding staff notes and communications between members
19 of Congress and the staff related to two inquiries that
20 were conducted during that timeframe, and not produced
2 any and all documents spanning the entire nine-year

2 timeframe but did produce documents related to
2 Miss Dean.
2 MR. WEHNER: Your Honor, I agree that the
2 language in the subpoena with regard to all documents

2120

1 for that nine-year period is overbroad and I withdraw
2 that request. The internal Committee documents relating
3 conversations between staff and the Committee as those
4 relate to Miss Dean's nomination and the hearing
5 process, again, are directly relevant and corroborative
6 of what I intend -- expect Miss Dean's testimony to be
7 as to the circumstances surrounding that hearing.

8 Now, Judge, there are very few people that can
9 testify independently about what was going on at that
10 time and place. Secretary Pierce is unavailable, as
11 stipulated to by the Independent Counsel. The other
12 Senators of that Committee would be similarly postured
13 with motions to quash if we had issued subpoenas, which
14 we considered, to all the members of the Committee but
15 we thought that might be a little much, frankly.
16 Senator Proxmire and Bart Naylor were the two
17 main players and the two with the most information
18 corroborative of Miss Dean's testimony as to the
19 circumstances of her testimony. And I think that goes
20 back to something Your Honor raised earlier, wouldn't we
2 have to call all the Senators? I suppose at some point,

2 yes, but you would eventually say it's cumulative and
2 that there was no reason to go any further.
2 But to suggest that the testimony is only to
2 show some bias on the part of Senator Proxmire and Bart

2121

1 Naylor, that's not the purpose of the testimony, Judge,
2 and you can't avoid, frankly, in my judgment, the
3 compelling legal argument of the nature of the
4 circumstantial evidence as to intent in terms of the
5 perjury and the misleading Congress charges.
6 There is no direct evidence of intent. By
7 their very nature there can't be because you can't go
8 into a person's head, and the Independent Counsel is
9 going to rely on circumstantial evidence for that count,

10 and so are we, to corroborate Miss Dean, and they're
11 going to rely on it to try to destroy Miss Dean in terms
12 of credibility.

13 THE COURT: what did you have as the cites to
14 the original case, Brewster, Senator Brewster case
15 claiming executive documents, et cetera are not
16 privileged?

17 MR. WEHNER: United States versus Brewster,
18 408 U.S. at 512. In terms of the lobbying activities,
19 Gravel, G-r-a-v-e-l, 408 U.S. at 625, and Johnson, 383
20 U.S. at 172.

21 THE COURT: All right.

22 Miss Sylvia, do you want to respond briefly as
23 to these arguments as to the circumstantial evidence
24 that may be garnered from either the records of the
25 Committee or from the testimony of the witnesses

2122

1 indicating Miss Dean's intent by indicating what they
2 had done regarding Miss Dean's situation and the
3 investigations they made and the knowledge that she had
4 of what they knew about her already that she would not
5 have tried to lie before the Committee since she knew
6 they knew the answers already? I take it that's a
7 simplistic way of saying that.

8 MS. SYLVIA: I'm not sure I understand what
9 the defense would be other than maybe she didn't mislead
10 the Committee, which is not a defense. I don't know
11 that the argument that -I
mean Senator Proxmire

12 doesn't know what her intent was. I don't know if the
13 defense is that she was - I'm not sure I understand it,
14 that she was so confused by the Committee's
15 investigation or concerned that -16

THE COURT: I may be -- I can't speak for the
17 defendant, but I understood his argument to be that she
18 understood what the Committee already knew about her and
19 knew that if she misinformed the Committee they would
20 know it and that therefore she was more likely to not
2 intentionally try to misinform the Committee in response
2 to the Senator's questions because she knew the extent
2 of the investigation they had done and the cooperation
2 he had with the people at HUD who were trying to get
2 her.

2123

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1 MS. SYLVIA: To me that sounds very much like

2 the argument made at the beginning of the materiality

3 issue, which is that she could not have misled the

4 Committee, which is not a defense to a charges of

5 perjury. whether the Committee actually relied on it or

6 not is not relevant. We cited several cases to that

7 fact, I think Paxson and Hansen. So whether now it has

8 a different label on it, whether it's called

9 circumstantial evidence or intent I think it's still the
10 same argument, that the Committee couldn't have been
11 misled by what she said, and that's not, as far as I'm
12 aware of, a defense to perjury.

13 THE COURT: The argument counsel used to me
14 before was that if we have a witness here who says the
15 lights are off and we can all see they're not off, that
16 there cannot be any intent to mislead.

17 MS. SYLVIA: I think that's all materiality
18 argument again. The question is whether the Committee
19 was actually misled by those -- the argument that the
20 light was on and they already knew the answer, and I
2 don't think that's a defense.

2 I also think that the same would be true about
2 Senator Proxmire's lack of memory. If he was hostile
2 during the interview he may have been provoked, but he
2 didn't recall any more about the actual events.

2124

1 The suggestion that he put an end to the -2
killed the nomination isn't actually accurate. The
3 nomination went back at the end of the session of
4 Congress and was never resubmitted. So I don't think
5 that -6

THE COURT: It was never taken up for vote by
7 the Committee.

8 MS. SYLVIA: It was never taken up by vote.
9 Ken Me Lean testified that it continued to be
10 investigated and then died at the end of the session.
11 It was never resubmitted.

12 The comments about the Lantos hearing, which
13 took place in 1989, and Senator Proxmire's testimony
14 about what that Committee investigated, that doesn't
15 indicate in any way what he knew at the time of the
16 nomination hearing.

17 with respect to the documents, the cases cited
18 by the defendant's counsel, Gravel and Brewster, the

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19 subpoena doesn't ask for documents of communications
20 between the Executive Branch or political matters
21 outside the Speech and Debate Clause privilege. It asks
22 for documents from the investigation of the HUD Mod
23 Rehab investigation, which is legislative activity
24 protected by the clause, and also asks for all documents
25 related to HUD which it has now indicated is overbroad,

2125

1 but it doesn't ask for the kind of documents that
2 Brewster and Gravel say are not protected, and the
3 subpoena has never been narrowed to some class or
4 category of documents that would be outside the
5 privilege. So I'm not sure what those cases would
6 establish other than that he might choose to ask for a
7 more narrow set of documents.

8 THE COURT: All right. Thank you.

9 All right. I've reviewed the Brewster case,

10 where Senator Brewster is charged with bribes and
11 other allegations, that was dismissed and reversed by
12 the Supreme Court concerning his activities involving
13 whether speech and debate activities are separate from
14 that, they may be related to speech and debate but still
15 are subject to indictment, which they held that it was,
16 and the Johnson case which we already looked at. He did
17 talk about political activities versus legislative
18 activities, the issue about the House being in session,
19 et cetera.

20 As to each of these motions to quash the
21 testimony of Senator William Proxmire and the motion of

22 Bart Naylor to quash the defendant subpoenaing him as an
23 investigator for the Committee, plus there's been
24 allegations of his bias or prejudice, although the
25 argument has been made that there is circumstantial

2126

1 evidence that would show that Miss Dean did not intend

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2 to mislead the Committee by her answers because she knew

3 that they knew, and the attitudes that she knew they

4 held against her because of her work at HUD, and the

5 political vendetta that I believe it's been postulated

6 that existed between Senator Proxmire and the

7 Administration, particularly with HUD and Miss Dean,

8 because of her work at HUD. And that circumstantially

9 would show her intent could not have been to mislead

10 Senator Proxmire and, I guess by that, the other

11 Senators on the Committee at the time.

12 To the extent that whether or not this

13 testimony would be material and favorable to the

14 defendant as evidence in her case, there's obviously not

15 required any actual reliance upon the statement, that's

16 United States versus Hansen at 772 Fed. 2d 940, a 1985

17 case, followed by Poindexter and later cases, and again

18 as to the issue of motivation, because I think this all

19 lies behind the argument of counsel about circumstantial

20 evidence as to intent, United States versus Icardi which

2 was cited as an earlier Fed. Supp. case, 140 Fed. Supp.

2 388. That was a case, a 1956 case in this Court by

2 Judge Keech who relied upon an old Fed. 2d case, 170

2 Fed. 2d 173, that the Congressman engaged in legitimate

2 legislative inquiry. I reviewed this issue at the time

2127

1 we discussed the materiality. I don't see the basis

2 offered by the defendant to subpoena Mr. Naylor or Mr.

3 Proxmire as witnesses despite the political animosities

4 in the evident remarks of Senator Proxmire in the record

5 in the Lantos hearings showing his bias and prejudice

6 against the defendant. He recognized the political

7 realities that existed at that time, still held that it

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8 can be argued that – beyond circumstantial evidence

9 showing that she would not lie to the Committee because
10 of these factors, that she was aware of, it seems to me
11 the testimony that they would produce would be actually
12 related to their motivation and then to argue from that
13 that she would not lie because she knew they were out to
14 get her and it would be foolish to do so, I don't think
15 answers the question. It evades the question.
16 She's free to testify herself and have others
17 testify regarding evidence that would be material and
18 relevant to her actions of intent, what she intended by
19 her answers, but as to Senator Proxmire providing
20 evidence material or favorable to the defense I do not
2 see how that can be possible from the premises that have

2 been suggested to the Court, the materiality having been
2 decided by the Court, and motive and bias not being an
2 issue for the jury to consider.
2 I'm going to quash the subpoenas as to both

2128

1 the witnesses.

2 As to the motion of Lory Brenneman, the Clerk

3 of the Court, the defendant has candidly reported to the

4 Court that the request for all documents otherwise in

5 the control of the Committee for a nine-year period is

6 too broad a category to be adequately answered and that

7 certain documents have been made available, documents

8 relating to the defendant compiled during the course of

9 its investigation, and can be reviewed by the defendant
10 except the staff notes and internal communications of
11 members regarding these inquiries that were conducted by
12 the Committee.

13 There is a Committee hearing of 1987, again in
14 1989. 1987 would seem to be the one relevant
15 principally to this case.

16 The Senate has represented that they have a
17 privilege to these documents, they cited one case from
18 the State Court of Maine.

19 It is evident to me in any event that the
20 Committee records relating to internal notes between the
2 members or between members and staff as to the

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2 investigation of the defendant about matters which the
2 Committee questioned the* defendant, the nomination
2 hearing which is the subject now of the perjury
2 indictment, would be protected by the Speech and Debate

2129

1 Clause. Certainly internal communications that
2 reference the ongoing Committee's legitimate legislative
3 activity, not only factfinding, but as to the areas
4 within their jurisdiction that were created for
5 investigation and vote upon the qualifications of a
6 candidate that's been nominated for a sub-Cabinet
7 position, and under the Constitution may do so, as well
8 as to investigate HUD which was under their
9 jurisdiction, as shown in this case. And I think that
10 relates to matters that concern legislation or proposed
11 legislation involving HUD and therefore I believe that
12 those records at least from the showing that has been
13 made to me that they would be entitled to a privilege
14 that they can assert as falling within the spheres of
15 legitimate legislative activity, being communiques
16 between the members themselves or between the members
17 and their staffs involved in this protected legislative
18 activity.
19 I am surprised there was not more authority
20 involving communiques between staff and their members
2 involving legislative matters but that one case in Maine

2 but we have not had the luxury of researching it
2 further. I'm accepting that at this time.
2 I've read through Brewster and that really
2 involved different matters and different issues about

2130

1 political type materials circulated, et cetera, speeches
2 outside the House floor as opposed to legislative
3 hearings.

4 All right. I'll grant the motion to quash as
5 well as any further document production from the Senate
6 Banking Committee.

7 All right. Thank you, Miss Sylvia.

8 Are there matters on these charts that we're

9 ready to talk about?

10 MR. WEHNER: Yes, sir.

11 THE COURT: All right.

12 Let me ask the Government a question with the
13 charts.

14 MS. SWEENEY: Yes, Your Honor.

15 THE COURT: Now, what I'm referring to are the
16 summary charts -- on the summary charts that were
17 attached to the Government's motion summarizing the
18 trial exhibits under rule 1006, I had a concern with
19 them that I didn't articulate yesterday and I finally
20 believe I'm going to articulate my concern this morning,
2 and that was what I think has happened, and you correct

2 me if I'm wrong, you repeat as to each of the projects
2 the various telephone conversations or meetings that
2 Miss Dean may have had with the co-conspirators which
2 are alleged to have been involved with her and that is

2131

1 for Arama you say Nunn met Dean and had dinner about
2 this or Mitchell met Dean, and then you go to the next
3 project, South Florida, Nunn met Dean. But it would be
4 the same time that she met him for the allocations in
5 the first project. And that goes all the way through.
6 And some of these acts that you proved may have happened
7 or scheduled to happen you may have on your chart
8 several times repeated as to each one.

9 MS. SWEENEY: Your Honor, the meetings and
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10 telephone calls may appear -- some of the same ones may
11 appear in Arama and South Florida to the extent that --
12 THE COURT: Or Regent Street. According to my
13 recollection I went through -- I kept thinking I don't
14 remember all of these meetings and I went back and
15 checked and I think you repeated several of these
16 meetings several times or the allegation that her idea
17 was to get support from the Assistant Secretary and you
18 have the allegation of a specific award for one
19 project. You repeat the same conduct over again for
20 each of the projects.
21 MS. SWEENEY: If it is within the time period,
22 Your Honor, that that particular project was going on.
23 We would have no way to attribute a particular meeting
24 to a particular project. If Miss Dean met with
25 Mr. Mitchell or Mr. Brennan during the time period that

2132

1 both Arama and South Florida were pending, one or both
2 projects could have been discussed at that meeting.

3 THE COURT: I agree with that. I just -- it
4 seems to me to put an emphasis on these meetings of --
5 and repeating them, repeating the allegations as to
6 support for her confirmation, or whatever allegations
7 there were against her over and over again that would
8 not occur if you didn't do it this way before the jury.

9 The jury would normally have whatever the original
10 documents are that would show the meeting occurred one
11 time and the argument could be made that she talked
12 about all or some of the matters there. At least they
13 infer that because actions happened thereafter this
14 particular meeting to move that project or various
15 projects forward.
16 It seems to me a cumulative effect in
17 repeating these for each of the projects. It just
18 concerns the Court as to the fairness of that approach,
19 and what I'm going to do at this time with these charts,
20 and I think an awful lot of work has gone into them and
21 I think there are a lot of dates and there are a lot of

2 meetings and it's hard to keep it straight at this
2 hearing, but what I'm going to do at this time is I'm
2 going to allow them to be used in closing argument but
2 not admit them under 1006 because I think the way

2133

1 they're put together by repeating these meetings and
2 repeating some of these statements each time unfairly
3 emphasizes evidence before the jury of these matters.
4 I think it's a good argument to make and you
5 can use the chart in the argument; she met here, did
6 this, she met here and did this, but when you put it in
7 as evidence against the jury where it's five times she
8 met at lunch with Shelby and you repeat it five times in
9 the same timeframe, it seems to me – when I read this,
10 for instance, I thought there were a lot more meetings
11 than I remembered, I thought I missed some of this
12 evidence, you know, 20 or 30 more meetings than I recall
13 hearing testimony about and I went back and compared it
14 and that didn't occur.
15 So I'm going to deny the motion to admit these
16 charts as relevant at least as evidence summarizing the
17 complex amount of testimony and the documents in
18 evidence under Rule 1006. I recognize that can be
19 done. But I think that there could be undue prejudice
20 the way they have been drafted and so I'm going to not
2 allow them.

2 I have allowed rule 1006 charts to be used in
2 many cases and I think they're a good thing for the
2 Government to prove their case, but in this instance I
2 think the way they're drafted, it has an unfair

2134

1 connotation.
2 They can be used in closing argument and
3 counsel can argue on them as well on either side, as you
4 wish.

5 I take it the MRP project figures have been
Page 1206

6 agreed to at this time and the date of funding

7 allocations?

8 MR. WEHNER: The dates have, Judge. The

9 objection to the numbers is that I don't think there's
10 evidence in the record as to the numbers.

11 THE COURT: You mean the total numbers of
12 payments, the value of these projects or something?

13 MR. WEHNER: Yes, sir, it's just not supported
14 by the evidence. I don't recall any evidence of the PHA
15 half payments to June of 1993 or the HUD estimated total
16 half payments for the 15-year period. I don't recall
17 any testimony to that effect at all.

18 THE COURT: There is not a stipulation as to
19 what these were?

20 MR. WEHNER: No, sir.

21 MR. O'NEILL: Your Honor, the purpose of that

22 chart was to eliminate the need to bring in the
23 underlying people. The rapid replies and 185's which
24 were in evidence indicate what HUD obligated itself to
25 pay over the term of the 15 years and that's all been

2135

1 put on the record. These are the exact underlying

2 figures.

3 THE COURT: The 185's in evidence set forth

4 Arama project number, units funded. It wouldn't set

5 forth the payments to June. It might set forth -- set

6 forth the total payments?

7 MR. O'NEILL: That's correct. Since it was in

8 approximately 1984 it wouldn't be able to say how much

9 they expended to date, but, for instance, the 185 signed
10 by Maurice Barksdale is in evidence as Government's
11 Exhibit 31 and it states that the contract authority
12 would be 1.8 million and some amount and that the
13 budgetary authority is \$28,042,500, and what that is is
14 a compilation of actual expenditures by HUD to date and
15 over the course of a 15-year period.

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16 THE COURT: Is there a -- so each of the 185's
17 has in it the budgetary authority of what would be
18 expended so that the -- we would know the June figures,
19 but the new 15-year figures would be accurate based upon
20 the exhibits.

2 MR. O'NEILL: No, Your Honor, maybe -- can you

2 repeat your question?

2 THE COURT: You've got PHA payments to June,
2 '93. What do we have that shows -- that's evidence?

2 MR. O'NEILL: No, there is none. The purpose

2136

1 of this was as a summary document to forgo the need of

2 getting PHA directors in the various cities to say we

3 have gone through our documents and to date it's the

4 X-amount.

5 THE COURT: Mr. Wehner wasn't agreeing with

6 this.

7 MR. O'NEILL: That's news to me, Your Honor.

8 MR. WEHNER: Let me be clear about this,

9 Judge. I don't think -- I don't have any problem with
10 the stipulation to the amount in terms of -- I'm not
11 trying to sandbag the OIC here. I don't think the
12 testimony is relevant or admissible anyway in terms of
13 these figures. Now, I don't know if the figures are
14 correct or incorrect and I'm not going to force
15 Mr. O'Neill to try to reopen his case and bring ten
16 people down here and testify to these figures.
17 That's not the point of this, Bob.
18 The point of this is that Your Honor has
19 already at rule 29 time said that there was no loss
20 because all of these projects were essentially well
2 qualified projects or were qualified, based on the

2 Government's evidence. This tends to infer a figure
2 that is prejudicial to Miss Dean because it shows huge
2 amounts of money being paid to the public housing
2 authorities and huge amounts through the 15th year being

2137

1 paid to the housing authorities that has absolutely no

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2 relevance to what she is charged with. This is not a
3 case where she's charged with defrauding the Government
4 of these monies.
5 THE COURT: So the objection is not really to
6 the document per se as now drafted. The objection is to
7 whether - I meant to say the contents of the money or
8 the amounts set forth here, but the objection is it's
9 not relevant to any issue in the case.
10 MR. WEHNER: Correct. A, it's not relevant,
11 and, B, it's overly prejudicial because with that
12 evidence on that chart Mr. O'Neill will be able to argue
13 this is what Miss cost the Government. I don't think
14 that's fair argument, Your Honor.
15 THE COURT: Let me hear from him. That's a
16 different objection than originally.
17 MR. WEHNER: Yes, sir.
18 MR. O'NEILL: That is a different objection,
19 Your Honor. The purpose of the chart was not so much to
20 establish the monies because that's already in
2 evidence. It was to establish and put in a position
2 where there would be no defense argument that these
2 contracts are not still ongoing, that they expire
2 whenever the 15 years for each particular one expires.
2 So that they're ongoing at this time.

2138

1 MR. WEHNER: I don't intend to argue that,
2 Judge. I hadn't thought of that.
3 MR. O'NEILL: well, if there will be a
4 stipulation to that on the record, Your Honor, we could
5 withdraw that chart.
6 THE COURT: well, I suggest you talk about
7 that during the break then because it may be easier to
8 stipulate that there would be no argument -
9 MR. O'NEILL: Judge, Mr. Wehner said he would
10 so stipulate.
11 THE COURT: All right. There would be no
12 argument made and this would be a stipulation by the
13 defense. There would be a stipulation that these
14 contracts were awarded and monies were paid and they're
15 still ongoing under obligations being paid by the
16 Government.
17 MS. SWEENEY: Your Honor, may I be heard just
18 briefly on Your Honor's objection to the other chart?
19 THE COURT: Sure.
20 MS. SWEENEY: Is Your Honor - does Your
2 Honor's ruling include the charts where the problem that
2 you've identified is not present? For example, the
2 Kitchin chart and the Alameda Towers chart?
2 THE COURT: I haven't gone through those
2 again. As I said, each one to identify where the -

2139

1 you're talking about the Alameda Towers?

2 MS. SWEENEY: Yes, Your Honor. The problem

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3 that you've identified occurs where the same consultants

4 appear on more than one project and, Your Honor, I had

5 one other thought as to how that problem could be

6 addressed or at least minimized. The Arama and South

7 Florida charts could be combined and the Eastern Avenue

8 and Foxglenn projects charts could be combined, thereby

9 showing the meetings with Sankin and the meetings with
10 Shelby, thereby avoiding some of the repetition that
11 Your Honor has pointed out.

12 So I was wondering if the Court would permit
13 us the opportunity to try to address the problem that
14 you've identified?

15 THE COURT: well, the Alameda charts do repeat
16 some of the meetings. Do you think you can combine
17 those or combine all three? Eastern is '87, so that
18 goes into a different timeframe.

19 MS. SWEENEY: Eastern Avenue and Foxglenn
20 involve Shelby and Sankin. Those could be combined.
2 Arama and South Florida involve Martinez and -- they

2 involve the same players. Where they involve the same
2 players the two charts could be combined.
2 we feel very strongly that under Lemire and
2 under the Williams case that these charts could be very

2140

1 helpful to the jury and that's the reason why I do offer

2 to try to address the Court's concern.

3 THE COURT: I would note, for instance, again

4 I haven't gone through these again, but Alameda Towers

5 has a March 12, '86 scheduled meeting with Sankin and

6 then in Foxglenn we have the March 12th, I think '86

7 they referred to, I believe -- that's the overlap that I

8 was talking about. I don't know how we cure that.

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9 MS. SWEENEY: well, certainly combining the
10 charts by players would greatly minimize it and may in
11 fact cure it, but there may be one or two meetings that

12 would still --
13 THE COURT: well, if you can work your
14 computer for awhile I'll take another look at them.
15 MS. SWEENEY: Thank you, Your Honor.
16 THE COURT: All right.
17 All right, do we have your next witness

18 available?
19 MR. WEHNER: Yes, Your Honor, we have two
20 witnesses and then Miss Dean. We have James Baugh who
21 was head of Public Housing and Indian affairs at the

22 appropriate time when uplift was being dealt with at
23 HUD, and we have Mr. Holmes, who is a character witness,
24 and then we have Miss Dean, and I really expect that her
25 direct testimony will not be finished today. I think

2141

1 it's going to be rather arduous .
2 THE COURT: All right. we'll take about a
3 five-minute break so people can get ready and then we'll
4 come back with Mr. Holmes.
5 (Recess, 10:25 a.m. to 10:30 a.m.)

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1 (Recess from 10:30 a.m. to 10:40 a.m.)
2 MR. WEHNER: Your Honor, can we approach for a second?
3 THE COURT: Sure.
(Bench conference on the record.)
5 THE COURT: Yes, sir?
6 MR. WEHNER: Judge, the government wants to enter an

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7 objection to the witness being called by the name of James Baugh,
8 B-a-u-g-h, and the basis for it, it's basically a surprise. If I
9 could have a minute, I will go talk to the witness and see if he
10 can come back so they can be prepared. He was on the witness
11 list, so that's clear, but it is true that I did not tell
12 Mr. O'Neill until about ten minutes ago that he was testifying
13 this morning.
14 THE COURT: Is he that serious a witness or not?
15 MR. O'NEILL: well, I don't -I
said to Steve if he
16 was strictly opinion, Judge, there'd be absolutely no problem,
17 but he's not going to be, and I'm not really sure.
18 MR. WEHNER: what he's going to testify to, Judge, is
19 that he was the relevant public housing official at HUD during
20 the time period of uplift, and as far as he knows -2
THE COURT: He didn't have any contact with Ms. Dean?
2 MR. WEHNER: That's correct.
2 MR. O'NEILL: Is that what he's going to say?
• 2 MR. WEHNER: That's what he's going to say. And he's
2 going to identify one document in which the name "Dean" shows up

2143

1 written at the bottom and identify that person as Dean somebody
2 from someplace else.
3 MR. O'NEILL: Oh, first name?
4 MR. WEHNER: Yeah.
5 MR. O'NEILL. If that's the proffer, Judge, we can go
6 forward.
7 MR. WEHNER: That's the -8
THE COURT: All right. well, I'll make that -let's

9 try to go. If
10 for rebuttal.
11 MR.
12 THE
13 MR.
14 THE
15 MR.
16 MR.
17 You guys didn't
18 night.
19 MR.

you run into a problem, I'll let you recall him

O'NEILL
COURT:
WEHNER:
COURT:
WEHNER:
O'NEILL

t talk?

WEHNER:

Okay. That's fine, Judge.
All right, thank you.
Yes, sir.
Go ahead.

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will we be able to talk to Mr. Cain?
Paula was going to handle that with you.
I'm sorry, I was working on cross last

we want to talk to Mr. Cain -- he's an

20 agent at the Independent Counsel's Office --to determine if we

2 want to call him as a
2 as to him.
2 MR. O'NEILL
2 Judge.
2 MR. WEHNER:

witness, and we haven't had much response

: we'll take it up right after the break,

will you let us talk to him?

1 MR. O'NEILL: It's up to him.
2 THE COURT: All right. Let me hear about it after the
3 break.
4 MR. O'NEILL: Yes, sir.
5 (End of bench conference.)
6 (Jury in.)
7 THE COURT: All right, good morning. Thank you for
8 getting in place and getting up. We've finished up our
9 preliminary matters. I hope you recovered from the game and are
10 ready to proceed.
11 The defendant will call her next witness at this time,
12 Ladies and Gentlemen.
13 MR. WEHNER: Ms. Dean calls Mr. Baugh -- Dr. Baugh.
14 Excuse me.
15 DR. JAMES BAUGH, DEFENDANT'S WITNESS, SWORN
16 DIRECT EXAMINATION
17 BY MR. WEHNER:
18 Q. Dr. Baugh, you know Deborah Gore Dean, do you not?
19 A. Yes, I do.
20 Q. Would you briefly state for the record your employment
2 history as it relates to the Office of Housing and Urban
2 Development -- Department of Housing and Urban Development,
2 excuse me?
2 A. I joined HUD in, I think it's November, November 1, 1981.
2 At that particular time, I was a political appointee as an

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executive assistant. About two years later, I became the deputy

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assistant secretary for Public and Indian Housing, and then

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shortly after that, I became the general deputy assistant

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secretary for Public and Indian Housing, and during my last two
5 years, I was the acting assistant secretary for Public and Indian
6 Housing. My tenure there was approximately seven-and-a-half
7 years.

8 Q. You began in what year, approximately '81, did you say?

9 A. '81.

10 Q. And then you continued there through?

11 A. '89.

12 Q. The middle of '89?

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13 A. February of '89.

14 Q. Directing your attention to your relationship with Ms. Dean,
15 she worked at HUD during that same time period, did she not?

I 16 A. Yes, she did.

? 17 Q. And you were at HUD when she arrived, and you were at HUD
18 when she left?

3

i 19 A. Yes, I was.

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20 Q. Correct?

2 And did you work with her on occasion on projects at
2 HUD?

2 A. Yes, I did.

2 Q. Directing your attention to what has been commonly referred
2 to in front of the jury as Uplift, are you familiar with programs

2146

1 that deal with that concept, Uplift?

2 A. Well, in the sense that, that everything that I did at HUD
3 was, the results were supposed to be uplift, simply because the,
4 our clients were low-income people who needing housing. I am
5 not, I'm not familiar with a project called Uplift. I am
6 familiar with a concept of uplift and self-sufficiency and
7 self-help and those kinds of things.

8 Q. Were those programs a, were those programs an area under
9 your control?

10 A. Yes. The --we had a program, at one time there were, it
11 was called the Minority Youth Initiative Program for 21 cities,

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12 and this program was directed primarily at the high unemployment
13 rate of particularly young black males living in public housing,
14 and these programs were, were really designed to, to give some of
15 those individuals training so that they could acquire certain
16 kind of skills to work on some of the projects and some of the
17 developments under the control of the housing authorities.
18 Q. Directing your attention to the City of Baltimore, did you
19 have occasion to do that type of programming in Baltimore?
20 A. Yes, I believe we did.
21 Q. And directing your attention to a person by the name of
22 Marion Pines, did you have occasion to discuss that program with
23 her?
24 A. Yes, I did.
25 Q. I want to show you what I've marked for identification as

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Dean Exhibit 552.
2 THE CLERK: Dean Exhibit 552 marked for identification
3 (Defendant's Exhibit No. 552 was
4 marked for identification.)
5 BY MR. WEHNER:
6 Q. And ask you to take a look at that and see if you recognize
7 it.
8 Have you had the opportunity to examine that?
9 A. Yes, I have.
10 Q. And what is it?
11 A. This is a memorandum that's dated -- or letter, I should
12 say, that's dated February 21, 1986, and it's a letter from me to
13 Marion Pines, who is the commissioner of the Neighborhood
14 Progress Administration in Baltimore.
15 MR. WEHNER: Your Honor, at this time, I'll move the
16 admission of Dean Exhibit 552.
17 MR. O'NEILL: No objection, Your Honor.
18 THE COURT: All right. Being no objection, 552 is
19 admitted.
20 (Defendant's Exhibit No. 552 was
21 received in evidence.)
22 MR. WEHNER: At this time, I'm going to put this on the
23 screen, Your Honor. Excuse me.
24 Your Honor, I think maybe members of the jury are
25 having difficulty seeing it.

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1 THE COURT: Yes, I think you may have to -2
MR. WEHNER: I could have it read, or I could pass it
3 around.
4 THE COURT: All right, why don't you have it read
5 quickly by the witness.
6 MR. WEHNER: With the permission of the Court and the
7 permission of Mr. O'Neill, I won't have the whole thing read.
8 MR. O'NEILL: whatever you'd like.
9 MR. WEHNER: Thank you.
10 THE COURT: All right.
11 BY MR. WEHNER:
12 Q. Would you read the first two paragraphs of the letter,
13 please?
14 A. Yeah.
15 "Dear Ms. Pines: This is in response to your February
16 6 letter proposing various specific procedures to be used in
17 developing units for public housing project MD 2-77 (Baltimore).

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18 "A number of questions require resolutions, and various
19 waivers would have to be given by this department as well as the
20 Department of Labor. We also would require, as is our normal
2 procedure, that the Baltimore office through the Philadelphia
2 regional office submits its recommendations regarding the
2 proposal."
2 Q. Now did that document deal with what you've called uplift as
2 it pertains to the Baltimore office?

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1 A. I can't from this document tell that it, that it deals with

Uplift, with a specific project called Uplift.

3 Q. Right.

4 A. I can't tell from this document.

5 Q. Right. Does it deal with what you have termed your specific
6 uplift, your general uplift programs?

7 A. Yeah. In the generic sense, in terms of the uplift effort,
8 it, it addresses that.

9 Q. I'm going to show you what I've marked for identification as

10 Dean Exhibit 551.

11 THE CLERK: Dean Exhibit 551 marked for identification.

12 (Defendant's Exhibit No. 551 was

13 marked for identification.)

14 THE WITNESS: Okay.

15 BY MR. WEHNER:

16 Q. Now the exhibit into evidence at the bottom has a note that

? 17 says "Dean discussed this with Starr," does it not?

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18 THE DEFENDANT: Stan.

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£ 19 THE COURT: Could you identify what 551 is for the

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20 record?

2 MR. WEHNER: It's 552.

2 THE COURT: I'm sorry.

2 THE WITNESS: I think that's Stan Campbell.

2 BY MR. WEHNER:

2 Q. "Dean discussed this with Stan Campbell"?

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1 A. Right.

2 Q. Do you know who the Dean is who is referred to in that, in

3 that note?

4 A. I don't absolutely know who the Dean was, but I would assume
5 based on my experiences at HUD that this Dean is Dean Reger, who
6 was the acting area manager of the Baltimore office.

7 Q. Now did Dean Reger work for you?

8 A. No, he did not.

9 Q. He worked in another section of HUD?

10 A. He worked in the field office, Baltimore field office.

11 Q. Specifically regarding Baltimore and specifically regarding
12 everything you know and consider to be about uplift, did you ever
13 have occasion to hear, know, think, or suspect that Ms. Dean knew
14 about something called Baltimore Uplift?

15 A. To the best of my recollection, I would say no.

16 MR. WEHNER: I have nothing further, Your Honor.

17 THE DEFENDANT: No, no.

18 THE COURT: All right. You may cross-examine, sir.

19 CROSS EXAMINATION

20 BY MR. O'NEILL:

2 Q. Good morning, Mr. Baugh.

2 A. Good morning.

2 Q. Mr. Baugh, am I correct that you spent approximately
2 seven-and-a-half years at HUD?

2 A. Approximately.

1 Q. And you had various jobs, getting promoted along the way?

2 A. Yeah, in the same area.

3 Q. Right. You were always in Public and Indian Housing?

4 A. That's right.

5 Q. Now just so the Ladies and Gentlemen of the Jury are aware,
6 Public and Indian Housing does not affect the Mod Rehab Program;
7 is that correct?

8 A. Well, it did at one particular time. Let me just tell you
9 how it evolved.

10 Q. Sure, please do.

11 A. When I first started at HUD, we were organized entirely
12 differently than we were when I left.

13 Q. And let me interrupt. That would be 1981, November?

14 A. 1981, right. In 1981, we were organized where there was an
15 assistant secretary, and he was also --or the person was also
16 the FHA, or federal housing commissioner. Reporting to that
17 individual was, was deputy assistant secretaries, one deputy
18 assistant secretary for Single Family, for Multi-Family, for
19 Public and Indian Housing, and also I think there was a deputy
20 assistant secretary for, for Programs and Budget, or something
2 likes that, as I recall.

2 At that time, the responsibility of public housing was

2 to deal with the conventional public housing, that is, the 3,500
2 or so housing authorities across the country, to regulate those.
2 We also had responsibility for what we called the assistant

1 housing area, which was the Section 8 existing certificates, as
2 well as the Section 8 Modern Rehab Program.

3 Q. And at a certain point, you no longer had responsibility for
4 mod rehab; is that correct, sir?

5 A. That's right.

6 Q. Do you recall off the top of your head when that was?

7 A. I believe it was sometime in late '83 and/or early '84.

8 Q. And that's the best of your recollection at this time?

9 A. Yes.

10 Q. Okay. Now I believe you testified on direct examination
11 that you're not familiar with a specific project that was ever

CO

12 called Uplift.

13 A. That's right.

14 Q. Okay. So let me go further: Are you familiar with a

15 specific project known as Baltimore Uplift One?

16 A. No, I'm not.

17 Q. And are you aware at this time that that at one point

18 involved moderate rehabilitation funding?

19 A. I am as a result of looking at some documents this morning.

20 Q. Okay. But as of today, you do not know anything about

2 Baltimore Uplift One?

2 A. No, I have no memory of that.

2 MR. O'NEILL: Thank you, sir.

2 THE COURT: Any redirect?

2 MR. WEHNER: No, sir. No, sir.

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THE COURT: Thank you, Dr. Baugh.

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THE WITNESS: Thank you.

3 THE COURT:

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5 MR. WEHNER:

6 Thomas Holmes.

7 THE COURT:

You're excused, sir.

(Witness excused.)

Your Honor, Ms. Dean calls Mr. Holmes,

All right.

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8 THOMAS HOLMES, DEFENDANT'S WITNESS, SWORN

9 DIRECT EXAMINATION

10 BY MR. WEHNER:

11 Q. Good morning, Mr. Holmes.

12 A. Good morning.

13 Q. You know Deborah Gore Dean, do you not?

14 A. Yes, I do.

15 Q. Would you describe for the jury, please, your background in
16 housing?

17 A. Yes. I've been a licensed real estate broker for the last
18 20 years, specializing in urban center affordable housing. And I

I 19 met Ms. Dean during the time I was president of the National

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i 20 Association of Real Estate Brokers.

2 And the National Association of Real Estate Brokers is

2 the oldest and largest minority trade association in existence

2 today, specializing in prevails (sic) of affordable housing for

2 urban center residents, born in 1947 out of necessity because

2 blacks, African Americans and other minorities could not join the|

1 major trade associations, and it wasn't until the early '60s that
2 African Americans were admitted to some of the mainstream trade
3 associations.

4 So our plight still prevails with affordable housing.

5 while many of the real estate members now hold dual membership,
6 our goals and objectives from the urban centers are still quite
7 different from other trade associations, because the citizens' of
8 our urban centers problems and concerns are far unique from the
9 problems and concerns of suburbia.

10 And I had the wonderful opportunity early on to meet

11 Ms. Dean upon taking the reins of presidency and having the
CO

i 12 opportunity to introduce her to much of the history of our
13 plight, much of the history of the real estate industry, and
14 particularly the urban centers of our nation.

15 Ms. Dean at the time was unaware that it was HUD who

16 was one of the major, the major advocates, if you will, of the
17 restrictions and one of the proponents, if you will, of white
18 flight, in a real sense. In the early '50s --as recently as the
19 early '50s, HUD maintained restrictions suggesting that they
20 would not insure a mortgage if it was not in a homogeneous area,
2 which means that a black could not secure a HUD mortgage in an
2 all-white area, and a white could not secure a mortgage in a
2 black, predominantly black area. That in and of itself caused
2 much of the demise of the urban centers of our nation and caused
2 much of the advancement into the suburban communities that we are

1 still suffering and paying for today.

2 THE COURT: All right, let's answer the question more

3 directly next time, if we could. Go ahead.

4 MR. WEHNER: Thank you, Your Honor.

5 Q. Mr. Holmes, when did you first meet Ms. Dean?

6 A. In 1984.

7 Q. And how did you come to meet her?

8 A. I came to meet her as a result of some problems that existed
9 in Philadelphia with the burning of the, the MOVE family. As I

10 mentioned, as president of the association, we have always been
11 concerned about prevails of housing for urban centers, and that

CO

i 12 was such a tragedy, and I just thought that was something that
13 HUD would be interested in and they ought to be interested in.

14 Q. And did you meet her as a result of your efforts in that

15 regard?

16 A. That is precisely correct.

17 Q. Okay. And that was your first meeting with her?

18 A. That's correct.

19 Q. Subsequent to that meeting, did you have further meetings
20 with her?

2 A. Yes.

2 Q. And could you describe generally what those meetings
2 concerned?

2 A. Generally those meetings would be concerned with access to
2 the HUD system for our primary objectives, and that was democracy

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1 in housing for our members to make sure that we had equal access
2 to the HUD programs that was designed for the urban center

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3 residents and to particularly advance the needs of our membership
4 and serve in that particular community.
5 Q. During your dealings with HUD, did you have the opportunity
6 to observe Ms. Dean in the presence of or in dealings with
7 Secretary Pierce?
8 A. I did.
9 Q. And would you please describe your understanding of what
10 their relationship was?
11 MR. O'NEILL: Objection, Your Honor.
12 MR. WEHNER: Judge, we've had -13
THE COURT: why don't you come up.
14 MR. WEHNER: Excuse me, Your Honor.
15 (Bench conference on the record.)
16 THE COURT: Your objection?
17 MR. O'NEILL: This is an opinion witness, as we've been
18 told, and under 608, we go to reputation for truthfulness in the
19 community, and that's it.
20 THE COURT: And that's the purpose of calling the
2 witness?
2 MR. O'NEILL: I thought so.
2 THE COURT: what is he going to talk about?
2 MR. WEHNER: well, what I intend to ask him is to put
2 on direct testimony to rebut the government's evidence that

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1 Ms. Dean somehow was running the Department of Housing and Urban
2 Development and was, quote, the right-hand person of Samuel
3 Pierce, and that testimony has come in time and time again in the
4 government's case in chief in terms of what the witnesses
5 understanding were as to what her role was.
6 THE COURT: I think the objection was he wasn't
7 proffered for that originally.
8 MR. WEHNER: They've been laughing at something this
9 morning, Judge, and I don't know what.
10 THE COURT: One of the jurors borrowed gum or something
11 from another juror and apparently ate all the gum, and another
9
12 juror is upset about it, and they've been complaining back and
13 forth about it.
14 All right.
15 MR. WEHNER: I think he had the occasion to observe
16 Ms. Dean and the secretary on several occasion.
17 THE COURT: I'll overrule the objection. I think it's
18 within the purview or conduct of HUD, and I think it's fair. All
19 right.
20 (End of bench conference)
2 THE COURT: All right, let's get back into the case
2 again, please. All right, Ladies and Gentlemen of the Jury,
2 we're going to get back into the witness1 testimony at this time.
2 I've overruled the objection.
2 BY MR. WEHNER:

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1 Q. Sir, you had occasion to observe Ms. Dean and Secretary
2 Pierce on occasions?
3 A. Yes, sir.

4 Q. And based on your observations, what was your understanding
5 of their relationship?

6 A. My understanding of their relationship was that Ms. Dean had
7 the highest regard for Secretary Pierce, and he certainly
8 entrusted much toward her.

9 Q. Did you meet people who knew Ms. Dean during your tenure as
10 president of that organization?

11 A. Did I meet people that knew her? Yes, I did.

12 Q. And did you become familiar with Ms. Dean's reputation in
13 the community for truthfulness and character?

14 A. Yes, I did.

15 Q. What was that reputation?

16 A. The reputation was, very simply, that it was sort of a new
17 day at HUD, with, at the highest level, with an individual really
18 caring about the needs of, of our membership and our
19 constituency. Heretofore, we had not enjoyed that at HUD or in
20 other agencies for that matter, but particularly HUD, since 90
2 percent of our members' business was in relation to HUD and

2 providing decent, affordable housing for members in urban
2 centers, and that was refreshing, a new for me.

2 THE COURT: I think the question was as to her
2 reputation for truthfulness and her character in the community.

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1 THE WITNESS: well, Your Honor, her character was
2 impeccable, her concern was genuine, and that in and of itself
3 was , was comfortable for us. She always had time to listen to
4 the problems of the urban centers, which was often time quite
5 unique from problems of suburbia.

6 MR. WEHNER: Nothing further, Your Honor.

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7 THE COURT: Any questions?

8 CROSS EXAMINATION

BY MR. O'NEILL:

10 Q. Good morning, Mr. Holmes.

11 A. Good morning, sir.

12 Q. Sir, as you stated, you have a favorable

13 MS. Dean; is that correct?

14 A. Yes, absolutely.

15 Q. And you also have a favorable opinion of

16 is that true?

17 A. Exactly.

opinion of

Secretary Pierce,-

18 Q. In fact, at a NAREB, or National Association of Real Estate
S 19 Brokers, convention in Miami, you gave Mr. Pierce an award on

20 behalf of the organization?

2 A. That was not at a convention in Miami.

2 Q. Okay.

2 A. That was at a conference in Miami.

2

Q. Excuse me, conference.

2 A. Exactly.

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1 Q. And Mr. Art Teele received one as well. He's a prominent
2 lawyer in Miami?

3 A. He received an award, but not because of his prominence as a
4 lawyer in Miami. He was the president of a National Business
5 League.

6 Q. I just meant to -- so there's no misunderstanding, he also
7 received an award?

8 A. That is precisely correct.

9 Q. And is it true that you've referred to Secretary Pierce as

10 one of the, the great public figures in our time?

11 A. That is correct.

12 MR. O'NEILL: Okay. Thank you, sir.

13 MR. WEHNER: I have nothing further.

14 THE COURT: Nothing else? All right, thank you,

15 Mr. Holmes. You're free to go, sir.

16 (Witness excused.)

17 THE COURT: Do you want to take a short break before

18 your next witness?

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§ 19 MR. WEHNER: Yes, sir.

20 THE COURT: Ladies and Gentlemen, we'll take a short
2 recess, make it ten minutes, and we'll be back to go on with the
2 next witness. Remember the admonition of the Court, please,

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2 about not talking about this case among yourselves or with anyone
2 else. All right, we'll be back in ten minutes.
2 (Jury out.)

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1 THE COURT: All right, a ten-minute recess.
2 (Recess from 11:07 a.m. to 11:20 a.m.)
3 MR. WEHNER: If Your Honor will give me a second, I'll
4 get Ms. Dean.
5 THE COURT: All right. For the record, I had my clerk
6 of court admonish the jury to conduct themselves appropriately
7 during the hearings in this case that were distracted this
8 morning by an incident between a couple of them, and I'll take
9 any further steps necessary if I see them not paying attention as
10 they should in the future.
11 All right, you can bring them in.
12 THE DEPUTY MARSHAL: Yes, Your Honor.
13 (Jury in.)
14 THE COURT: All right, we're ready to go. Call your
15 witness, please.
16 MR. WEHNER: Ms. Dean.
17 THE COURT: All right.
18 DEBORAH GORE DEAN, DEFENDANT'S WITNESS, SWORN
19 DIRECT EXAMINATION
20 BY MR. WEHNER:
21 Q. Ms. Dean, you have sat through almost a month of testimony,
22 and I recognize that this is going to be arduous and long, but
23 we'll take our time, and if you don't understand any of my
24 questions, please let me know, and if you want to explain, please
25 explain.

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1 A. All right.
2 Q. Would you please describe for the jury how you became
3 interested in public service?
4 A. Well, my family has always been in government and in
5 politics, I guess. I have, well, we have two sides of the
6 family, one side of Democrats and the other side Republicans, and
7 the Democrats are from Tennessee, as I'm sure you know, and the
8 Republicans are from Maryland. And my aunt was in public service
9 and my, of course, cousins.
10 My grandfather was always in public service, wasn't -
11 he never ran a successful campaign. He always wanted to. He
12 never got elected to anything. He kept running. But he was
13 appointed to a lot of things, and he did a very, very admirable
14 job.
15 He was head of -
16 back in the Eisenhower Administra-
17 tion, they used to have loyalty boards, something that we would
18 never think of today, but they used to have those back then, when
19 there was a Communist threat or whatever, and my grandfather was
20 the head of the loyalty boards back then and did an outstanding
21 job of basically getting rid of them by clearing Ralph Bunche and
22 a few other people who were condemned unfairly.
23 And my father, of course, who I'm extremely proud of,
24 was, public service was his life.
25 Q. Excuse me for one second. There's been a lot of testimony
in the trial regarding your relationship with John Mitchell.

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A. Yes.

2 Q. Now John Mitchell is not your father; is that correct?

3 A. No, he's not.

4 Q. Would you describe for the jury who your real father is and
5 your recollections of him?

6 A. Yes, of course. My father's name was Gordon Dean, and he
7 was a very, very intelligent man, and he started his career in,
8 going through law school, worked his way through college and law
9 school, and when he got to, to law school, the war had started,
10 and there weren't a lot of people to teach law school, so they
11 asked him if he would leave school and become a teacher. So
12 there were times when he was actually one or two years older than
13 his students. And he taught at the University of Southern
14 California Law School, and he taught at the University of North
15 Carolina Law School.

16 And then he went from there to the Justice Department,
17 and he became at the same age that I became executive assistant
18 to Secretary Pierce, he was executive assistant to then the
19 attorney general, Homer Cummings.

20 And my father very much wanted a promotion, and he
21 didn't get it, either. I didn't get mine, and he didn't get his.
22 He wanted to, to go to the criminal division and be a head of
23 that, but someone else got the job, and he had made an enemy of
24 Hoover at the FBI, and Hoover kept, well, remembering all the
25 time. Everytime my father turned around, Hoover had done

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1 something to him, and basically Hoover got him out of the agency.
2 And he went into naval intelligence and then out of
3 naval intelligence. He was called back to Washington, and he was
4 asked to go with Robert Jackson, who was then, I believe,
5 solicitor general of the United States, he was asked to go to
6 represent the United States at the Nuremberg trials, and my
7 father was one of the prosecutors at the Nuremberg trials, where
8 we put the Nazis on, in, on trial for the abuses in the Nuremberg
9 trials.

10 My father went there, and he had very grueling years
11 there, but when he came back, he and Robert Jackson won the Medal
12 of Freedom, which is the highest civilian medal in this country.
13 I'm extremely proud of him, and I've always tried to emulate him
14 as best as I could in my life, because it's a lot to live up to,
15 but I'm very proud of him.

16 Then he went -- I haven't finished. After the
17 Nuremberg trials, he went to head up the Atomic Energy
18 Commission, and that was when we were first, the United States
19 was building the atomic bomb and then the hydrogen bomb. He got
20 in right after the atomic bomb, produced the first nuclear
21 submarine, the first nuclear cars and airplanes. But of course
22 that never went anywhere.

23 After that, he went into the private sector. That was
24 after marrying my mother. But he never liked it. He went to
25 Lehman Brothers as a banker, but that just wasn't my father. I

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think he would have been better as a farmer than to be in Wall
2 Street. He really loved the government.

3 And then he was killed in an airplane accident when I
4 was young, and that's it.
5 Q. How old were you when your father was killed in the airplane
6 accident?

A. Close to four.

8 Q. Your mother never remarried; is that correct?

9 A. That's correct.

10 Q. But she is alive today?

11 A. Yes.

12 Q. How old is she?

13 A. She's in her mid-70s.

14 I'm going to get some water. Not to look like some
15 people who drank a lot of water up here, but . . .

16 Sorry, Steve, go ahead. Sorry.

17 Q. Your mother is in her mid-70s; is that correct?

18 A. Yes.

19 Q. Directing your attention specifically to your experience in
20 public service, what was the first public service job and at what
21 age were you when you first worked for a public entity?

22 A. Oh, well, I was, it was in high school. There was, actually
23 it's a, there was a group that just started called Environmental
24 Action. I don't know if you've ever heard of that, but they
25 started the April 22 Environmental Action Day that everybody

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1 still has, and it was sort of a, it was really actually a bunch
2 of hippies, I guess, that were real activists in the environment.
3 And I used to go down there every night, I guess I was in 11th
4 grade, 10th or 11th grade, and I would run the mimeograph machine
5 and put up posters all over.
6 We had Earth Day. That's what it was called, April 22,
7 Earth Day. We started that in high school.
8 I worked for a bunch of things that I don't remember
9 right now, but then the first job I had in the government, of

10 course, was with the Department of Energy.

11 Q. Approximately how old were you when you started with the
12 Department of Energy?

13 A. 25, 26.

14 Q. And how did you get your job at the Department of Energy?

15 A. John Mitchell got me my job there. He called a friend of
16 his who had worked with him in the Nixon Administration and said
17 that, that I would be interested in working in the government and
18 would he give me a shot at being an assistant in his office.

19 Q. And who was that that he called?

20 A. Robert Odle.

21 Q. And what was Mr. Odle's position?

22 A. He was the assistant secretary for Congressional
2 Intergovernmental and Public Affairs.

23 Q. At what agency?

24 A. The Department of Energy.

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1 Q. Did you go to work for Mr. Odle?

2 A. Well, I didn't work for Mr. Odle. He had me very down on

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3 the totem pole, but I did work under that office, yes.
4 Q. What was your position?
5 A. I worked in the Office of Public Affairs, and I had several
6 different jobs there, and we had several different people coming
7 and going.
8 And then I worked in the Office of Congressional
9 Affairs, and then I went to work for the Office of the Secretary.

10 Q. Of the Department of Energy?
11 A. Yes. He was a very nice man.
12 Q. And who was that?
13 A. His name was James Edwards.
14 Q. Now what were your responsibilities and duties in that
15 position?
16 A. Which one, the one in the secretary's office?
17 Q. Correct.
18 A. Well, it was sort of a project that I had been assigned to,
19 and basically the Department of Energy at that time was, was very
20 large, because they had gone off into a lot of different areas.
2 It was nuclear, solar, wind-powered, you name it.
2 And the department had a very large budget, and part of
2 that budget was a lot of travel. People were just going
2 everywhere. And they seemed to be going to Puerto Rico a lot and
2 Hawaii a lot. There were a lot of conferences that were places

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1 that it looked to the secretary that there might be a little
2 vacations going on here, and he asked me would I please come in
3 and take a look at all of the travel department-wide, all of the
4 field offices and everything, and I was just in a, in a sea of
5 printouts for weeks trying to come up with a report on whether we
6 were overexpending our travel dollars.
7 Q. How long did you stay at the Department of Energy?
8 A. Steve, I honestly don't know. I think it was about two
9 years.

10 Q. And how old were you then when you left the Department of
11 Energy?
12 A. 28, 27-28.
13 Q. You went directly from the Department of Energy to HUD; is
14 that correct?
15 A. Yes, as a direct result of the project I was working on.
16 Q. Okay. Would you describe how you got from the Department of
17 Energy to HUD, please?
18 A. Well, as I said, I was working on this project on whether we
19 were wasting money traveling, and this is a fortuitous
20 circumstance that happened, but that day in my office, I had been
2 looking at this Joint Energy-HUD conference that was being held
2 in Vail, Colorado, and I remember thinking to myself, now why do
2 people from Energy and HUD have to go to Vail, Colorado? That
2 didn't make any sense. It was about insulation or something.
2 And that looked pretty much like that was pretty much of a scam.

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1 So I had brought that to the attention of the people
2 that were looking at it and said, "Maybe we should look into this
3 one or not do it," and it was canceled.
4 And that evening, before anyone knew it was canceled, I

5 was having dinner with some friends, one of whom worked at the
6 Department of Housing and Urban Development, and right in the
7 middle of dinner, like my worst nightmare, she tells me she had
8 just bought a brand new pair of skis because of this trip she was
9 going on to Vail, Colorado, and I thought to myself, oh, no, you
10 know, I didn't want to tell her, but at the same time, I knew I
11 had to, so I said, "well, I don't think -- if that's the one
12 that's being paid for by the Department of Energy, you'd better
13 return the skis, because I don't think you're going."
14 And about two days later, I got a phone call from Lance
15 Wilson, who was then executive assistant to the secretary, who
16 apparently was also going on this trip and was not very happy
17 with me, and I said, "well, I work for the secretary of Energy; I
18 don't work for the secretary of HUD, and I'm sure that if the
19 secretary of HUD knew that this was going on, he wouldn't like
20 .it, either." That sort of ended the conversation.
21 And then when I finally met him one time in a social
22 circumstance, he said to me, "I admired what you did, and if you
23 would ever like to come to work at HUD, we'd like to have you."
24 And so when Secretary Edwards decided to retire and a
25 new secretary was coming in, I called up Mr. Wilson and asked him

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for an interview.

2 Q. You subsequently interviewed with Mr. Wilson?

3 A. Yes, I did, about five times.

4 Q. Had you met Secretary Pierce at that point?

5 A. No.

6 Q. But Secretary Pierce was the secretary of HUD at that time,-
7 is that correct?

8 A. Absolutely, yes.

9 Q. And he was secretary at HUD during your entire tenure at

10 HUD, correct?

11 A. Yes, he was.

12 Q. Did you -- when did you have the first occasion to meet
13 Secretary Pierce?

14 A. Well, he has a staff meeting on Tuesday mornings, and it was
15 huge, all the assistant secretaries all the way around the
16 building, around this big table, and the secretary, you know,
17 would come in and go, you know, basically person by person in the
18 same order every week and about what the important issues that
19 were in front of the department at that time, and then around the
20 room in chairs sat the special assistants to the secretary, and
21 there were a lot of them as well, and any support staff that were
22 needed to talk about any particular issue.

23 And my first time there, because I had been hired as a
24 special assistant to the secretary, even though I hadn't met him,
25 I was allowed to sit in on that meeting, and so I guess the first

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1 time I met him was when he announced that he had a new special
2 assistant, even though I'd actually never shook hands with him.
3 It wasn't actually until several months, maybe a month,
4 two months, three months after I, I was there, I'd been going to
5 the staff meetings, so I kind of knew him, he didn't know me, and
6 then I was, of course, exec, sec, director of the executive
7 secretariat. That's the job that Mr. Wilson had given me.

8 Q. Directing your attention to your first job, that of being
9 exec-

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what was the title?

10 A. It was the director of the executive secretariat, which
11 means head of the mailroom, in essence.

12 MR. WEHNER: With the Court's permission, I will show
13 what I've now marked as Dean Exhibit 556.

14 THE COURT:

15 THE CLERK:
16 identification.

17

18

19 MR. WEHNER:

20 THE COURT:

2 up.

2 MR. WEHNER:

All right.
Dean's Exhibit 556 marked for

(Defendant's Exhibit No. 556 was
marked for identification.)

Can I move this to the front?

Yes, I think you ought to try to work that

It will be easier to see.

2 THE WITNESS: It's over to the right.

2 MR. WEHNER: Your Honor, could the witness come down
2 from the stand?

2172

1 THE COURT: Certainly, sure.

2 MR. WEHNER: Thank you, Your Honor.

3 Q. Ms. Dean, with the use of the chart, would you point out to
4 the jury what your position was when you first went to HUD?

5 A. Right here, okay. It was right here. I was technically a
6 special assistant, but it was really director of the executive
7 secretariat.

8 Q. And what were your duties as director of the executive
9 secretariat?

10 A. Well, all the departmental rules and regulations would come
11 up to that office, and we would reroute them plus all the
12 secretary's mail. So a letter would come in, it would say, "Dear
13 Secretary Pierce, I am concerned about Chad Brown Apartments," at
14 which point Chad Brown Apartments would come under either the
15 Office of Public Housing or the Office of Housing. We would send
16 a slip downstairs that said, "Please prepare an answer for
17 Secretary Pierce."

18 But we would also send a copy of that letter, depending
19 on who had sent it, to the executive assistant and the special
20 assistant who was in charge of that area plus any relevant
21 offices that we thought would have interest in Chad Brown
22 Apartments. If it was about a UDAG, it would be completely
23 different. It would go to a different special assistant, a
24 different assistant secretary. A copy would always, usually go
25 to the executive assistant.

1 But there was everyday mail, and then there was
2 Congressional mail, and then there was a list of people who the

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3 secretary prepared that were people that he knew and he wanted
4 their letters directly to him, and then, of course, things came
5 personal and confidential, and they went directly to the
6 secretary.

7 Q. What authority did you have when you were executive
8 assistant?

A. You mean executive secretariat?

10 Q. I'm sorry, executive secretariat.

11 A. Well, the only -- well, I had none. I had the people in my
12 office. There were, it grew and shrunk during different times,
13 but the people who worked -- and it was a large office; I mean,
14 there were people --

15 Q. Approximately how many people was it?

16 A. 15 to 25 at any time.

17 And there were, of course, people that were there
18 through lots of different secretaries, and one person would be,
19 handle -- well, actually I reorganized it when I was there to do
20 this, but at the end, one person always handled community
21 planning and development, and one person always handled housing.
22 That way, they became familiar with the subject areas
23 so they could be more help to the secretary in making certain
24 that he got things in time. Otherwise, it could take days for
25 him to know that a letter was in the department, and that's sort

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1 of pointless.

2 Q. How long did you stay in the position of executive
3 secretariat?

4 A. About a year and, a little more than a year and a half.

5 Maybe a year and ten months, something like that.

6 Q. Let's talk about that year-and-a-half or year-and-ten-month
7 period, and would you tell us, please, who occupied the executive
8 assistant to the secretary and the under secretary's position?

9 A. Well, when I went to HUD, Don Hovde was the under secretary,

10 and he had an executive assistant, also, and then Phil Abrams was
11 under secretary while I was there. Executive assistant there was
12 Lance Wilson, who was my boss, and then there was Secretary
13 Pierce, of course.

14 Q. During your tenure as, in the executive secretariat, did you
15 become aware of a program called mod rehab?

16 A. Yes. Can I sit down now?

17 Q. Sure.

18 A. I only had one experience with mod rehab, and it was really,
19 it was really an eerie, sort of weird experience about it,
20 because Lance Wilson was not in town. He was off on travel. And
21 I remember it because I, I wrote Lance's speeches, also. He was
22 off doing some function.

23 And a letter had come in to Secretary Pierce regarding
24 a, a moderate rehabilitation program, somebody requesting funds,
25 and I had a habit of basically tacking a small note onto all of

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1 Secretary Pierce's letters that went in directly to him telling
2 him what the letter was about. It would say, "This letter is

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3 from, you know, Joe Smith and he wants X." Because sometimes the
4 letters would be very, very lengthy, and he only had so much time
5 every day to devote to correspondence. So I would try to make it
6 faster for him. And basically it was, you know, a lot of times
7 it was concur and non-concur, do this and do that.

8 well, one time he wrote me back a note and said, "Talk

9 to Maurice Barksdale about this, and tell him that it's okay to
10 go ahead and do this project."

11 So I went downstairs, and I asked Mr. Barksdale if I
12 could have a meeting with him, and he said sure. He was an
13 extremely nice man, as you could tell from when he testified.

14 And he was the deputy assistant secretary for Multi-Family
15 Housing then. He went the assistant secretary.

16 And I went in his office and I --

17 Q. Would you point out where on the chart he was?

18 A. Under Housing, which I think is second in, and then down
19 one, down another to Multi-Family.

20 Q. He was in this position?

2 A. He was there, yes, at that time.

2 Q. And at the time you had that conversation, were you still
2 here at the executive secretariat position?

2 A. Yes.

2 So I went down, and I showed him the note that

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1 Secretary Pierce had given me, and he just sort of looked at me,
2 like, what are you doing down here? And it was obviously, it
3 was, this was out of the link, out of the loop. And he asked me,
4 "Are you sure?"

5 And I said, "Sure." And I showed him the note, and it
6 had the secretary's handwriting on it.

7 And he said, "Did you talk to Lance about this?"

8 And I said, "No, he's out of town."

9 He said, "All right," he goes, "I'll take care of it."

10 And then he handed me back the note and said, "You take this with
11 you."

12 And I remember thinking that was odd. It was like
13 there was some secret somewhere, and I didn't understand it. And
14 that was really the only thing I heard about mod rehab for
15 another year or so.

16 Q. So that occurred at the time you're at the executive
17 secretariat; is that correct?

18 A. Right.

19 Q. Okay. The time that you received that message from
20 Secretary Pierce, had you met him before that in terms of, I'm
21 talking in terms of having a conversation?

22 A. Yes. At that particular point, we had met. We met because
23 he called me into his office basically to ball me out about
24 something that I had done, and I meant it by the best of
25 circumstances, but it's always difficult to meet your boss the

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1 first time because he's mad at you. That always sets you off on
2 sort of the wrong foot. And I think Lance was out that day as
3 well, or else he probably would have, he would have spoken to
4 Lance.
5 But we had started to get a lot of letters in, I mean,
6 we literally would get in bags and bags full of, of mail every
7 day, thousands and thousands of letters, and the department was
8 not prepared and not well-structured enough to really answer the
9 volume of mail that Secretary Pierce himself received, which I
10 thought was probably an indication of how well we were doing, for
11 instance, in the, well, the Washington, D.C. field office or in
12 the Detroit field office. I mean, if we weren't answering the
13 secretary's mail, what were we doing by the time we got down, you
14 know, to the field offices? And that was rather disconcerting.
15 So I decided to sort of take letters myself and start
16 to read them and investigate them, sort of like casework. Now he
17 had not asked me to do this, and I obviously did not go about it
18 the right way, because what I did was I, one time I got this
19 letter, and I don't remember the specifics of it, but this is
20 close enough, and it was basically a letter from a family that
21 said, "Our house is being foreclosed on, and can you -- and we're
22 getting some money in, and if HUD will just not foreclose on our
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23 house, we'll be able to take care of it, and we'll be able to
24 straighten it out, and we've tried to explain this to the HUD
25 field office, and they said there's nothing they can do because

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1 it's on some computer printout."
2 well, I thought to myself a computer printout can be
3 changed. You just cross it off, and you can get the money, take
4 care of it. So it doesn't seem right.
5 So I called downstairs, and I, you know, looked in the
6 phone book and found the person who I thought was basically in
7 charge of this, and I called down and, in essence, said, "Why are
8 we foreclosing on 4551 Upton Street?"
9 And the man said, "well, what are you talking about?"
10 He was very upset with me.
11 And I said, "well, I was just wondering. I'm trying to
12 answer a letter for the secretary, and I was wondering if you
13 could get some information from the field office or whatever to
14 explain what the situation on this particular project is." And
15 of course, I did this three times a day.
16 Needless to say, I created a little bit of a problem
17 down there in this office, because they didn't want to, they
18 didn't want to have to do all that research for me to answer
19 three letters, and it got complaints -- the complaints went up
20 the line, and I guess the assistant secretary basically asked the
2 secretary, "what in the world is your special assistant doing?"
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2 She's creating havoc, down here in our office."
2 So the secretary called me in, and he said, "What are
2 you doing?"
2 And I said to him, I said, "You should come back and

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1 look at how much mail you get, and you should see what these
2 letters say, because they're very compelling."
3 And I knew why he'd called me in, so I brought some
4 with me. And I showed them to him, and he said, "You're
5 absolutely right." And he goes, "This is what I want my
6 assistants to do more of."
7 And I remember I really liked him. I mean, I really
8 liked him from that second, because I knew that all those people
9 who had given me so much trouble down there and were acting like
10 it was such an imposition to do something for somebody didn't
11 represent him.
12 And I just got along with him from that second. I
13 mean, nothing he could ever say or do from then on would ever
14 change my opinion, because his gut reaction to what I was doing
15 at that moment was so great, and he was so supportive.
16 And he said, "You know, you're doing the right thing.
17 Go back and do more. And every day, I want you to bring me five
18 letters." And he goes, "Don't open them. Just bring me the
19 envelopes. I want to see what's inside. I'll answer them
20 myself."
21 And we did that for a while. And he'd write them out
22 longhand, and I'd type them up for him, get them out. It was a
23 good thing to know what was going on, because he was far removed
24 from the problems that people had.
25 Q. Did there come a time when you made a transition from being

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1 a special assistant in the executive secretariat to another
2 position?
3 A. Well, yes. I got to know the secretary pretty well after
4 that, because he would give me assignments and ask me to sit on
5 certain task forces and things, which was nice. And while I
6 worked for him, I ran into somebody who basically had a company
7 that could give us some advertising space if we needed it on
8 buses and billboards and things like that, and I knew this person
9 fairly well, and I went to the secretary and I said, "You know,
10 this is a great opportunity if we want to do something with it."
11 And the secretary said, "Yes. As a matter of fact, I
12 would like to do more outreach on the discrimination hotline on
13 fair housing." And so he said, "Why don't you do this and take
14 it on as an extra job?"
15 Now that's how I got to know him well so that I could
16 then make a promotion. I just didn't leapfrog from his mail. We
17 did have a major campaign that went between there, and we
18 traveled around the country, and I got to know him well and doing
19 the fair housing campaign.
20 So when Lance left and he decided to go back to New
21 York and had gotten a, a big promotion in his career, he went to
22 run, I can't remember what it was, he went to run something very
23 big in New York, and the secretary asked me would I, was I
24 looking for a promotion, and I said yes.
25 Q. At that time, how long had you been at HUD?

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1 A. Two, about two years.
2 Q. Okay. Now based on your two-year experience at HUD, could

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3 you please describe for the jury categories of employees at HUD?
4 A. Yeah, well, the mission of HUD is very diverse. There -
5 at one point, you have a department that is foreclosing on a
6 single home, and on the other hand, it is one of the largest
7 financial institutions in the country, because -- and it's, it's
8 extraordinarily complicated.
9 So you have people who are big money people, and they
10 run the Government National Mortgage Association, and they have
11 oversight for Fannie Mae, and they are literally looking at
12 insuring and co-insuring billions and billions of dollars and
13 trying to get money into infrastructure around the country, and
14 they're off in one aspect.
15 Then you've got people whose lives are basically
16 dedicated to housing programs and helping people and getting
17 those out. And then you've got those people. Sometimes those
18 can be political people, and sometimes they can be career people.
19 It's just where your motivation lies.
20 And then there are people who are there for their own
21 agenda and are, they're just basically putting HUD on their
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22 resume to move on and do things when they, when they leave. And
23 then we have people who, I don't know, they're just people who,
24 they're not mission oriented, and they're not intellectually
25 oriented. They're just sort of there. And a lot of the

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1 lower-level political appointees fall into that category, just
2 taking up space.
3 Q. Now during that two-year period, you had the opportunity to
4 meet Secretary Pierce and then come to know him better?
5 A. Yes.
6 Q. At that initial period, what did you observe about his
7 management style?
8 A. Well, this, this idea that he's a hands-off manager is just
9 not true at all. He was, he was extremely well-versed in the
10 department and what the department ought to be doing, and he was
11 also under personal constraints because of the budgetary crunch
12 that HUD was under. It was difficult for him personally.
13 So I would say that, you know, where he -- it's hard
14 for me -- I mean, he gave specific assignments to people, and he
15 ran the department, and he ran the whole thing. He did not get
16 into specific issues. If someone said, "Sir, we're having a
17 problem with the 312 program," he would say, "Well, get whoever
18 you need and fix it and let me know when it's done." He would
19 not tell you how to fix the 312 program.
20 Does that answer the question?
21 Q. Yes. And did that -
22 your observation of him continue
23 throughout your tenure at HUD?
24 A. Yes. Well, of course. I saw him more and more.
25 Q. But did your observations of his management style change?
26 A. No, no.

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1 Q. Okay. Now sometime in 1985, I believe you said you went
2 from the executive secretariat to the executive assistant; is
3 that correct?
4 A. Yes.
5 Q. Describe how you got that promotion. I believe you've
6 already testified that Mr. Wilson resigned and went to New York.

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7 A. Right. Well, I had spoken to Lance, and Lance was very much
8 in favor of -- I didn't know the secretary's views on it, but
9 Lance was very much in favor of Al Moran, who was our Chicago
10 regional administrator, coming in to take that job, and so I
11 think we all just assumed that Al Moran was going to take that
12 job.
13 And I wanted to be the deputy under secretary for
14 intergovernmental affairs, so I made an appointment to go see the
15 secretary to ask him for that job, because that woman was also
16 leaving. She was being promoted to a different job.
17 And I went in, and he said that he thought that I could
18 have that job if, if I wanted it, that I could handle it. That's
19 the job basically that dealt with mayors of cities. That's the
20 job I wanted to do. I wanted to deal with mayors and then take
21 their problems and route it to the appropriate assistant
22 secretary and resolve that matter.
23 And I was really, really anxious to have that job. I
24 thought that would be a terrific job. And I went and interviewed
25 for it, and he asked me while I was in there would I consider

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1 being his executive assistant, and I was really quite shocked,
2 and I told him I didn't think I was right for it and that I
3 thought that Al Moran really was a good candidate and a terrific
4 guy and that he seemed to me to be more appropriate for that job.

5 And Secretary Pierce said that he had thought about it,
6 and he wanted an energetic person who could, could work for him
7 and do what he wanted, and he wanted me.
8 And I said okay, and I was very delighted.
9 Q. Now when you became executive assistant to Secretary Pierce,

10 what was your authority, your legal authority?
11 A. Well, there was no legal authority attached to any assistant
12 job to anybody. I mean, no executive assistant has legal
13 authority.
14 Q. Were you a presidential appointee?
15 A. No, a secretarial appointee.
16 Q. So you worked at the will and pleasure of the secretary?
17 A. Um-hum.
18 Q. Using the chart that you've previously introduced, would you
19 tell us who the other presidential appointees were at HUD besides
20 Secretary Pierce, of course?
21 A. Sure. The big boxes down on the bottom, those are all
22 presidential appointees.
23 Q. Legislation/Congressional Relations?
24 A. Is an assistant secretary.
25 Q. And that is appointed by the secretary?

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1 A. Absolutely.
2 Q. Housing?
3 A. Of course, yes, assistant secretary.
4 Q. Ginnie Mae?

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- 5 A. The Government National Mortgage Association, yes.
6 Q. Public and Indian Housing?
7 A. Yes.
8 Q. Housing and Public Development Research?
9 A. Yes.

10 Q. Fair Housing and Equal Opportunity?

11 A. Yes.

12 Q. Community Planning and Development?

13 A. That's correct.

14 Q. Is anyone below that line a presidential appointee?

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blank)

15 A. No.

16 Q. Above the line, who is a presidential appointee?

17 A. The under secretary is a presidential appointee, the general

18 counsel is a presidential appointee, the inspector general is

19 appointed by the President, and the secretary, of course.

20 Q. Now in practical terms, that means that those people can be

21 fired by the President of the United States, is that correct, or
22 hired by the President of the United States?

23 A. They're hired and fired by the President of the United
24 States, and the secretary, frankly, can't even fire them.

25 Q. Okay.

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1 A. He can certainly make life difficult, but he cannot fire
2 them.

3 Q. And you were not a presidential appointee?

4 A. Frankly, Steve, I had a hard time getting through the White
5 House just for the job I had. They didn't want to clear me to
6 have the job I had.

7 Q. But you were not a presidential appointee?

8 A. No, I was not.

9 Q. Now at the beginning of the time in 1985, when you became
10 executive assistant, until the time you left HUD in, what,
11 January of '88 -12

A. Um-hum.

13 Q. -- you had occasion to deal with various political issues;
14 is that correct?

15 A. Yes.

16 Q. I'd ask you to describe generally from the period of 1985
17 through 1988 who would come to see you, what they would come to
18 see you for, and your recollections generally as to the
19 individuals that you had to talk to because of the nature of your
20 position.

21 A. well, frankly, the political side of the office of the
22 secretary really was, that's what I did. I mean, that was -and
23 the reason, of course, was because the secretary did not want to
24 have to get in between the flying bullets of two different
25 political people wanting the same, wanting something, and so he

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1 basically would ask me to have the preliminary meeting either
2 with the person's staff or with them, find out what the issue
3 was, find out as much as I could about what was going to happen,
4 and then allow him to make his decisions in peace, and then he
5 would decide how he wanted to deal with whatever political
6 ramifications that had, but he didn't want to have to get in the
7 middle of some of the people that came in and out of HUD, whether
8 it was senators and consultants or whatever.

9 Q. What types of political issues were brought to you?

10 A. Anything that -

well, let's put it this way: If something

11 went wrong, it didn't take long before all the involved people
12 were standing in my office, trying to figure out how they were
13 going to tell the secretary what had gone wrong, and that's,
14 that's sort of what I remember.

15 They would call you on the phone, let's say, the Public
16 Affairs Office called and said, "The Wall Street Journal just
17 called, blah, blah, blah," and within five minutes, I wouldn't
18 even have to pick up the phone, within five minutes, all the
19 appropriate people would be standing in the hallway outside the
20 secretary's office, all figuring out how they were going to
21 explain to him what they had just done or how something had
22 happened, and that, that's how it happened more times than
23 anything else.

24 There were also times when, say, the white House, never
25 a great understander of HUD programs, would make some comment to

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1 a senator like, "You can have that," about some HUD program, and
2 we would have to then, you know, set up a team to go over and
3 explain to the white House that no, we don't fund things that
4 way, or that's not the way it works.

5 Those things went through my office. The secretary
6 always had me handle those things.

7 Q. Did you deal with senators on occasion?

8 A. Oh, yes.

9 Q. And what types of requests would you receive from senators?

10 A. well, they wanted public housing built, public housing torn
11 down, public housing renovated. Then they wanted mod rehab.

12 They wanted UDAGs. They wanted 202s.

13 They want -- I mean, if there was a program and it
14 could be built or not built in their state, depending on their
15 particular leanings on it, they would call, and they were not
16 reticent about calling. And the same goes with congressmen and
17 governors, mayors.

18 Q. From the Congress specifically, who do you remember being in
19 contact with you during that, during that appropriate time
20 period, '85 to '88?
2 A. Oh, well, I mean, hundreds of them, literally hundreds of

2 congressmen and senators, but I would say out of 100 members of
2 the Senate, I didn't talk to 20 of them, I mean, at some point.
2 Now I didn't always talk to them directly. Sometimes I
2 talked to their staff person, you know, their executive

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1 assistant, whatever they call it, legislative aide, whatever. A
2 lot of times, I would talk to them, because they would only want
3 to talk to the secretary. A lot of senators were more than happy
4 to lean on me, and I would say I talked to the fair majority of
5 them.

6 Q. That's your recollection of telephone conversations. What
7 about where did the mail from various political interests come?

8 A. It came through the exec. sec. for the most part, or if it
9 was marked personal and confidential, it went directly to the
10 secretary.

11 Q. Okay. What dealings did you have in terms of responding to
12 the political influences that came into the secretary's office by
13 mail specifically?

14 A. There was --we had a list of senators that, of course, the
15 members of the Banking Committee, and the same would go with the
16 House, the exact same deal with the House and the Senate, they
17 were on our committees, and we always got their mail. I always
18 got a copy of whatever requests they had in.

19 Plus there were a number of senators and congressmen
20 who had known the secretary for many years and who he knew many
21 years, and they were on the list as well. I mean, if Charles
22 Rangle wanted, you know, something in the department and wrote
23 the secretary a letter, Secretary Pierce would get the letter.
24 It did not go someplace else for a response.

25 Q. Did you on occasion hear from Senator D'Amato?

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1 A. Well, yeah.

2 Q. Do you recall?

3 A. Senator D'Amato was not a snob, so he would talk to whomever
4 he could talk to to push whatever he was pushing at that time,
5 and he had, well, New York State, I mean, obviously, they have an
6 enormous amount of housing and an enormous amount of urban
7 development, so he was, he was very involved. And plus, he was
8 on the Banking Committee.

9 Q. Did you talk to him frequently?

10 A. Yes.

11 Q. Personally?

12 A. Yes.

13 Q. And generally, what would the conversations concern?

14 A. They would concern whatever group that wanted to come into
15 Washington to express their concerns. I mean, he would call a
16 lot about that. He was very interested in the elderly and
17 handicapped not-for-profit sponsor program. He was interested in
18 mod rehab. He was interested in UDAGs. He was, he was
19 interested in just about any housing program that we had.

20 And of course, Senator D'Amato knew Secretary Pierce

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21 very well, and that was a, something that -- I mean, that's
22 something else I've never talked about, but Al D'Amato is,
23 obviously, going to push every project in New York. He's going
24 to push some more than others. So he would run all of the
25 projects into the department from every housing authority in New

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1 York State. Then there would be ones that he would push by
2 calling me, but if he really, really wanted something, he would
3 call the secretary.

4 So there was always that -- and Secretary Pierce would
5 always say -- I'd say, "well, we had phone calls from so-and-so,
6 so-and-so, so-and-so." Secretary Pierce always knew that if
7 certain people wanted something, they would call him themselves.
8 Q. Senator Heinz from Pennsylvania, did you have conversations
9 with Senator Heinz's office?

10 A. He mostly spoke to the secretary directly, but Secretary
11 Pierce and I did go to Senator Heinz's office on a number of
12 occasions.

13 Q. And generally what did those conversations entail?

14 A. Well, the conversations that we were having with him were
15 always about the fair housing amendments or the testing program
16 that we were trying to get through Congress, and there were
17 certain new HUD programs we wanted, housing vouchers and things
18 like that, public housing modernization, funds that we were
19 having a hard time in the Banking Committee with.

20 We went up there and talked to Senator Heinz about that
21 on occasion, and Senator Heinz would always have a list of things
22 he would like to talk to us about as well. And so sometimes -

I

23 mean, I remember at one time it was very funny, because we
24 started the meeting out, and Senator Heinz started with his list,
25 and the secretary said, "You know, I think you ought to hear what

1 it is I want before you tell me how much it's going to cost."

2 So it was -- so he gave us basically his list of what
3 he wanted for his support on those initiatives that we had.

4 Q. And these requests from people like Senator D'Amato and
5 Senator Heinz, they were for funds, weren't they, dollars for
6 their states?

7 A. Well, yes. Of course, yes.

8 Q. Whether they were called UDAGs or mod rehabs or 202s?

9 A. It was all money.

10 Q. It was all to get money into their area, correct?

11 A. That's correct.

12 Q. Senator Graham?

13 A. From Florida?

14 Q. Yes.

15 A. Yes, and from Texas, both.

16 Q. Generally requests for funds for their districts?

17 A. Yes. Senator Graham from Florida was much more interested
18 in the elderly and handicapped programs, the 202s. I believe
19 that he did make some entrees into the department about mod
20 rehab, but never to me. I think he was working with Mr. Demery.
21 I think he contacted Mr. Demery, which would have been
22 appropriate at that time when he was senator.

23 Q. Senator Hawkins from Florida?

24 A. I spoke to Senator Hawkins many times.

25 Q. Regarding?

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1 A. Money for Florida. 202s. 202s and mod rehab and UDAGs.
2 Senator Gramm from Texas, that was mostly UDAGs.
3 Q. What is a UDAG?
4 A. It's an urban development action grant.
5 Q. What is that?
6 A. Well, it no longer exists, but it was a great program. The
7 government would basically put a, would bridge the gap of a
8 business that was going to go into an urban area where the
9 business would not normally go. It was very widely criticized by

10 President Reagan and David Stockman, because they said, "well,

11 what is the government doing giving loans to Marriott Hotels?"
12 well, Marriott Hotel was going to build a hotel where
13 Marriott Hotel was not going to build a hotel for at least
14 another 15 or 20 years if they got that bridge financing to make
15 it profitable. So, for instance, the Inner Harbor of Baltimore,
16 that was all done with UDAGs.
17 So the hotel goes in. The hotel hires people to build
18 the hotel, hires people to work in the hotel. And so for a small
19 amount of federal investment, they brought in private leveraging
20 into areas that they would not have normally gone until the
21 economic climate had changed in those areas. It was a great
22 program.
23 Q. Directing your attention to the, the House side of Congress,
24 do you have recollections of dealings with various Congress
25 people with regards to funding to their districts?

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1 A. Certainly.
2 Q. And who do you recall?
3 A. Oh, well, I mean, members of the Banking Committee were,
4 were very vocal. I mean, on the House side more than -
5 Q. Excuse me, Ms. Dean. You mentioned the Banking Committee in
6 the Senate and the Banking Committee in the House. What was
7 their positions, Banking Committees' respective positions
8 vis-a-vis in regards to HUD?
9 A. Well, they pass all of our regulations, and they pass all of
10 our law, and if you have a new program that you want to go
11 through -- and the only thing that we were able to get through
12 when we were there that was, we got initiatives through that
13 didn't need Congressional concurrence, but other than that, the
14 only two laws we passed, of course, were the fair housing testing
15 program and the fair housing amendments.
16 And in order to get any new law passed, these two
17 committees have got to write it, they have to introduce it, they
18 have to vote for it, and they have to push it on the, on the
19 floor of the House and Senate, and that was hard to do.
20 But now in the Senate, people sit on the Banking
21 Committee, because the Banking Committee is a real big deal in
22 the Senate. It's all about savings and loans. It's about Wall
23 Street. They have NASA, for some reason, that -- and they have
24 HUD.
25 In the House, it's very different. The congressmen who

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1 sit on the Banking Committee in the House sit there because HUD
2 usually is so important to their district. So you get, like, for
3 instance, Barney Frank from Boston, his district has a lot of
4 public housing in it, so he wants to sit on that committee,
5 because that's good for his district, and the same goes for a lot
6 of the congressmen on it. They have more of a parochial interest
7 in housing on the House side than they do on the Senate.
8 Q. Of the members of the House Banking Committee, who called
9 you regarding getting funds to their districts generally? Not
10 specific conversations at this point.
11 A. Well, Congressman Frank called on some projects up in Boston
12 called the Granite, and Mary Rose Oakar asked me on several
13 occasions to meet with people on Cleveland, and Congressman
14 Gonzalez, of course, was extremely interested in his area in
15 Texas.
16 And on the Republican side, I think, I can't remember
17 his name, there was a young congressman from Texas who was
18 calling a great deal about things. Stu McKinney, a wonderful man
19 who's no longer with us, was the minority head of the House
20 Banking Committee, and he was from Bridgeport, Connecticut, and
21 Bridgeport, Connecticut, was, of course, had a lot of HUD work up
22 there, and that's why he sat on the committee, and he called a
23 great deal.
24 And of course, the Appropriations Committee in the
25 House is the same thing. I mean, there's a whole different group

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1 of people, and they give you all your money. So they'd make
2 calls, also.
3 And I know that Congressman Boland, who was the head of
4 that particular Appropriations Committee at that time, was a
5 constant caller to Secretary Pierce.
6 Q. Okay. Would you describe what contacts you would receive
7 generally from the white House with regards to HUD funding during
8 the same time period, '85 to '88?
9 A. Well, the white House many times represented senators and
10 congressmen. I mean, a senator or congressman would go over, and
11 I, I don't know why they were there, but I assume that the white
12 House was working on something with them, and they would turn
13 around and say, "well, there's something at HUD that we want."
14 And then we would get a phone call from the appropriate
15 office at the white House, which was usually the Office of
16 Cabinet Affairs, and we would get a phone call that said, "The
17 President just met with so-and-so, and this was mentioned, and
18 please get us back a report on whether or not it's possible to do
19 this." Or they would just call and say, "We're very
20 interested -- whatever that term is -- we're very interested in
21 seeing that Waterbury, Connecticut, is, is funded in this round,"
22 or whatever.
23 Many times, their interest would be heightened when it
24 got toward election times, and during election times, they would
25 call over and give you a list of states, and you were to do

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1 whatever you could with whatever discretionary monies you had in
2 those states.
3 Q. And was that inclusive of mod rehab?
4 A. Oh, yeah.

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5 Q. On occasion? Just generally?

6 A. Yes, there were several discretionary programs at HUD.

7 Q. What were the discretionary programs at HUD that you would
8 receive calls on from senators, congressmen, and the White House?

9 A. Well, mod rehab was discretionary, and so was the thing in

10 CPD, Community Planning and Development, under the block grant
11 program. There was a secretary's discretionary fund.

12 Q. CPD?

13 A. All the way to the right, yeah, and then down there.

14 Q. Okay. And this was a presidential appointment who had
15 discretionary funds available?

16 A. Yes.

17 Q. Okay. What other -- mod rehab?

18 A. Mod rehab were the only two discretionary programs. And
19 then there were secretary reserves in some of the programs, but
20 I'm not really very sure what they were, because I don't remember
21 Secretary Pierce ever making any use of those.

22 And then, of course, there was the UDAG program, which
23 did have a lot of political input, but the political input was
24 inappropriate in some instances, because you really couldn't help
25 a UDAG. It had all these criteria. It went into a computer, and

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1 the computer spit out the list.

2 The only discretion was where you draw the line on the
3 list, and that, of course, if you draw a line below the project
4 that the white House was interested in, I guess you could say
5 that was a pretty discretionary line, and if you draw the line
6 above something, that's using your discretion as well. So it had
7 a discretionary aspect to that, but that was at the level of
8 funding.

9 And then, of course, there was HODAG, and the same
10 thing was with housing development action grants.

11 MR. WEHNER: With Your Honor's permission, that's an
12 appropriate place in the testimony to break.

13 THE COURT: All right, thank you.

14 We'll recess now, Ladies and Gentlemen, for lunch.

15 We'll take our luncheon until 1:30. Remember the admonitions of
16 the Court about not talking about the case at all among
17 yourselves or with anybody else during the break. Be back at
18 1:30. We're going to be sitting just shortly after about 4:00,
19 4:15 today.

20 (Jury out.)

2 THE COURT: All right, 1:30.

2 (Recess from 12:20 p.m. to 1:30 p.m.)

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1 AFTERNOON SESSION 1:40 P.M.

2 THE COURT: Will you bring the jury in,

3 please?

4 THE DEPUTY MARSHAL: Yes, Your Honor.

5 (Jury present)

6 THE COURT: All right, ladies and gentlemen.

7 We're ready to resume after lunch and we'll continue
8 with the testimony of Miss Dean at this time.

9 BY MR. WEHNER:

10 Q Miss Dean, you were testifying before the lunch
11 break about your recollections from '85 through '88
12 concerning various political influences that were
13 channelled through the Secretary of HUD *s office.
14 Directing your attention back to that
15 testimony, you testified about Congressional input, you
16 testified about white House input. The third would be
17 private individuals' input in terms of political
18 influences.
19 would you describe generally what occurred
20 -from '85 through '88 with regard to private individuals'
2 input into the Secretary's office?

2 A well, of course that would vary a lot with the
2 background of the private individual. There were people
2 who were very political. They worked in campaigns or
2 they had worked at the white House or they had been in

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1 Congress and then they are now private individuals but
2 they, I guess you say, they carry a political portfolio
3 with them.

4 And then there would be people who were very
5 well known in the industry. A particularly large
6 developer, a particularly famous developer.
7 There would be people who had been Executive
8 Branch employees, former Assistant Secretarys, former
9 Undersecretarys.
10 And then there were prominent attorneys, law
11 firms, that had clients that were in the industry and
12 they were particularly well known for that and, of
13 course, some of the partners in the law firm perhaps may
14 have been in the white House or may have been in
15 Congress.
16 So people moved from one area to another, and
17 I guess if you were out of the political mainstream at
18 the moment and you were a private individual you would
19 still carry your political credentials.
20 Q Now, directing your attention to those three types
2 of individuals, the private, Congress, the white House,

2 what was your role with regard to Secretary Pierce as
2 his Executive Assistant in terms of those three groups?
2 A well, I think that -- the Secretary was very busy
2 and he -- his attention had to remain focused and I

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1 would say that perhaps there was as many as 20 to 40
2 phone calls a day that you could say were political and
3 he would have spent his entire day doing that if he had
4 taken all those phone calls. So he didn't.
5 And he took phone calls from the people that
6 he particularly wanted to and then a lot of times there
7 would be like a telephone message to him saying
8 Secretary, Senator so and so called, or whatever, and he
9 would have his Secretary call back and say tell Senator

10 Armstrong or tell Senator Chaffee that my Executive
11 Assistant will return his call, and then Senator Chaffee
12 or Armstrong, whoever, could decide whether or not he
13 wanted to talk to me or whether he wanted one of his
14 aides to talk to me.
15 But, in essence, the Secretary would not want
16 to take that phone call himself and he would ask me to
17 basically find out what it's about before I talk to the
18 person myself.
19 MR. O'NEILL: Objection, Your Honor, to some
20 of the hearsay. So I don't continue to have to be
21 objecting --
22 THE COURT: I think we should be careful on
23 the hearsay concerns. I'll overrule at this time

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24 because I think she was talking about the procedures
25 that she went through without particular testimony as to

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1 what someone else actually said.
2 All right, go on.
3 BY MR. WEHNER:
4 Q Miss Dean, what did you undertake to do - I'll ask
5 it another way. I'm going to show you what I've marked
6 for identification as a series of exhibits and I'll
7 start with Dean Exhibit 527.
8 THE DEPUTY CLERK: Dean Exhibit 527 marked for
9 identification.
10 (Defendant's Exhibit 527 marked
11 for Identification)
12 BY MR. WEHNER:
13 Q And just ask you -14
MR. WEHNER: Your Honor, at this time I'd move
15 the admission of Dean Exhibits 528, '29, '30, 164, 392,
16 393, 532, 553, and 534.
17 THE COURT: I believe there's a stipulation?
18 MR. O'NEILL: Your Honor, just so the numbers
19 are clear, I wasn't following Mr. Wehner on each number,
20 as to 528 the Government has no objection.
2 THE COURT: All right, 528 is admitted.
2 (Defendant's Exhibit 528 received
2 into Evidence)
2 MR. O'NEILL: 529 no objection.
2 THE COURT: Admitted.

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1 (Defendant's Exhibit 529 received
2 into Evidence)
3 MR. O'NEILL: 530, no objection.
4 THE COURT: Admitted.
5 (Defendant's Exhibit 530 received
6 into Evidence)
7 MR. O'NEILL: 164, no objection.
8 THE COURT: Admitted.
9 (Defendant's Exhibit 164 received
10 into Evidence)
11 MR. O'NEILL: 392, no objection.
12 THE COURT: Admitted.
13 (Defendant's Exhibit 392 received
14 into Evidence)
15 MR. O'NEILL: 393, no objection.
16 THE COURT: Admitted.
17 (Defendant's Exhibit 393 received
18 into Evidence)
19 MR. O'NEILL: 352, which is a two-page
20 document, no objection.
2 THE COURT: Is that 532 or 352?
2 MR. O'NEILL: 532.
2 THE COURT: 532 is admitted.
2 (Defendant's Exhibit 532 received
2 into Evidence)

1 MR. O'NEILL: And 533, which is an eight-page
2 document, no objection t .

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3 THE COURT: Will you check the number on that
4 again?
5 MR. O'NEILL: 533, Your Honor.
6 THE COURT: All right, I had it 523.
7 MR. WEHNER: 533.
8 THE COURT: All right, 533. That will be
9 admitted.

10 MR. WEHNER: Yes, sir.
11 THE COURT: 533.
12 (Defendant's Exhibit 533 received
13 into Evidence)
14 MR. O'NEILL: And as to 534, Your Honor, no
15 objection •
16 THE COURT: All right, all those will be
17 admitted then and published, if you wish.
18 MR. WEHNER: I believe I included 527 on that
19 list Your Honor, did I not?
20 THE COURT: No.
2 MR. O'NEILL: No objection.
2 THE COURT: All right. Additionally 527 is
2 admitted.
2 (Defendant's Exhibits 534 and 527
2 received into Evidence)

2205

1 BY MR. WEHNER:
2 Q Miss Dean, I'm going to put on the overhead –
3 THE COURT: You're going to have to move the
4 chart.
5 MR. WEHNER: Yes, sir,
6 BY MR. WEHNER:
7 Q Dean Exhibit 527. Can you see it from up there?
8 A Oh, yes, very clear.
9 Q Now, with respect to your relationship with
10 Secretary Pierce, would you describe for the members of
11 the jury what Exhibit 527 reflects?
12 A All right. Well, it -- we communicated a lot by
13 note. I didn't write him back handwritten notes, of
14 course. I was required to type them and have them –
15 but he wrote me handwritten notes when he would go
16 through his papers and I would -- it's only a guess, all
17 of my papers were kept at HUD and put away, but when all
18 this scandal broke the press went through them and they
19 separated notes from documents. So I don't know what
20 this was attached to and so I can't really attach a
2 specific to it. I mean I'd have just loads of these,
2 but my -- what it says to me and of course I got it, I
2 know what it means, it says Debbie Dean, so I would
2 assume that this was written to me when I was in the
2 Exec Sec because he referred to me as Debbie or Deborah

2206

1 when I became his Executive Assistant.
2 so basically whatever was in the letter he

3 wanted me to answer it appropriately, to get -- come to

4 some conclusion and then to write up whatever the

5 response was.

6 It might have been someone having a hard time

7 getting something out of the Department or it could have

8 been anything, but whatever it was, he wanted it

9 resolved and then to write up a letter that gave the
10 fact that it had been taken care of for his signature.

11 Q Was this typical of the type of relationship you
12 had with the Secretary when you were in the Executive
13 Secretariat?

14 A Yes.

15 Q I direct your attention to 628 and ask you to
16 describe that exhibit in relationship to your
17 relationship to Secretary Pierce.

18 A Yes. Now, this would have been a very good example
19 of something that he would have gotten in the mail to
20 himself personally. It wouldn't have come through the
2 regular mail. It would have gone to him and he then had

2 to send it to someone himself. In other words, the Exec
2 Sec was out of this. It would come personal,
2 confidential, and apparently somebody was asking if they
2 could have a fellowship and he does not know whether or

2207

1 not there is money in our budget to do that and he wants
2 me to find out whether or not we have fellowship money
3 in the Department, whether there's money left in that
4 account, and if this person would be a good person for
5 it, and then get back to him.

6 Q The exhibit reflects "If you can I would like to do
7 so." what did you understand that sentence to mean when
8 coming from the Secretary?

9 A Well, I do know that it certainly would -- it
10 doesn't mean do this. It means look into it and if
11 everything squares away, then do it. For instance, if
12 we had the money and we had the fellowship, that wasn't
13 enough. He would have also wanted me to look into the
14 person and make certain that they were right for the
15 fellowship. Then he would have liked to have done it.
16 It wasn't just do it.

17 Q Did you do the same for Exhibit 529?

18 A He wanted me to look at whatever was attached to
19 this and find out -- and to do a briefing for him, but
20 that's what this means. It means brief me on this and
2 then I'll make a decision.

2 Q Dean Exhibit 393?

2 A Well, this is to his Assistant Secretary Starr. It
2 says "Have have Exec Sec prepare a response to this
2 letter indicating that we will give him careful

2208

1 consideration. Also arrange for me to see him on March
2 17th. Tell Debbie I want to talk to her." Okay. In
3 essence he's going to have a meeting with somebody at
4 four o'clock on March 17th. He is going to draft a
5 letter because obviously the person wants something and
6 so he's saying I'll give it careful consideration and
7 then he's telling Starr to have me look into it and
8 basically prepare to brief him on it before the meeting
9 on the 17th.

10 Q Now, to the best you can recall/ about how many of
11 these types of memos did you receive between 1983 and
12 1987?

13 A Oh, hundreds. I would get maybe two or three, four
14 a day.

15 Q Handwritten from the Secretary.

16 A Yes.

17 Q Now, would you on occasion report back to the
18 Secretary on various items that he had signed to you?

19 A On every item.

20 Q I'm going to put on the overhead Dean Exhibit 532.

2 Can you -

2 A No, I can't. It says staff meeting. Well, we
2 did - I did prepare a memorandum for him every Monday
2 night as to - every Monday night I did a memorandum for
2 him about issues that would be coming up to him that

2209

1 next Tuesday morning so the -- in essence what - and
2 the reason that he had me do this was because he would
3 have this principal staff meeting. It was only
4 scheduled for an hour, hour and a half and two hours,
5 and yet every issue in the Department was going to come
6 up in that hour and a half, and a lot of times some of
7 the Assistant Secretaries would bring up an issue before
8 he was - before he read anything on it. So this was
9 what he would ask me to do for him so would he know what
10 the issue was, and when he would come in on Tuesday
11 morning he either wanted some papers for me or wanted to
12 talk to the Assistant Secretary before the meeting or to
13 return a phone call, whatever it was, so that he could
14 make a decision on that Tuesday morning.

15 Q Now, were there occasions when the moderate
16 rehabilitation program was discussed at those morning
17 meetings?

18 A I can honestly say that I do not remember one time
19 it ever was. I may be wrong. Nothing sticks out.

20 Except in -I

mean - you mean -- I'm sorry, Mr.

2 Wehner. I think -

2 Q We're talking generalities now.

2 A Budget-wise or something we might say OMB called
2 over this morning because of moderate rehabilitation.
2 That may very well come up. I don't remember anybody's

2210

1 name or a particular project or anything like that ever

2 coming up.

3 Q Now, in terms of the hundreds of memos that you
4 reviewed, that you saw from the Secretary, between 1984
5 and 1987, some portion of those instructions and some
6 portion of the information you received would deal with
7 the Mod Rehab program, correct?

8 A Yes.

9 Q And did you on occasion receive specific requests
10 from Secretary Pierce with regard to Mod Rehab?

11 A What do you mean requests?

12 Q Did you receive information from him regarding Mod
13 Rehab.

14 A Yes.

15 Q What type of information generally would you
16 receive from the Secretary regarding Mod Rehab?
17 A Well, it would really depend. I mean if it was --
18 I mean rarely did he mention to me specific projects but
19 when he did it was normally someone has called me about
20 this project or somebody wants to know if we can get
21 their project funded, and he would ask me to get back to

22 him to find out exactly where we were or if there was a
23 letter that came in that he said I'd like to do this one
24 it would go in -- I had a Mod Rehab file that was his,
25 things that he had written about Mod Rehab, number one,

2211

1 and that was behind my desk. And then there were lots
2 of white House OMB sort of things on Mod Rehab and those
3 would also go into that file, and then there were a lot
4 of policy stuff on Mod Rehab and that would basically be
5 for discussion.

6 In other words, do we send out Mod Rehab funds
7 on this date versus this date. That would be, come in
8 and see me about that.

9 Q I'm going to show you what I've marked for
10 identification as Dean Exhibits 423, 424, 425, and 426
11 and ask you to look at those briefly?

12 A Yeah, I've seen it. I've seen this before.

13 MR. WEHNER: Your Honor, at this time I'd move
14 the admission of these documents.

15 THE COURT: That is 423, '24, '25 and '26.

16 MR. WEHNER: Correct, Your Honor.

17 MR. O'NEILL: No objection.

18 THE COURT: All right, no objection. Then
19 423, '4, '5 and '6 are admitted.

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20 (Defendant's Exhibits 423, 424,
21 425 & 426 received into
22 Evidence)
23 BY MR. WEHNER:
24 Q Miss Dean, I'm going to put on the screen Dean
25 exhibit 423 and because it's a little difficult to see

2212

1 very well, could you read it, please, at the same time I

2 put it on the screen?

3 A Sure. It's dated August 30, 1984 and it says

4 to "Debbie, I talked to Barksdale about this. He is to

5 get 203 units for this project by the first part of

6 October. The balance, 100 units, will be supplied by

7 City of St. Louis. Over. Follow up with Barksdale on

8 this. SRP."

9 Q Now, Dean exhibit 423 is in fact a handwritten memo

10 that you received from the Secretary, is that correct?

11 A Correct.

12 Q What program does that deal with?

13 A Mod Rehab.

14 Q Do you have a recollection as to what specific Mod
15 Rehab program this dealt with?

16 A Well, it's attached so I saw it. It's Project
17 Dignity.

18 Q And was that a project, and I'll put on the screen
19 Dean Exhibit 424. Can you read that?

20 A "Project Dignity is a proposal" --

2 Q Just the first paragraph, please.

2 A Do you want me to read it out loud?

2 Q Yes, please.

2 A "Project Dignity is a proposal to improve the
2 quality of life for the elderly in America by providing

2213

1 optional living arrangements" - I'm afraid I can't.

2 Q Integrating medical -

3 A "Integrating medical and social care while greatly
4 reducing the cost of care per person."

5 Q And that was a proposal for Mod Rehab funds for
6 that purpose, is that correct?
7 A Yes. Apparently the City of St. Louis was also
8 going to put in money as well.
9 Q Now, it's true, is it not, that that -- the Mod
10 Rehab units for that proposal had the support of various
11 private individuals, isn't that correct?
12 A Yes.
13 Q And I'll put on the screen Dean exhibit 425.
14 A Yes.
15 Q And would you please read that out loud?
16 A You have to get it a -- I'm afraid I have -- I
17 can't really see it. Okay.
18 Q How is that?
19 A Okay. This is a letter to Tom Evans who was a
20 former Congressman and now a partner in a law firm, a
2 well respected law firm in Washington, and it
2 says, "Dear Tommy, we are expecting to send" -it's
2 from me, "we are expecting to send out our Moderate
2 Rehabilitation units for FY-85 sometime near October
2 20th, 1984. Please make sure that all the proper

2214

1 requests and applications for the 203 units going to
2 Project Dignity are in the Office of Multi-family
3 Housing, U.S. Department of Housing and Urban
4 Development by that date so I can process the papers
5 quickly.
6 Thank you for dropping in the other day. It
7 is always a pleasure to see you, and I'll be speaking to
8 you against sometime near the Hodag rounds. With best
9 wishes. Sincerely, Deborah." He apparently had Hodag
10 applications in at the same time that he was discussing
11 this.
12 Q Now, Secretary Pierce's note to you which was
13 Government Exhibit or Dean Exhibit 423, the second page,
14 reflects the note "follow up with Barksdale on this."
15 This was at a time in about 1984, October of 1984.
16 A Yes.
17 Q What was your position at that time and what was
18 Mr. Barksdale's position at that time? If you could
19 point that out on the chart for the jury, please?
20 A Mr. Barksdale was in charge of everything down
2 here, and I was up here.

2 Q Now, did you -- how did you approach Mr. Barksdale
2 based upon the note to you from the Secretary?

2 A well, the Secretary had already spoken to
2 Mr. Barksdale. So he's already called him and told him

2215

1 that he thinks that this is a good project and that he
2 would like to fund it, if it's fundable, and then it's
3 Maurice's job to make certain that that Project Dignity
4 is fundable, that it's a good project. If it's not a
5 good project he's supposed to get back to the Secretary
6 real quick so the Secretary doesn't say to Mr. Evans,
7 yes, we'll get it for you, if it's not appropriate.
8 So that was Mr. Barksdale had to follow

9 through on that right away and Mr. Barksdale would have
10 called me and said I think that we have a problem with
11 Project Dignity. It doesn't fit the bill or whatever.
12 But if there had not been a problem then I would have
13 just expected to get a phone call from Mr. Barksdale
14 when all the papers were in or if there was a problem,
15 and if there's a problem I would have gotten to
16 Mr. Evans and said we haven't got your application or we
17 haven't done something or there's a problem with the
18 City of St. Louis. whatever.
19 The idea was the Secretary made a decision.
20 It's now our job to work it out and then when it was
2 done I would have told the Secretary, by the way,

2 Project Dignity was funded. would you like me to write
2 a letter to Mr. Evans.
2 Q And based upon that instruction you would have
2 written a letter to Mr. Evans?

2216

1 A Yes.
2 Q would you return to the stand, please?
3 A Thank you.

4 Q Now, Mr. Evans was a private individual?

5 A Yes, he had been a former Congressman and he was

6 now an attorney with a prominent law firm.

7 Q Now, what was your understanding during the time

8 that you were asked about it regarding what was

9 appropriate in terms of dealing with private individuals

10 such as Mr. Hannan?

11 A Mr. Evans?

12 Q I'm sorry, Mr. Evans from the law firm of O'Connor
13 & Hannan.

14 A Well, Mr. Evans has every right to come in and
15 lobby for everything he wants to, and he did, and he has
16 a reputation, a good reputation for having good clients
17 and he knows a lot about housing. So he would have
18 been - he would have known a good project from a bad
19 project and more than likely if he wanted to get more
20 than one done he wouldn't bring in a bad one. So
2 usually there's some people if -- you know, if they

2 bring in a project it's usually a good one, and

2 Mr. Evans was one of those people.

2 Q Regarding the law and meeting with private
2 individuals with regard to Mod Rehab specifically, did

2217

1 you have an understanding as to what the policy at HUD
2 was regarding your -and
3 other persons at HUD meeting

3 with these private individuals to discuss Mod Rehab?

4 A Well, you basically had to unless you had a reason
5 not to.

6 Q Was there any -7

A I mean it was legal for them to lobby HUD, and
8 HUD's a Government agency. You had to see anyone who
9 made an appointment with you unless you had a specific
10 reason not to.

11 Q Did you become familiar with the use of the term
12 consultants for Mod Rehab units?

13 A Yes.

14 Q And did you become familiar generally, again during
15 the time period, with any written opinions that dealt
16 with the use of consultant in terms of Mod
17 Rehabilitation funds?

18 A Yes, you - this actually - Secretary Pierce and I
19 had a long discussion about this a relatively short time
20 after I became Executive Assistant and he had already
2 looked into this matter because of something else and I
2 don't know what that is, but he understood it, and -

2 MR. O'NEILL: Objection, Your Honor.

2 THE COURT: I'll sustain that unless she can
2 give some basis for it.

2218

1 BY MR. WEHNER:

2 Q Based upon that conversation with Secretary Pierce
3 what did you understand the Secretary of HUD's policy to
4 be?

5 A All right, and based on what he told me.

6 Q Correct.

7 A I also at his request checked it out again with the
8 General Counsel, and basically HUD does not control the
9 money that goes to consultants. It comes out of the
10 profit of the developer. And, therefore, because we
11 call it certifiable and if HUD certifies the cost of
12 something, then we control it. If it is not cost
13 certifiable by HUD we can't touch it, and consultants'
14 fees came out of the developers' profit, and profit is
15 not cost certifiable. So, therefore, there was nothing
16 we could -there

was nothing that we could or should

17 have done about it.

18 Q Was the profit a - based on your four years at
19 HUD, why was there profit built into the Mod Rehab
2 0 program?

2 A Well, of course the profit was built into it so
2 that people would build low income housing. If there
2 was no profit, people wouldn't built it so we -2
Congress put in a profit incentive so that good
2 developers go into low income housing.

2219

1 Q And with respect to the Moderate Rehabilitation

2 program, why was profit built into that?

3 A To build more housing for low and mod income

4 people.

5 Q To rehabilitate more houses?

6 A Well, first you want people to build it and when it

7 falls into deterioration after a certain number of years

8 we want them to be able to fix it up or to find other

9 places and fix them up from scratch, yes.

10 And, Mr. wehner, I can add one more thing.

11 There isn't any way for anyone to know whether or not
12 when Mr. Evans came in on Project Dignity, whether he
13 was paid for that or not. That would not have been - I
14 mean we don't know. He could very well have been acting
15 as a consultant, but he could very well have been acting
16 as a citizen. He may very well have known this group in
17 St. Louis from his political connections. It would be

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18 impossible to know.

19 Q Oh, sure, he could have been a volunteer working

20 on --

2 MR. O'NEILL: Objection, Your Honor, as to the

2 leading question.

2 THE COURT: All right, I'll sustain the

2 objection.

2 BY MR. WEHNER:

2220

1 Q Miss Dean, I'll show you what's been marked for

2 identification as Dean Exhibits 417, 418, 419, 420, 421

3 and 422.

4 And Your Honor, at this time I'd move the

5 admission of those exhibits.

6 MR. O'NEILL: No objection, Your Honor.

7 THE COURT: All right. Will you go through

8 the numbers again for the record, please?

9 MR. WEHNER: 417, 418, 419, 420, 421 and 422.

10 THE COURT: All right. Those will be

11 admitted.

12 (Defendant's Exhibit 417, 418,

13 419, 420, 421 & 422 received into

14 Evidence)

15 BY MR. WEHNER:

16 Q Do you recognize those, Miss Dean?

17 A I recognize the first one. It's my handwriting.

18 These don't relate to this. Those are separate.

19 Q I'm going to put on the screen Dean Exhibit 418.

20 It's been introduced, and it's a letter to Mr.

21 John Phalen, vice-president of the Bank of Boston from

22 you regarding the distribution of moderate

23 rehabilitation units.

24 Can you read that?

25 A Yes.

2221

1 Q Did you have a conversation with Secretary Pierce

2 about the distribution of those Mod Rehab units to

3 Boston?

4 A I don't think so. I think that I got a telephone

5 message from him and I think a -- I think there were

6 instructions written on that. I've seen it recently. I

7 believe it was -- he called the Secretary and the

8 Secretary spoke with him briefly and then I believe

9 asked me to respond, to which I'm now doing. He asked

10 me to respond.

11 Q During the conversation did the Secretary give you

12 instructions in terms of the specific Mod Rehab request?

13 A Well, there were apparently no units left that year

14 and, so, you know, to send to Barksdale the request,

15 which is what I did. I would have called

16 Maurice Barksdale and I would have said there is an

17 application in from -- and I would have given him the

18 location of where it was, because obviously this man is

19 from the Bank of Boston and the Bank of Boston doesn't

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20 get Mod Rehab units. He's not a housing authority. So
21 whatever housing authority it was he was calling about I
22 would have given that to Maurice and Maurice would then
23 have checked it out to make certain that it was good and
24 would have considered it and put it on his list for
25 consideration at the beginning of the next fiscal year.

2222

1 Q I'm going to put on the screen Exhibit 417 in
2 relationship to that project. Could you describe what
3 this note reflects?
4 A I'm asking the person who is the Exec Sec at that
5 point to please write a letter for my signature, saying
6 that there were no units left this year but that we
7 would keep them in mind for next year and that I had
8 spoken to Assistant Secretary Barksdale about it, and
9 then I would have made certain that that letter that I
10 sent to I think it was Mr. Phalen was his name?
11 Q Yes.
12 A I would have made certain that the letter I sent to
13 Mr. Phalen was also copied downstairs to
14 Maurice Barksdale so that he would know that I sent the
15 letter.
16 Q Now, exhibit 417 which is dated August 31st of 1984
17 and exhibit 425 which is dated October 9th, 1984 -18
A I'm sorry?
19 Q October 9th, 1984.
20 A And the first one was?
2 Q August 31st, 1984. At that time what was your
2 position?
2 A This is in 1985?
2 Q This is in 1984, October 9th 1984.
2 A I was Executive Assistant.

2223

1 Q And August 31st, 1984?

2 A I was Executive Assistant.

3 Q At this time I'm going to Dean Exhibit 420 and ask

4 you if you recall dealing with a specific Mod Rehab

5 request for Senator Strom Thurmond?

6 A Yes, but actually although Mr. Kinghorn worked for

7 Mr. Thurmond what I remember more was that it was the

8 Housing Authority came in. It was the head of the South

9 Carolina Housing Authority who I believe his name was

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10 Ballou, came up to Washington for a, you know, basically
11 we need more money meeting, and the aide from the
12 Senator's office came with him to the meeting. So I'm
13 basically getting back to the Senator's aide as to the
14 result of the meeting.
15 Q It was a meeting set up by Senator Thurmond's
16 office?
17 A I don't remember.
18 Q Directing your attention to Dean Exhibit 422 and
19 ask you if that reflects that Mr. Ballou was in fact the
20 individual that you met with?
2 A Yes, I remember Mr. Ballou very well.

2 A And it says, "That I've given all the information
2 that he gave to me to Maurice Barksdale and that he'll
2 be making funding decisions throughout the year and
2 we'll do whatever we can possibly do to get you the help

2224

1 that you need."
2 Q Miss Dean, whose decisions were these in 1984 to
3 fund Mod Rehab projects?
4 A In 1984 when Mr. Barksdale was there Mr. Barksdale
5 had a selection committee in his office and he made the
6 decisions for all Mod Rehab.
7 Q What input went to Mr. Barksdale from – as
8 reflected in the exhibits from the Secretary's office?
9 A Well, if Secretary Pierce had an interest and
10 frankly if someone had made a very convincing case to me
11 I could have also spoken to him on my own, but I would
12 say it was on my own. I would have gone down and said
13 this has come to my attention, and asked him to consider
14 it, and certainly he would have considered it if
15 Secretary Pierce had asked.
16 Q And did that practice continue through 1984?
17 A It continued until Mr. Barksdale left.
18 Q And did you continue to have the type of
19 interaction with the moderate rehabilitation process
20 that you described to this point through 1984?
2 A Yes, we did have several, I would say, bad things
2 that happened in the Mod Rehab program while Maurice was
2 Assistant Secretary, nothing to do with him, but just
2 several things that happened that were particularly –
2 they required the Secretary's attention I guess is a

2225

1 good way to say it, and through that I worked with
2 Mr. Barksdale also.
3 There were several instances that I can
4 remember that were particularly – particularly
5 worrisome.
6 MR. WEHNER: At this point I'd like to
7 introduce Dean Exhibits 409, 410, 411, 412, 413, and
8 414.
9 MR. O'NEILL: No objection.
10 THE COURT: All right. They will be
11 admitted.
12 (Defendant's Exhibits 409 through
13 414 received into Evidence)
14 BY MR. WEHNER:

15 Q And I direct your attention to the screen again.
16 This appears to be a confidential memo to Maurice
17 Barksdale. Would you read that to the jury and explain
18 what that concerns?
19 It says to Maurice Barksdale on top? It says we
20 had to let George down on another project that he wanted
2 badly. So we've decided to try and console him with the
2 Travelodge Redevelopment, 50 units. Please see the
2 attached."
2 Q What did that concern?
2 A It concerned -- well, George is George Voinovich

2226

1 who was then Mayor of Cleveland, and that would have
2 been an instance where the Secretary would have made a
3 commitment to the Mayor of Cleveland.

4 Q And when you're saying we had to let George down on
5 another project he wanted badly, what does that mean?

6 A It means that he either had a UDAG or a 202 or a
7 Mod Rehab or some other thing that he felt that was very
8 important for Cleveland and that we just could not get
9 to or could not fund in some way and that he had, you
10 know, really gone to bat for it and we had to turn him
11 down. And so he sent a letter to the Secretary and I
12 believe there were a number of projects and the
13 Secretary looked at them and decided to fund that one
14 because -- I remember this one. It also had
15 Congressional support as well.

16 Q I direct your attention to Dean Exhibit 410 which
17 is a letter to you from a group called the Detroit
18 Shoreway Community Development Organization.

19 A Well, I think that the one that was funded was
20 Travelodge, which is above it. That was the second
2 project.

2 Q And that is the same project that is reflected on
2 409?

2 A The number one project is where it says Travelodge.

2 Q Right.

2227

1 A And then on the next page it says Travelodge Number
2 One and Number Two. So apparently Mr. Voinovich had two
3 projects that he was asking to be looked at and he
4 describes them and I see it says Travelodge
5 Redevelopment on Number One. Detroit Shoreway was a
6 different one.

7 Q I'm sorry, this unit one request was Travelodge
8 Redevelopment?

9 A Right.

10 Q And that was the one that was funded?

11 A Right, 50 efficiencies.

12 Q That was as a result, was it not, of a direct
13 request from the City of Cleveland to Sam Pierce?

14 A Yes.

15 Q That described the project?

16 A Right. And Travelodge is a hotel chain and I
17 remember it was to take an old motel, I think it was,
18 and to turn it into housing for -I

think it was a

19 shelter. I think it was some form of a shelter.

20 Q And this was a specific request that HUD funded.

2 A Yes, I remember that Mary Rose Oakar, who was the
2 Congresswoman from that area, also called me and she
2 called me and asked if -I

think there were some nuns

2 that were redoing the Travelodge and she asked me if I

2 would meet with the nuns, plus Mayor Voinovich wrote

2228

1 directly to the Secretary. In essence, I met with the

2 nuns and then told the Secretary and he had the letter

3 and he decided to fund it.

4 Q Now, Miss Dean, I'm going to put on the screen next

5 Dean Exhibit 414. It would be almost impossible for you

6 to read it. As a matter of fact, it is impossible to

7 read.

8 I'm going to read portions of it to the jury,

9 Your Honor.

10 THE COURT: All right. It's in evidence.

11 MR. WEHNER: It is in evidence.

12 THE COURT: Yes.

13 BY MR. WEHNER:

14 Q It's a letter addressed to Sister Loretta Schulte,
15 Transitional Housing, Inc., Travelodge

16 Redevelopment. "Dear Sister Schulte: This is in

17 response to your letter of December seven, 1984

18 concerning the use of Section Eight Moderate

19 Rehabilitation units by the Cuyohaga County Metropolitan

20 Housing Authority." I'm going to skip the next

2 paragraph. The third paragraph begins, "The Section

2 Eight Moderate Rehabilitation Program is administered by

2 local and State Public Housing Authorities. HUD

2 provides Section Eight Moderate Rehabilitation funds to

2 PHA's which, in turn, advertise the availability of the

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1 to the general public and competitively select the units

2 to be rehabilitated under the program. In the present

3 case, HUD has already signed a rapid reply for Moderate

4 Rehabilitation units for the CMHA, completing the first

5 step of, and HUD's participation in the allocation

6 process. Federal regulations prohibit HUD from making

7 project specific allocations. Therefore, HUD has no

8 direct role in providing Moderate Rehabilitation funds

9 to specific projects. As indicated above, however,

10 because the CMHA makes final funding decisions on a

11 competitive basis, your high quality proposal should

12 fare well visavis other applications pending before the

13 CMHA," which is the Housing Authority.

14 Now, the second -- the second and third

15 paragraph of that letter reflects that you cannot make

16 project specific allocations, does it not?

17 A Right, and they had written -- they had come in and

18 then Mayor Voinovich had spoken to the Secretary about

19 it and we had agreed to send 50 units to the Housing

20 Authority. Then the Sisters wrote me a letter, I guess

2 after they must have gone to the Housing Authority.

2 And the Housing Authority may not have wanted to fund
2 them, number one. They may have had another project
2 they wanted to do. So they wrote me back a note which
2 said, by the way, when you send them would you please

2230

1 send them project specific and so I had to write them
2 back and say no, we can't do that.
3 Naturally I think the assumption would have
4 been that if Mayor Voinovich had written a letter and
5 had made that his number one project, that that would
6 have been the number one project of the Cuyohaga
7 Metropolitan Housing Authority. I don't know why he
8 would have written it if it wasn't, but apparently there
9 must have been some miscommunication.

10 MR. O'NEILL: I move to strike, Your Honor.

11 THE COURT: AS to the hearsay part of that
12 answer?

13 MR. O'NEILL: Yes.

14 THE COURT: I'll strike the answer as it goes
15 to what other people have said who are not here or
16 available to testify.

17 BY MR. WEHNER:

18 Q Limit it to your understanding of what was
19 occurring at the time, and I will refer you back to Dean
20 Exhibit 411 which is the request, on the screen, from
2 Mayor Voinovich to Sam Pierce for the funding. You then

2 write a letter back to the Sisters that you cannot do
2 project specific funding.

2 A Right, because that's correct.

2 Q would you explain your understanding of the

2231

1 discrepancy between the decision made by HUD to fund
2 that project and your letter to the Sister reflecting
3 the policy of not making specific allocations?
4 A All right. The funds must go to the Public Housing
5 Authority and the Public Housing Authorities really
6 should be like on a dotted line to this chart, all three
7 to four thousand of them, because their fees that they
8 get to pay their salaries and everything comes from a
9 portion of the dollars that go to the Housing

10 Authority. And so they in essence are clients of HUD
11 and the rules that were in effect basically say that
12 those people, the Housing Authority, must select the
13 project, and that's right, and so although we would very
14 much have liked maybe perhaps the Travelodge to get the
15 units, that really isn't for us to say. It's for the
16 Housing Authority to say.

17 Now, the housing authorities of course work
18 very closely with the Mayor, so many times, of course,
19 the Mayor would write in a letter or the Governor or
20 whoever would write in a letter in support of what it is

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21 that the Housing Authority would like to do.
22 However, if the Housing Authority doesn't want
23 these 50 units to go to this Travelodge nothing in the
24 world that I could do could make it go to Travelodge.
25 THE COURT: Could I see 409 on the screen

2232

1 again, the Secretary's note?
2 MR. WEHNER: 409, Your Honor?
3 THE COURT: I believe that's the Secretary's
4 note. This is Miss Dean's note.
5 MR. WEHNER: Note to Maurice Barksdale, Your
6 Honor. The letter to the Secretary is 411.
7 THE COURT: what I was trying to get to is the
8 note 409 which talked about 50 units which was the
9 number of the Travelodge.

10 THE WITNESS: Right.
11 MR. WEHNER: Yes, sir.
12 THE COURT: But that they went to the Public
13 Housing Authority, you're saying, in Cleveland, not
14 directly to the people who wanted the award?
15 THE WITNESS: Right. You see -- and also the
16 bedroom mix. So 50 efficiency units would have gone to
17 Cuyohaga Metropolitan Housing Authority which is the
18 Housing Authority of Cleveland and it would have in
19 essence matched the Travelodge Redevelopment. There's
20 no mystery about that.
2 But if the Cuyohaga Metropolitan Housing
2 Authority which has the on-line responsibility of what
2 to do with HUD money when they get it did not want to do
2 Travelodge, they didn't have to. They could have used
2 those 50 efficiency units anywhere they wanted, any way

2233

1 they wanted to. Once the money gets to them, it's
2 theirs.
3 THE COURT: And Hunter Bourne received a copy
4 of that letter?
5 THE WITNESS: Hunter Bourne I believe at that
6 time was the Executive Assistant to Mr. Barksdale.
7 THE COURT: Thank you.
8 BY MR. WEHNER:
9 Q Miss Dean, what happened if the Public Housing

10 Authorities said we're not going to send the units to
11 Travelodge, what happened to the money?
12 A They would still use the money. I can't imagine
13 that any Housing Authority would ever turn back the
14 money, but they would find 50 efficiency units that they
15 could use or they could write back to the regional
16 administrator and ask about the 50 efficiencies, what
17 they were worth, and they would write back, and maybe 50
18 efficiencies is worth a million dollars. They would
19 write back and say we have a million dollars in budget
20 authority. We don't want it the way you gave it to us,

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2 50 efficiencies. We'd rather have 22 bedrooms. And
2 then the regional administrator simply changes the
2 paperwork and gives it back to them in the way that they
2 want to use it.
2 Q Now, were there occasions where the Public Housing

2234

1 Authority would not use the dollars that were assigned
2 to them?
3 A Yes.
4 Q For Mod Rehab.
5 A Yes, I can think of one -I
can think of two times
6 that I heard of money coming back.
7 Q What was the first time you recall hearing of money
8 coming back?
9 A There was a project in Taylor, Michigan and the
10 Mayor was very upset that we had funded -- that the
11 Department had given more money to -I
can't remember
12 the name of the project at the time but it was Taylor,
13 Michigan and he was upset because he doesn't want - in
14 essence, he didn't want any more poor people in Taylor,
15 Michigan is what happened. So -16
MR. O'NEILL: Objection, Your Honor, and move
17 to strike all of this.
18 THE COURT: I'll strike that again unless
19 there's some other basis that you can put in that he
20 didn't want any more poor people.
2 BY MR. WEHNER:
2 Q What was your understanding, Miss Dean, of why
2 units were returned?
2 A Well, I understood it. He did not want it in -
2 Q Now, your understanding -

2235

1 A He wrote letters to that effect. It wasn't a
2 secret.
3 Q The money was returned to HUD?
4 A No.
5 Q What happened to the money?
6 A The money wasn't returned actually. We insisted
7 that it stay in that case. He wanted to return it. And
8 there was a case I believe in Moline, Illinois, where I
9 believe HUD recaptured some units that were not used and
10 I don't know what the circumstances were.
11 Q Directing your attention to Puerto Rico about which
12 there's been some testimony on direct -I'm
sorry,
13 testimony in the Government's case. Do you recall an
14 incident when Secretary Pierce recaptured money from
15 Puerto Rico?
16 A Yes. And -- well, shortly after I became Executive
17 Assistant there was -a
lot of times people didn't call
18 and say I'd like to set up a meeting. They would just
19 talk to my Secretary and put it on my calendar, and one
20 time there was this man, his name was Dick Richards, and
2 I knew who he was because he had -I
never met him but

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2 I knew who he was. He had been the head of the
2 Republican National Committee, and so he was a name, of
2 course, that I heard of. And Mr. Richards came to see
2 me and told me that -

2236

1 MR. O'NEILL: Objection, Your Honor.
2 THE COURT: All right. I'll sustain it.
3 BY MR. WEHNER:
4 Q Based upon your conversation with Mr. Richards,
5 what was your understanding as to what was occurring in
6 terms of -
7 MR. O'NEILL: Objection, Your Honor.
8 THE COURT: I'll sustain it that way. You can
9 ask did she have a conversation.
10 BY MR. WEHNER:
11 Q Did you get an understanding at that time as to
12 what the situation was with regard to Moderate
13 Rehabilitation funding decisions?
14 MR. O'NEILL: Objection, Your Honor.
15 THE COURT: She can answer yes or no, without
16 explaining.
17 Q With regard -- could I reask the question, Your
18 Honor?
19 THE COURT: Sure.
20 Q Miss Dean, did you have a conversation with
2 Mr. Richards?
2 A Yes, I did.
2 Q Based upon that conversation with Mr. Richards did
2 you have an understanding as to the situation that
2 existed in Puerto Rico with regard to Mod Rehab units?

1 MR. O'NEILL
2 objection, Your Honor
3 THE COURT:
4 have an understanding
5 BY MR. WEHNER • •

: Just for the record, the same

•
I'll let her answer it if she did
or not.

6 Q Did you have an understanding?
7 A Could I say what I learned?
8 THE COURT: Just say whether you had an
9 understanding or not.

10 BY MR. WEHNER ••
11 Q Did you have an understanding?
12 A Yes, I had an understanding.
13 Q What was the understanding?
14 A I had -
15 THE COURT: wait, wait.
16 MR. O'NEILL: Objection, Your Honor.
17 THE COURT: I assume the objection is
18 hearsay. If you want to give me some other way to do
19 it.

20 MR. WEHNER: Could we come up to the bench,
2 Your Honor?
2 THE COURT: Sure.
2 MR. WEHNER: Thank you.
2 (Bench conference)
2 THE COURT: He didn't object earlier to the

2238

1 other questions that were asked similarly, but that
2 doesn't mean there wasn't an objection. She's going to
3 talk to what this other fellow told her who is not here
4 and I recognize there's been in the Government's case
5 testimony about Puerto Rico and there's been some
6 testimony on cross with some witnesses about recapturing
7 units in Puerto Rico that were recaptured to another
8 project.
9 MR. WEHNER: I think my response to

10 Mr. O'Neill's objection was that I objected in the
11 Government case to the use of the word understanding in
12 an effort to get out of the hearsay prohibition and I
13 was consistently overruled by the Court and what I
14 recall precisely is the same circumstances with regard
15 to conversations and then understandings that were
16 reached as a result of conversations.
17 THE COURT: I think that may have involved the
18 conspiracy matters.
19 MR. WEHNER: Not in terms of the
20 understanding, Judge.
2 THE COURT: I'll stay with what I just ruled,
2 even if it's inconsistent with your memory earlier.
2 MR. O'NEILL: I don't want to make too big of
2 a deal. I'm not objecting, as the Court has already
2 noted, but more and more hearsay is coming in deeper and

2239

1 deeper and I will have to start objecting.
2 THE COURT: well, you can ask her did you take
3 some action or did you recommend some action to the
4 Secretary based upon your discussions with Mr. Richards.
5 MR. WEHNER: I will, Judge.
6 THE COURT: Did there come a time you met
7 someone who knew something about this.
8 MR. WEHNER: I will.
9 THE COURT: All right.
10 MR. WEHNER: Thank you, Your Honor.
11 (Bench conference concluded)
12 BY MR. WEHNER:
13 Q You had a conversation with Mr. Richards, is that
14 correct?
15 A Yes, sir.
16 Q Did you subsequently say something to someone else
17 regarding that conversation?
18 A Yes, I repeated to Secretary Pierce what
19 Mr. Richards had told me.
20 Q What did you say to Secretary Pierce?
2 A I told Secretary Pierce that Mr. Richards had come

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2 to see me and had told me that he -- that there was a -2
he had heard Joseph Strauss say -and
Joseph Strauss
2 had been a Special Assistant to the Secretary, that he
2 could get Mod Rehab units for people for a thousand to

2240

1 \$1500 a unit, and that he had gotten 600 units in Puerto
2 Rico.

3 Q Did you have a conversation with the Secretary
4 regarding Mr. Richards' statement to you?

5 A Yes. I called Maurice Barksdale first.

6 Q And what did you say to Mr. Barksdale?

7 A I said is this true, and Maurice said, yes, and

8 I'll be right up and -9

MR. O'NEILL: Objection once again, Your
10 Honor, and I move to strike.

11 THE COURT: I'll sustain that as to the
12 response of Mr. Barksdale.

13 MR. WEHNER: Judge, could we approach?

14 THE COURT: All right.

15 (Bench conference)

16 THE COURT: Yes.

17 MR. WEHNER: Judge, the co-conspirator

18 exception goes to the same -19

THE COURT: was Barksdale named as a
20 co-conspirator? I thought of that but I didn't think
2 that he was.

2 MR. O'NEILL: No, not by the Government.

2 MR. WEHNER: Based on his testimony you don't

2 think he was a co-conspirator under your theory of the

2 case?

1 Judge, he testified that he distributed the
2 Mod Rehab units on the same basis that the Government
3 alleges Miss Dean distributed the Mod Rehab units.

4 THE COURT: He wasn't claimed to be part of

5 this conspiracy as far as I know.

6 MR. O'NEILL: The Government specified

7 specific people in the indictment.

8 MR. WEHNER: Known and unknown.

9 MR. O'NEILL: Those were the only people we

10 elicited co-conspirator statements from. Mr. Barksdale
11 was not one.

12 THE COURT: I'm going to sustain the
13 objection. You can go around it by asking after you

14 talked to Barksdale, did you take some action.

15 MR. WEHNER: Right.

16 (Bench conference concluded)

17 BY MR. WEHNER:

18 Q What did you do, Miss Dean, after you talked to

19 Mr. Barksdale?

20 A I went directly to Secretary Pierce.

2 Q And did you tell Mr. -- Secretary Pierce what Mr.

2 Barksdale said to you and did you tell him what

2 Mr. Richards had said to you?

2 A Yes, I did.

2 Q And what did you tell Secretary Pierce?

2242

1 A I told him what Mr. Richards had said and I told
2 him that this seemed very bad and that Mr. Barksdale had
3 informed me that 600 units was one-tenth of the
4 national -- the number we had nationally for the whole
5 country and that I didn't understand how 600 units had
6 gotten to Puerto Rico.
7 Q And based on the Secretary's response to that, what
8 did you do?
9 A Canceled the units.
10 MR. WEHNER: Your Honor, at this time I'll
11 move into evidence Dean Exhibit 868.
12 THE COURT: 868?
13 THE WITNESS: Your Honor, I'm a little
14 confused about what I can say or can't say.
15 THE COURT: You have to wait for a question
16 right now. Your counsel will talk to you at the break
17 about hearsay matters.
18 THE WITNESS: May I amend just one thing I
19 said before? Secretary Pierce canceled the units. I
20 did not cancel the units. He canceled the units.
2 THE COURT: All right.
2 MR. WEHNER: Your Honor, if there's no
2 objection I believe to Dean Exhibit 868 which is three,
2 four, five, six, seven, eight, nine, ten, 11, 12, 13,
2 14, 15 pages.

2243

1 THE COURT: 868, no objection. It will be
2 admitted.
3 MR. O'NEILL: That's correct, Your Honor.
4 THE COURT: All right. 15 pages.
5 (Defendant's Exhibit 868 received
6 into Evidence)

7 BY MR. WEHNER:
8 Q Now, Miss Dean, as a result of the cancellation of
9 the 610 units to Puerto Rico by Secretary Pierce what
10 happened?
11 A Well, it got very complicated. Secretary Pierce
12 informed me that this indeed looked very bad and to call
13 Maurice Barksdale and tell Maurice Barksdale to cancel
14 the units.
15 Q Did you call Maurice Barksdale?
16 A Yes, I did.
17 Q Did you tell him to cancel the units?
18 A Yes, I did, and he canceled the units, but then the
19 people who were behind, I guess you could say, these
20 units, descended upon Secretary Pierce and myself with
2 great force.
2 Q Without talking about what was said, who came to
2 see you about the decision to recall the units?
2 A Joseph Strauss came to see me and --
2 Q Slower. Who was Joseph Strauss?

2244

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1 A He was a former Special Assistant to Secretary
2 Pierce and he had gone out and become a consultant.
3 Q Who else came to see you?
4 A One of Mr. Strauss' partners, Robert Gould, and
5 former Interior Secretary James Watt.
6 Q All three of those individuals came to see you.
7 A At different times. Mr. Gould and Mr. Watt came to
8 one meeting. Mr. Strauss came to, I believe it was two
9 or three meetings.
10 Q Now, to your personal knowledge who came to see
11 Secretary Pierce?
12 A Secretary Watt, but he also called him several
13 times at home and very late at night and it was a very
14 unusual -- he was putting a lot of pressure on Secretary
15 Pierce and then it eventually culminated in his coming
16 in to see him.
17 Q Let's talk about your meeting with the three
18 individuals you mentioned.
19 A Yes.
20 Q Mr. Strauss.
2 A Yes, I met with Mr. Strauss several times. Each -2
Q what did you say to Mr. Strauss?
2 A I told Mr. Strauss that I thought that he had put
2 the Secretary in a terrible position and that he should
2 have -- he should have made certain that the Secretary

2245

1 understood or that Mr. Wilson understood or whomever Mr.

2 Strauss had spoken to, to get those units, Mr.

3 Barksdale, whomever, that the Secretary needed to have

4 known that ten percent of the entire national allocation

5 was going to one place because he certainly did not know

6 that when I spoke to him.

7 Q Without saying what Mr. Strauss said to you, would

8 you characterize his demeanor?

9 A Mad as heck. Mad, very angry. And with each
10 successive meeting he became angrier and he finally came
11 in and slapped a lawsuit down on the desk around five
12 o'clock in the afternoon and the lawsuit had Secretary
13 Pierce's name all throughout it and that was supposed to
14 be some threat.

15 Q Did Mr. Watt, former Secretary of the Interior,
16 come to see you?

17 A Yes, but I think he shortly realized that that was
18 a waste of time. It was a very short meeting.

19 Q Did you talk to Mr. Watt?

20 A Yes, I did.

2 Q What did you say to him?

2 A I told him that I thought that 600 units in Puerto
2 Rico was putting the Secretary in a very difficult
2 situation. It just didn't appear to be appropriate and
2 that Mr. Strauss earning all this money for what, just

2246

1 made the secretary look very bad. It looked like he was
2 doing something for one of his former assistants.

3 Q That was Mr. Strauss.

4 A Yes.

5 Q Now, without telling us what Secretary Watt said to
6 you what was his reaction to what you were saying?

7 A It was very vocal and he was contained but he
8 speaks very tartly and he certainly lets you know that
9 he is not pleased with what was going on.

10 Q Now, Mr. Gould, who was a partner of -11

A Mr. Strauss.

12 Q Mr. Strauss. Did he come to see you?

13 A He was in the meeting with Mr. Watt.

14 Q And what was his reaction to what you were saying
15 to him?

16 A I frankly never took my eyes off Mr. Watt. He

17 Just -18

Q After you had these meetings with Mr. Watt,

19 Mr. Gould and Mr. Strauss, were the units sent back to
20 Puerto Rico?

2 A They never left Puerto Rico. They - what happened
2 was, and perhaps it should have been thought out better,
2 but when we canceled them at the time there was a
2 recapture policy that had just been instituted by the
2 Office of Management and Budget at the White House which

2247

1 meant we couldn't bring them back and reuse them. We

2 had - they had to go back to the Treasury. So all

3 those millions of dollars would have just gone back to

4 the Treasury and this certainly would not have been what

5 would have been good for anybody.

6 So what we did was -- and I was unaware of the

7 recapture policy and Mr. Barksdale hadn't thought of it,

8 and that was sort of a mess, but when we called the

9 regional administrator, Mr. Monticicillo, he knew and he
10 knew very well that that meant the money would have to

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11 be returned and he did not want to do that.
12 And so we then had 600 units sitting in Puerto
13 Rico and we had to -- they were in the area office.
14 They had not been in the housing authorities. They had
15 just been in the area office. 610 Mod Rehab units.
16 Q Before we get into what happened with those Mod
17 Rehab units, you testified that there was a meeting
18 between Mr. Watt and Mr. Pierce.
19 A Yes.
20 Q Were you present at that meeting?
2 A Yes, I was.

2 Q Without saying what Mr. Watt said or what
2 Mr. Pierce said, would you tell the jury what you said,
2 if anything, during that meeting?
2 A Nothing.

2248

1 Q Did you listen to their conversation?
2 A Yes.
3 Q As a result of their conversation were you given
4 instructions by Secretary Pierce?
5 A Yes, I was.
6 Q And did you act on those instructions?
7 A Yes.
8 Q What acts did you take upon those instructions?
9 A Well, the first thing that I did was to go back and

10 review all the correspondence between HUD and the
11 Housing Authority and it had not been structured well.
12 One might even say according to the regulations.
13 when the letter had gone out originally giving
14 Puerto Rico the units it was either project specific or
15 it certainly made it look as though HUD knew where that
16 money was going.
17 So I wrote a letter to Puerto Rico saying you
18 must competitively select the projects. So we're going
19 to leave the 610 units there. And this letter was for
20 Secretary Pierce, he sent the letter, but I drafted it
2 with Maurice Barksdale for him and it basically said you
2 must advertise. You must go out and competitively
2 select. And Mr. Watt understood, leaving that meeting,
2 that his project or at least part of it, not to exceed
2 two to 300 units, would have to competitively win this

2249

1 selection or he would not be funded. Then there were
2 the remaining 310 or his was 310, the remaining 300,
3 however it was split up, the remaining 300 then had to
4 be used. So Secretary Pierce asked me to find or to
5 tell as many people as I could that the units were there
6 so somebody would go down there and use them, because at
7 the end of a certain amount of time they would die.
8 They only have a short shelf life, so to speak, if not
9 used.
10 Q When you say they would die what do you mean?
11 A They would basically become non-existent and the
12 money goes back to the Treasury Department. You have to

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13 be under ACC, I believe, in two years of when the money
14 goes down.
15 Q What does ACC mean?
16 A It's Annual Contributions Contract or it's AHAP. I
17 can't remember. The owner has got to sign the contract
18 with the Housing Authority within two years of the money
19 leaving HUD going to the area office.
20 Q In terms that I can understand, what happens to the
2 funds if the funds are not used at this point in time
2 for the rehabilitation of Mod Rehabilitation -of
2 houses?
2 A Nothing. Nothing. The funds are returned to the
2 Treasury as though they never existed.

2250

1 Q And they are not used for any kind of
2 rehabilitation.

3 A And people don't get houses, that's right.

4 Q You testified what you did as a result of
5 instructions was to find developers.

6 A I made a lot of phone calls trying to get someone
7 interested in going to Puerto Rico and getting a
8 building or buildings that could competitively compete
9 for these units.

10 Q Who did you talk to?

11 A Well, as I said, this occurred right after I became
12 Executive Assistant and I didn't know anybody and so I
13 called Lance Wilson, who was the former Executive
14 Assistant, and I said, Lance, can you give me some names
15 of people to call and he gave me some names and I also
16 called the regional administrator in New York and I told
17 him to do the same thing, to start making phone calls,
18 find someone to go down there and develop these units or
19 to use the units. Find a developer who could use the
20 units.

2 Q Ultimately was a developer located that could use

2 the units?

2 A I'm sorry?

2 Q Ultimately was a developer located that could use
2 the units?

2251

1 A I think there were two or three people working on
2 it at the same time but - there was - ultimately it
3 did go to, I assume that man that testified here,
4 Mr. Rubi.
5 Q Now, did you have any conversations with respect to
6 the developer that was going to receive those Mod Rehab
7 units other than what you discussed?
8 A I never talked to any developer about - I never
9 spoke to a developer. I spoke to Mr. Monticciollo and
10 asked him to call people and I also called the people
11 that Lance Wilson had given me and told them that there
12 were 300 units in Puerto Rico and that someone should go
13 down there and use them quick.
14 Q With the exception of Mr. Gould, Mr. Strauss and
15 Mr. Watt, do you recall having discussions with other
16 private individuals with regard to that funding?
17 A Many. I quickly appreciated the value of 300 Mod
18 Rehab units sitting anywhere. There just was -there
19 was a throng of people that were interested in the units
20 and I remember one particular meeting that was very
21 egregious on that particular project.
22 Many people came in who were sort of
23 representing Mr. Strauss without Mr. Strauss really
24 being there. He was trying to get those units back.
25 And one person that came in was his attorney and another

2252

1 man who -- and they basically sat down and said that
2 they were not representing Mr. Strauss but they had the
3 perfect development in Puerto Rico and it was just 300
4 units and did I by any chance know how that might be
5 able to work out and I said, well, there are 300 units
6 down there. You must competitively be selected. I felt
7 like I kept saying that over and over again. You must -8
I can't earmark them and give them to you. You have to
9 go down and have a developer and the developer has to go
10 to the Housing Authority and the Housing Authority has
11 to select it.
12 And this one man turned to me and he told me
13 that he had done -I
14 get so mad when I think of this.
15 He turned to me and told me he had done a favor for my
16 family and that I owed him those units.
17 MR. O'NEILL: Objection, Your Honor.
18 THE COURT: All right. I'll sustain the
19 objection and strike the testimony as hearsay, what he
20 claimed to have said to her.
21 A I told him that if he wanted to make a case like
22 that he should make it directly to the Secretary. That
23 I never want to speak to him again.
24 Q Did you ever speak to that individual again?
25 A I -- yeah, I stopped being mad after awhile but I
26 certainly did have a conversation with Mr. DeBartolomeis

2253

1 who had put him up to it and I accused Mr. DeBartolomeis
2 basically of setting this man up to come about these
3 units, units which he was really trying to get back for
4 Mr. Joe Strauss, and Mr. DeBartolomeis admitted that
5 yes, he had done that.
6 Q Let's talk about Mr. DeBartolomeis for a minute.

7 where was he at this point? what's his position?

8 A He was the Deputy Assistant Secretary for
9 Multi-family Housing.

10 Q And where would that be on the chart?

11 A Down under general -- to the left, Multi-Family.

12 And he had replaced Mr. Barksdale and Mr. Barksdale
13 moved up.

14 Q And Mr. Barksdale moved to where?

15 A To the big box that says Housing.

16 Q Now, did you have conversations with

17 Mr. DeBartolomeis regarding the Puerto Rico projects?

18 A Not after this incident. I certainly had

19 discussions with him about Puerto Rico and we had had
20 discussions about how a former Special Assistant to the
2 Secretary could have ended up in this position and I had
2 basically, you know, chastised him for not making
2 certain that the Secretary knew the position that he had
2 been placed in when that decision had originally been
2 made.

2254

1 Q what did Mr. DeBartolomeis reply when you chastised
2 him?

3 A I don't remember. He just mumbled somebody about
4 Joe is a good guy or something. I mean Silvio did not
5 have a great deal of -- I don't know how to answer. He
6 didn't really say anything that -- other than he thought
7 that it was a rotten deal that Joe Strauss had gotten
8 units taken away from him.

9 Q At that point what were Mr. DeBartolomeis'

10 responsibilities visavis the Mod Rehab program?

11 A Well, Mr. Barksdale was in essence in charge of all
12 of housing and then -- but that's a very big
13 responsibility. That's billions of dollars. And there
14 are lots of programs. And so the Deputy Assistant
15 Secretary for Multi-Family Housing is supposed to
16 basically run those projects underneath him with,
17 Mr. Barksdale's guidance, and so Silvio had the
18 day-to-day responsibility for the office that did the
19 regulations and the rules and the paperwork and
20 responding to the letters. Basically he was supposed to
2 run the program with Mr. Barksdale's guidance.

2 Q When Mr. Barksdale was promoted, did you continue
2 to deal with him on matters relating to interests of the
2 Secretary and his Department?

2 A Yes, yes.

2255

1 Q How would you characterize your relationship with
2 Mr. Barksdale?

3 A With Mr. Barksdale?

4 Q Yes.

5 A I have the highest admiration for him. I like him
6 very much.

7 Q Did you have a working relationship with

8 Mr. Barksdale?

9 A Yes. May I -- Maurice was the Assistant

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20 to the secretary. So I would sort of, you know, maintain the,
21 the steady keel in the office as much as I could without having
22 to go to him.
23 But I would always usually run things by him, because
24 he pretty much wanted to know what was going on about everything.
25 Q. What time did you usually arrive at work in the morning?

2258

1 A. It changed. There were so many --it really changed. My
2 schedule was really difficult. I mean, I could go to Capitol
3 Hill in the morning, or I could work at home for a while or --I
4 never really had a set schedule. I couldn't really say.
5 If I was on my way into the office without any stops or
6 whatever, I'd probably get there about 9:15, something like that.
7 Q. How late did you usually stay in the evenings in 1985?
8 A. I would say the average would be about maybe nine or ten,
9 sometimes later, but that was really my own preference. I

10 preferred to work at night, when there wasn't anybody else
11 around. I just liked that better. Easier to get things done.
12 Q. Directing your attention to Ms. Shirley M. Wiseman, did
13 there come a time when she assumed a role at HUD?
14 A. Yes. When Maurice Barksdale returned home, then Ms. Wiseman
15 became the acting federal housing commissioner.
16 Q. That is here --
17 A. Yes.

18 Q. --is that correct?
19 A. I believe that she was general deputy at that time. She had
20 been a head of Single-Family Housing, and then I believe she was
21 promoted to general deputy and then acting federal housing

22 commissioner.
23 Q. When Ms. Wiseman became -- first of all, would you describe
24 the difference between acting and nonacting housing
25 commissioners?

2259

1 A. All right. Well, of course the federal housing commissioner
2 has been appointed by the President, picked by the President and
3 sent up to the Hill and confirmed, and the FBI has done their
4 background check, and they are credentialed basically, and they
5 come, and it is a very, very difficult job to get. It's a very
6 important job, and a lot of people would like to have it around
7 the country. So --

8 Q. What's the difference between the housing commissioner and

9 an acting housing commissioner?

10 A. Well, the acting federal housing commissioner is the person
11 who is under the commissioner when he leaves, and then they
12 become acting, because they're the next in line, but they're
13 waiting for the President to really pick the person who's going
14 to run the office.

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15 Q. And in some instances, is that the person, the acting
16 becomes the housing commissioner and sometimes not?
17 A. Sometimes, sure, yeah.
18 Q. And sometimes not?
19 A. Yeah.
20 Q. Now Ms. Wiseman, do you recall when approximately she became
21 acting housing director?
22 A. I believe that Mr. Barksdale left in January or February of
23 '85, so she would have taken over immediately after that.
24 MR. WEHNER: Your Honor, I've marked for identification
25 Dean Exhibit 871, and I'll move its introduction at this time.

2260

1 MR. O'NEILL: No objection, Your Honor.
2 THE COURT: All right, no objection, 871 will be
3 admitted.
4 (Defendant's Exhibit No. 871 was
5 received in evidence.)

BY MR. WEHNER:

7 Q. Ms. Dean, I'm going to show you a personal and confidential
8 note to Shirley Wiseman from Deborah Dean --

9 A. Yes.

10 Q. -- and ask you to please read that to the jury.
11 A. It says, "February 1, 1985. Personal and confidential."
12 And then that's underlined. So it would only go directly to her.
13 It says, "Note to Shirley Wiseman from Deborah Dean: Please
14 provide me with a report on the disposition of all mod rehab
15 funds for fiscal year 1985 by close of business Monday,
16 February 4, 1985. This office will concur on all funding
17 decisions regarding mod rehab funds not previously approved by
18 both Maurice and myself until a new federal housing commissioner
19 is named. I will be in touch with you Tuesday after reviewing
20 the report. Thank you."

2 Q. Now, Ms. Dean, what is your understanding of what led up and

2 the reasons why that memo was sent to Shirley Wiseman shortly
2 after she became federal housing -- acting federal housing
2 commissioner?

2 A. I was directed to send the memorandum to Ms. Wiseman by

2261

1 Secretary Pierce, because he had gotten a telephone call from
2 someone and had an interest in funding a moderate rehabilitation
3 project at some locality, and he called down to Ms. Wiseman to
4 give --to tell her of his interest and have her check it out,
5 and she informed him that there were no more fiscal year 1985
6 monies left, which would be a little surprising in February of
7 1985.

8 And apparently what -

well, what happened was that

9 when Mr. Barksdale was leaving, he funded the rest of what the
10 available monies were before he left, and this took Secretary
11 Pierce by -

he was shocked that this had occurred, and he said
12 that from now on, until there was a new housing commissioner, he

13 wanted to make certain that whomever was in this office didn't go
14 on a spending spree without his knowing it and knowing what they
15 were doing, and he wanted to know where these particular units
16 had gone for the fiscal year '85.

17 MR. O'NEILL: Your Honor, at this time, the government
18 would move to strike the entire statement as to what Mr. Pierce
19 said.

20 THE COURT: That's as to Secretary Pierce's statements?

21 MR. O'NEILL: As to Secretary Pierce, that's correct.

22 THE COURT: Okay, I'm going to deny that. Overruled.

23 MR. WEHNER: Thank you, Your Honor.

24 Q. Now, Ms. Dean, subsequent to that memo, were Secretary

25 Pierce's instructions followed?

2262

1 A. I don't, I don't quite understand.

2 Q. Did Ms. Wiseman follow the direction in your memo?

3 A. Yes. There was very little money left, but for the projects
4 that she wanted to have funded, she would always come and discuss
5 them with me, tell me what it was she was going to do. I would
6 discuss it with the secretary, and then she could go ahead.

7 Q. Now did there come a time in Ms. Wiseman's tenure as acting
8 secretary when she refused to fund a particular project?

9 A. Yes. She refused to fund Durham Hosiery Mill.

10 Q. Now without telling us what Ms. Wiseman said to you, would
11 you tell us what the status of Durham Hosiery Mill funding was at
12 the time she became acting housing commissioner?

13 A. Well, the -- Durham Hosiery Mill was not a moderate
14 rehabilitation project. It was a substantial rehabilitation
15 project, which is more subsidy. And it was originally funded
16 back in 1982 with sub rehab monies, and the, President Reagan
17 made a commitment to a congressman on an airplane --

18 MR. O'NEILL: Objection, Your Honor. Hearsay.

19 THE COURT: All right.

20 MR. WEHNER: I don't think that it's hearsay as to what
21 her understanding as executive assistant was.

22 THE COURT: I'll allow it in not for the truth of the
23 matter, but as to indicate her understanding why she took certain
24 actions. Overruled. Go ahead.

25 THE WITNESS: well, the --

2263

1 BY MR. WEHNER:

2 Q. You understood -- did you -- excuse me, may I ask another
3 question, Your Honor?

4 THE COURT: All right.

5 MR. WEHNER: Thank you, Your Honor.

6 Q. Did you have an understanding as to why Durham Hosiery Mill
7 was initially funded?

8 A. No. Not why it was initially funded, no. It was just, it
9 had been funded, and then the funding was taken away, and that
10 money was used in New Jersey.

11 And there had been some discussions with the under
12 secretary, and I know that Mr. Barksdale had also, I believe
13 Mr. Barksdale went down to Durham, North Carolina, and had met
14 with them.

15 Q. What was your understanding as to why the funds were removed

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16 from Durham Hosiery Mill and moved, I believe you said, to New
17 Jersey?
18 A. New Jersey.
19 The money was, it was at the end of the fiscal year,
20 and there was only so much money left. There was some money that
21 had not got to Durham yet, and the President made a commitment
22 that the department could not afford. So we then had to cancel a
23 project that HUD wanted to do and do one that the President
24 wanted to do.
25 Q. So the Durham Hosiery Mill funding was pulled back, or it

2264

was not sent?

2 A. It was canceled. And then the next fiscal year, there was
3 no substantial rehabilitation program, so there was no way to
4 reinstate them as of the next fiscal year.
5 Q. Did it become a part of the moderate rehabilitation process
6 for that next year?
7 A. No, it did not. Later.
8 Q. As of February 1, 1985, when Ms. Wiseman became housing
9 commissioner, what was the status of the Durham Hosiery Mill
10 project?
11 A. Well, they were meeting with her and trying to discuss the
12 different kinds of programs that they may be able to sort of mix
13 and match and put together to try to get to the same amount of
14 money that sub rehab would have gotten them to, but there was no
15 longer a programming -
mod rehab was not enough to do Durham
16 Hosiery Mill. The numbers wouldn't work. So it had to be mod
17 rehab and something else, so it was mod rehab and HODAG.
18 MR. O'NEILL: Your Honor, is this a personal knowledge?
19 THE COURT: Did you know this yourself? Did you study
20 the program?
21 THE WITNESS: Yes, sir.
22 THE COURT: All right.
23 BY MR. WEHNER:
24 Q. Did you have a conversation with Ms. Wiseman concerning the
25 funding of a mod rehab, of mod rehab funds going to Durham

2265

1 Hosiery Mill?

2 A. Well, we had many conversations, because there was another
3 part of it. It was a HODAG as well.
4 Q. Without telling us what Ms. Wiseman said to you, would you
5 tell us what you said to Ms. Wiseman in summary during the
6 conversation regarding Durham Hosiery Mill?
7 A. I told Ms. Wiseman that I had met with Mr. Allen, who I
8 believe was the owner of Durham Hosiery Mill, as well as the
9 under secretary, as well as the secretary, and that the secretary

10 was aware that these people had been promised and then reneged
11 on, and he felt that we should do whatever we could to reinstate
12 the funds for Durham Hosiery Mill, because it didn't seem fair
13 that these people had put out a lot of money and a lot of effort
14 and, thinking that their money was coming, and to have it then
15 given away by someone else.

16 Q. Now, Ms. Dean, what is physically the Durham Hosiery Mill?
17 Is it a building? What is it?
18 A. It's a building that has apartments in it.

19 Q. And is it a specific building?

20 A. I've never seen it, so I don't -- I assume it is one
2 building, yes, an old hosiery mill in Durham.

2 Q. It is one --to your knowledge, is it one building?

2 A. To my knowledge, it is one building.

2 Q. And as I understand it, the program was to rehabilitate this
2 building?

2266

1 A. Yes. It was to basically create housing out of what was an

2 old, vacant building, old, vacant hosiery mill.

3 Q. In your discussions with Ms. Wiseman, did she display

4 reluctance to use moderate rehabilitation funds for that

5 building?

6 MR. O'NEILL: Objection, Your Honor.

7 THE COURT: Yes, I think she can discuss her attitude.

8 She can say what her attitude was towards it, without saying what

9 she said.

10 THE WITNESS: well, not --

11 THE COURT: You can answer.

12 THE WITNESS: I'm sorry. Not at first, but

13 increasingly she became more and more concerned with the amount
14 of waivers that would have to be granted to the project in order
15 for it to use multiple subsidies.

16 BY MR. WEHNER:

17 Q. Did you understand that Ms. Wiseman made a decision not to
18 fund the program?

19 A. Yes.

20 Q. Did that occur as a result of the conversation you had with
2 Ms. Wiseman?

2 A. Secretary Pierce told me that Ms. Wiseman was not going to
2 fund it.

2 Q. Did you have a conversation with Ms. Wiseman?

2 A. Yes.

2267

1 Q. And what did you say to Ms. Wiseman?

2 A. I told her that she should fund the project, because

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3 Secretary Pierce wanted her to fund the project.
4 Q. And without saying what she said back to you, did you also
5 continue to talk to her about the program?
6 A. I spoke to her again and told her that she should fund it,
7 because Secretary Pierce wanted it funded.
8 Q. And what did she do?
9 A. Nothing.

10 Q. Did she fund it?
11 A. No.
12 Q. Did there come a time when you became aware that Secretary
13 Pierce talked to Ms. Wiseman directly?
14 A. He informed me that he had --
15 MR. O'NEILL: Objection, Your Honor.
16 THE COURT: Well, why don't you come up to the bench on
17 that for a minute. We'll just straighten that up.
18 (Bench conference on the record.)
19 THE COURT: Is it the government's position that he's
20 not a conspirator in all of this?
21 MR. O'NEILL: Judge, we have no position. We don't
22 know. If he was a conspirator, arguably he'd be indicted.
23 The position that the government has, Judge, is he is
24 unavailable, as I told Steve, and I stipulated to that. That's
25 no problem. That's why all his documents are coming into

2268

1 evidence even if they have not been business records in another
2 case.
3 But the problem is if we're going to elicit every oral
4 statement that he ever made, you know, legally, I just can't do
5 that.
6 MR. WEHNER: Judge, these documents that I'm putting in
7 are admissible under any reasonable business records exception to
8 the hearsay rule, and I don't think Mr. O'Neill is really cutting
9 me a break in terms of the documents.
10 THE COURT: All right.
11 MR. WEHNER: But No. 2, we have established by a
12 preponderance that if the government's theory as to the
13 conspiracy is correct, that Pierce is a member of it, and I think
14 that the co-conspirator statements in that regard is what,
15 Mr. O'Neill, what's good for you is what's good for me. It's a
16 two-way street.
17 MR. O'NEILL: If Your Honor is -
18 THE COURT: Wait a minute.
19 MR. O'NEILL: Sorry, Your Honor.
20 THE COURT: I'll make the finding you can admit them as
2 a co-conspirator statement. It seems to me the evidence
2 introduced in the government's case in chief as well as the
2 defendant's evidence implicates Mr. Pierce at least to the extent
2 there's been testimony he specifically directed projects with
2 individuals, to have these projects funded. Whether or not that

2269

1 was illegal or not, I don't know, but I think it puts him in the
2 same category as the other individuals who have been named, like
3 Ms. Dean and Mr. Demery and the others. So I will allow it.
4 MR. O'NEILL: Judge, based on that, I'll withdraw my
5 objection then based on your ruling.
6 THE COURT: All right.
7 MR. WEHNER: Your Honor, as an unrelated matter, I
8 would -I'm
concerned about this first juror in the back row.

9 THE COURT: No. 7, Ms. Proctor?

10 MR. WEHNER: No. 7.

11 MR. WEHNER: I think her demeanor is reflecting that
12 she is not giving the proper consideration to the testimony, not
13 just our testimony -14

THE COURT: Proctor her name is.

15 MR. WEHNER: Ms. Proctor. But the testimony generally.

16 I am not moving to strike her at this time, but I would
17 like to alert the parties and the Court that I'm watching her
18 closely.

19 THE COURT: All right. I'm aware of her conduct in the
20 last couple of days, and we'll continue to see how she does. She
21 was one of the reasons I had the clerk of the court speak to the
22 jury, one of the principal reasons, this morning. I don't think
23 she took the reprimand well.

24 MR. WEHNER: Oh.

25 THE COURT: All right.

2270

1 MR. WEHNER: Thank you, Judge.

2 (End of bench conference.)

3 MR. O'NEILL: Judge, for the record, the government
4 withdraws its objection.

5 THE COURT: All right.

6 MR. WEHNER: Thank you.

7 Q. Ms. Dean, what did Secretary Pierce say to you, as precisely
8 as you can recall, with regard to his conversation with
9 Ms. Wiseman?

10 A. I really don't remember his exact words. I just came to
11 know that he had spoken with her and that she was not going to
12 sign the papers, and then he gave me instructions.

13 Q. What instructions did Secretary Pierce give you?

14 A. He told me that, that if -- Shirley was -- Ms. Wiseman was
15 not going to be there for very long anyway. I mean, she had
16 already gotten another job and was leaving. So he said, "Wait
17 until she leaves, and then I want you to make absolutely certain
18 this project is legal. Legally make certain that there's no
19 problem asking someone to sign this, and when the next person
20 comes in, I want you to have it taken care of."

21 Q. I'm going to show you what I've marked for identification as
22 Dean Exhibits 557 and 558 and ask you if you recognize those?

23 (Defendant's Exhibit Nos. 557 and 558

24 were marked for identification.)

25 THE WITNESS: Yes.

2271

BY MR. WEHNER:

2 Q. What are they?

3 A. Well, they, one is a rapid reply letter that actually gives
4 mod rehab to Durham, although this is way later in the process.
5 This is very long time in the future.

6 And this is an okay for Autopen on the rapid reply by
7 me.

8 Q. And was, in fact, Durham Hosiery Mill ultimately funded?

9 A. Yes, it was.

10 MR. WEHNER: Your Honor, at this time, I'll move the
11 admission of Dean Exhibits 557 and 558.

12 MR. O'NEILL: No objection.

13 THE COURT: All right, 557 and 558 will be admitted.
14 (Defendant's Exhibit Nos. 557 and 558
15 were received in evidence.)
16 BY MR. WEHNER:

17 Q. Ms. Dean, how long was Ms. Wiseman in the position of acting
18 housing commissioner?
19 A. I, I don't recall. Around six months would be my, my best
20 guess.
21 Q. And who took her place after --
22 A. Janet Hale.
23 Q. Ms. Hale then became acting housing commissioner?
24 A. She became acting general and then general deputy and then
25 acting federal housing commissioner.

2272

1 Q. Did Ms. wiseman leave the department?
2 A. Yes, she did. She went to be president of the National
3 Association of Home Builders.
4 MR. WEHNER: Your Honor, with the Court's permission,
5 that's a break point.
6 THE COURT: That's good for you?
7 MR. WEHNER: Without getting into the tenure of the
8 next federal housing commissioner.
9 THE COURT: All right. All right, Ladies and
10 Gentlemen, counsel has indicated that that's a good breaking
11 point in a time frame of the questioning. We're going to have to
12 continue tomorrow.
13 Tomorrow will be 9:45. I've got a matter in the
14 morning that will take about 30 or 40 minutes in another case, so
15 9:45 tomorrow. We'll be sitting in a full day tomorrow.
16 I expect we'll complete the testimonial phase of this
17 case Thursday, if not tomorrow, maybe Thursday, and again, we'll
18 be preparing arguments and going to the jury -- they'll be
19 preparing arguments over the weekend and going to the jury
20 probably for closing arguments Tuesday or Wednesday of next week,
21 Monday being a holiday. It depends on some business we have to
22 do, the lawyers and the Court have to do, and getting
23 instructions ready and all, so we need some time to do that, too.
24 But I believe the case will be submitted to you sometime in the
25 middle part of next week.

2273

1 All right, we'll take a recess at this time for the
2 evening hour. Remember the overnight recess about not reading,
3 watching, or listening or anything about this case in the media
4 or talking about it among yourselves or with anyone else on the
5 way home tonight or until tomorrow.
6 We'll see you back here at 9:45 a.m., please, in the
7 morning, all right? Thank you.
8 (Jury out.)
9 THE COURT: All right, we'll stand in recess until 9:45
10 in this case tomorrow morning.
11 (Recess from 4:00 p.m. to 9:45 a.m., October 6, 1993.)
12

13 CERTIFICATE OF THE REPORTERS
14 We certify that the foregoing is a correct transcript of the
15 record of proceedings in the above-entitled matter.

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Santa Theresa

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Annelireise J. Thomson

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ORIGINAL 2274

1 UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
2
UNITED STATES OF AMERICA, Criminal No. 92-181-01
3
vs. Washington, D.C.
4 October 6, 1993
DEBORAH GORE DEAN, 10:05 a.m.
5
Defendant. FILED
6 OC! 8
1993
7 CLERK. U.S. DISTRICT COURT
TRANSCRIPT OF JURY TRIAL DISTRICT OF COLUMBIA
8 BEFORE THE HONORABLE THOMAS F. HOGAN
UNITED STATES DISTRICT JUDGE
9
VOLUME XVIII
10
APPEARANCES:
11
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17
ALSO PRESENT: MARK BATTS
18
19 OFFICIAL COURT REPORTER: ANNELIESE J. THOMSON
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3rd and Constitution, N.W.
2 Washington, D.C. 20001
(202)842-5069
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(Pages 2274 - 2398)

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COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

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WITNESSES ON BEHALF OF
THE DEFENDANT:

Gordon Dean

Deborah Gore Dean

(Resumed)

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10 EXHIBITS

11 DEFENDANT'S: MARKED RECEIVED

12 NO. 161 2323

13 394 2344

14 395 2344

15 396 2344

16 501 2319

17 535, 538, and 545 2315

18 559 2343

19 560 2343

20 561 2311

2 562 2355

2 563 2360

2

2

564, 566, and 568

569

2383

2384

2 570 2386

EXHIBITS (Cont'd.)

DEFENDANT'S: MARKED RECEIVED

NO. 573 2392

574 2395

864 2338

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2277

1 PROCEEDING S
2 (Defendant present, Jury out.)
3 THE CLERK: Criminal No. 92-181, United States of
4 America v. Deborah Gore Dean. We have Robert O'Neill and Paula
5 Sweeney for the government, Stephen Wehner for Ms. Dean.
6 THE COURT: All right. Good morning, counsel.
7 MR. O'NEILL: Good morning, Your Honor.
8 MR. WEHNER: Good morning, Your Honor.
9 THE COURT: A couple of matters. One, we have an
10 observer from the Administrative Office to my left, who is in the
11 computer field, observing the use of computers here in the
12 courtroom. Two, Mr. Kevin White, No. 5, is not here. He's
13 already 22 minutes late.
14 Ms. Lisa Proctor left a message, Juror No. 7, on the
15 court's telephone system last night indicating that she would not
16 be here until after 10:00 and that Mr. White would not be here
17 until after 11:00. I'm going to have her in. I don't know what
18 she knows and why they're talking or what they're doing together,
19 if it involves this case. Otherwise, it's not our concern. But
20 we need to know what happened to Mr. White, I'm not anxious to
21 wait another hour for him, and find out Ms. Proctor's involvement
22 in this matter.
23 She is the one whom counsel raised a question about
24 yesterday. My observations of her over the last few weeks has
25 not been without concern as to her attitude and conduct.

2278

1 All right, bring Ms. Proctor in, please.
2 THE DEPUTY MARSHAL: Yes, Your Honor.
3 MS. SWEENEY: Your Honor, before the jury is brought
4 in, the government had one matter we wished to raise.
5 THE COURT: All right. wait a second.
6 THE DEPUTY MARSHAL: Yes, Your Honor.
7 THE COURT: Sure, Ms. Sweeney.
8 MS. SWEENEY: Your Honor, we'd like to make a motion to
9 exclude the statements of Sam Pierce.
10 THE COURT: Okay.
11 MS. SWEENEY: We anticipate that the defendant is going
12 to seek to elicit additional statements today, and we believe
13 that they're not admissible under 801(d)(2). 801(d)(2) only
14 permits statements against the party's interest.
15 THE COURT: All right.
16 MS. SWEENEY: And in this case, Ms. Dean seeks to admit
17 them as exculpatory, Your Honor. We've cited case law to that
18 effect.
19 THE COURT: That may be a point. I hadn't thought
20 about the exculpatory nature. I'm not sure about the
21 co-conspirator exception not applying, but the exculpatory I
22 hadn't considered before when we let them in.
23 I'll have Ms. Proctor brought in now.
24 MR. WEHNER: Your Honor, the party in question is the
25 other party in this case. The other party is the Office of

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1 Independent Counsel.
2 (Juror Proctor in.)

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3 THE COURT: All right. Good morning, Ms. Proctor.
4 JUROR PROCTOR: Good morning.
5 THE COURT: We've gotten a message on the telephone
6 recording system, I think this morning, was picked up that you're
7 going to be late, but you've made it, but that Mr. White couldn't
8 get in?
9 JUROR PROCTOR: Kevin White. He's going to be about
10 10:30 or 11:00.
11 THE COURT: What happened, do you know?
12 JUROR PROCTOR: He had some family problems yesterday.
13 He's taking care of them this morning.
14 THE COURT: Is it 10:30 or 11:00? It makes some
15 difference in our timing as to what we're going to do about
16 starting the trial and whether we should wait for him or not.
17 JUROR PROCTOR: Well, he said he's definitely coming
18 in, and he said it would be between 10:30 and 11:00.
19 THE COURT: He didn't call us and give us any direct
20 information about this, and it concerns me as to when we can
2 count on him being here with the witnesses we have ready to go,
2 continue.
2 JUROR PROCTOR: Because if it helps any, I saw him this
2 morning, and he was running around and asked me to call for him.
2 THE COURT: Pardon me?

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1 JUROR PROCTOR: He was doing a lot of running around,
2 you know, trying to take care of that, and then he was going to
3 go home, change, and he asked me to call in for him.
4 THE COURT: All right. Well, I'll talk to counsel and
5 see what we're going to do about waiting any longer.
6 JUROR PROCTOR: Okay.
7 THE COURT: Thank you.
8 (Juror Proctor out.)
9 THE COURT: All right, I'll wait until 10:30 and see if
10 Mr. White shows up.
11 All right, Mr. Wehner, what was your remark again as to
12 Mr. Pierce's statements, one, that they're 801(d)(2)(E)'s
13 requirement that a statement may be offered against a party, and
14 you're saying these are statements against the interests of the
15 prosecutors, the government?
16 MR. WEHNER: Yeah. And I looked at their case of
17 United States v. Kapp. in 1986, Your Honor, which happened to
18 be out of the Third Circuit, and, and the Kapp case is not even
19 followed in the Third Circuit, Your Honor, with regards to the
20 trial practice of the district court up there.
2 I mean, the fact is that the rule specifically provides
2 and the statutes and the case law specifically provide that the
2 co-conspirator exception to the hearsay rule is a two-way street
2 and that the Federal Rules of Evidence apply equally to the
2 Independent Counsel as they do to the defendant.

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1 The parties in this case are the United States v.
2 Ms. Dean. Both individuals are parties -- both entities are
3 parties. To the extent that the co-conspirator exception is not
4 usable by the defense, it runs contrary to the Court's ruling
5 during the government's case in chief. It's been expressly
6 withdrawn on the record by the Office of the Independent Counsel
7 yesterday as part of their objection.
8 And if Your Honor wants to discuss it in an
9 intellectual fashion, we can, because they are not being offered
10 actually for the truth of what Mr. Pierce said, but only for the
11 fact that the statement was made. So there's an intellectual
12 argument to be made.

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13 THE COURT: That they're not hearsay, you're saying.
14 MR. WEHNER: That they're not hearsay by definition,
15 under the common law definitions of hearsay.
16 But I really don't know that the common law definitions
17 of hearsay are -18
THE COURT: well, it's not common law. The rules of
19 evidence say what hearsay is or isn't, and the definition of
20 hearsay takes care of it.
2 MR. WEHNER: Correct. Not offered for the truth of the
2 matter asserted is the basic difference.
2 The other point, Your Honor, is -- and I'd like a
2 second to look at the rules.
2 THE COURT: All right.

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1 MR. WEHNER: After that objection was withdrawn
2 yesterday, I didn't expect it to be raised again, and the first
3 notice I had, of course, was when it was brought to Your Honor's
4 attention.
5 THE COURT: well, I understand the government's
6 concern, because what they're facing is, we see it all the time
7 in criminal trials, and this is a little bit different than the
8 standard trial, but a defendant gets on the stand and wants to
9 say everything about an absent codefendant, what he did and said,
10 et cetera, and all the statements that an absent codefendant made
11 to exculpate themselves, and there's no way to cross-examine that
12 other codefendant, and it leaves a lot of self-serving testimony
13 without being able to be crossed.
14 MR. WEHNER: I think that's true, Judge -15
THE COURT: But I want to take a look at the
16 government's memorandum for a minute.
17 MR. WEHNER: At the same time, I think you have to
18 recognize that the unavailability of Mr. Pierce is a function of
19 the Independent Counsel's, not a function of Ms. Dean.
20 THE COURT: well, it's a function of his exercise of
2 his rights not to testify.
2 MR. WEHNER: well, I'm sure if the Independent Counsel
2 would offer him immunity, he'd be glad to get on the stand and
2 exculpate Ms. Dean. And of course, we don't have any right to
2 immunize a witness. Under the case law, we can't move the Court

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1 to do that.
2 Independent Counsel has been investigating him for as
3 long as they've been investigating Ms. Dean. They could seal
4 their evidence and offer him a grant of immunity, like attempts
5 were made to do in the Oliver North prosecutions. It's not easy
6 to do that, but clearly you can satisfy the burden if you try.
7 THE COURT: Let me look at the government's memo. I
8 was just reviewing the notes under the rule.
9 All right, then we'll take a recess until 10:30 to see
10 if Mr. White is going to show up here or not and make a decision
11 of whether we strike him and put in an alternate juror and not
12 waste any more time.
13 MR. WEHNER: Your Honor, for the record, I believe we
14 would object to any move to strike Mr. White. We would prefer to
15 wait.
16 THE COURT: Mr. White you would?
17 MR. O'NEILL: So would the government, Your Honor. The
18 government would likewise prefer to wait.
19 THE COURT: All right.
20 (Recess from 10:15 a.m. to 11:25 a.m.)
2 THE COURT: All right, two matters: One is the motion
2 to exclude the statements of Pierce, and Mr. Whites' continued

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2 absence. He's not here yet. It's almost 11:30. I'm inclined to
2 strike him. We haven't heard from him directly. We've heard
2 through another juror that he can't come. I think he had an

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1 obligation to let the Court know where he is. But I'll rule on
2 this other motion first and then see if he's here after that
3 before I make a final decision, and I'll hear from counsel first.
4 The government's motion to exclude as inadmissible
5 hearsay the statements of Samuel R. Pierce, Jr., based upon their
6 assertions that they should not be admitted under 801(d)(2) and
7 (d) (2) (E), because one, they aren't offered against a party, and
8 second, because there is not sufficient evidence to demonstrate
9 Pierce is a member of any of the conspiracies defendant Dean is
10 charged with in this case, as to the latter, I'm not quite sure
11 that that's accurate based upon my discussions yesterday with
12 counsel.
13 As to the first, I think that's a concern, and I'll
14 hear again if Mr. Wehner wants to discuss that anymore. I do
15 have the Kapp opinion that he indicates the Third Circuit,
16 where it's from, doesn't follow, but it reads that way.
17 Shepardizing it does not indicate it's been cited for that
18 proposition, although for other propositions, and it does rely
19 upon a Ninth Circuit case, but there they ruled that there's no
20 authority for the proposition the prosecution is a party against
2 whom such evidence can be offered.
2 That is buttressed by other case decisions in
2 discussions of the operation of the rule, and the first one we
2 got ahold of was *Bourjaily v. United States*, a well known
2 conspiracy case, but in any event, *Bourjaily* said before a

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1 statement can be admitted under this subsection, there must be
2 evidence both that there was a conspiracy involving the declarant
3 and the nonoffering party and the statement was made during, in
4 the course of, and as furtherance of the conspiracy. That's
5 483 U.S. 175, a 1987 case.
6 Here it's evident there's no evidence offered that the
7 nonoffering party, the government, was in a conspiracy with
8 Mr. Pierce.
9 Mr. Wehner, do you have anything else on that?
10 MR. WEHNER: Yeah, Judge, because it's an interesting
11 question when it's the United States of America versus a
CO
§ 12 defendant.
13 THE COURT: This was an office of the United States of
14 America.
15 MR. WEHNER: Right. And I'm not totally familiar with
16 that case, so if I foul up, I'm sure Your Honor will let me know,
17 but it strikes me that the authority for the proposition as to
18 what is a party is found in the rule. It says "a party." It
19 doesn't say "an individual party"; it says "a party."
20 And frankly, I think the Third Circuit decision is
2 bizarre in that it states there's no authority to suggest that
2 the United States can be a party.
2 THE COURT: well, I think this goes a little more
2 fundamental than that in the way I read the rule and the case I
2 cited, *Bourjaily*. and that was that they ruled that there not

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1 only was a conspiracy, but the conspiracy had involved the
2 declarant, that would be Mr. Pierce, and the nonoffering party,
3 which would be, I take it by that language, the government.
4 Let me read the rule again.

5 MR. WEHNER: That sounds logical that they would have
6 said that.

7 THE COURT: All right. 801(d)(2)(E) is admission by a
8 co-conspirator, and it reads, "Admission by a party-opponent." A
9 statement is offered against a party and is a statement by a
10 co-conspirator of the party "during the course and in furtherance
11 of the conspiracy."

12 So to offer it against a party, you'd have to offer it
13 against the United States, but it would have to be a statement of
14 the co-conspirator of the party during the course and in
15 furtherance of the conspiracy, and I think the way that
16 Bourriaily reads, it seems to me that the nonoffering party --
17 in this case, it would be offered against the government -- would
18 have to be part of the conspiracy, and I don't think because
19 Secretary Pierce is a cabinet officer, that ties in necessarily
20 that means the government is part of the conspiracy even if he
2 was found to be part of the conspiracies Ms. Dean is charged
2 with.

2 I'm going to sustain the objection made at this time to
2 exclude as inadmissible hearsay statements of Samuel R. Pierce if
2 they are offered as hearsay statements under the 801(d)(2)

formula. That doesn't mean that they can't be otherwise
admissible if there are non-hearsay reasons they could be
admitted, but as to open-ended admission and discussion by
Ms. Dean of everything Mr. Pierce said to her in the context of
these operations, I think they could not be admitted under the
801(d)(2)(E) exception, which means you have to tailor her
responses and the questions to be asked carefully or at the
bench, discussing any other reasons those statements may be
admitted that he may have made to her.

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1 MR. WEHNER: Your Honor, I don't have any

2 problem with tailoring to avoid the hearsay objection,

3 but I would respectfully request that Your Honor

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4 reconsider your ruling based upon the plain reading of
5 801 (d) (2), which as Your Honor points out, says, "A
6 statement by a co-conspirator during the course and in
7 furtherance of the conspiracy." I don't concede for the
8 purpose of this argument that Miss Dean has been shown
9 by the Office of Independent Counsel to be a member of
10 any criminal conspiracy but Your Honor had essentially
11 ruled that a preponderance of the evidence existed to
12 show that Miss Dean was a member of a conspiracy
13 involving known and unknown individuals named in the
14 indictment.
15 We have presented evidence to the Court based
16 upon that premise that there was, from a preponderance
17 of the evidence, shown to be a conspiracy and that
18 statements made during the course of and in further of
19 that conspiracy would be admissible. I don't believe
20 that you can read 801 (d) (2) literally or with the full
21 logical meaning of 801 (d) (2) to suggest that that rule

2 is limited to evidence by the prosecution in a criminal
2 case to exclude co-conspirator statements under a
2 preponderance of the evidence standard because 801 (d)
2 (2), the first sentence, states, "A statement is offered

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1 against a party," to hold that the party in a case such
2 as this is not the Independent Counsel, frankly, Judge,
3 it's absurd.
4 And I think the Third Circuit is clearly off
5 base, and has been recognized, although Your Honor has
6 so aptly pointed out, nobody has ever decided that
7 proposition before because it just doesn't make any
8 sense.
9 I recognize Your Honor's ruling and I respect
10 it and I will attempt to abide by it.
11 I would also like to point out to the Court
12 that I will be arguing that the statements are otherwise
13 admissible pursuant to 801 (d) (2) D and I -- which
14 provides, "That a statement by the party's agent or
15 servant concerning a matter within the scope of the
16 agency or employment," and I would anticipate that Your
17 Honor would make the same ruling based upon your prior
18 ruling today because I believe that the statements of
19 Secretary Pierce are also admissible under that
20 sub-section. I believe they are admissible under 801
21 (d) (2) (c), "A statement by a person authorized by the
22 party to make a statement concerning a subject," and the
23 United States Government and the president of the United
24 States clearly authorized Secretary Pierce to make

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25 statements regarding how HUD operated.

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1 As to 801 (d) (2) (b) and 801 (d) (2) (a), I
2 do not believe that in a situation where the United
3 States by the Office of Independent Counsel is solely
4 responsible for the unavailability of a witness and they
5 have stipulated to that, not that they're solely
6 responsible, I don't want to say that, but they've
7 stipulated to unavailability, that the Court can
8 appropriately rule that the statements in furtherance of
9 the conspiracy by a co-conspirator during the course of

10 the conspiracy are inadmissible under 801 (d) (2).

11 THE COURT: All right. I'm going to rule
12 the -- I'll overrule your point. I'm going to deny at
13 this point admitting those other theories that you've
14 just advanced. I think they all fall, subject to the
15 statement situation. As I said, they're non-hearsay as
16 opposed to the exception to the hearsay that has been
17 offered. I'll consider those as they come up at the
18 time.

19 MR. WEHNER: Yes, sir.

20 THE COURT: All right.

21 We don't have Mr. White. It's 20 minutes of
22 12, 22 minutes before 12. I'm interested in moving this
23 case today.

24 MR. O'NEILL: At this point, Your Honor, the
25 Government would request that you fill the slot with an

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1 alternate.

2 For the record, we were of the other opinion
3 at 10:20 or 10:15. Though it is now almost an hour and
4 a half later he has not communicated with the Court and
5 the problem will be if it's of a de minimis nature Your
6 Honor would not want him sitting because he's disrupted
7 the scheduling of the Court because of something
8 unimportant. If it's something of importance, a severe
9 family situation, then you would be concerned if he

10 could possibly listen to the evidence and devote his
11 full attention to what's going on in Court and I think
12 in either way he would be useless to the Court at this
13 time and I would request on behalf of the Government he
14 should be replaced.

15 MR. WEHNER: Your Honor, I'm not sure if we
16 differ with the request, but I think under the
17 circumstances of his absence I would request a further
18 voir dire of juror number seven to determine what any
19 additional conversations she's had or what that
20 situation is.

21 THE COURT: All right.

22 Will you get Miss Proctor, please?

23 All right, Miss Proctor, can you give us any
24 further information about Mr. White's problems and what
25 happened, because we're getting now to 20 of 12 and

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1 we've been here since quarter of ten ready to go at
2 trial and we're losing -3
JUROR PROCTOR: Can I go and call his house?
4 That's what I wanted to do but I wasn't sure if you had
5 started or not. I want to call his house.
6 THE COURT: Do you have any sense of what the
7 problem is, whether it's a serious family problem and he
8 might be distracted when he gets here, that he's worried
9 about situations at home?
10 JUROR PROCTOR: well, from what he's told me
11 the problem is pretty much taken care of and he just had
12 to do the last -- take his sister somewhere and then he
13 was supposed to go home, get dressed and come here.
14 THE COURT: All right. we'll call his home
15 and see what information we can get and if we can't find
16 him we're going to have to go ahead with the case.
17 Do counsel want to inquire of Miss Proctor?
18 MR. O'NEILL: No, Your Honor.
19 MR. WEHNER: I would just briefly, Your
20 Honor.
2 Have you become friends with the gentleman?
2 JUROR PROCTOR: Yes.
2 MR. WEHNER: And have you talked about the
2 case with him?
2 JUROR PROCTOR: No.

2293

1 MR. O'NEILL: Judge, I-2
THE COURT: All right, I'll sustain the
3 objection. They were just talking about what happened
4 and not anything else.
5 MR. WEHNER: Do you live in the same
6 neighborhood?
7 JUROR PROCTOR: No.
8 MR. WEHNER: what caused him to ask you to
9 call?
10 JUROR PROCTOR: I had saw him at nine o'clock
11 this morning. He was in some kind of trouble where he.
12 needed to borrow some money.
13 MR. WEHNER: Borrow some money.
14 JUROR PROCTOR: Yes, and that's when I saw him
15 and I told him he needed to call and he asked me if I
16 could call for him because he was running around.
17 MR. WEHNER: Do you know what he was going to
18 borrow the money for?
19 JUROR PROCTOR: No.
20 MR. WEHNER: Did you loan him the money?
2 JUROR PROCTOR: Yes.
2 THE COURT: All right. Thank you.
2 All right, we'll try to reach him in a few
2 minutes and I'll come back by 12 o'clock and see if
2 we're going to proceed with the jury and substitute for

1 Mr. white at that time.

2 We stand in recess.

3 (Recess, 11:40 a.m. to 12:00 p.m.)

4 THE COURT: All right. It's 12 o'clock. We

5 have not heard from Mr. White. A call was made to his

6 home. His grandmother indicated she wasn't sure where

7 he was. She thought he was coming here but didn't

8 know.

9 Is there any other comment by counsel of the

10 defendant upon the retention of Mr. White or not? My
11 intentions are to strike him based upon Miss Proctor's
12 statements as well as the fact he hasn't appeared or
13 personally called in and kept us waiting and losing an
14 entire morning of testimony which would delay the case
15 probably through part of next week.

16 I'm more bothered by the fact he didn't call
17 and report in than anything else as well as Miss

18 Proctor's statement he had some kind of trouble and had
19 to borrow money from her. I don't know where his
20 attention would be in this case in case there's some
21 serious personal difficulties.

22 Any comment, counsel?

23 MR. WEHNER: Your Honor, could we approach
24 briefly?

25 THE COURT: Sure.

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1 MR. WEHNER: Thank you.

2 (Bench conference)

3 THE COURT: Miss Dean can come. That's fine.

4 MR. WEHNER: Judge, we don't have -- we do not

5 object to the striking of that juror. Here's a problem

6 I have. I move that the Court also strike at the same

7 time juror number seven based upon her conduct yesterday

8 which was observed by all the parties and which were

9 raised last night, yesterday afternoon, with the Court
10 regarding what I will characterize as hysterical
11 giggling at an inappropriate point in the trial
12 yesterday when there was nothing in the courtroom that
13 was amusing. Clearly it was something in her own head
14 or in the head of other jurors, from my observations.
15 Secondly, I move to strike her because I am
16 very suspicious about one juror borrowing money from
17 another juror when the person from whom the money was
18 borrowed states that they don't know what they borrowed
19 the money for.
20 I think there is more to this story than we
2 have been able to determine at this point but I think

2 clearly that there is a debt owed by juror number five
2 to juror number seven. That is a relationship that in
2 my judgment could tend to move the jury from a jury of
2 12 to a jury of 11 because of the admission that money

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1 has changed hands and apparently some debt has been

2 created. So I would ask that both jurors be struck and

3 be replaced with alternates.

4 MR. O'NEILL: I just see no basis at this

5 time, Judge, for juror number seven. I believe the

6 laughter yesterday – the only time I remember was when

7 Mr. Holmes was testifying and I think I was laughing at

8 some points during that myself, Your Honor.

9 THE COURT: well, I was bothered by

10 Miss Proctor in the past, she would make audible
11 comments, I'm not sure I could understand, but make
12 audible comments at the time when witnesses were making
13 statements and seemed to react with juror number two
14 during testimony and responses that were given.
15 Originally I thought it was harmless but as
16 time went on it concerned me and that's the reason why I
17 had my Deputy Clerk direct comments to them all, not to
18 anybody in particular, about proper decorum in the
19 courtroom after this laughter had taken place.

20 I understood from watching there was somebody
2 passing gum back and forth and somebody taking the gum.

2 That involved Mr. White, as a matter of fact.
2 MR. O'NEILL: Has there been any change since
2 you -
2 THE COURT: Change in the sense she's not been

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1 talking. She sat like a chastised little girl
2 yesterday, that's a sexist statement, but yesterday did
3 not look at anyone, including the witness or the
4 documents or the Court. She simply looked down
5 yesterday all afternoon. I will continue to watch her.
6 I'll deny it at this time. I'm not sure
7 because of the fact that Mr. White is gone -I'll
deny
8 it at this time. She might get upset because Mr. White
9 is out. If it reflects her conduct or her attitude is
10 non-appropriate, then she may have improper influences
11 bothering her about this case in some sense, I will take
12 it up again about retaining her on the jury.
13 MR. WEHNER: Judge, I think it's - we
14 strenuously object to you leaving her on the jury at
15 this point based upon your observed conduct yesterday,
16 plus the relationship that's obviously developed between
17 two jurors. We have four alternates, Your Honor. This
18 case is almost over. I do not know what's going on with
19 her, but I do not think that based upon my observation
20 she should not be continued to be assumed to be a fair
2 juror for Miss Dean.
2 THE COURT: I'll leave her in for now and, as
2 I said, I'll take it up again if necessary and we can
2 talk about it some more.
2 I'm going to bring the jury in and seat

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1 alternate number one which is Stacey Peters, and recess
2 for lunch.
3 MR. WEHNER: Judge, we have one brief witness
4 that we can work in before lunch, Gordon Dean, and
5 Mr. O'Neill has indicated that I could call him out of
6 order.
7 THE COURT: All right. Let's do that. I'll

8 be happy to.

9 MR. WEHNER: Thank you.

10 (Bench conference concluded)

11 THE COURT: All right, will you bring in the
12 jurors, please?

13 (Jury present)

14 THE COURT: All right, ladies and gentlemen.

15 Thank for your patience.

16 As you realize, Mr. White, juror number five,
17 is not present and the indications were that he would
18 have been here between 10:30 and 11. We've been unable
19 to ascertain his whereabouts through telephone calls and
20 we have no information when he's going to be able to get
2 here.

2 It's the concern of the Court that whatever
2 his emergency was it would distract him if he would
2 eventually get here and it would continue to bother
2 him.

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1 Additionally, we've lost an entire morning of

2 trial with the multiple people here, you all, and the

3 Court staff and with the Court's calendar we've been put

4 over now probably another day for this case. For those

5 reasons I'm going to replace Mr. White at this time. We

6 can no longer wait. We've not heard from him directly

7 about his absence.

8 Miss Stacey Peters, alternate juror number

9 one, will move to become juror number five and Mr. White
10 will be released from further jury service and
11 instructed not to discuss this case with anyone until
12 this case is completed.

13 We will attempt to communicate that to

14 Mr. White. He's not to talk to anyone about this
15 case, other juror members or anyone else.

16 All right, ladies and gentlemen, we're going
17 to proceed with a short witness before lunch and then
18 we'll take our luncheon recess. We're going to break
19 into the testimony of Miss Dean to take up this other
20 witness, so we can go ahead and take him up and get him
2 finished quickly.

2 MR. WEHNER: Thank you, Your Honor.
2 Miss Dean calls her brother Gordon.
2 (GORDON DEAN, WITNESS FOR DEFENDANT, SWORN)
2 DIRECT EXAMINATION

2300

1 BY MR. WEHNER:

2 Q Your name, sir, is Gordon Dean?

3 A That's correct.

4 Q And you're miss Deborah Gore Dean's brother?

5 A That's right.

6 Q At one point you resided at the Watergate complex,

7 is that correct?

8 A That is correct.

9 Q Did you own an apartment or a condominium there?

10 A Yes, I owned an apartment there, apartment 1412.

11 Q Did you have occasion to put that apartment on the
12 market?

13 A Yes, I did. After living in the apartment for
14 approximately a year I rented it out for a couple of
15 years and then in the fall of 1986 I listed the
16 apartment for sale.

17 Q What was the name of the real estate agent you
18 listed it with?

19 A I listed it with Susan Withington who was at that
20 time Withington Real Estate.

2 Q Did there come a time where you heard the name

2 Lou Kitchin in relationship to the listing of the
2 apartment for sale?

2 A Yes. I was living in New York City at this time
2 during the fall of '86 and the winter of 1987 and I had

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1 conversations with my sister and she described to me

2 that she was starting a new job or career that would

3 involve her doing interior decoration, antiques --

4 MR. O'NEILL: I object to all of these asides,

5 Your Honor. It's really improper.

6 THE COURT: Just answer the question.

7 Go ahead.

8 BY MR. WEHNER:

9 Q Directing your attention to Mr. Kitchin, did you
10 come to know that he was interested in the apartment?

11 A Yes.

12 Q How did you come to know that?

13 A I came to know that through conversations I had
14 with my sister and subsequently direct conversations

15 that I had with Mr. Lou Kitchin and conversations I had
16 with my sister and with my real estate agent,
17 Susan Withington.

18 Q Based upon these conversations did you have an
19 understanding as to whether Mr. Kitchin was interested
20 in purchasing the apartment?

21 A Yes. In my direct conversations with him he seemed
22 to be interested. We didn't get down to the point where
23 he absolutely said he would buy it at a certain price,
24 but we had gotten to serious enough conversations that
25 we were talking about price.

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1 We started the whole negotiating process that

2 you do when you're selling something and he got serious

3 enough about it that I put him directly in touch with

4 Susan Withington, my broker, and they were having

5 discussions and this went on for some period of time.

6 There was some kind of hang-up relating to the

7 fact that he wanted to buy the apartment in his

8 company's name as opposed to his individual name and so

9 there was apparently a provision by the co-op board of
10 the building that they wanted whoever was going to buy
11 an apartment there to be an individual, not a company.
12 And so that went back and forth, and I
13 instructed Susan Withington to try and work with the
14 board to see if there's any way that they could get
15 around this rule, if there's any way that he could buy
16 it in the company name and we had conversations with him
17 about this and this went on for some period of months.
18 Q Did Mr. Kitchin ever purchase the apartment?
19 A No, he did not.
20 Q Did you ultimately sell the apartment?
2 A Yes, I did.

2 Q Through Miss Withington?
2 A Yes.
2 Q Directing your attention to your relationship with
2 your sister Deborah Gore Dean, did there come an

2303

1 occasion when you had a discussion with her concerning
2 her interest in the antique and decorating business?
3 A Well, specifically when she talked about the job
4 that she wanted to move into and the area she wanted to
5 get into, she told me that she was thinking about
6 starting her --

7 MR. O'NEILL: Objection again, Your Honor.

8 THE COURT: I'll sustain the objection.

9 MR. WEHNER: Sorry, Your Honor.
10 BY MR. WEHNER:
11 Q Did you have a conversation with your sister about
12 that?
13 A I did.
14 Q Approximately when was that?
15 A That was probably January of 1987, approximately
16 January of '87.
17 Q Okay. Without repeating what Miss Dean said to you
18 during that conversation, what was your understanding
19 subsequent to that as to what business interest she had?
20 A My understanding subsequent to that is that she
2 would be in the business of decorating apartments and

2 buying antiques for apartments and working with
2 individuals who wanted to get -- you know, lobbyists or

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2 Congressmen or appointees to the Executive Branch coming
2 to Washington, assist them in locating apartments and

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1 decorating apartments.

2 In fact, I will never forget the name,, she

3 was going to call it Designing Women and I remember that

4 of course because of the tv show. It sticks in my

5 head. And so she was, I guess, contemplating doing that

6 with some other people. And so that was a name that

7 still sticks in my head today.

8 Q Your sister is no longer employed at HUD, of

9 course. Do you know what business she's in today?

10 A Yes, she has a business similar to what I've
11 described, an antiques business called the Proud
12 American, and has had for some number of years.

13 MR. WEHNER: No further questions, Your Honor.

14 THE COURT: All right.

15 MR. O'NEILL: One second, Your Honor.

16 THE COURT: Certainly.

17 CROSS-EXAMINATION

18 BY MR. O'NEILL:

19 Q Mr. Dean, do you recall testifying before a federal
20 grand jury approximately a year ago?

2 A Yes, I do.

2 Q And at that time you were asked a number of
2 questions about your previous addresses.

2 A Yes, I was.

2 Q And do you recall at that time weren't even

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1 familiar with the number of your apartment at the
2 Watergate?

3 A Yes, I do.

4 Q Now, Mr. Dean, you eventually sold this apartment,
5 is that correct?

6 A That's correct.

7 Q And it was sold to someone other than Lou Kitchin?

8 A That's correct.

9 Q These conversations that you had with your sister

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10 in January, 1987, do you know how she was employed at
11 that time?
12 A In addition to her work at HUD?
13 Q No, was she employed?
14 A She was employed at HUD at that time.
15 Q Was she a fulltime employee of HUD in January,
16 1987?
17 A Yes, she was.
18 Q During that period of time do you know whether she
19 was arriving at work at approximately nine a.m. and
20 leaving at ten p.m. on a daily basis?
2 A No, I could not testify to that.
2 MR. O'NEILL: Nothing further.
2 Thank you, Your Honor.
2 MR. WEHNER: Nothing further.
2 THE COURT: Thank you, Mr. Dean. You can step

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1 down.

2 All right, ladies and gentlemen. we'll take

3 our lunch now. we had such a long morning. we'll take

4 our luncheon break and try to get back here at an early

5 hour to hopefully get started with the case again.

6 Don't be concerned about the makeup or the

7 change of the jury now. It's obviously a business

8 decision that I had to make for the Court and I just

9 couldn't tolerate any longer delay. That's why we have

10 alternates.

11 So we'll proceed on the same admonitions as
12 always. You don't talk about this case among yourselves
13 or anyone else, or allow anyone to talk about it in any
14 fashion.

15 we'll be back from lunch at 1:30 and we'll
16 proceed with testimony at that time for the rest of the
17 afternoon.

18 All right. You're released for lunch.

19 (Jury dismissed).

20 THE COURT: will you be spending the rest of
2 the day on direct?

2 MR. WEHNER: Yes, sir. I told Mr. O'Neill
2 that there are two and possibly three additional
2 witnesses, brief, with the exception of one, if that
2 individual testifies, which is Mr. Dorsey. There may be

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1 more extensive cross-examination.
2 THE COURT: So we'll not finish the testimony
3 until probably Tuesday, Monday being a holiday. I just
4 wanted to inform the jury.
5 Do you anticipate rebuttal testimony?
6 MR. O'NEILL: It's difficult - at this time,
7 Your Honor, no. I guess it really depends on when we
8 get to the issues at hand.
9 THE COURT: we'll have to have the charge
10 conference next week.
1 MR. O'NEILL: Yes, Your Honor. If there would
1 be rebuttal, it would be very short.
1 THE COURT: All right, 1:30.
1 (Lunch recess, 12:17 p.m. to 1:30 p.m.)
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AFTERNOON SESSION
2 (Defendant present, Jury out.)
3 THE COURT: Okay, if we're ready to go, you can bring
4 the jury in.
5 (Jury in.)
6 THE COURT: All right, Ladies and Gentlemen, we're
7 about ready to go again. Ms. Dean can resume the stand. We'll
8 continue with the direct testimony of Ms. Dean this afternoon.
9 MR. WEHNER: Thank you, Your Honor.
10 Good afternoon.
11 THE JURORS: Good afternoon.
12 DEBORAH GORE DEAN, DEFENDANT'S WITNESS, RESUMED
13 DIRECT EXAMINATION (Cont'd.)
14 BY MR. WEHNER:
15 Q. Ms. Dean, when you were testifying yesterday, I believe that
16 we had basically stopped during a transition period between
17 housing commissioners, that being from Ms. Wiseman to Ms. Hale.
18 Before we get back into that chronology, there are a couple other
19 areas that I'd like to ask you about.
20 We talked yesterday about your communications with
21 Secretary Pierce, and a previous witness has described the
22 proximity of your office to the secretary's. Would you describe
23 from your own view the office layout, what your proximity was to
24 Secretary Pierce, and how often or how regularly you generally
25 saw him in the time period in question?

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1 A. All right. The physical structure of my office was that it
2 basically was made out of a hallway. They sort of enclosed a
3 hallway, and it sort of created sort of a, like a C shape, and
4 walls were put in.
5 So Secretary Pierce had a rather large office, you
6 know, that had windows, of course, and everything looking out,
7 and then immediately to, it would have been his right, looking
8 toward his front door, to the side of his desk was a door, and
9 that door would lead into my office, which was, it's a nice-sized
10 office but, you know, it was, there were no windows. It had a
11 lot of doors and a lot of wall, but no windows.
12 And there was a door behind me that went into the under
13 secretary's executive assistant's office, and there was a door in
14 front of me that went out into this sort of hallway that went to
15 the front door of the secretary's suite.
16 So it was a waiting area outside my office, and there
17 was a very large waiting area outside the secretary's office.
18 And then he had several secretaries in that waiting area for him,
19 and then there was a receptionist right as you walked through the
20 front two doors.
21 MR. WEHNER: Your Honor, with the Court's permission,
22 can Ms. Dean sketch that layout?
23 THE COURT: Sure.
24 THE WITNESS: Okay. I'll try to give as much detail as
25 I can here. The building curved, you know, it's a curving

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1 building, so everything sort of is on the, like that. And then
2 like that.
3 And Secretary Pierce's office would have been like
4 this. And then he had a secretary who sat here and a secretary
5 who sat here. There was a couch here for people to wait and a
6 chair and a chair. And then this went on through to a dining
7 room that was his dining room and a kitchen, and then the
8 secretary's conference room, that was a very -- that's where he
9 had the big, principal staff meetings and all that.
10 And then there was a, I think there was a, a glass wall
11 that had curtains on it. I know you couldn't see through, but I
12 don't remember there being a, a concrete wall there.
13 He came into the office of the secretary right here,
14 and then there was a small couch here, and there was a
15 receptionist here. Then my office would have been back here.
16 There's the door. And Sherrill Nettles, Nettles-Hawkins sat
17 here.
18 Then there was a door here that went to the under
19 secretary's executive assistant, and actually, this exact
20 configuration is mirrored just the opposite for the under
21 secretary. So he had the same setup as the secretary minus the
22 dining room.
23 And the secretary had a door here. His desk was here,
24 and there was a doorway here that led him into a private area for
25 himself that had a shower and whatever, and then into the under

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1 secretary's room. So he could go to see the under secretary and
2 back through without going all the way around the building to the
3 other side. And he could come in, open the door, and say
4 something to me if I was in there, and I, obviously, could not
5 open the door into his office, but he could certainly open the
6 door to my office anytime and say something.
7 And I could go into the executive assistant to the
8 under secretary's office. But 99 percent of the time, if I had

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9 an appointment with him, I went this way out around this way, sat
10 on the couch, and waited for my appointment.
11 MR. WEHNER: Thank you.
12 Your Honor, with the Court's permission, I'm going to
13 mark that as Dean Exhibit 561 and move it into evidence.
14 THE COURT: 5- -
15 MR. WEHNER: 561.
16 MR. O'NEILL: No objection, Your Honor.
17 THE COURT: All right. 561, the diagram of the
18 secretary's suite, will be admitted into evidence.
19 (Defendant's Exhibit No. 561 was
20 received in evidence.)
21 BY MR. WEHNER:
22 Q. Ms. Dean, during the time period from 1985, actually 1984
23 through 1987, did the secretary come into your office through the
24 door unobserved, as far as you know, by other people?
25 A. Oh, yes. Many times after hours, if he was there, he would

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1 come in through that door.
2 Q. And would you have conversations at that time?
3 A. Of course.
4 Q. Okay. Would you quantify -- I know it's a four-year period,
5 but would you quantify as best you could the term "many"?
6 A. How many conversations when he came through the private
7 door?
8 Q. How many times he came through the private door in that
9 three-and-a-half-year period.

10 A. Thirty times maybe.

11 Q. Okay.

12 A. A lot of times, he'd just open up the door and tell me

13 something and close the door, also.

14 Q. You had a telephone in your office?

15 A. Yes.

16 Q. The secretary had a telephone in his office?

17 A. Yes.

18 Q. How did you reach the secretary on the telephone when you

19 needed to talk to him?

20 A. I always contacted him through his secretary, although I did

21 have a line directly to him. Because I wouldn't know if he was

22 busy, I wouldn't have used it. So I would always go through his

23 private secretary.

24 But he called me on that line often.

25 Q. The line went in both directions?

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A. Yes. He called me on that line often.

2 Q. But he didn't -- so he didn't have any compunction about
3 interrupting you?

4 A. Of course not, no.

5 Q. Okay. You also testified that you communicated by memo.

6 A. Yes.

7 Q. Now directing your attention to the communication by memo
8 and your attention to the Tuesday staff meetings --

9 A. Right.

10 Q. -- did you prepare memos with regard to the Tuesday staff
11 meetings?

12 A. Yes. I, I prepared memoranda to the secretary basically
13 three different times during a week, for instance. One would be
14 for the Tuesday staff meeting, which would be, as we went through
15 yesterday, all the things that would probably come up during that
16 staff meeting or if he had asked --he might have asked me to
17 remind him, you know, say, "Don't forget to tell me that I want
18 to tell Dr. Cook something" or Dr. Baugh something.
19 And I'd say, "All right." And I'd put that in a folder
20 which I would keep on my desk that said PSM, I think it was
21 principal staff meeting, and then I would use whatever was in
22 that folder Monday evening, and Monday evening I would sit down
23 and write out what that was Tuesday, so he would have it on his
24 desk Tuesday morning.

25 Then I wrote him memoranda which were matters requiring

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1 your attention, which were basically things that were in my
2 office that needed to get into his office so that he could make a
3 decision, and those were -- or -- and a lot of times in principal
4 staff meetings, there will be a term that says "I have packages,"
5 and that's because everything that came up to the secretary came
6 in a package, and it would say "Secretary's Correspondence" or
7 "Secretary's Decision," some such package, and all the background
8 from where it had come in the department was in that package.
9 That package was things you need to sign off on.

10 They've been reviewed by your staff, and it's time to sit down
11 and go over them and move them along.

12 Q. Ms. Dean, I'm going to show you what have been marked for
13 identification as Dean Exhibits 545, 535, and 538, and ask if you
14 recognize those as being memoranda that you prepared for the
15 principal staff meetings?

16 A. Yes.

17 MR. WEHNER: Your Honor, with the Court's permission,
18 I'll move those into evidence.

19 MR. O'NEILL: No objection.

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20 THE COURT: All right. If there's no objection,
2 they'll be admitted. Would you say the numbers again, please?
2 MR. WEHNER: 535.
2 THE COURT: All right.
2 MR. WEHNER: 538, and 545.
2 THE COURT: All right.

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1 (Defendant's Exhibit Nos. 535, 538, and
2 545 were received in evidence.)
3 MR. WEHNER: Your Honor, again with the Court's
4 permission, I'm going to publish one of these.
5 THE COURT: Certainly.
6 MR. WEHNER: Thank you, Your Honor.
7 Q. Ms. Dean, we'll see if we can make this readable today.
8 A. All right.
9 Q. Could you read that aloud? Can you read it from there?

10 A. Yes. Memorandum to Secretary Pierce from Deborah Gore Dean,
11 Executive Assistant to the Secretary, and the subject is the
12 principal staff meeting for Tuesday, July 8, 1986, and then:
13 "Don Keuch -- who at that time was the deputy assistant
14 secretary for Management and Administration -- "Don Keuch is
15 prepared to make a presentation about the future needs of the HUD
16 computer system and the proposed \$500 million ADP contract." And
17 that was regarding that we were going to computerize all of the
18 FHA records in the department, and needless to say, it was a huge
19 contract, and there were many complications regarding it. So he
20 was going to give a presentation on that.

21 Then, let's see, "Fair housing amendments. Hearings in
22 the House have been rescheduled for July 17. Attached is a
23 letter to Senator Thurmond, asking for similar (through his
24 staff) hearings in the Senate. We need to request them first.
25 "C. Correspondence. There are no overdue letters, but

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1 annual reports to Congress are really leaving the department
2 late. The executive secretariat is supposed to track reports and
3 report to you when they're late. I have a feeling they are not
4 performing this function.
5 "D. Desegregation Task Force. The task force appears
6 to be doing nothing. They haven't had meetings or provided any
7 leadership to the field task forces. None of the task forces in
8 the regions, for example, have conducted the expected analyses of
9 past PHA occupancy patterns and Title VII and PHA monitoring
10 efforts. They can't do anything without these analyses. This
11 subject will emerge again in Congress. It will be difficult to
12 testify as to our accomplishments in the year."
13 And that was, that was something that the secretary was
14 particularly interested in. Obviously, you can tell it's a
15 public housing desegregation task force, and the problem was that
16 we had to get the PHAs to tell us building by building what their
17 occupancy was by race, as opposed to project by project, because
18 some projects have more than one building in it, and the data
19 would come back that the public housing authority was integrated,
20 but in many cases, it wasn't, and it would be an all, you know,
21 Hispanic building, an all-black building, or an all-white
22 building, and there was no way for us to track it.

23 So we had to go back and break down the project by
24 building code, and that had taken us two to three years just to
25 get permission to ask that question. So that was an important

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1 task, and that's something he was very interested in. It seems
2 very particular, but it was something that he wanted to know.
3 And then, "FHEO," which is Fair Equal Housing
4 Opportunity. "Staff is low in the field. Bill Wynn -- who was
5 running the office at the time -- says he was not given the
6 authority to lift the hiring freeze in the field area, though
7 other assistant secretaries were given permission by Assistant
8 Secretary Tardy. As a result, 5 percent of all openly Title VIII
9 cases have been open over 90 days -
which is contrary to the
10 law, which is why I'm pointing that out -
a backlog we'll never
11 make up. The hiring freeze is now over, and the field office
12 should move quickly to replace FHEO staff before the fair housing
13 groups begin complaining about our excessive delays."
14 And then the last one is, "FHA study. John has
15 scheduled a meeting for Thursday," John being John Knapp, who was
16 our general counsel who was doing the FHA study.
17 Q. Directing your attention back to E, I believe you said the
18 second sentence said 5 percent. In fact, it says 53 percent?
19 A. I'm sorry, 53 percent of all Title VIII cases have now been
20 open over 40 days."
2 Q. Now this memorandum reflects several different items that
2 you're reporting back to the secretary regarding?
2 A. Well, those were actually principal staff meeting, so
2 basically what I was giving him were some things of interest that
2 he had so that when the assistant secretary for FHEO was there

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1 and the assistant secretary for Administration, if that hiring
2 freeze was to be lifted to get those people out in the staff,
3 then he knew at that moment he could turn and say to Assistant
4 Secretary Tardy, "Lift the hiring freeze," if that's what he
5 wanted to do, because everybody would be in the room together.
6 So it was a good opportunity for him to make the
7 decisions that he needed. So most of them were reminding and
8 catching up on those areas.
9 Q. You also mentioned that you would on occasion report to him
10 on specific items that were of interest; is that correct?
11 A. Yes. Well, I always tried to write memoranda to the
12 secretary if it was something he asked me to look into.
13 Q. I'm going to show you what I've marked for identification as
14 Dean Exhibit 501 and ask you if you recognize that?
15 A. Yes. This is one that's matters requiring your attention.
16 Q. Who wrote that?
17 A. I did.
18 Q. And was that kept in the regular course of business?
19 A. Absolutely.
20 Q. Was it in the regular course of business for you to prepare
2 and keep those type of memos?

2 A. Yes. I wrote him one on a regular basis.
2 Q. And was that particular one written on or about the date it
2 reflects?

2 A. Yes. It would have been -- well, it would have been written

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1 the night before by me and typed and delivered to him that day.

2 MR. WEHNER: I move the admission of that exhibit into
3 evidence.

4 MR. O'NEILL: No objection, Your Honor.

5 THE COURT: All right. No objection, the exhibit is
6 admitted.

7 (Defendant's Exhibit No. 501 was
8 received in evidence.)

9 MR. WEHNER: With the Court's permission, I would like
10 to publish this and have Ms. Dean read it.

11 THE COURT: 501?

12 MR. WEHNER: It's Exhibit No. 501, Your Honor. I'm
13 sorry, Judge, my eyes are, I think, giving out on me.

14 Q. Ms. Dean, I'm not sure you're going to be able to read this
15 from the monitor.

16 A. Is it possible -- is there another copy of it maybe that -

17 Q. That's what I was looking for. I didn't see one. If you
18 could step down, with the Court's permission, and read from the
19 monitor?

20 A. Is that it?

2 Q. Or right here is fine.

2 A. Oh, that's terrific. All right. To Secretary Pierce -
2 well, also, the notes on the side are -- oftentimes on these
2 memos, there will be notes written on the side, and that is
2 because the, the ones with the principal staff meeting, he took

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1 those, and he used them, and he wrote his notes on them and then
2 he kept them. I never got them back.

3 But matters requiring your attention I often got back

4 with a note that said, "See me." So what I would do is I would
5 then take the memorandum with me back into his office, and he had
6 a copy, and I would then write whatever decisions he was making
7 along the sides. So if he would make a comment or a decision,
8 that would be my note on, on that. So these are my notes to his
9 decisions. All right.

10 "Dave Maxwell. Mr. Maxwell is still very-
11 interested --" Mr. Maxwell was the head of the Federal National
12 Mortgage Association, and HUD has oversight responsibility for
13 Fannie Mae.

14 "Dave Maxwell. Mr. Maxwell is still very interested in
15 meeting with you. His office called to say that he is free
16 anytime on Wednesday, December 17, or anytime up until 4:00 p.m.
17 on Thursday, December 18. He wants to discuss the future of FNMA
18 and give you his position on REMICS --" Real Estate Mortgage
19 Investment Conduits, as I remember. "Mike Dorsey returns on
20 Thursday morning and has been very busy on this issue."

2 Mr. Dorsey was general counsel. "He met with OMB and the U.S.
2 League of Savings Institutions, FNMA, and MBA," the Mortgage
2 Bankers Association. "Everyone says to let FNMA go on REMICS
2 except OMB, which wants a leverage to privatize, and the U.S.
2 League of Savings Institutions, which feels that smaller

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1 institutions will not be able to compete fairly against FNMA."

2 And the note from the secretary says, "After the 1st,"

3 which means he'll meet with David Maxwell after the first of the

next month.

5 Q. Without reading the remainder of that paragraph, would you
6 go to paragraph 3 --

7 A. Happily.

8 Q. -- and read paragraph 3, so we don't take all afternoon
9 reading?

10 A. Okay. All right, just on paragraph 2, those mark-offs there
11 about Secretary Bowen, that would have meant that the secretary
12 had already taken care of that. No need to discuss it with me,
13 he's already dealt with it himself.

14 All right, "Senator Grassley (Iowa) would very much
15 like to speak with you as soon as possible. He would like to ask
16 you for \$500,000 from your discretionary fund (special projects)
17 to undertake a rehabilitation project in Des Moines. Iowa has
18 exhausted its rental rehabilitation money. If you are inclined
19 to do this, \$300,000 seems to be sufficient. That would double
20 their rental rehab money. He wants to call you when you'll be in
21 or asks that you call him."

22 And the secretary's decision was to send \$225,000.

23 Q. I'm going to direct you to page 2 of that memo, at the
24 bottom, and ask you to tell me what the last entry is.

25 A. Well, obviously, we did discuss mod rehab.

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1 Q. Do you have a specific recollection of that- conversation?

2 A. Yes. Senator Grassley was also interested in -- or the
3 secretary brought up sending Senator Grassley mod rehab as well.
4 The senator had spoken to the secretary about visiting Iowa
5 during the reelection campaign, his reelection campaign, and the
6 secretary wanted to know if there were any mod rehab units
7 available to also send to Senator Grassley.

8 Q. And was that your note to yourself to follow up on that
9 issue, or how did that note come to be written?

10 A. Well, the secretary obviously told me to do something, and
11 it regarded mod rehab, so I was not to forget the mod rehab
12 issue. At the time, I would have remembered it very clearly.

13 Q. Would you read No. 7?

14 A. "Bob Tuttle wants to discuss the under secretary position.
15 New names are appearing. Senator Heinz has a new candidate. His
16 resume is attached."

17 Q. Do you know who Bob Tuttle was?

18 A. He was the head of Presidential Personnel at the White
19 House.

20 Q. Thank you. would you return to the stand?

2 Now, Ms. Dean, directing your attention to other duties
2 that you were assigned --to which you were assigned by the
2 secretary, were you assigned duties that dealt with
2 communications with the White House?

2 A. Yes. The, every department under the Reagan Administration

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1 had what they call a white House liaison, and that was the person
2 who was in charge of all the presidential hiring in the Schedule
3 Cs, which is the political hiring of people back and forth.

4 And then the Office of Cabinet Affairs decided they
5 also wanted a white House liaison, and they used to call them
6 chiefs of staff. So every department had to have a chief of
7 staff that then sort of mirrored the White House setup. So the

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8 President had a chief of staff, the secretary was supposed to
9 have a chief of staff, and they asked us to appoint someone who
10 did that, and Secretary Pierce appointed me to do that, but we
11 never used that title, because it was a little bit too much.
12 Q. Ms. Dean, did you have occasion to communicate with the
13 white House in terms of moderate rehabilitation allocations from
14 time to time?
15 A. Yes.
16 MR. WEHNER: With the Court's permission, I'll move
17 into evidence Dean Exhibit 161.
18 MR. O'NEILL: No objection, Your Honor.
19 THE COURT: All right. No objection, 161 is admitted.
20 (Defendant's Exhibit No. 161 was
2 received in evidence.)
2 MR. WEHNER: And I will publish it to the jury.
2 THE COURT: All right.
2 BY MR. WEHNER:
2 Q. would you please describe, without getting into specific

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1 conversations, your understanding of what led up to the writing
2 of this memo?
3 A. The white House would have requested from us any and all
4 information that we had regarding fundings that were going out of
5 the department at this time.
6 Q. was there significance to that particular time?
7 A. Do you have the year?
8 Q. I believe the date was September 18, 1986.
9 A. Well, yes, of course. The September 18, 1986, was right

10 before the '86 elections, and that was the year that the
11 Republicans lost the Senate, and there was a, a very active
12 campaign by the President to campaign in different states for the
13 senators who were up for reelection that were Republicans, and he
14 traveled extensively during that time and would often ask all of
15 the departments basically what monies are going out.
16 And we were also, of course, directed to send monies to
17 certain states during that time period as well. And these are
18 basically which things do you plan to be announcing at the end of
19 your fiscal year? And perhaps the President would like to
20 announce it himself, as opposed to your sending it out.
2 Q. would you read the first paragraph, please, aloud?

2 A. Yeah. "Per your request, please find listed below all
2 initial selections for Section 202, moderate rehabilitation
2 allocations, and UDAG selections for the above-referenced states.
2 The UDAG selections will be publicly announced on September 26,

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1 1986. The section 202 selections will be publicly announced by
2 September 29, 1986. There is no formal announcement planned for
3 the moderate rehabilitation allocations. However, these
4 announcements can be made earlier if you so choose in specific
5 instances."
6 Q. And would you read the next paragraph, one sentence, please?
7 A. "The Department of Housing and Urban Development has
8 committed the following amounts to be used in the states of:"

9 Q. And then the memo goes on to list states and amounts, does
10 it not?
11 A. Yes. And if I may elaborate a little on the first
12 paragraph, where it says that the announcements can be made
13 earlier if you choose in specific instances, on that particular
14 one, I recall very specifically what had happened was that the
15 white House had asked us to make certain commitments in the
16 Moderate Rehabilitation Program at that time in that year.
17 However, we did not have letters in from the public housing
18 authorities requesting that number of units, and so they couldn't
19 announce it until we had all the paperwork in to do it, and so
20 they had, they had to wait on some of those.
21 So in other words, the ones that they knew about they
22 couldn't announce, because everything wasn't in the pipeline yet.
23 Q. Ms. Dean, I'd like to back up from that September '86 period
24 of time back to the period of time, approximately the
25 September-October range of the fall of 1983 and ask you if you

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1 recall who the assistant secretary of housing/federal housing
2 commissioner was?
3 A. In September of '86?
4 Q. '83. We're backing up three years.
5 A. Philip Abrams.
6 Q. Do you know a person by the name of Janet who worked for
7 Mr. Abrams ?
8 A. Well, Janet Hale was the deputy assistant secretary for
9 Policy and Budget --

10 Q. Okay.
11 A. -- under Mr. Abrams's office.
12 Q. I'm going to show you three documents, marked Dean Exhibit
13 857, 864, and 865, and with regard to 857, I ask you without
14 reading the document, do you recognize the handwriting?
15 A. Yes.
16 Q. Okay, whose handwriting is it in?
17 A. That's Mr. Abrams's handwriting.
18 Q. Do you have knowledge from your experience at HUD as to how
19 records are kept?
20 A. Yes.
21 Q. Okay. And how was this record kept?
22 A. This particular record, this particular piece of paper right
23 here was in the office of the deputy assistant secretary for
24 Policy and Budget, where it was sent, and was kept in those
25 records until the Independent Counsel subpoenaed it, and then

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1 this, of course, has been microfiched from the Independent
2 Counsel.
3 Q. Okay. Was -- based on what you see in the memo, was it
4 written in the regular course of business?
5 A. Yes.
6 Q. And was it in the regular course of business to write such a
7 memo?
8 A. Yes. Mr. Abrams often communicated by notes such as this.
9 MR. WEHNER: With the Court's permission, I'll move the

10 introduction of Dean Exhibit 857.
11 MR. O'NEILL: Objection, Your Honor.
12 THE COURT: All right, let me see it.
13 MR. WEHNER: Could we approach, Your Honor?
14 THE COURT: Yes.
15 (Bench conference on the record.)
16 THE COURT: Okay. The objection is this is not hers?
17 MR. O'NEILL: It's not hers. She can't say whether it
18 was kept in the regular course of business. She doesn't know
19 whether it was made in the regular course of business. Not in
20 the wildest dreams can that be a business record.
2 MR. WEHNER: She just testified those were the facts.

2 She was the executive assistant.
2 MR. O'NEILL: She was not the executive assistant in
2 September of 1983, nor did she testify to that.
2 MR. WEHNER: She's also, Judge, testified as to how the

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1 document arrived in her possession in terms of what her
2 understanding is, No. 1. No. 2, she's been able to identify the
3 handwriting, which she's permitted to do specifically under
4 federal rules, and she's identified all the parties.
5 THE COURT: who did she say this was directed to?
6 MR. WEHNER: Janet.
7 THE COURT: Janet?
8 MR. WEHNER: Janet Hale.
9 THE COURT: who worked in the Housing?
10 MR. WEHNER: worked for Abrams.
11 THE COURT: Yes.
12 MR. WEHNER: But significantly, Judge, the significant
13 part of the admissibility is really it's in Abrams's handwriting,
14 and he was in that position, and you see the significance of what
15 he says.
16 THE COURT: I can't read his handwriting, I'm sorry.
17 MR. WEHNER: My reading of it is, "Current regs require
18 dollars to PHA for NOFA required for Puerto Rico deal. Knapp
19 opinion says no different than Section 8 housing dollars to
20 specific projects, as we have done for past two years."
2 Your Honor remembers the Knapp opinion was an opinion
2 testified to by Maurice Barksdale that the funds were totally
2 discretionary, that the funding for mod rehab was totally
2 discretionary. This is Abrams, arguably, referring to the same
2 opinion and confirming the policy of HUD vis-a-vis how the

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1 programs operated. And Your Honor pointed out yesterday that it
2 wasn't clear whether it was a legal or illegal process, but it's
3 certainly from records at HUD that they were making
4 project-specific allocations based upon a legal opinion.
5 THE COURT: Ms. Dean says she can't identify this under
6 the rules as an official business record? It wasn't directed to
her?
8 MR. O'NEILL: How could she say it was made in the
9 official course of business? Philip Abrams is the person to
10 call, Judge.
11 THE COURT: I'm going to sustain the objection. I
12 think he's right. You've got to call somebody with personal
13 knowledge of that or the custodian of HUD who had that record.
14 You might be able to do that, the custodian of HUD who produced

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15 that originally to Independent Counsel, maybe you could call him
16 and say it was found in the records of HUD.
17 MR. WEHNER: Who was it produced to originally by
18 Independent Counsel?
19 MR. O'NEILL: You can call somebody from the
20 Independent Counsel. It won't get it in.
21 THE COURT: You'd have to have somebody, I said, from
22 HUD.
23 MR. O'NEILL: Oh, from HUD, right, to produce it.
24 MR. WEHNER: That's my question. Who produced it?
25 MR. O'NEILL: I guess you'd have to get somebody from a

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1 HUD records section to say that's an official record.
2 MR. WEHNER: who did?
3 MR. O'NEILL: I have no idea right now.
4 THE COURT: Because the number on it is 100 and
5 whatever number. I can't read the numbers.
6 MR. O'NEILL: The Bates stamp.
7 THE COURT: The Bates stamp is 1,506,534.
8 MR. WEHNER: One of the bases for the admissibility for
9 all of those Mitchell notes was questionable at best,
10 identification of handwriting.
11 THE COURT: well, it was the handwriting plus the
12 tracing, keeping of the notes in the course of his business by
13 his partner and then through his daughter, through the FBI, who
14 picked them up. If you want to call some people from HUD to
15 identify this or somebody in his office who worked for Abrams, I
16 mean, you could probably get it in.
17 MR. WEHNER: why is my testimony from Ms. Dean, who was
18 employed there at the time, any less compelling than the
19 testimony regarding Mitchell documents?
20 THE COURT: well, I think it hasn't been identified by
2 her as knowing what Mr. Abrams did or did not in keeping these
2 records or how it was kept in the HUD records. I think it is a
2 HUD record, but I think the government has made an objection.
2 You have to call Abrams or call someone else in his office or
2 some custodian who can identify them.

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1 MR. WEHNER: we'll do that, Judge. But I think that
2 the record is clear that Ms. Dean did testify that it was kept in
3 the regular course of business, and it was in the regular course
4 of business to keep this kind of document.
5 THE COURT: I don't know where she had that knowledge
6 based on the document that went to Ms. Hale from Mr. Abrams, not
7 to her.
8 MR. WEHNER: Judge, a business record custodian rarely,
9 if ever, knows --

10 THE COURT: I understand, gets the document directly.
11 But she's not the custodian of the records. That's why I said
12 you can call somebody from HUD. I'll sustain the objection at
13 this time.
14 (End of bench conference.)
15 BY MR. WEHNER:
16 Q. Ms. Dean, would you look at Dean Exhibit 864?
17 A. Yes.
18 Q. And without reading the document, could you describe the
19 document? without reading it aloud, I should say. You're
20 clearly entitled to read the document.

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21 A. Yeah. It is a letter from the --
22 MR. O'NEILL: Objection, Your Honor
23 THE WITNESS: It is a letter.
24 MR. O'NEILL: Objection, Your Honor.
25 THE COURT: You can say it's a letter, that's all, but

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1 I don't know what the next question is.
2 THE WITNESS: It is a letter.

BY MR. WEHNER:

4 Q. It is a letter. To whom is the letter addressed?
5 MR. O'NEILL: Objection, Your Honor. It's not in
6 evidence yet.
7 THE COURT: I understand. I'll let him identify as to
8 whom it's addressed and who it's from. Go ahead.

BY MR. WEHNER:

10 Q. To whom is it addressed?
11 A. To Mr. Philip Abrams, General Deputy Assistant Secretary.
12 Q. And from whom was it sent, according to the record?
13 MR. O'NEILL: For the record, Judge, I'll continue to
14 object when referring to the document.
15 THE COURT: I'll just let her identify it. Go ahead.
16 THE WITNESS: Mr. John Ritchie, who is the executive
17 director of the Virginia Housing Development Authority.
18 THE COURT: Okay.
19 BY MR. WEHNER:
20 Q. From looking at the document itself, can you determine
21 whether that record was kept in the regular course of business of
22 HUD activities?
23 A. Yes.
24 Q. And how do you know that?
25 A. Because it's an application from the housing authority to

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HUD.

2 Q. And do you know if the letter itself was written or can you
3 tell from the face as to whether it was written at or about the
4 time that it was prepared?
5 MR. O'NEILL: Objection, Your Honor. That's pure
6 speculation.
7 THE COURT: All right. Bring it up to me, and let me
8 look at it and see what it's about. Would you bring it up?
9 MR. WEHNER: Sure, Judge.
10 THE COURT: Counsel, come up, please.
11 (Bench conference on the record.)
12 THE COURT: And the objection again is just that she
13 can't identify this as a record kept in the normal course of
14 business at HUD?
15 MR. O'NEILL: Correct, Judge.
16 THE COURT: So he's going to have to bring in all of
17 these people? We'll be here an extra week.
18 MR. WEHNER: It's going to be a lot longer than that,
19 Judge. Judge, these documents are from the HUD files. They're
20 authentic, and they're business records, and I want the record to

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21 reflect that we have not objected and have not required
22 Mr. O'Neill to pull in custodian after custodian after custodian
23 for business records.
24 THE COURT: I understand. I just want to know where
25 we're going.

1 MR. O'NEILL: Can I state something for the record,
2 Your Honor? As you know, weeks before trial, we turned over all
3 our documents and we had a hearing. At that time, Mr. Wehner
4 stipulated to the authenticity of all the documents. Later he
5 reneged on most of them. Then we came back to trial, and he
6 again stipulated to them.
7 In the meantime, we had self-authenticated each and
8 every document we intended to use, and we brought them forth
9 under legal theories, Judge.
10 I've let in, if you'll look at the defense exhibits so
11 far tendered on the defense case, there's ones from PHAs around
12 the country that I had no objection to. But if we're going to
13 start doing every handwritten note matter, first of all, I've
14 never seen this one yet, because it wasn't turned in to me, so I
15 don't know what's in this one.
16 The previous one was a handwritten document. I don't
17 know what that --it referred to Puerto Rico. It didn't say 610
18 units to go to Puerto Rico. Lots of units have been going to
19 Puerto Rico.
20 THE COURT: This one, just for the record, I'll note
21 has some handwritten notes on it for funding for various years
22 and holding for other years, et cetera.
23 I'm going to sustain the objection. I'm afraid you'll
24 have to call in either Ritchie or someone in Abrams' office who
25 can identify this handwriting.

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1 MR. WEHNER: That's what we're going to do, Judge.
2 This case is going to go weeks.
3 THE COURT: I understand, but their objection is well
4 taken. I don't think you can put in documents that she didn't
5 handle or see or do something else and there's other people's
6 handwriting, and want to know what they say and what they mean
7 and theorize what the notes are.
8 MR. WEHNER: You know, Judge, do you object to it if
9 the handwriting is out? I mean, where is the two-way street we
10 kept hearing from you about?
11 THE COURT: That's not part of the debate.
12 MR. O'NEILL: Let's stop playing games here.
13 with the handwriting out, I would have no objection,
14 but let me just state, Judge, for the record, this isn't even a
15 HUD document.
16 THE COURT: I understand.
17 MR. O'NEILL: Okay. We did not put in documents from
18 assorted PHAs, because we didn't get stipulations. They refused
19 to stipulate as to the local PHAs.
20 THE COURT: This is from a PHA.
2 MR. WEHNER: If you look back in the record and look
2 and see how those documents came in, Bob, you look in the record.
2 MR. O'NEILL: You will see no local PHAs.
2 THE COURT: You can all, if you want to put it in
2 without the handwriting if he agrees, fine. If not, you can just

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call the appropriate custodian.

2 MR. O'NEILL: Absolutely. Without the handwriting is
3 fine.

4 MS. SWEENEY: Your Honor, just for the record, I mean,
5 the document is from 1983. It's before Ms. Dean is even
6 executive assistant. I mean, we're going to be all week if we're
7 putting in -8

MR. WEHNER: It's going to be a long three weeks.

9 THE COURT: Well, that's a different objection. You're
10 making an objection about relevancy to the matter?

11 MR. WEHNER: Let's talk about relevancy for a minute,
12 Judge. This is addressed to Phil Abrams, a presidential
13 appointee, requesting specific mod rehab units that was
14 ultimately directed by him to go to that specific unit. It says
15 Jefferson Park Apartments, 378. It doesn't get any more relevant
16 than that.

17 THE COURT: It's from the housing authority, right?

18 MR. WEHNER: To Mr. Abrams. And he funded it, and the
19 evidence is going to be that it was for his business partner.
20 Now it doesn't get -- their theory of the case is you can't do
21 specific projects. It doesn't get any more relevant than this.

22 THE COURT: I think the idea is if he wants to
23 stipulate to the document without the handwriting, I don't know
24 what you're going to be able to prove about the funding without
25 the handwriting, whatever evidence you have that they were

1 actually funded or not. But it seems to me you need to get
2 Abrams or somebody else in here to talk about it.

3 MR. WEHNER: Abrams will take the fifth. He's been
4 notified he's a target, just like every other witness we'd like
5 to call.

6 We'll find a way to get it in, Judge. It's going to
7 take a long time.

8 THE COURT: Is Mr. Ritchie around?

9 MR. WEHNER: Judge, I don't know. I didn't anticipate
10 a lot of hearsay objections. The documents came out of the
11 Independent Counsel's own files that were clearly HUD business
12 records.

13 MR. O'NEILL: Judge, we seem to make a difference
14 between discovery, and we seem to hear the same things over.

15 THE COURT: If you want to stipulate to letting it in
16 without the handwriting, that's one thing. If you don't -

17 MR. O'NEILL: For the record, I'll stipulate to it
18 without the handwriting.

19 THE COURT: All right.

20 (End of bench conference.)

2 MR. WEHNER: Your Honor, with the Court's permission,
2 I'll move the admission of Dean Exhibit 864 as described, and I
2 will not publish it to the jury.

2 THE COURT: All right.

2 MR. O'NEILL: No objection to that, Your Honor.

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1 THE COURT: I appreciate that. It will be let out,
2 it's 864 will be admitted as redacted.

(Defendant's Exhibit No. 864 was

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4 received in evidence.)
5 BY MR. WEHNER:
6 Q. Ms. Dean, would you please read the first paragraph of that
7 letter aloud as well as the second project name?
8 A. Yes. "Please accept this as our application for Section 8
9 moderate rehabilitation funds in the amount of \$4,056,824. These

10 funds will be assigned to 800 two-bedroom units as follows:"
11 Then the second project is "Jefferson Park Apartments, Midlothian
12 Turnpike, Richmond, Virginia. Number of units, 378. Contract
13 authority, \$1,902,580."
14 Q. Ms. Dean, I'll show you what I've marked as Dean Exhibit 865
15 and ask if you can identify that, please?
16 A. Yes.
17 Q. What is it?
18 A. It is a note from Mary Burke, who was the executive
19 assistant to Philip Abrams, then the assistant secretary to Ross
20 Kumagai, who was the head of the Funding Control Division.
2 Q. And who was -- Mr. Kumagai was head of the Funding Control

2 Division?
2 A. Right. He did the, he basically wrote the check.
2 Q. In whose handwriting is the note?
2 A. In Mary Burke's.

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1 Q. Are you familiar with her handwriting?
2 A. Yes, I am.
3 Q. And how are you familiar with her handwriting?
4 A. I've, I worked with Mary, and I've -- she sent me notes, and
5 I read them, and I got to know her handwriting, and I've seen
6 plenty of things written by her.
7 Q. When you say "plenty," about how many would you mean?
8 A. Fifty.
9 Q. Do you know if documents such as those are kept by HUD in

10 the regular course of business?

11 A. Yes. They would have been kept in Mr. Kumagai's office as

12 his record of who informed him to fund something.

13 Q. And was it a regular course of business for that document to

14 be prepared?

15 A. Yes. Mr. Kumagai kept anything that came into his office

16 regarding a project.

17 MR. WEHNER: Your Honor, with the Court's permission,

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18 I'll move the admissibility of Dean Exhibit 865.

19 MR. O'NEILL: Same continuing objection.

20 THE COURT: Same objection? All right, I'm going to

2 sustain the objection at this time. Counsel can look it over

2 later again perhaps.

2 MR. WEHNER: Can we approach, Judge?

2 THE COURT: All right.

2 (Bench conference on the record.)

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1 THE COURT: All right, 865 is a handwritten note on
2 Housing stationery from, it looks like, Mary Burke, "hand carry"
3 on it, all in handwriting, to Ross Kumagai: "Please -- I can't
4 read the next word, something -- the attached -- something -- two
5 mod rehab request." And she wrote down specific projects, "207
6 Jacksonville, 378 Virginia. Thanks." "Phase I" on the bottom.
7 Dated 10-7, no year.

8 MR. WEHNER: I'd ask Your Honor to reconsider the
9 objection based on the sufficiency of Ms. Dean's testimony as to,
10 A, the business records exception to the hearsay rule, and B, as
11 to the identification of the handwriting in the document.

12 THE COURT: The issue really is, it seems to me,
13 putting these records in from someone who worked in the agency,
14 who you say could be qualified as a custodian of records for the
15 agency basically because she communicated with this person, she
16 recognizes her handwriting and understands that records of this
17 type are kept in Mr. Kumagai's office.

18 I mean, it seems to me you don't have to call, you're
19 saying, anyone who's a recognized custodian of records who said
20 they served the records and produced this as the type of record
2 they keep in the normal course of business or anyone who authored
2 the record. You can put it in through your witness, that's your
2 position, because she recognizes the handwriting and says this is
2 the type of record she believes is kept in the normal course of
2 business?

1 MR. WEHNER: No, sir. My position is that when you
2 have a document that is produced, that appears, that purports to
3 be a HUD document on its face, that the witness, regardless of
4 whether it's the defendant or another witness, can testify that
5 it was in the regular course of business, it is the type of
6 document to be generated, and it was in the regular course of
7 business for this type of record to be maintained, then you have
8 satisfied the premise for admissibility. And you additionally
9 have the witness testifying that she recognizes the handwriting.
10 There's no other basis on which to exclude it except
11 relevance. There's no question about its authenticity, and the

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12 counsel hasn't raised an issue as to whether it's a real
13 document. The issue becomes one of relevance.
14 THE COURT: well, the issue for me is whether it's the
15 right witness that's identifying these records.
16 MR. WEHNER: Judge, there is no custodian of records
17 that I know of that's ever testified that is limited to having
18 personally seen the document before. Custodians come in and
19 testify all the time, bank custodians, that these records are
20 kept in the regular and ordinary course of business. They don't
21 know a thing about them, probably have never seen them before.
22 THE COURT: I agree with that, but I think you have to
23 have someone to identify them in that kind of position, who says
24 they went to So-and-so's office and pulled out these records.
25 I'm just looking at the, under 28 U.S.C. 1732. If any

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1 business has kept in the regular course of business --or
2 government agency -- kept or recorded any memorandum, writing -3
which this would be -- of any occurrence or event, and in the
4 regular course of business has caused the same to be recorded,
5 photocopied. That's what this is.
6 I don't think that's going to apply. I tell you what
7 I'm going to do. At this time, I'll stay with the ruling. I'll
8 look at it again as time goes on. I'm not convinced that these
9 are still identified as business records appropriately by her
10 identification of them alone. But I'll look at them at the end
11 of the night over recess and come back to them.
12 MR. WEHNER: Thank you, Your Honor.
13 (End of bench conference.)
14 BY MR. WEHNER:
15 Q. Ms. Dean, do you recall testimony from witnesses from the
16 Independent Counsel regarding a project in Santa Clara?
17 A. Yes. I believe Ms. Hastings testified that that was one of
18 the one or two times she could recommend my having involvement in
19 a mod rehab project.
20 Q. I'm going to show you what I've marked, I'm going to show
2 you what I've marked for identification as Dean Exhibit 559, and
2 I will move its admission into evidence at this time.
2 MR. O'NEILL: No objection.
2 THE COURT: All right, 559 will be admitted.
2

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(Defendant's Exhibit No. 559 was
2 received in evidence.)
3 MR. WEHNER: with the Court's permission, I will
4 exhibit this to the jury.
5 THE COURT: All right.
6 BY MR. WEHNER:
7 Q. Ms. Dean, would you just come down and read the first
8 paragraph of that, please, if you can? That's a hard one.
9 A. It's from Community Housing Developers to Secretary Pierce.
10 "Dear Mr. Secretary:
11 "The opportunity for hundreds of battered women and
12 their children to overcome the trauma of domestic violence and
13 begin a new life as productive members of our society rests in
14 your hands. The ability of our organization to implement a very
15 unique and desperately needed program hinges on 19 Section 8 mod
16 rehab certificates."
17 MR. WEHNER: would you retake the stand, please?
18 Your Honor, at this time, I'll move the admission of
19 Dean Exhibit 560.
20 MR. O'NEILL: No objection to 560, Your Honor.
21 THE COURT: 560 received.

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22 (Defendant's Exhibit No. 560 was
23 received in evidence.)
24 MR. WEHNER: 394.
25 MR. O'NEILL: 394, no objection.

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1 THE COURT: 560 and 394 are admitted.
2 (Defendant's Exhibit No. 394 was
3 received in evidence.)
4 MR. WEHNER: 395.
5 MR. O'NEILL: No objection to 395.
6 THE COURT: 395 will be admitted.
7 (Defendant's Exhibit No. 395 was
8 received in evidence.)
9 MR. WEHNER: And 396.
10 MR. O'NEILL: No objection to 396.
11 THE COURT: 396 will be admitted.
12 (Defendant's Exhibit No. 396 was
13 received in evidence.)
14 BY MR. WEHNER
15 Q. Now, Ms. Dean, do you recall discussing this particular
16 request with Secretary Pierce?
17 A. He sent me a note about the project.
18 MR. WEHNER: I will exhibit to the jury Dean Exhibit
19 394.
20 THE COURT: All right.
2 BY MR. WEHNER *
2 Q. Is that in Secretary Pierce's handwriting?
2 A. Yes.
2 Q. And would you read it, please?
2 A. "To: Debbie. Look into this and draft a response. If we

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1 can, let's help her, but we certainly cannot help her on an
2 annual basis ad infinitum. S.R.P., Jr."
3 Q. Did you have an understanding of what Secretary Pierce meant
4 by "ad infinitum"?
5 A. Well --
6 Q. Did that mean he couldn't help forever?
7 A. Well, I think it was we would like to help her this one
8 time, but it shouldn't be a regular program of the department,
9 but naturally helping her this one time meant 15 years of help,
10 because the help went on for 15 years.
11 Q. Now was subsequently a letter sent regarding this project?
12 A. Yes.
13 MR. WEHNER: And I will exhibit Dean Exhibit 396, Your
14 Honor.
15 THE COURT: All right, 396.
16 BY MR. WEHNER:
17 Q. And, Ms. Dean, I'd ask you to read that, please.
18 A. To Ms. Amy Schiff: "Thank you for your letter regarding
19 W.A.T.C.H. and the need for moderate rehabilitation assistance in
20 Santa Clara County. The department is unable to declare that an
2 individual project can or should be funded. Instead, we provide
2 the local housing authority with the assistance, and they choose
2 the recipient projects. I have authorized -- and I can't see it,
2 is it, other way --20 units of moderate rehabilitation to be
2 sent to the Santa Clara housing authority. However, I cannot

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1 guarantee that the W.A.T.C.H. program will receive the
2 assistance.
3 "Good luck with your project and God bless. Very
4 sincerely yours, Samuel R. Pierce, Jr."
5 Q. Now did Secretary Pierce direct that this Mod Rehab Program
6 be funded?
7 A. If it was a good program and if the Office of Housing had
8 looked --if the area office had looked into it and if it went
9 back to him that it could be done, then yes, but only under those

10 conditions.
11 Q. Now the letter from Secretary Pierce, your Exhibit No. 396,
12 reflects the department is unable to declare that an individual
13 project can or should be funded, does it not?
14 A. Yes, it does.
15 Q. And yet these units were sent to that housing authority in
16 the exact same number that they had requested.
17 A. That's correct.
18 Q. Was that a common occurrence during your tenure at HUD?
19 A. Absolutely.
20 Q. And why was that a common occurrence?
21 A. Well, Secretary Pierce obviously believed that what they

2 were doing was a good effort, and he would have liked to have
2 seen them funded, but he couldn't fund them directly. He could
2 only fund the housing authority.
2 So he provided the housing authority with the means to

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1 help them if they wanted to.
2 Q. Now --
3 A. That was all he could do.
4 Q. why would Secretary Pierce not send them 15 units? why
5 would he send them, if you know, why would HUD send them the
6 precise amount of units to the housing authority that was
7 requested in the project?
8 A. well, the letter to, to the secretary requested 19 units,
9 and he sent 20 units, so it didn't exactly match up, but

10 certainly the housing authority had the money to fund the project
11 if the project was what the housing authority wanted to do. They
12 had the money to do it.
13 Did I miss, did I miss your question?
14 Q. No. Now did you or, to your knowledge, Secretary Pierce
15 ever call a local housing authority and direct them, direct the
16 local housing office to do any project?
17 A. Secretary Pierce never did.
18 Q. Did you?
19 A. I never did.
20 Q. Now, Ms. Dean, I believe we finished your testimony
21 yesterday with some discussions regarding the leaving of
22 Ms. Wiseman and the arrival of Ms. Hale.
23 A. Correct.
24 Q. Picking up in that period of time, which I believe you
25 testified to was in 19-, what, 1985? Correct me if it was late

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•84-1985.

2 A. I just cannot recall at this moment.

3 Q. Okay.

4 A. See, Mr. Demery came in October of '86. Mr. DeBartolomeis,
5 I believe, was March or April of '86, so -- and Ms. Hale was
6 there for at least, I would say, six months, so I'd say mid-'85.

7 MR. WEHNER: Okay. With the Court's permission, I'm
8 going to exhibit Dean Exhibit 63, previously identified.

9 THE COURT: All right, fine.

10 THE WITNESS: I was right, May of '85.

11 BY MR. WEHNER:

12 Q. Good guess.

13 Directing your attention to the chart, that reflects,
14 does it not, funding decisions made during that period of time
15 with regard to the Mod Rehab Program?

16 A. That's correct.

17 Q. Is that correct?

18 A. That's correct.

19 Q. The first one on the list is Durham, North Carolina, and is
20 that the Durham Hosiery Mill?

21 A. That is the Durham Hosiery Mill.

22 Q. We've heard a lot of testimony about the Durham Hosiery
23 Mill, and I believe you testified yesterday that Ms. Wiseman had
24 refused to fund that project; is that correct?

25 A. I don't know that for a fact. I know that it was not funded

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1 during her tenure.

2 MR. O'NEILL: Judge, I object to the leading nature.

3 THE COURT: All right, try not to lead.

4 MR. WEHNER: Yes, sir.

5 Q. Did you have occasion to have discussions with Ms. Hale
6 regarding the funding of the Durham Hosiery Mill project?

7 A. I would say that I discussed --

8 Q. Yes or no, please?

9 A. Yes, I did.

10 Q. Okay. And directing your attention to those discussions,
11 would you please tell us what you said to Ms. Hale?

12 A. Well, I had at least 50 conversations with Ms. Hale
13 regarding the Durham Hosiery Mill.

14 Q. Without going into each one specifically, would you please
15 chronologically describe the conversations you had with her by
16 telling the jury what you said to Ms. Hale?

17 A. Well, most of the conversations were actually Ms. Hale
18 talking to me, and I responded to her.

19 Q. What did you say when you responded to her?

20 A. "Is it legal?" "What's the problem?" "Can you expand on
21 that?" "Do you have any further information on that?" "What's

2 the problem?" "What's the problem?" "Is it legal?"

2 Q. And what was she saying to you?

2 A. She was -- actually, almost every conversation was about the
2 staff in her office and their opposition to the project, and my

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1 responses to her were trying to get to her specific problems with
2 the project, which she seemed at times unable to communicate.
3 There was just a, a general unease on her part about this project
4 and the fact that it had to take one or two different ways of
5 funding it for it to go forward. She was uneasy about that.
6 Q. What did, what was her position with regards to funding that
7 project?
8 MR. O'NEILL: Objection, Your Honor.
9 THE COURT: As to Ms. Hale's position? I'll allow it
10 in in explaining the actions of this witness. Go ahead.
11 THE WITNESS: Ms. Hale's position was that she, in
12 essence, did not want to have an individual opinion on it. She
13 wanted to support her career staff. However, she could never
14 identify the career staff that had the problem, and she couldn't
15 identify what the particular problem was, and it just sort of
16 went around and around.
17 And I kept saying to her, "Janet, is there anything
18 wrong or illegal or confusing to you about this?"
19 And she just kept saying, "I don't want to do it,
20 Debbie. I don't want to do it, Debbie,"
21 And I just kept getting a lot of that.
22 So then we had discussions with other members of staffs
23 in the department. We talked to general counsel on legality
24 issues, and we talked to the Office of Community Planning and
25 Development, because there was going to be a HODAG attached to

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1 it, and then that was not able to be funded, because it didn't
2 meet the criteria. So -- or it met, competed and didn't get
3 selected I think is what happened.
4 And then there was a UDAG, and the UDAG had to be
5 coupled with the moderate rehabilitation in order for there to be
6 enough funds for the project to work.
7 So there were multiple staff discussions. Then there
8 were a lot of one-on-one discussions between Ms. Hale and I. And
9 she was quite uncomfortable about it, but -- and as she stated,
10 she did ask repeatedly to see the secretary.
11 Q. Now directing your attention to approximately three years
12 earlier, I believe you testified yesterday that the Durham
13 Hosiery Mill had been funded at one point in 1982; is that
14 correct?
15 A. They had been promised funding. They had been told that
16 they would be funded.
17 Q. I believe you also testified concerning information you
18 received that caused it, that commitment not to be made -- not to
19 be met. Is that correct?
20 A. No. I saw a memorandum to Secretary Pierce from George
21 Hipps, who was then running the Office of Multi-Family Housing,
22 informing the secretary that he had received a phone call from
23 the white House telling them to transfer these funds so that the
24 white House could make this announcement. So I saw that document
25 from the secretary's files, and so that's why I knew what had

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1 happened.
2 MR. WEHNER: with the Court's permission, I'm going to
3 approach the witness and show her what I've marked as Dean

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4 Exhibit 562, and ask if you can recognize that document?
5 THE WITNESS: Oh, yes. That's the memorandum from
6 George Hipps.
7 BY MR. WEHNER:
8 Q. And who is it written to?
9 A. Secretary Pierce.

10 Q. And who is it written from?
11 A. George Hipps.
12 Q. And whose handwriting appears at the bottom?
13 A. Secretary Pierce.
14 Q. And when did you see that document previous -- when did you
15 see that document for the first time?
16 A. I don't remember. I believe the first time that I saw this
17 document was when I was allowed by the general counsel of HUD to
18 go through Secretary Pierce's files before testimony in front of
19 Lantos.
20 Q. Okay. Is this the same, a copy of the same document you saw
2 then?

2 A. Yes.
2 Q. Whose handwriting appears at the bottom?
2 A. Secretary Pierce.
2 Q. And do you recognize his handwriting?

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A. Yes. And he also had discussed this with me.
2 Q. Do you recognize his handwriting?
3 A. Yes, I do.
4 Q. How many times have you seen Secretary Pierce's handwriting?
5 A. Thousands of times.
6 Q. And how many times have you seen Secretary Pierce write in
7 his own handwriting?
8 A. Thousands of times.
9 Q. And you're absolutely certain that's his handwriting?
10 A. Absolutely positive.
11 Q. All right. What words appear in his handwriting?
12 A. "Noted. S.R.P., Jr."
13 Q. Did you have a discussion with Secretary Pierce that
14 reflected the contents of this memo?
15 A. Yes.
16 Q. And when you had the discussion with Secretary Pierce that
17 reflected the contents of this memo, was it on or about September
18 17, 1982? Was it before that, or was it after that?
19 A. No, it was in 1984.
20 Q. And did your conversation with Secretary Pierce reflect the
21 contents of the memo?
22 A. Yes. I don't -- he did not mention the George Hipps part.
23 He just told me he had been told by Housing that someone had
24 gotten a phone call. I don't think he recalled it was from
25 George Hipps.

2354

1 Q. All right. And does the memo that you're seeing here, Dean
2 Exhibit 562, reflect the same contents that Secretary Pierce
3 discussed with you in 1984?

4 A. Yes, and -
but he elaborated more on it.
5 MR. WEHNER: Your Honor, I'll move into admission -
6 into evidence Dean Exhibit 562.
7 MR. O'NEILL: Judge, short voir dire, please?
8 THE COURT: Sure.
9 VOIR DIRE EXAMINATION
10 BY MR. O'NEILL:
11 Q. Ms. Dean, I'd ask you to look at this memo. Does that
12 refresh your recollection as to whether it's substantial
13 rehabilitation?
14 MR. WEHNER: I'm sorry, Bob, I didn't hear the
15 question.
16 MR. O'NEILL: Substantial rehabilitation.
17 THE WITNESS: That's what I said yesterday. It had
18 originally been a substantial rehabilitation project.
19 BY MR. O'NEILL:
20 Q. And that is a different project than mod rehabilitation?
2 A. Yes.
2 MR. O'NEILL: Nothing further, thank you.
2 END OF VOID DIRE EXAMINATION
2 MR. WEHNER: You're objecting?
2 MR. O'NEILL: I would object on relevance grounds, Your

2355

Honor.

2 THE COURT: Okay. I'm going to overrule that. It goes
3 to the testimony yesterday about it. It's admitted.
4 (Defendant's Exhibit No. 562 was
5 received in evidence.)
6 MR. WEHNER: With the Court's permission, I'm going to
7 publish Dean Exhibit No. 562.
8 Q. Ms. Dean, I'd ask you to read that to the jury, please.
9 A. I knew you were going to do that.
10 "I have just taken an urgent telephone call from
11 Annelise Anderson, in Mr. Abrams' absence, advising the
12 department that the President, who is en route to New Jersey, has
13 agreed to fund with Section 8 new construction funds a 125-unit
14 proposal in Ewing, New Jersey. He intends to state upon his
15 disembarking from the plane that he is pleased to announce that
16 HUD has advised it has agreed to provide 125 units of Section 8
17 assistance for an elderly project to be located at Park Place.
18 "Mrs. Anderson asked that I advise you of this
19 immediately. George O. Hipps, Jr., Associate General Deputy,
20 Assistant Secretary for Housing."
21 "Noted, S.R.P., Jr."
22 Q. Now, Ms. Dean, what relationship does that memorandum have
23 to Durham Hosiery Mill?
24 A. Well, the secretary felt that the -
25 MR. O'NEILL: Objection, Your Honor.

2356

1 THE COURT: Okay.
2 MR. WEHNER: May I rephrase the question, Your Honor?
3 THE COURT: All right.
4 BY MR. WEHNER:
5 Q. Without describing what Secretary Pierce told you, Ms. Dean,
6 what relationship did this memo have to the Durham Hosiery Mill
7 project?
8 A. This memorandum took away the money that had been promised

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9 to the City of Durham for the Durham Hosiery Mill and gave it to

10 Park Place in Ewing, New Jersey.

11 Q. Why or if or did that have any effect on HUD's decision to
12 attempt to fund Durham Hosiery Mill with mod rehab funds?

13 A. Moderate rehabilitation and whatever other program would be
14 appropriate to make up for the amount of money that would have
15 been the amount of money for substantial rehabilitation, which is
16 what they needed.

17 Q. Now, Ms. Dean, you had a conversation with Secretary Pierce
18 with regard to using moderate rehabilitation funds for the Durham
19 Hosiery Mill project, did you not?

20 A. Yes, I did.

21 Q. And as a result of those discussions, did you have a
22 conversation with Janet Hale?

23 A. Yes, I did.

24 Q. And would you please tell the jury what you said to Ms. Hale
25 as a result of your discussion with Secretary Pierce?

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A. I told Ms. Hale that she should ensure in her own mind and
2 in the mind of the people that worked for her that what she was
3 being asked to do was perfectly legal, that there were no
4 problems with it, and once that she was assured of that, she
5 should proceed and keep the department's promise to Durham to
6 provide the money that we had promised in 1982.

7 Q. Did she keep the department's promise?

8 A. Yes, she did.

9 Q. Would you describe what you said to Ms. Hale and the
10 circumstances under which that occurred?

11 A. Ms. Hale was in my office. She attempted to meet with the
12 secretary. I believe they had spoken on the phone or whatever.
13 And it was coming down time for her to sign both some waivers and
14 the funding documents.

15 The UDAG was, it was going to be obvious that Durham
16 was going to be funded in that UDAG round or had shortly already
17 been funded or was shortly to be funded, I don't recall, but the
18 UDAG was in place, and it was time for the moderate
19 rehabilitation units to go.

20 However, there were waivers that were required that she
21 had to sign. And she was uncomfortable with having to fund it
22 and sign the waivers.

23 And I just asked her, you know, repeatedly, "What is
24 your problem with it?"

25 And she just kept saying, "I really don't like it, and

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1 Mrs. Wiseman doesn't like it, and the staff doesn't like it, and
2 therefore I just don't want to do it."

3 But I had already on numerous, numerous occasions told
4 Secretary Pierce how much she didn't want to do it, and Secretary
5 Pierce said, "If it is legal to do it, it is the right thing. I
6 have made the decision, and I expect her to carry it out."

7 Q. Did she ultimately sign the funding document?

8 A. No, she did not.

9 Q. And did you have --

10 A. She signed the waivers.
11 Q. Did you have a conversation with her concerning, a final
12 conversation with her concerning signing the funding document?

13 A. Yes, I did.
14 Q. What did you say to her?
15 A. I told her that I understood why she was very upset, and

16 quite frankly, she was crying at this time. She was very
17 personally upset. And she was upset that the secretary hadn't
18 returned her phone call or to meet with him, and she was upset
19 because she didn't want to do this project.
20 And I, my heart went out to her, and I said, "All
21 right," I said, "I will ask the secretary to sign the document
22 himself. I mean, if he wants to fund the project, there's no
23 reason why he can't fund it himself. He can legally do that.
24 And -- but would you sign -- are you agreeable that the secretary
25 funds it and it's obvious to the world that it's not your

2359

1 decision, Janet, it is Secretary Pierce's decision, do you have a
2 problem with the waivers?"
3 And she said, "No." She said, "If Secretary Pierce
4 will sign the decision himself to fund it, I will sign the

5 waivers.
6 And I said, "All right."

7 And I talked to Secretary Pierce about it, and he said
8 once again --
9 MR. O'NEILL: Objection, Your Honor.

10 THE COURT: All right.
11 MR. O'NEILL: I hate to keep objecting, but this is
12 continuing.
13 THE COURT: That's fine. That's all hearsay. Just go
14 ahead and say what you did after you talked to him.
15 BY MR. WEHNER:
16 Q. Did you have a conversation with Secretary Pierce?
17 A. Yes, I did.
18 Q. And subsequent to that, did you have a conversation with
19 anyone else?
20 A. No. It was done after that.
21 Q. Subsequent to that conversation, did you undertake to do
22 anything?
23 A. Oh, I had his signature Autopenned on the rapid reply so
24 that it would be his decision and not hers.
25 MR. WEHNER: With the Court's permission, I'll show

Ms. Dean Dean Exhibit 563.
2 THE WITNESS: All right.
3 MR. WEHNER: I'll move it into evidence at this time
4 MR. O'NEILL: No objection, Your Honor.
5 THE COURT: All right, 563 is admitted. Go ahead.

6 (Defendant's Exhibit No. 563 was
7 received in evidence.)
8 THE WITNESS: It normally says assistant secretary
9 but --

10 MR. WEHNER: With the Court's permission, I'd like to
11 publish this.
12 THE COURT: Sure.
13 BY MR. WEHNER:
14 Q. Ms. Dean, what is this?
15 A. That is a rapid reply letter.
16 Q. Okay. And to which project does it relate?
17 A. Durham Hosiery Mill.
18 Q. That's the first one on this list?
19 A. That's correct.
20 Q. And moving to the bottom, what does this document do as a
21 practical matter? What does it do?
22 A. The rapid reply is -- no one has yet to explain this
23 correctly. The rapid reply is the decision of the Office of
24 Housing to fund a public housing authority. This then goes to
25 the Office of Management and Administration, which does a 185,

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1 which releases the money. Actually, Housing doesn't actually
2 control money; the Office of Management and Administration
3 controls money, but Housing is telling them to go ahead and send
4 the money.
5 Q. Whose signatures appear on this document?
6 A. Hunter Bourne, III; Janet Hale; and Samuel R. Pierce, Jr.
7 Q. Now based on your familiarity with various handwritings, how
8 did those signatures get on that document?
9 A. Hunter Bourne would have signed his name.

10 Q. Personally?

1 A. Yes. He would not have had an Autopen.
1 Janet Hale could have had this Autopened, or she could
1 have signed it herself, I don't know, although she did prepare
1 this document and brought it up to me in this form.
1 And then I spoke to Secretary Pierce, and then I had
1 the machine that writes his name write it along that line.

1
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2

1 THE COURT: we'll take a break.
2 MR. WEHNER: Sure, Your Honor, that's fine.

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3 THE COURT: All right, ladies and gentlemen.
4 We're going to take our afternoon recess at this time,
5 15 minutes, and we'll be back in to continue the
6 testimony.
7 Remember the admonition about not discussing
8 the case. See you back in 15 minutes.
9 (Jury dismissed)

10 THE COURT: All right.
11 MR. WEHNER: Your Honor, how late would you
12 like us to go this evening?
13 THE COURT: 4:30, quarter of five.
14 MR. WEHNER: Quarter of five.
15 (Recess, 3:05 p.m. to 3:30 to p.m.)
16 THE COURT: Let me suggest this. I'd like to
17 go forward as much we can with the testimony and I'll
18 take up later the issue of the documents, the business
19 records exception. I did a quick look over the break
20 and it gave me opportunity to find my favorite case
21 which is entitled Thomas V Hogan, which I've always
22 loved, which is at 308 Fed. 2d 355. A Fourth Circuit
23 case. I may have been reading the rule, and I may have
24 been listening to Mr. O'Neill's eloquence, a little
25 strictly from my review of the foundation requirements

2364

1 THE COURT: All right, ladies and gentlemen,
2 we're ready to resume with the afternoon's testimony.
3 we'll sit for another hour or so and then recess for the
4 evening.
5 BY MR. WEHNER:
6 Q Okay, Miss Dean, directing your attention to the
7 practice of HUD on occasion to recall units that had
8 been sent out to the field previously.
9 A Yes.

10 Q would you please describe any occasions you recall
11 in addition to the ones you described yesterday which I
12 believe was Puerto Rico you were talking about? Puerto
13 Rico, excuse me. Any additional times you recall that
14 HUD recalled units that had previously been sent out.
15 A It seems to me that I remember that there were
16 three occasions but right now I can only remember two.
17 If the other one comes to me -- I just remember two at
18 the moment. One was the Puerto Rico units we talked
19 about yesterday, the 600 that were split and
20 readvertised. And another one was in -- from the -- in
21 the Virginia Housing Development Authority.
22 Q And what makes you recall -- do you recall a
23 specific event that led to that recall?
24 A Yes, I do.
25 Q Without describing what was in the event, what was

2365

1 the event? what did you see?

2 A The event that I can recall that started it was an

3 article in the Washington Post.

4 Q As a result of that article in the Washington Post

5 what did you do?

6 A I called Philip Abrams, who was then

7 Undersecretary, and Maurice Barksdale, who was then the

8 Assistant Secretary, and I asked them to please come

9 upstairs and meet with Secretary Pierce.

10 Q Did that occur?

11 A Yes, it did.

12 Q Did you attend the meeting?

13 A I met with Mr. Abrams first.

14 Q During your first meeting with Mr. Abrams, what did
15 you say to him?

16 A I asked him if it was at all possible that it was
17 true that he had actually funded his former partner for
18 378 units in Richmond.

19 Q Did he respond to that?

20 A Yes. He said that he didn't care whether or not
2 this man, his name was Larry Green, received the units

2 or not and that he felt that he was in an awkward
2 position because Larry Green was a good developer and he
2 had been in this business for a long time and he didn't
2 see how he could exclude him.

2366

1 But the issue of course that was -arisen
at

2 this point was that the units had gone down project
3 specific. They had gone down for the name of the
4 apartment building. So it wasn't exactly like - he
5 wasn't just excluding Mr. Green. He was including
6 Mr. Green. And I asked him if -- was he aware that
7 the - more than likely the Secretary would call them
8 back.

9 Q Now, Miss Dean, you previously read into the record
10 Dean Exhibit 864 which listed -- and this has been
11 introduced, Your Honor.

12 THE COURT: All right.

13 Q -funding

for Jefferson Park Apartments,
14 Midlothian Turnpike, Richmond, Virginia, 378 units,
15 \$1,902,580.

16 A Yes, those were the units.

17 Q Those were the same units?

18 A Yes, Jefferson Park Apartments as opposed to going
Page 1330

19 to the Housing Authority.
20 MR. WEHNER: With the Court's permission I'm
2 going to publish that as agreed.
2 THE COURT: All right.
2 BY MR. WEHNER:
2 Q Now, Miss Dean, this is the same letter that you
2 read into the record previously, portions of it?

2367

1 A This is the application coining in. Not the money
2 going out.
3 Q To whom is it addressed?
4 A To Philip Abrams.
5 Q And who signed the letter?
6 A John Ritchie, who was the Executive Director of the
7 Housing Authority.
8 Q I believe you testified that subsequent to your
9 conversations with Mr. Abrams you had a conversation

10 with Mr. Barksdale?
11 A Secretary Pierce had a conversation with
12 Mr. Barksdale.
13 Q Did you have a conversation with Mr. Barksdale?
14 A No, I did not.
15 Q Did you report to Secretary Pierce the results of
16 your conversation with Mr. Abrams?
17 A Yes, I did.
18 Q What did you say to the Secretary?
19 A I told the Secretary that Mr. Abrams did not care
20 if the units were brought back, if he felt it looked to
2 the Secretary to have been an improper decision.
2 Q Did the Secretary respond to that?
2 A The Secretary brought back the units.
2 Q And HUD subsequently recalled those units from
2 Richmond, is that correct?

2368

1 A Yes, they did.
2 Q When you talked to Mr. Abrams, did you express an
3 opinion as to what he was doing?
4 A I -- yes, I did.
5 MR. O'NEILL: Objection as to opinions, Your
6 Honor.
7 THE COURT: All right, I'll allow an answer
8 what she told him.
9 A I told him that I -- I thought that it was -- that

10 it did not look appropriate that he was aware of where
11 the units were going to go when he made the decision,
12 that he had to have known who was eventually going to
13 get them in all likelihood. There wasn't a guarantee,
14 but in all likelihood he had to have known, and that I
15 thought did not look right for the Secretary. It looked
16 as though the Secretary had made an improper decision.
17 MR. WEHNER: May I have a second, Your Honor?
18 THE COURT: All right.
19 BY MR. WEHNER:
20 Q Miss Dean, I'm going to show you what's been marked
2 for identification as Dean Exhibit 564 which purports to

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2 be the funding decision for Durham Hosiery Mill and ask
2 you if you recognize it as being that?
2 A Yes, I do.
2 Q And it consists of four pages, is that correct?

2369

1 A Well, this is the 185.

2 Q Attached is?

3 A Well, attached are -- the 185 actually -- it's a
4 form that always stays the same but every time you fund
5 something the numbers and the categories change, so they
6 have to re-send the entire form every single time.

7 Q To whom is that memo directed?

8 A To Clifford G. Brown, Regional Administrator.

9 Q And from whom does it originate?

10 A It originates from Shirley McVay Wiseman signed by
11 Janet Hale, but Janet Hale was in the position then and
12 Miss Wiseman was gone. This must have been typed up
13 earlier and she just went ahead and signed this version.
14 Q Was it in the regular course of business of HUD to
15 generate those funding decisions?

16 A Yes.

17 Q And was that document generated in the regular
18 course of business?

19 A Yes.

20 Q And from your knowledge, was that generated at or
2 about the time that that event, that being the funding,

2 occurred?

2 A I would say yes, because it would have been stamped
2 after it was signed. That was the way it was done. It
2 was stamped the day it was signed.

2370

1 Q Thank you.

2 A Mr. Wehner?

3 Q Yes, ma'am.

4 A There is one thing I did leave out about the
5 conversation with Mr. Abrams that I should also say.

6 Q With regard to what you said to him?

7 A Yes. The Washington Post article indicated, I

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8 believe, that Mr. Abrams still had ties with Mr. Green
9 and that was a large part of the consideration in

10 bringing it back. It wasn't -- there seemed to have
11 still been, at least in the article, a business
12 relationship between the two and that was one of the
13 reasons that we discussed it.

14 MR. O'NEILL: Objection, Your Honor, and move
15 to strike the entire answer as hearsay.

16 MR. WEHNER: No objection, Your Honor.

17 THE COURT: All right.

18 MR. WEHNER: I'll rephrase the question again.

19 THE COURT: All right. Strike that as to any
20 business ties.

2 BY MR. WEHNER:

2 Q Would you summarize what you said to Mr. Abrams
2 with regard to the same subject?

2 A I asked him if what was in the newspaper was
2 correct. And that did he not agree that this looked

2371

1 improper and he said he didn't care whether Mr. Green
2 received the units or not. He was in a difficult
3 position because he didn't feel that he could exclude
4 Mr. Green from HUD programs and he assured me that there
5 was no business relationship between the two of them
6 anymore.

7 Q Okay. Directing your attention to the Richmond,
8 Virginia 375 units.

9 A Yes.

10 Q Was that ultimately funded?

11 A Yes, the Housing Authority sued the Department for
12 reinstatement of those units and the Department
13 eventually settled with the Housing Authority and
14 reinstated 375 units.

15 Q The Housing Authority sued the Department?

16 A Yes.

17 Q Is the Housing Authority under the jurisdiction or
18 control of the Department of Housing and Urban
19 Development?

20 A It is an agent of the Department because it
21 receives its income from the fees that come from
22 administering HUD programs.

23 Q How does it receive income in terms of Mod Rehab?

24 A I believe that the fee is four or five percent of
25 the -- of each rental income, the rental income. So

2372

1 if -- if, for instance, an apartment rent is \$375 per
2 month they would receive four to five percent of that as
3 their fee, and with each program it's different.
4 Certificates have a higher percentage than vouchers.
5 Mod Rehab has a different percentage. Whatever is
6 agreed to between the Housing Authorities and the
7 Department. And it depends on how complicated it is to
8 administer the program. The fee structure changes for
9 each program.

10 Q How long did Miss Hale remain the Acting Housing
11 Commissioner?

12 A Well, I know that the dates on that chart are the
13 dates that were provided by the Independent -- I mean
14 the Inspector General in his report, so she would have
15 been there from May to December. Or December would have
16 been the last funding round, perhaps. She might have
17 been there a little bit longer into next year, but my
18 memory is about several months, six, seven, eight
19 months. She received a promotion and moved to the
20 Department of Transportation.

2 Q Directing your attention to the Philadelphia,
2 Pennsylvania, 12 units.

2 A Yes.

2 Q Do you recall how those units came to be assigned
2 to Philadelphia?

2373

1 A Well, I know that those 12 units are 12 of the 26
2 units that went to the Regent Street project and 12
3 units were all that were left. I know they were
4 requested by both Senator Heinz and Senator Specter. I
5 know I had met with Mr. Rosenthal myself. I know about
6 Regent Street and I know that it was also being actively
7 pursued by Mr. DeBartolomeis.

8 MR. WEHNER: With the Court's permission I'm
9 going to publish Government's Exhibit 125. In an effort
10 to keep paper down, I'll try not to duplicate.

11 BY MR. WEHNER:

12 Q Miss Dean, do you recognize this document?

13 A It looks like -- it's a 185 dated September 12.

14 Q Is it for the 12 units to Philadelphia?

15 A Yes.

16 Q The last paragraph or next to the last paragraph,
17 I'm sorry.

18 A Are you asking me -- what are you asking me?

19 Q Is this the funding for the Regent Street project?

20 A It is funding for the Philadelphia Housing
21 Authority for 12 units that eventually went to the
22 Regent Street project.

23 Q Now, you testified that you had a conversation with
24 Mr. Rosenthal concerning that project.

25 A Yes, I had.

237 4

1 Q What other factors went into the decision as far
2 as -- you know, not your decision, but the decision to
3 send the units to HUD, to Philadelphia?

4 A Well, Senator Heinz usually had standing requests
5 in -for

Mod rehabilitation and he had, I believe,
6 written a specific letter on these 12 units or he had
7 written a letter for the whole 26 units that were
8 required to do the project. I'm not sure which one.
9 And one Senator wrote just for these 12.

10 And this was a real toss up. They weren't
11 going to Regent Street because there certainly wasn't a
12 guarantee that we could send the remaining necessary to
13 do that project. So they were going to Philadelphia
14 Housing Authority and it was really up to the Housing
15 Authority to see if they wanted to wait to see if we
16 could do the second half of the funding.

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17 I frankly remember I was not optimistic that
18 this was going to come to fruition.
19 Q Now, who signed off on the funding document?
20 A Mr. DeBartolomeis, for Janet Hale.
21 Q Directing[^] your attention to the next entry on the
22 list, that being Massachusetts EOCD.
23 A Yes.
24 Q What does EOCD stand for, if you recall?
25 A It would make more sense if it was OECD, but it

2375

1 should be economic -it
might be Economic Opportunity
2 and Community Development or Office of Economic, you
3 know and Community Development. CD. is Community
4 Development.
5 Q With regard to the funding of those 12 units, the
6 Massachusetts EOCD, do you recall having a conversation
7 with Janet Hale regarding the funding of those units?
8 A Yes, I do.
9 Q And what did Miss Hale say to you and what did you
10 say to her?
11 A She informed me that we had ten units left that
12 could be sent and did - would it be all right with the
13 Secretary if she sent them to Boston so that, in
14 essence, the Housing Authority would have -- this is my
15 recollection, is that the Housing Authority would have
16 some way of knowing that more funds would be coming the
17 next year to complete a project that she was interested
18 in having funded. And I told her that I would run it by
19 the Secretary and the Secretary said -- oh, I'm not
20 allowed to do that.
2 Q Did you have a conversation with the Secretary?
2 A Yes.
2 Q What did you say to the Secretary?
2 A I told him that Janet wanted to send ten units to
2 Boston, Massachusetts for a project that she wanted to

2376

1 have reserved for Senator Brook.
2 Q And did the Secretary respond?
3 A He said that she was the Acting Federal Housing
4 Commissioner and let her do what she thought was best.
5 Q Miss Dean, I'm going to show you what I've marked
6 for identification as Dean Exhibit 566 and ask if you
7 recognize that?
8 A Yes.
9 Q What is it?
10 A It's the 185 to John Mongan, the Regional
11 Administrator from - I don't know who signed that. I
12 don't know whose signature that is. Someone signed for
13 Janet Hale but I don't know who that is.
14 Q And is it for those nine units that is reflected on
15 the Massachusetts EOCD?
16 A Yes, it's Stew Davis' handwriting. Yes, it is,
17 it's for the same project.
18 Q And is it similar to the 185 you discussed
19 previously?
20 A Yes.
2 Q In terms of being kept in the regular course of
2 business, et cetera?
2 A Yes.

2 THE COURT: Is it nine or ten units?

2 THE WITNESS: Ten units is what she discussed

2377

1 with me. Nine units is what she sent in the 185.

2 MR. WEHNER: Your Honor, the document reflects

3 nine units.

4 THE COURT: All right.

5 BY MR. WEHNER:

6 Q With regard to the next item, two items down

7 actually, Philadelphia, Pennsylvania, 13 units, do you

8 recall whether that was for the Regent Street project

9 that was discussed previously?

10 A I know that it eventually went to finish the

11 completion of Regent Street.

12 Q And do you recall why that was funded?

13 A I'm going to assume it was funded to complete the

14 26 units that they requested.

15 Q Without assuming. Do you recall what caused those

16 to be funded?

17 A I would have no specific recollection of discussing

18 it but it's just so obvious that that's what that has to

19 be that I'm going to say I probably mentioned it to her

20 and had her put it on the list for consideration.

21 Q For the same reasons that the previous 12 units to

22 Regent Street were listed for consideration?

23 A They would have finished the request from the two

24 Senators for the 26 units and they would have been made

25 available to the Housing Authority and if they chose to

2378

1 hold the 12 and hopefully maybe get 13 in the next

2 fiscal year, because these were all different dates,

3 this wasn't on the same day. The fiscal year was in

4 between those two. Then that was their option if they

5 wanted to fund Regent Street, and they did.

6 MR. WEHNER: With the Court's permission I'll

7 publish Government's Exhibit 130 to the jury.

8 THE COURT: All right.

9 BY MR. WEHNER:

10 Q This is the 185 which reflects the funding decision

11 to send the 13 units, is that correct?

12 A That's correct, signed by Janet Hale.

13 Q Now, Miss Dean, who made the decision to send Mod

14 Rehab units in response to Senatorial requests?

15 A In this case or in general?

16 Q Well, let's talk in general.

17 A Well, it really depended on who the Housing

18 Commissioner or the Acting Housing Commissioner was at

19 the time. When Mr. Barksdale was the Housing

20 Commissioner he made the decisions. Although he did

21 have some input from the Secretary and we funneled

22 Congressional and political input to him and there were

23 times of course when he would have also been instructed

24 to fund certain projects, but for the most part he

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25 formulated the list and was in charge of putting it

2379

1 together and he was not under a requirement to discuss
2 the list with Secretary Pierce.
3 when he left and the Secretary instituted the
4 policy of I want to see these things before they go out,
5 it of course changed because Ms. Wiseman and Miss Hale
6 and after her Mr. DeBartolomeis were not Assistant
7 Secretaries and they had not been confirmed by the
8 Senate or, you know, appointed by the President, and the
9 Secretary just did not have the -- he did not feel they
10 had the ability to command that sort of authority and he
11 wanted to oversee their actions.
12 And so at that point then it ranged on how he
13 felt about them individually. Miss Hale was held in
14 very high regard by Secretary Pierce and so, in essence,
15 if she had made a decision, that decision probably would
16 have stood unless there was some information that had
17 gotten to him through me or through another source that
18 would have made him doubt a certain decision. But she
19 was given more latitude and more authority than
20 people -- other people.
2 Q With regard to the 12 and 13 units on Regent

2 Street, which was signed off on by Janet Hale --
2 A Yes.
2 Q Do you have a specific recollection as to how that
2 decision was made?

2380

1 A Well, I know that Miss Hale did come up and discuss
2 with me before she --she
was going to send out any Mod
3 Rehabilitation units and I would discuss her decisions
4 with Secretary Pierce. Secretary Pierce did not really
5 have any follow-up questions for her on her list.
6 However, I know that I met with Mr. Rosenthal
7 and I know I received many letters from him and I know I
8 would have sent those down to her and it was more than
9 likely the fact that I had letters written to me that
10 ended up on the list.
11 I don't know if she met with him. I don't

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12 know that. I know I did.

13 Q I think you testified that Miss Hale had discretion
14 of a broader nature.

15 A Yes.

16 Q Okay. Directing your attention to the Chicago,
17 Illinois Housing Authority, the 200 units for the
18 Housing Authority.

19 A Yes.

20 Q Do you recall who the developer was on that
21 project?

22 A Not off the top of my head. I know that -I
23 know

24 that I have prepared that information for you. I just
25 can't remember right now.

26 Q Do you recall who the consultant was on that

2381

1 project?

2 A No, no. Miss Hale never discussed consultants in
3 the meetings that she had with me.

4 Q Do you recall the name Michael Karam?

5 A I know who Michael Karam is. He's a former HUD
6 employee.

7 Q Do you recall that he was close to Janet Hale?

8 A Michael Karam was close to a lot of people at HUD
9 and I did not know in particular of his closeness to

10 Miss Hale, no.

11 Q Do you know -- do you know how Janet Hale got
12 promoted to her position at HUD?

13 A No, I do not. I know now after reading the -- you
14 know, the Independent Counsel's reports I know, but I
15 didn't know then.

16 Q Are you aware now that Michael Karam was the
17 consultant with regard to the Chicago Housing Authority,
18 200 units?

19 A Yes, and that is something that should have been
20 told to Secretary Pierce and I did not know it to tell
21 him, and he would have wanted to know that.

22 Q At the time that this decision was made did you
23 know Michael Karam was the consultant for this project?

24 A No, I did not.

25 Q To your knowledge did Secretary Pierce know?

1 A He did not.

2 Q To your knowledge did Janet Hale know?

3 A Now, from her testimony she said she spoke with
4 him. I assume she did know.

5 MR. WEHNER: Your Honor, with the Court's
6 permission, I'll show Miss Dean, Dean Exhibit 568 and
7 ask you if that is the funding decision for those 200
8 units to the Chicago Housing Authority?

9 A Yes.

10 Q And it's a memorandum to Judith Brachman, Acting
11 Regional Administrator, Regional Housing Commissioner?

12 A Yes.

13 Q From Janet Hale?

14 A Yes.

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15 Q And it was kept in the regular course of business?
16 A Yes.
17 Q And it was in the regular course of business to
18 make this document?
19 A Yes,
20 Q And it was dated at or about the time that that
2 event occurred?
2 A Correct.
2 MR. WEHNER: Your Honor, I'll move the

2 admission of Dean Exhibits 566, 564 and 568.
2 THE COURT: Any objection?

2383

1 MR. O'NEILL: No, Your Honor.
2 THE COURT: All right. 564, 566 and 568 will
3 be admitted as funding decisions.
4 (Defendant's Exhibits 564, 566 &
5 568 received into Evidence)
6 BY MR. WEHNER:
7 Q Miss Dean, I'm going to show you Dean Exhibit 568
8 and ask you if this reflects the funding decision made
9 for Chicago for 200 units that you just testified about?

10 A Yes, it does. That actually sends the money to the
11 field.
12 Q Miss Dean, I'll show you Dean Exhibit 566 and ask
13 you if that reflects the funding authority for the nine
14 units to Massachusetts?
15 A Yes.
16 Q Sending the money to the field?
17 A Yes.
18 Q I'll now show you Dean Exhibit 564 and ask you if
19 that is the funding document that reflects funding for
20 Durham Hosiery Mill?
2 A It's the funding for the Housing Authority in
2 Durham, North Carolina.
2 Q Which related to the Durham Hosiery Mill --
2 A Yes.
2 Q -- fiasco for lack of a better word?

2384

1 A Well, it wasn't a fiasco. It -- it was just a
2 project that never seemed to go away, but it ended up
3 being a good project.
4 Q Now, Miss Dean, directing your attention to the
5 150-unit figure on the chart for Lowell, Massachusetts.
6 A Yes.

7 Q Do you recall that Janet Hale worked for Senator Ed

8 Brook?

9 A Yes, I knew that.

10 Q I'm going to show you what has been marked for
11 identification as Dean Exhibit 569 and ask if you
12 recognize that as the funding document for 150 units to
13 Lowell, Massachusetts?

14 A Yes, it is.

15 MR. WEHNER: I'll move the admission of Dean
16 Exhibit 569.

17 MR. O'NEILL: No objection.

18 THE COURT: All right, 569 will be admitted.

19 (Defendant's Exhibit 569 received
20 into Evidence)

2 MR. WEHNER: With the Court's permission, I'll

2 display it on the screen.

2 THE COURT: All right.

2 BY MR. WEHNER:.

2 Q Now, Miss Dean, do you recall at the time being

2385

1 aware that these units were being sent to Massachusetts
2 as a result of -- partially as a result of lobbying by
3 Senator Brook?

4 A Yes, Miss Hale did tell me that.

5 Q And did you have a discussion concerning that with
6 the Secretary?

7 A Yes, I did inform the Secretary of that. But I did
8 not know that Senator Brook was a consultant at the
9 time. It was sort of awkward. She told me that he had
10 called her. I did not understand at that time that he
11 was being paid to call her. I just did not know that at
12 that time but I did mention to Secretary Pierce that
13 Senator Brook had called Janet Hale.

14 Q And did he respond to that?

15 A He said that was fine.

16 Q Now, directing your attention to the next line on
17 that list which is, I believe, Bayamon, Puerto Rico?

18 A Yes.

19 Q I show you what I've marked for identification as
20 Dean Exhibit 570 and ask you if that is the funding
2 document for that allocation?

2 A Yes, it is.

2 MR. WEHNER: Your Honor, at this time I'll
2 move the admission of Dean Exhibit 570.

2 MR. O'NEILL: No objection, Your Honor.

2386

1 THE COURT: All right. 570 is admitted.

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2 (Defendant's Exhibit 570 received

3 into Evidence)

4 BY MR. WEHNER:

5 Q Miss Dean, do you recall getting specific

6 instructions from the Secretary regarding this project?

7 A No.

8 Q what information do you recall having regarding

9 this project when it was funded?

10 A May I ask you -- could you have any more
11 information on this one, because I think Bayamon might
12 have been funded more than once.

13 Q I'm going to show you two documents which I will
14 mark as Dean Exhibits 571 and 572 and I ask you if it
15 refreshes your recollection as to those units?

16 A Yes. Well -- yes, it refreshes my recollection of
17 some of the things I knew. I knew a little more also.

18 Q would you please tell the jury what you recall you
19 knew at the time regarding the funding?

20 A well, I know that Bayamon, Puerto Rico at one point
2 was represented by a -- by Fred Bush and I'm not certain

2 that this is the same project, but I believe that he was
2 a consultant on a Bayamon, Puerto Rico project.

2 MR. O'NEILL: Objection to any speculation,
2 Your Honor.

2387

1 THE COURT: All right, I'll let her testify to
2 her best recollection.

3 Is that your best recollection?

4 THE WITNESS: Yes.

5 THE COURT: All right.

6 A And there was also interest from the Office of the
7 Vice-President in funding for Bayamon, Puerto Rico. I
8 believe the Vice-President actually went there and -- at
9 one point, and I know that the City of Puerto Rico spoke
10 with the Secretary or wrote the Secretary a letter
11 regarding it and that somehow Jacob Javitz was involved.

12 Q Now, directing your attention to Dean Exhibit 571,
13 I ask you if you recognize that as a letter written to
14 Samuel R. Pierce from -- apparently from Jacob Javitz?

15 A Yes.

16 Q And I show you Dean Exhibit 572 which purports to
17 be a letter to Samuel Pierce from Mayor Ramon Luis
18 Rivera.

19 A Yes.

20 Q Mayor of Bayamon?

2 A Right.

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2 Q With a face carbon copy to you?

2 A Yes, and my handwriting on the top.

2 MR. WEHNER: Your Honor, at this time I would

2 move the admission of Dean Exhibits 571 and 572.

1 THE COURT: 571, is that the copy that

2 Miss Dean received?

3 MR. WEHNER: No, sir, it is a copy - I'll

4 hand it up to the Court, with the Court's permission.

5 THE COURT: Is that the copy that had her

6 handwriting on it?

7 MR. WEHNER: Yes, sir. That's 532.

8 MR. O'NEILL: I object on the grounds I've

9 objected to all along.

10 THE COURT: why don't we look at it?

11 (Bench conference).

12 THE COURT: All right, 571 is a letter on

13 Jacob Javitz's stationery to Sam Pierce of HUD. The

14 Bates stamp on it is August 7th. The other stamp I

15 can't read on that corner. Did she identify that?

16 MR. WEHNER: She identified it as being what

17 it purported to be, Judge, but that's all.

18 THE COURT: Up here on the top -19

MR. WEHNER: That's not her.

20 THE COURT: A handwritten note of somebody,

21 that says issued 11-20-85.

22 MR. WEHNER: No, she didn't identify that at

23 all, that handwriting.

24 THE COURT: 572 then purports to be a letter

25 from the Mayor of Bayamon, Puerto Rico with a copy to

2389

1 Miss Dean requesting funding of 180 units for the city

2 with Miss Dean identifying her handwriting on the top

3 righthand side. Okay. All right.

4 And, again, these are documents supplied by

5 the Independent Counsel that obtained them from HUD, as

6 I understand it, but, again, the objection is as to the

7 business records exception.

8 MR. O'NEILL: Judge, can I see them?

9 MR. WEHNER: Yes, see if they have your stamps

10 on them.

11 THE COURT: They do have Bates stamps on them.

12 MS. SWEENEY: I'm not sure, Your Honor. I've

13 never seen that before and I don't know about the other

14 one. That's not our Bates stamp.

15 THE COURT: where did she get these?

16 MR. WEHNER: If they didn't come from the

17 Independent Counsel discovery and I don't know for sure

18 that they did, they would have come from the files that

19 she had with her when she left HUD, that she

20 subsequently produced to the Independent Counsel

2 pursuant to a subpoena.

2 THE COURT: Ask her if she identifies the

2 stamp on there. Does that say HUD on it? I can't say

2 whether it says HUD or not. Again, I'm going to hold

2 these.

1 MR. WEHNER: Okay.

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2 THE COURT: Ask her some more about 571.
3 MR. WEHNER: Yes, sir.
4 (Bench conference concluded)
5 BY MR. WEHNER:
6 Q Miss Dean, with regard to 571, do you know where
7 this document came from? In other words, how it got to
8 you?
9 A Yes, it -- this document came out of the files of
10 Tom Casey which were made available to us from the
11 Independent Counsel.
12 Q With regard to the time and date stamped in the
13 lower -- about halfway down actually, lefthand side of
14 the document, do you know what that says or what date
15 stamp that is?
16 A Yes.
17 Q what does it say?
18 A It says that it was received in this particular
19 office on August 7th at nine o'clock a.m., 1985.
20 Q Does it say where the particular office is?
2 A You can't see it. It's up above, but the Xerox
2 is -- it's lost it. It says received on the bottom.
2 Q Do you recognize where it says received the type
2 typescript of the stamp?
2 A This is a Departmental Bates stamp and each office

has a different top and, frankly, you can sort of make

out what it is, but I don't want to --

3 Q It appears to you to be a Departmental Bates stamp?
4 A It is a Departmental Bates stamp.
5 THE COURT: All right.
6 A Date stamp. Not a Bates stamp.
7 MR. WEHNER: Date stamp, excuse me.
8 BY MR . WEHNER:
9 Q Directing your attention again to Dean Exhibit
10 572. Do you remember receiving a copy of this letter?
11 A Yes, because I then referred it to Tom Casey
12 downstairs.
13 Q And that's in your handwriting, the upper righthand
14 corner?
15 A Yes, not the date. That appears to be Sherrill's
16 handwriting, but the top, Tom Casey, that would have
17 gone to him.
18 THE COURT: All right. I'll hold that for
19 now.
20 MR. WEHNER: Yes, sir.
2 BY MR . WEHNER:
2 Q Miss Dean, with respect to the 131 units for Mod
2 Rehab in the City of Miami Beach, Florida, 131 units.
2 A Yes.
2 Q I'll show you what's been marked for identification

2392

1 as Dean Exhibit 573 and ask if you recognize this as the
2 funding document relating -3
A Yes, it is.
4 MR. WEHNER: with the Court's permission, I'll
5 move the admission of Dean Exhibit 573.
6 MR. O'NEILL: No objection.
7 THE COURT: All right, it's for Miami Beach,
8 Florida?

9 All right. It will be admitted.
10 (Defendant's Exhibit 573 received
11 into Evidence)
12 BY MR. WEHNER:
13 Q Miss Dean -14
A Yes.
15 Q Do you recall what you knew at the time this
16 decision was made -
17 A Yes.
18 Q - to fund these units?
19 A I do. It was made in connection with the next
20 project down the line for Metro-Dade, Florida, and you
2 can see it's 131 added to 266 is 397, and it was part of
2 the 400 units that were given to Senator Paula Hawkins
2 as per her designation of where she wanted them to go.
2 Q Now, to whom did Paula -- who was Paula Hawkins?
2 A She was the Senator from the State of Florida.

2393

1 Q How many terms did she serve?
2 A I do not know.
3 Q Was she running for reelection at that time?
4 A Yes, she was. No, I'm sorry. I believe she ran in
5 '86. She would have run in '86 and this is December,
6 80 -- what's the date on that?
7 Q The date appears to be November 20, 1985.
8 A Yes. Senators have been known to start running a
9 good year ahead of when their election is, but I think

10 she was -- she knew she was in trouble, I think, at this
11 time and she was requesting help.
12 Q Now, did you have conversations with her office
13 with regard to this funding?
14 A I believe I spoke to her after she had spoken to
15 Secretary Pierce and I also spoke to someone in her
16 office but I don't remember who it was.
17 Q After you spoke to her did you report back to
18 Secretary Pierce?
19 A I believe Secretary Pierce had asked her to call me
20 and so I didn't really need to report back to him until
2 the time came to actually -- until the time came when
2 they sent over their requests or they gave them to me by
2 phone of where they wanted the units to go.
2 Q And did you report that to Secretary Pierce?
2 A Yes, I did.

2394

1 Q And if you recall, what did he say to you?
2 MR. O'NEILL: Objection, Your Honor, for all
3 the same reasons.
4 THE COURT: All right, I'll sustain it.
5 BY MR. WEHNER:
6 Q As a result of your discussion with Secretary
7 Pierce, what did you do?
8 A well, this was part of the decisions that were
9 approved that Janet Hale had brought forward and so he

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10 was aware of that -- those particular fundings, and
11 approved her list.
12 Q Now, directing your attention to North Dakota, 100
13 units to North Dakota, I show you what I've marked for
14 identification as Dean Exhibit 574 and ask you if you
15 recognize it as the funding decision for those units?
16 A Yes, for 100 units to Bismarck, North Dakota, and
17 Fargo, Fargo and Bismarck, Fargo, Mandan and Bismarck.
18 Q Spell Mandan?
19 A M-a-n-d-a-n.
20 MR. WEHNER: With the Court's permission, I'll
2 move the introduction of Dean Exhibit 574.
2 MR. O'NEILL: I haven't seen it, Judge.
2 THE COURT: Is it all right?
2 MR. O'NEILL: Yes, Judge, I'm sorry.
2 THE COURT: All right. 574 is admitted. It's

2395

1 a funding document.
2 (Defendant's Exhibit 574 received
3 into Evidence)
4 BY MR. WEHNER:

5 Q This is the funding document for the 100 units?
6 A Yes, it is.
7 Q North Dakota?
8 A Yes.
9 Q Do you recall the name of the consultant or

10 consultants on this project?
11 A No.
12 Q Do you recall anything concerning why it was
13 funded? Anything stick in your mind as to what you knew
14 at the time as to why these were funded?
15 A I didn't know anything about Bismarck , North
16 Dakota, other than the fact that it was on Miss Hale's
17 list. At that time.
18 MR. WEHNER: Your Honor, with the Court's
19 permission, I've finished that chart.
20 THE COURT: All right. You don't need to go
2 to that last one on the bottom, the 24 units.

2 MR. WEHNER: No, sir, I'm trying to pick and
2 choose so I don't need to go through every one of them.

2 THE COURT: All right, ladies and gentlemen,
2 we'll go ahead and recess for the evening rather than

2396

1 start on the next chart, and be ready to go tomorrow
2 morning. We'll make it at 9:30 tomorrow morning.
3 Please recall the admonitions of the Court
4 about not talking about the case or reading or listening
5 or watching anything about it if it's carried in the
6 media.
7 I think we'll have a full day tomorrow and
Page 1345

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8 then Friday I have another case I have to hear. We
9 won't be sitting Friday, and Monday is a holiday, so

10 you've got a four-day weekend. We'll be back on
11 Tuesday. You'll probably get testimony on Tuesday.
12 We hope to finish it Tuesday and then prepare
13 the final instructions and have argument for you
14 Thursday, but we'll have to wait and see how we're doing
15 in the testimony.
16 So tomorrow is a full day, and after that then
17 there will be - you'll have your long weekend. All
18 right?
19 So, remember the admonition overnight.
20 We'll see you back at 9:30 in the morning,
2 please.
2 (Jury dismissed)
2 THE COURT: You probably have got another
2 couple of hours?
2 MR. WEHNER: Yes, sir. And I frankly I need

2397

1 to decide this evening with Miss Dean whether we shorten
2 it up or whether we keep on slogging through it. I'm
3 not sure what we want to do.
4 THE COURT: Maybe you'll put the fundings in
5 as a group or -6
MR. WEHNER: Yes, I understand that, Your
7 Honor. It's a decision we have to make.
8 The other time consuming thing -
9 THE DEFENDANT: Do you think we could be more
10 organized?
11 MR. WEHNER: - is play the tape of her
12 confirmation hearing which the Independent Counsel has
13 supplied. I'm not sure how long that is.
14 MR. O'NEILL: I don't know.
15 THE DEFENDANT: An hour, an hour and 15
16 minutes, an hour and a half or something.
17 MR. O'NEILL: Your Honor, were you going to
18 hear the hearsay now or -
19 THE COURT: Tomorrow morning. I just want to
20 read a couple of cases. The ones I read in the short
21 break indicated that the testimony by other qualified
22 witness, which is Miss Dean's category, the issue may
23 still be foundational on some of the authentication of
24 some of the documents. As I said before, I may have
25 read it a little strictly, Miss Dean's ability to

2398

\ / 1 identify these documents, but I'll hear it tomorrow.
2 All right.
3 MR. WEHNER: Thank you, Your Honor.
4 (Proceedings recessed at 4:30 p.m. to resume October 7,
5 1993 at 9:30 a.m.)
6 CERTIFICATE OF OFFICIAL REPORTERS
7 It is certified by the undersigned Official Court
8 Reporters of the United States District Court for the
9 District of Columbia that the foregoing is the official
10 record of the proceedings indicated. ∴ '.___
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ORIGINAL

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF COLUMBIA

3 UNITED STATES OF AMERICA,

4 - VERSUS-DOCKET NO.
CRIMINAL NO. 92-181

5 DEBORAH GORE DEAN,
WASHINGTON, D.C.
6 DEFENDANT OCTOBER 7, 1993

10:00 A.M.
7
FILED

8 VOLUME XIX

9 TRANSCRIPT OF TRIAL BEFORE OCF. - 8 1993
THE HONORABLE THOMAS F . HOGAN,

10 UNITED STATES DISTRICT JUDGE U.S. DISTRICT COURT
AND A JURY. DISTRICT OF COLUMBIA

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(COMPUTER-AIDED TRANSCRIPTION OF STENOTYPE NOTES)

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13 858 2431
14 876 2432
15 67 2432
16 881 2433
17 580 2451
18 581,582,585 2454
19 588 2454
20 589, 590 2456
2 598 2463
2 602,603 2467 2467
2 269 2481 2481
2 2 72 2484 2484
2 268 2486

1 EXHIBITS:
2 270
3 611
4 620
5 607-609
6 612-616
7 618,619
8 621,622
9 125
10 897
1 898
1 897
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FOR IDENTIFICATION

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IN EVIDENCE

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2402

1 PROCEEDINGS
2 THE DEPUTY CLERK: Criminal number 92-181,
3 United States of America versus Deborah Gore Dean. We
4 have Robert O'Neill and Paula Sweeney for the
5 Government. Stephen Wehner for Miss Dean.
6 THE COURT: All right. Are we ready to
7 proceed this morning?
8 MR. WEHNER: Yes, sir.
9 THE COURT: Okay. Do you want to take a look

10 at these business record problems we discussed yesterday
11 any further?
12 MR. O'NEILL: Judge, if I may, I'm not so sure
13 it's necessarily a business record problem. The thing
14 is if we had seen them earlier we could have looked at a
15 lot of these.
16 One of the problems is, for instance,
17 Sam Pierce's signature. We've heard about the autopen.
18 To the naked eye you cannot tell the difference.
19 There's no way, especially on these photocopy documents.
20 HUD has a lot of background documents which
2 will show whether the autopen was utilized or not.

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2 If we, pursuant to rule 16, had been given
2 those documents earlier we could have looked through
2 them like we did with the other documents, checked out
2 which ones were autopen, which ones weren't. Absent

2403

1 that, Judge, it's hard to make these determinations on
2 split seconds as the witnesses testify.

3 So I -

4 THE COURT: I see. You had not been provided
5 any of these document previously?

6 MR. O'NEILL: Judge, we were. We were
7 provided with 150,000 documents.

8 MR. WEHNER: How many?

9 MR. O'NEILL: 150,000, 20 boxes worth. And so

10 it's difficult then -- we can't go through 100,000
11 documents, Judge, and see which ones are authentic HUD
12 documents, which ones aren't, and determine. So that's
13 a problem there.
14 Most of these documents that we've seen,
15 there's been no objection to. But the handwritten
16 notations that are undated, or one of the ones yesterday
17 had a month and a date but not a year, it's very
18 difficult just to stipulate to those, Judge.
19 THE COURT: I understand. All right. What
20 I'm going to do so Mr. wehner and the defendant can go
2 through her testimony if she wishes on this thing, I'd

2 like to have brought up to me the documents that were
2 not introduced yesterday but were offered, were not
2 accepted for evidence but were offered. My notes are
2 559, 60, I'm not sure, 394, 395 and 346. 71, 72.

2404

1 You'll have to check the record here to make
2 sure I'm accurate which ones were not admitted.
3 All right. The clerk's notes are as follows:
4 857, 864, also 865 - wait a second.
5 I misread this, I'm sorry. 857 I didn't
6 receive, 855 I didn't receive. Then the next one I
7 think is 571, 572. That's all I show that were marked.

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8 I thought there were more.

9 MR. WEHNER: Your Honor -

10 THE COURT: Let me see those documents.

11 MR. WEHNER: Can I respond briefly to Mr.

12 O'Neill, Your Honor?

13 THE COURT: All right.

14 MR. WEHNER: With regard to the discovery

15 issue, I can't honestly say that Mr. O'Neill is

16 incorrect that they received a tremendous amount of

17 documents. I can say that 99 percent of those documents

18 that they received came from their files initially and

19 were the result of Miss Dean and myself and others

20 culling through the approximate 500,000 documents that

2 they produced in discovery, if the Court recalls,

2 claiming that they were not relevant or material to this

2 case. And that no Brady information existed, that

2 information material to the defense did not exist.

2 And it's hard for me to fathom, Judge, how,

2405

1 for example, you can take one exhibit, for example, like

2 the Mitchell note which appears to reflect a

3 conversation with Lance Wilson about units, that that's

4 not material to our defense.

5 But I just point out -- we've done the best we

6 can do in terms of getting through this.

7 THE COURT: All right. Let me ask you, there

8 are a couple of documents with Secretary Pierce's

9 initials on them. My notes - now I didn't realize they

10 were admitted. The Clerk's notes reflect they were

11 admitted. The ones we've got now that were not admitted

12 yesterday, Dean 857 is a handwritten note, a copy of a

13 handwritten note of 8-16 to Janet from Philip Abrams,

14 apparently concerning some civic project for rehab, but

15 I'm not sure what Miss Dean was attempting to identify

16 through this. It related to Puerto Rican development.

17 There's a note here about the Puerto Rican deal. I

18 don't know how that's tied in exactly.

19 865 was a 10-7 hand carried written note to

20 Ross Kumagai regarding the funding to Jacksonville. We

2 have other documents admitted relevant to that. That's

2 phase one, again on HUD stationery.

2 871 is a letter to Mr. Pierce from Mr. Javitz

2 with a date stamp on it of August 7, '85, nine-oh

2 something a.m. She couldn't read the particular office

2406

1 that received that, but it was received. Directed to

2 the secretary.

3 she identified the type of documents they

4 would keep in the ordinary course of business that was

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5 generated outside the course of business.

6 572 also was regarding Bayamon, the Bayamon

7 project in Puerto Rico from the Mayor. Miss Dean had a

8 copy of it and had written a note on it.

9 I'm going to do the following with these

10 documents. It seems to me that despite the Government's
11 concern to authenticate these and further track them
12 down, that both sides have multiple documents to go
13 through and produced multiple documents in response to
14 discovery requests, that Miss Dean is an otherwise
15 qualified person under the rule, the rule that a
16 custodian is a qualified person, as the Executive
17 Assistant to the Secretary of HUD to identify documents
18 that are being kept in the ordinary course of business
19 or created in the ordinary course of business, even
20 though it's not within her direct purview or office but
2 she can recognize these documents and what they mean as

2 to ordinary business documents.

2 It stretches the rule a little bit where there
2 seem to be handwritten notations that have a particular
2 project described, although it seems to be relevant, I'm

2407

1 referring to 857, as to actions taken by Philip Abrams
2 as an Assistant Secretary for Housing, Federal Housing
3 Commissioner on projects in Puerto Rico involving
4 specific projects. That's what the issue is about, some
5 of them.

6 Miss Dean was allegedly directing funding
7 awards that happened to go to favorite developers in
8 exchange for promises if she had further political
9 ambitions or favors to friends, but not any direct

10 benefit to her.

11 It is reflected that this is an award that was
12 made in Puerto Rico with others' involvement, not just
13 Miss Dean's, as to what the practice was at HUD in these
14 type of awards.

15 I think she's identified 857. Even though
16 it's a handwritten note, it's sufficient. I'm going to
17 admit 857.

18 865 I'm going to admit as the Mary Banks to
19 Kumagai note that she testified to. Mr. Kumagai had
20 these in his records in the normal course of business
2 and created in the normal course of business directions
2 on funding the project that was at issue in this case
2 and it refers to the project specifically and there's no
2 question about the document and what it means. I'll
2 admit that.

2408

1 571 is the letter received from Javitz as to
2 the Puerto Rican development, thanking the Secretary,
3 Hunter Cushing, Laurence Goldberger and Janet Hale for
4 their assistance with the project. I'm going to admit
5 this once again from the Secretary's office. I think
6 it's relevant to the issue of Miss Dean's involvement in
7 that situation or not. It has a date stamp as being
8 received in the Secretary's office to authenticate it.
9 And the final one is a letter from the Puerto

10 Rican Mayor that Miss Dean received a copy and made
11 notations on. Again that would be admitted to show what
12 actions she took on the development with the request
13 that she acted on, at least supported by the evidence as
14 to her involvement. There's a note that she had written
15 back to Mr. Casey and it's directed to Mr. Casey as
16 reported, and it's in her handwriting.
17 So with those I have no objection and I'll
18 admit them.
19 (Defendant's Exhibits 857, 865, 871
20 & 572 received into Evidence)
21 THE COURT: All right. Have you made a
22 decision how you're going to approach the rest of the
23 day with Miss Dean?
24 MR. WEHNER: Yes, sir. With the Court's
25 permission, in advance, I'd like to release

2409

1 Mr. Schoenberger and Mr. walker. They had been
2 subpoenaed by me late yesterday evening because they
3 were the individuals who had certified the Government's
4 records as coming from HUD and I'd like to thank them
5 for coming and release them from their subpoena at this
6 point.
7 THE COURT: All right. They're free to go.
8 MR. WEHNER: Thank you very much.
9 THE COURT: Are they from HUD?

10 MR. WEHNER: Yes, sir, they are the
11 individuals who signed off on the, what would you call
12 it?
13 MR. O'NEILL: Self-authenticating documents.
14 MR. WEHNER: Self-authenticating documents,
15 and we were prepared to put them on to do the same thing
16 with regard to these documents.
17 Yes, Your Honor, we are ready. What we're
18 going to try to do is, I think, we'll go through the
19 whole day with Miss Dean. We're going to try to speed
20 it up by using the video presenter less and not viewing
21 so many documents to the jury because I think it's
22 basically doubling the time of my direct examination.
2 I've told Mr. O'Neill and Miss Sweeney that
2 next week there is a possibility that we will call one
2 more witness with regard to the Baltimore Uplift matter

2410

1 that I've yet to identify. I'll conduct that interview
2 tomorrow. I've told them that I'll call their office
3 this weekend and leave a message on their answering
4 machine as to who that might be.
5 We may also call Carolyn Jordan, based upon
6 Your Honor quashing of the subpoena to Mr. Proxmire.
7 Carolyn Jordan was an attorney for Senator Cranston who
8 served on that Committee and is familiar with the same
9 areas that Senator Proxmire was familiar with and I've

10 given that name to the Independent Counsel.
11 We also may call, but it's less likely, we'll
12 call Nelson Deckelbaum with regard to character
13 testimony, and then the last witness that we'll also be
14 interviewing tomorrow will be Michael Dorsey who was
15 a -- I think he was General Counsel at HUD for the
16 relevant time period.
17 I don't anticipate those would be lengthy
18 witnesses at all, Judge, so I think we'll finish Tuesday
19 with our case.
20 THE COURT: Miss Dean needs time on
2 cross-examination. That would be Tuesday, I assume.
2 MR. O'NEILL: I don't believe it will be a
2 full day, Judge.
2 THE COURT: All right. I'll tell the jury
2 we'll try to finish up the testimony in the case Tuesday

2411

1 if we can, at the latest wednesday. If you have any
2 instructions ready by tomorrow I'd appreciate receiving
3 them so I can begin to look at any proposals that you
4 have over the weekend. If not, I want to get them early
5 next week, but if you have any in draft form that I can
6 look at it would help us over the weekend in advance.
7 Otherwise it would be kind of compacted to get them in
8 the middle of the week.
9 MS. SWEENEY: Your Honor, I believe that we

10 can get them in tomorrow afternoon.
11 THE COURT: Thank you.
12 MR. WEHNER: Your Honor, could we approach for
13 a minute?
14 THE COURT: Yes.
15 (Bench conference)
16 MR. WEHNER: Regarding -- with regard to juror
17 number seven. Miss Dean observed this yesterday and I
18 simply want to put it on the record, that juror number
19 two gave juror number three some kind of pill and juror
20 number two asked juror number seven for a glass of
2 water. Juror seven handed number two the water. Juror
2 number two handed it to three and three took a pill.
2 And apparently juror number seven found this whole thing
2 rather amusing. That's just observation.
2 Secondly, I observed juror number seven, I

2412

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1 believe, asleep during part of the testimony yesterday.
2 So I'd renew my motion to strike her.
3 MR. O'NEILL: I would like to state the
4 Government's position on this. I watched number seven
5 since Your Honor had said something and I feel number
6 seven has done nothing - I viewed nothing about any
7 pills or passing of water. Not that I think that's a
8 big problem. I have seen nothing by seven that I
9 haven't seen from one, two, three, four, all the way
10 through, so I have seen nothing since Your Honor
11 excoriated the entire jury.
12 THE COURT: As I said, I have been watching
13 seven off and on during the trial because I had some
14 concerns. I thought she was rather animated and she
15 obviously likes to be in charge and does pass out
16 water. She asks the marshal for water all the time and
17 passing cups of water down the road. In a long trial,
18 that's not too unusual.
19 I don't know about the pill. I didn't notice
20 that. I don't know that's a real problem either. I did
2 notice she was asleep. I noticed she looked up a few
2 times. I will inform them that they'd better conduct
2 themselves in another fashion. I'll continue to watch
2 them.
2 MR. WEHNER: Thank you, Your Honor.

2413

1 (Bench conference concluded)
2 THE COURT: All right, will you bring the jury
3 in, please?
4 (Jury present)
5 THE COURT: All right, ladies and gentlemen,
6 good morning, and thank you for coming in promptly and
7 getting ready to go. We're ready to proceed at this
8 time in the continuation of the testimony of Miss Dean.
9 Miss Dean?
10 (DEBORAH GORE DEAN, THE DEFENDANT, RESUMED THE STAND)
11 THE COURT: All right, we're ready to go.
12 MR. WEHNER: Good morning.
13 THE JURORS: Good morning.

14 DIRECT EXAMINATION (CONTINUED)

15 BY MR. WEHNER:
16 Q Good morning, Miss Dean.

17 A Good morning.

18 Q We had talked yesterday briefly about the use of
19 the Secretary's autopen.

20 A Yes.

2 Q Could you tell us, please, generally for the time
2 period, what your responsibility was with regard to the
2 autopen, what the rules were, how you used it, and when
2 you used it?

2 A Okay. The autopen was a very large machine, about

2414

1 twice as big as this particular area here. It had a

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2 huge wheel that went around with different things on it

3 and you'd put the wheel on and line the paper up in a

4 certain place and the autopen would move a pen in such a

5 way that it would sign Samuel R. Pierce, Jr.

6 And I believe that the Assistant Secretary for

7 Bousing had one and so did the Assistant Secretary for

8 Community Planning and Development and the

9 Undersecretary had one. And the Executive Secretariat,
10 that I was the original director of, we had the machine

11 in that office.

12 So the Secretary would authorize things for
13 autopen which doesn't sound like it makes a lot of sense
14 because you could just sign your own signature a lot

15 easier, but there are a lot of times where there would
16 be five or six documents, or a letter that would go out
17 to every mayor. He would authorize all of those for the
18 autopen to him and they would come back and the machine
19 would be used for that, and the Executive Assistant to
20 the Secretary also could authorize things for autopen,
21 and when I was the director of the Executive Secretariat
22 I had to okay each of those. So somebody couldn't just
23 come into the office and say Lance Wilson says to
24 autopen this. I'd have to look at it and make certain
25 that I was convinced that it had come out of Lance's

2415

1 office correctly.

2 And that system stayed in effect when I became
3 Executive Assistant. So I would often authorize things
4 for autopen and then the Executive Secretary person
5 would look at it as well. So you would usually see two
6 sets of initials. And the things that were autopenned
7 could have been anything, rules and regulations,
8 letters, memoranda, social notes, almost anything.
9 The Secretary did not use his desk normally

10 when we had meetings. He would work at it and it was
11 piled really high with papers and things all the time.
12 So there wasn't really a good clear working area. He
13 was just one of those kind of people that had a very
14 full, full desk.

15 And so he used to move and sit in a chair that
16 was a very low chair and then you would sit on the couch
17 or a chair around sort of a coffee table and that's

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18 where I would have 99 percent of all of his meetings in
19 his office would be right there, and it was very
20 difficult to sign his name where he was sitting in that
2 chair. He'd have to, like, move over and go like that
2 or he'd have to sign it around his knee and it would
2 just sort of run down the page and it would not look
2 right.
2 So many times if I took in, as I said,

2416

1 packages, he would read it and say okay and he would
2 hand it back to me and then I would then have that
3 signed with his official signature, mostly for
4 cosmetics, cosmetic purposes, so that his signature
5 would look right.
6 And we changed the wheel, I believe, four
7 times while I was there because it would run out and it
8 would start to, like, get a bump in it or something.
9 I remember one year, let's say, Samuel R.

10 Pierce and the A would have a star in it just sort of
11 moved over and it looked really silly. So we had to
12 have a new one made and so we had four different ones
13 made while I was there.
14 Q How were the wheels made?
15 A You know, I don't know. There's a company that did
16 it and the Secretary signed something originally when he
17 came in and they would just take that original and
18 remake the wheel every time. He didn't have to do
19 anything each time we made a new wheel.
20 Q Now, from your observations of -- during that
2 period of time, if you look at a document can you tell,

2 you individually tell, whether it's been autopenned or
2 whether it's the Secretary's original signature?
2 A Usually, yes.
2 Q What about on xeroxes? Can you tell the

2417

1 difference?
2 A Usually, yes.
3 Q How can you tell the difference?
4 A Of course that star in the middle of the A is
5 really unusual and that went on for a year before we got
6 that corrected, so all of those are autopenned. Usually
7 those that go in a straight line are autopenned because
8 the Secretary had a very free flowing hand and if he
9 normally signed something himself it was on his knee

10 where he would sign it or he'd have to lean over and
11 sign it on this coffee table, and he was a very large
12 man and his weight would go behind the signature, and it
13 usually would go up or down. Very rarely it looked like
14 the autopen. The autopen looked better than his
15 signature.
16 Q Did you ever personally write his signature?
17 A No, no.

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18 Q So, as far as you know, the only way documents got
19 signed was either through the autopen or him personally
20 signing it?

2 A And we also - we had an autopen that said Samuel
2 R. Pierce, Jr. We also had an autopen that said Sam.
2 And if the person was a very close friend. For
2 instance, he might call me if he was away on a trip and
2 say send a letter to Senator Rockefeller who he knew

2418

1 very well. And he would say - I of course would know
2 to sign it Sam. I wouldn't sign it Samuel R. Pierce
3 because then he'd know the Secretary hadn't sent the
4 letter.
5 So he would dictate the letter to me or to his
6 Secretary Starr. Normally he would just tell me what he
7 wanted. I would compose it and then we would autopen it
8 Sam and get it out.

9 Q Were there any other wheels to his signatures other
10 than Samuel R. Pierce, Jr., and Sam?

11 A At one time we had I believe it was either a Sam
12 Pierce or a Samuel Pierce and we never used it because
13 he never signed his name that way. So it was
14 destroyed.

15 THE COURT: Was there one for his initials?

16 THE WITNESS: No.

17 BY MR. WEHNER:

18 Q Miss Dean, we spent sometime yesterday talking
19 about Regent Street in Philadelphia.

20 A Yes.

2 Q I'm going to show you what I've marked for
2 identification as Dean Exhibit 247 which purports to be
2 a letter to Samuel R. Pierce, Jr. from Arlen Specter.

2 A Yes.

2 Q Dated April 22nd, 1985.

2419

1 A Yes.

2 Q Can you identify that document as being what I
3 described it as?

4 A It's a letter from Arlen Specter to Secretary
5 Pierce dated April 22nd, 1985, and it was received on
6 April 26th at 9:13 a.m., 1985.

7 Q Does it purport to discuss Regent Street?

8 A It discusses Regent Street and 26 units of Section
9 Eight under the Mod rehabilitation program.

10 MR. WEHNER: With the Court's permission, I'll
11 move into evidence Dean Exhibit 247.

12 MR. O'NEILL: No objection, Your Honor, based
13 on your ruling. However, the Government would reserve
14 its previous objections.

15 THE COURT: All right, I'll overrule the
16 objection and allow the document to be submitted.

17 (Defendant's Exhibit 247 received
18 into Evidence)

19 MR. WEHNER: With the Court's permission, I'm
20 going to publish that to the jury.

21 THE COURT: All right.

2 2 BY MR. WEHNER:

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23 Q Miss Dean, could you please read the first
24 paragraph?
25 A "I am writing on behalf of and at the request of a

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1 constituent firm, Pennrose Properties of Philadelphia,
2 Pennsylvania. The information contained herein is based
3 upon materials provided me by my constituent."
4 Q would you read the first sentence of the next
5 paragraph?
6 A "I understand that the Regent Street project, a
7 joint venture of the Philadelphia Housing Development
8 Corporation and Tri-Rose Associates is in need of
9 securing an additional 26 units of Section Eight under

10 the moderate rehabilitation program for the proposals to
11 come to fruition."

12 Q And would you read the last two sentences of the
13 letter?

14 A "This appears to be a worthwhile request, so I urge
15 that you give it your full consideration. Thank you for
16 your time and consideration of this important matter.
17 My best, Arlen Specter."

18 Q Arlen Specter was one of the Senators from
19 Pennsylvania at that time, was he not?

20 A Yes, and he was a friend of Secretary Pierce's.

2 Q And he was also from Philadelphia, isn't that
2 correct?

2 A He was from Pennsylvania. I don't know where he's
2 from.

2 Q Now, are these the units, the same units that are

2421

1 reflected on the chart as being -- partially reflected
2 on the chart as being 13 units to Philadelphia,
3 Pennsylvania?

4 A My assumption is, and -5

Q Your best recollection, please.

6 A I don't have a specific recollection of these but,
7 as I said yesterday, I think you'd have to - 1 mean
8 obviously that's what it is. It's obviously 12 or 13 is
9 the 25 that made up the 26. I now know this, so I'm -
10 but I just don't have any specify recollection of
11 discussing it at the time.

12 Q Miss Dean, we discussed yesterday Senator Hawkins
13 with regard to some Florida units.

14 A Yes.

15 Q I'm going to show you what purports to be a letter
16 to Honorable Paula Hawkins from Deborah Gore Dean dated
17 November 8th, 1985, regarding moderate rehabilitation
18 units.

19 A Yes.

20 Q Is that what I described it as being?

2 A It's about Section 202 and Mod Rehab, yes.

2 MR. WEHNER: With the Court's permission, I'll
2 move into evidence Dean Exhibit 877.

2 MR. O'NEILL: No objection, Your Honor.

2 THE COURT: All right, 877 is admitted.

2422

1 (Defendant's Exhibit 877 received
2 into Evidence)
3 BY MR. WEHNER:

4 Q Miss Dean, would you please read the second
5 paragraph of that letter aloud, to the extent you can?
6 A "On another unrelated matter I will be calling your
7 office shortly to announce a considerable number of
8 moderate rehabilitation units going to Dade County. I
9 will of course call your office before HUD makes any

10 announcements."

11 Q Thank you.

12 Now, had you had discussions with Senator
13 Hawkins with regard to moderate rehabilitation units to
14 Dade County, Florida?

15 A Yes, I spoke to her one time about the 202 project
16 and the moderate rehabilitation, and I spoke to
17 Secretary Pierce and she had spoken to him about it, and
18 I spoke to the white House about it, and they spoke to
19 me about it.

20 Q Okay, Miss Dean, I'm going to show you what I've
2 marked for identification as Dean Exhibit 71 which

2 purports to be a memo handwritten by you to Janet Hale
2 dated 11-20, 1985 from D, Deborah.

2 A Yes.

2 Q Is that what I described it as being?

2423

1 A Yes, it is.

2 MR. WEHNER: Your Honor, with the Court's
3 permission, I move into evidence Dean Exhibit 71.

4 THE COURT: 71?

5 MR. WEHNER: Yes, Your Honor.

6 MR. O'NEILL: Your Honor, could I have a quick
7 voir dire on this?

8 THE COURT: Sure.

9 BY MR. O'NEILL:

10 Q Miss Dean, do you recall whether this was as to the

11 202 program or the Mod Rehab program?

12 A It was regarding both.

13 MR. O'NEILL: Nothing further.

14 At this time I would have no objection.

15 THE COURT: All right. I'll allow it. 71 to

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16 be admitted.

17 MR. WEHNER: Yes, Your Honor.

18 (Defendant's Exhibit 71

19 received into Evidence)

20 BY MR. WEHNER:

2 Q Janet Hale was Federal Housing Commissioner at that

2 time?

2 A Yes.

2 Q Would you please read that aloud?

2 A It says "Per my discussion with Senator Hawkins

2424

1 today, the final papers will be signed by BUD before

2 Friday. Let's review the file today, if possible.

3 T.C.," who was Tom Casey, her Executive Assistant, "can

4 handle if you wish."

5 Q Now, when you referred to final papers, what final

6 papers are you referring to in that handwritten memo?

7 A I wanted to expand a little bit on what I said to

8 Mr. O'Neill. I don't believe the 202 ever was funded

9 but we had to get an answer back to the sponsor. It may

10 have been funded and then the funds would have been

11 going out. whichever the resolution of that was. And

12 also the final moderate rehabilitation monies had

13 already been announced, but the monies had to then be

14 sent through the system. Sometimes there's a long delay

15 and sometimes it's a short time, but there must have

16 been a delay at this point, given the date of the note.

17 Q Now, Miss Dean, we had had some discussions

18 yesterday with regard to private individuals who visited

19 you with regard to certain projects.

20 A Yes.

2 Q And we also discussed that briefly the day before.

2 During your tenure at HUD at the relevant time

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2 periods, '83 to '87, did you become familiar with a
2 legal opinion that gave advice on whether or not
2 consultants were appropriately used in the moderate

2425

1 rehabilitation program?
2 A I knew from discussing with the General Counsel's
3 office and from discussions with Secretary Pierce
4 that - because he told me he had looked into it, and
5 that I knew that the use of consultants were legal and
6 that it came out of the developers' profit and that
7 therefore was not a HUD cost certifiable - you know,
8 entity. We could not do anything with it and so
9 therefore we couldn't regulate it or oversee it.

10 MR. WEHNER: Your Honor, with the Court's
11 permission - I'm sorry, I'm getting ahead of myself,
12 Judge.

13 THE COURT: All right.

14 BY MR. WEHNER:

15 Q Let me show you what I've marked for identification
16 as Dean Exhibit 517 and ask you if you've seen that
17 document - if you saw that document during your tenure
18 at HUD?

19 A No, I did not. I saw this document after I left
20 HUD.

2 Q Does this purport to be a memorandum for David
2 White, Assistant General Counsel, from Betty Park,
2 Acting Assistant General Counsel?

2 A Yes, this memorandum, however, it is from one HUD
2 employee to another but this memorandum was out - every

2426

1 person in Washington who had any dealings with HUD got a
2 copy of this memo within days.

3 Q Does it purport to regard the subject consultant
4 agreement Section Eight Mod Rehab?

5 A Yes, it does, and it's signed by the person who
6 wrote it.

7 Q And that is Betty Park?

8 A Yes.

9 MR. WEHNER: With the Court's permission, I
10 move the introduction of Dean Exhibit 517.

11 MR. O'NEILL: What is the date on that?

12 MR. WEHNER: There is no date that I can see.

13 THE COURT: It's undated?

14 MR. WEHNER: I have no date on my copy, Judge.

15 MR. O'NEILL: My only objection would be as to
16 the date, since Miss Dean is no longer at HUD.

17 THE COURT: Let me see the relevance of it.

18 All right, I'm not going to admit it on the
19 timeframe then unless you can identify it with some
20 earlier document.

2 MR. WEHNER: All right, Your Honor.

2 BY MR. WEHNER:

2 Q Miss Dean, were you familiar with the policy at HUD
2 with regard to the use of consultants during the time
2 you were there?

2427

1 A Yes, when the situation of the Puerto Rico Mod
2 Rehab units came up, that was the time when Secretary
3 Pierce was very interested to see if that was a way in
4 which we could cancel these units. It was obviously
5 going to be a problem that people who had been involved
6 in HUD were going to be making considerable sums of
7 money once they left. And the Secretary did not like
8 this and he wanted to have it reviewed and so he had it
9 reviewed himself and told me that he had it reviewed and

10 what he had found out and he asked me to look into it
11 again.

12 Q Does the document I showed you reflect the
13 information that you were aware of and received during
14 your tenure at HUD?

15 A That memorializes a longstanding policy within the
16 Department.

17 MR. WEHNER: Your Honor, I renew my motion to
18 admit 517.

19 THE COURT: On the basis that that is the same
20 as the policy that she testified to that was in
2 existence when she was there?

2 MR. WEHNER: As well as a memorialization of
2 the policy, Your Honor, yes.

2 THE COURT: All right, I'll admit it.

2 MR. WEHNER: Thank you, Your Honor.

2428

1 THE COURT: Without further identification.
2 (Defendant's Exhibit 517 received
3 into Evidence)

4 BY MR. WEHNER:

5 Q Miss Dean, could you come down off the stand and
6 just read the entire memo, or with the Court's
7 permission, could she read from the original?

8 A "This responds to your request of January 6, 1988 to
9 George Weidenfeller for our opinion regarding the
10 acceptability of the attached contingent fee consultant
11 agreement between Robert E. Rohlwing, Incorporated and
12 Atlman Properties, Limited.

13 HUD does not regulate the amount or terms of
14 contracts between a prospective Section Eight property
15 owner and his consultant. HUD also does not recognize
16 the cost of a consultant in its determination of subsidy
17 amount for a moderate rehabilitation project. The
18 Section Eight moderate rehabilitation program is
19 designed so as to preclude the necessity for examining
20 relationships of this type. Since HUD's only financial
2 exposure is the Section Eight rent subsidy, its
2 regulation at Section 882.408 by both generalized upper
2 limits based upon Mod Rehab fair market rents and
2 project specific cost analysis provides adequate
2 protection against abuse.

2429

1 Subsequent to the aforementioned upper limit
2 rents based upon Mod Rehab fair market rents, the
3 initial contract rent is established for each project
4 pursuant to the provisions of Section 882.408 (c) (2).
5 The initial contract rent is equal to the base rent plus
6 the monthly cost of the rehabilitation loan. The base
7 rent is either the current rent charged for the unit or
8 the estimated monthly cost of owning, managing and
9 maintaining the rehabilitated unit. The rehabilitation

10 loan may include only the actual cost of the
11 rehabilitation and temporary tenant relocation. Section
12 882.506 (c) requires that the owner certify as to the
13 temporary relocation costs, actual rehabilitation costs,
14 and the rehabilitation loan interest rate and term.
15 As can be seen, consultant fees are not
16 recognizable costs for establishing the contract rents.
17 Consequently, provided that the consultant fee is not
18 included in costs which are used to calculate the
19 contract rent, the owner is free to enter any agreement
20 that he desires with his consultant."

2 Q Miss Dean, you have testified about certain of the
2 Housing Commissioners and their relationship to
2 Secretary Pierce.
2 A Yes.
2 Q And was it the practice of the Department to

2430

1 distribute regulations to the field offices with regard
2 to certain programs?
3 A Of course, every -- annually.
4 Q And was it the habit of the Department for the
5 Housing Commissioners to send documents or instructions
6 to the field office with regard to Mod Rehab?
7 A Yes, the Housing Commissioner every year would send
8 out whatever regulations and requirements were to be in
9 effect that year for how the program was going to be run

10 everytime Congress allotted us our fiscal year money for
11 that year. But those regulations didn't go to Secretary
12 Pierce. They just went to the field.
13 Q I show you documents I've marked for identification
14 as Dean Exhibit 67, Dean Exhibit 876, 881, 91 and 858
15 and ask you if you could identify those by referring to
16 them by exhibit number?
17 A Dean Exhibit 91 is from Maurice Barksdale, dated
18 March 1st, 1984. Fiscal year 1984 Section Eight Mod
19 Rehab funds. And it's the memo to the field on how the
20 program is to work in 1984.
21 MR. WEHNER: with the Court's permission, I'll
22 move the introduction of Dean exhibit 91.
23 MR. O'NEILL: No objection.
24 THE COURT: All right, 91 is admitted.
25 (Defendant's Exhibit 91 received

2431

1 into Evidence)
2 A Dean Exhibit 858 dated, September 21st, and this
3 would have been -- been September 21st, '84 because it's
4 for the fiscal year '85 which was to begin October 1st,
5 but how this fiscal year '85 Mod Rehabs were to be
6 sent. But this is the carbon copy. The concurrence
7 copy. And you can see that it's been concurred on by
8 every person all the way up the line to -- Miss Hastings
9 is here. The people below her. Mr. Hammernick who was
10 above Miss Hastings, and Mr. DeBartolomeis, the Office
11 of General Counsel, another Office of General Counsel,
12 and about another four to five people, all of whom
13 initialed here as it's going out.
14 MR. WEHNER: I move the admission of Dean
15 Exhibit 858.
16 MR. O'NEILL: No objection, Your Honor.
17 THE COURT: 858 will be admitted.
18 (Defendant's Exhibit 858 received
19 into Evidence)
20 A Dean Exhibit 876 is an original for 1986. This one
21 is signed by Janet Hale, dated November 12, 1985. She
22 was a little late getting this one out. And it
23 describes how the Mod Rehab program is to work in fiscal
24 year 1986, and Dean Exhibit 67 -25
MR. WEHNER: I move the admission of Dean

2432

1 Exhibit 876, Your Honor.
2 MR. O'NEILL: No objection.
3 THE COURT: All right, 876 is admitted.
4 (Defendant's Exhibit 876 received
5 into Evidence)
6 A Dean Exhibit 67 is a -- it says note, but it's a
7 memo, an unofficial memorandum, I guess we'd say, from
8 Bob Kenison to Louise Kleffner, who worked for Miss
9 Hastings, who would have drafted the '86 memo, basically

10 saying that he agrees with the memo, but then he puts a
11 caveat on the bottom of that. It says - would you like
12 me to read it?
13 Q Not yet.
14 I move the admission of Dean Exhibit 67.
15 MR. O'NEILL: No objection, Your Honor.
16 THE COURT: All right, no objection, 67 is
17 admitted.
18 (Defendant's Exhibit 67 received
19 into Evidence)
20 A But at the end here -- is it all right to read
21 that?
22 Q You may read that.
23 A It says, "My concurrence in this document should be
24 viewed in that context," I'm sorry. "I believe that the
25 ranking provisions of 882.501 must be followed and my

2433

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1 concurrence in this document should be viewed in that
2 context. As a related matter, we recommend that there
3 be a good record of the deliberative process in
4 selecting applications." And I have seen this memo for
5 every year previous to this also. He wrote this memo
6 every year saying they should have a deliberative
7 process in the selection of Mod Rehab funds every year.
8 Q And 8 81?
9 A 881 is a memorandum from me to Janet Bale regarding

10 the moderate rehabilitation regulations.
11 MR. WEHNER: I'll move the admission of Dean
12 Exhibit 881.
13 MR. O'NEILL: No objection, Your Honor.
14 THE COURT: All right. Admitted.
15 (Defendant's Exhibit 881 received
16 into Evidence)
17 MR. WEHNER: With the Court's permission,
18 I'll exhibit Dean Exhibit 858 briefly.
19 BY MR. WEHNER:
20 Q Miss Dean, would you please read the first sentence
21 of paragraph number one?
22 A "As in fiscal year 1984, decisions on allocations of
23 units to PHA's will be made in headquarters."
24 Q Does that instruction appear in the other memoranda
25 that was sent to the field with regard to allocations of

2434

1 units?
2 A Yes.
3 Q Now, Miss Dean, I'm going to show you very
4 quickly -- take a quick look at Dean Exhibit 881.
5 A Yes.
6 Q Just so you can refresh your recollection as to
7 what it concerns. It's a three-page memoranda.
8 A Yes, I remember it very well.
9 Q would you describe to the jury the circumstances

10 under which this memoranda was written?
11 A Yes, there was an audit done of the rents that the
12 Mod Rehab program was using and I believe it was in
13 Buffalo, New York, and the Inspector General had done an
14 audit finding, basically that said that the rents for
15 the Mod Rehab program were getting abused. They were
16 too high. And he asked Miss Hale and Mr. DeBartolomeis
17 at that time to please set up a task force to find out
18 whether or not the rents in these programs were correct
19 or not.
20 And at that time there was a flurry of other
2 interested people who I had been getting some phone
2 calls from that were saying that they also thought that
2 there was a problem in this area and that the new
2 co-insurance program that was being set up was being put
2 in tandem with Mod Rehab, Government insurance on the

2435

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1 loans, and that this was pushing the rents up.
2 And I remember very well going down to the
3 library and picking up the co-insurance handbook and the
4 Mod Rehab handbook and realizing that they were totally
5 different. And there was obviously room in there for
6 there to be some misunderstanding.
7 The field offices had different handbooks that
8 told them do different things in calculating rents and
9 of course that made no sense.

10 So I thought it was a pretty serious problem
11 and so I sat down and wrote out what - where I thought
12 the problem was and with the handbooks being different,
13 and the fact that I thought there could be some problems
14 with this and I sent it to Miss Hale and
15 Mr. DeBartolomeis who was then head of Multi-family
16 Housing and I also sent a copy to the General Counsel's
17 office, but I never got anything back. I never heard
18 anything back about it.
19 And later on of course it became a major
20 problem.
21 Q Miss Dean, there has been testimony concerning
22 various lunches that you attended, dinners, et cetera,
23 and I'd like to direct your attention just generally to
24 the time period that you were at HUD and would you
25 describe, please, the policy under which you operated

2436

1 regarding reimbursement for your lunches and dinners
2 from the Government, during the appropriate time period?
3 A Well, you cannot be reimbursed for lunches or
4 dinners by the Government.
5 Q Now, did you on occasion have a business related -
6 a BUD related dinner?
7 A Oh, yes, many times.
8 Q And did you on occasion pay for those dinners?
9 A Yes.

10 Q And pursuant to the policy, did you get reimbursed
11 for that?
12 A No, it has to come out of your salary.
13 Q Would you tell the jury what -- a few examples of
14 the dinners or lunches you paid for, who they were with,
15 over the appropriate time period?
16 A Well, I remember that there was an occasion when
17 the Appropriations Committee at the House had taken away
18 the staffers for the Office of the Secretary which meant
19 that we would have had to rif people in the office,
20 which was a big office, and we had public affairs,
21 Congressional affairs. It was just not in his immediate
22 office but I think we would have lost, I believe it was
23 12 or 16 people, something like that. And they did that
24 to show the Secretary how serious they were about his
25 hiring people in the field to work on public housing

2437

1 monitoring.

2 And the House had given the Department a large

3 amount of money to hire new people to work in the field

4 of public housing, in the field, and the Department had

5 been very slow hiring new people in the field.

6 And Congressman Boland, to get Secretary

7 Pierce*s attention, took away the people from Secretary

8 Pierce*s office so that he would understand that he was

9 serious and to hire the people, and of course Secretary

10 Pierce did not know at that time that we were falling

11 behind hiring the people in Public and Indian Housing.

12 And so I called up the staff director for the

13 Appropriations Committee, a Mr. Mallow, and I remember I

14 took Mr. Mallow to lunch and Mr. Mallow -- and I

15 remember it was a long lunch because Mr. Mallow spent

16 quite a lot of time telling me everything that we

17 thought we were doing wrong and what it would take to

18 fix this situation and I went back and I had a

19 conversation with Secretary Pierce and I reported to him

20 what these -- and there was a staff director of some

21 prominence. He was an older man and was -- had been

22 there for awhile and he spoke for the Congressman in

23 many respects.

24 So I went back and reported to the Secretary

25 what he had said and the Secretary said, well, he's

2438

1 absolutely right. why aren't we hiring these people?

2 And he called up Mr. Dorsey who was then the head of

3 Public and Indian Housing and said why aren't you hiring

4 people and it was so of course a red tape issue where

5 they had to put ads out and there were forms that had to

6 be printed. It was actually senseless Government red

7 tape of why this had not been done. And the Secretary

8 said get it done and get it done fast.

9 And he wrote Congressman Boland back a

10 letter. He said you are right, sir, we did this wrong

11 and we are fixing it.

12 And I remember at that point then also having

13 to report back to Mr. Mallow and Mr. Mallow asked if we

14 could have dinner and I remember I had dinner with

15 Mr. Mallow and it was -- I remember I thought it was

16 rather expensive and I paid because I was -- we were

17 actually asking him to reinstate the positions at HUD,
18 and so I paid.
19 And then I remember a time when Secretary
20 Pierce was interested in a longtime Government employee
2 being able to be, I don't know if it was an exception
2 appointment, but it had to be approved by OPM and I
2 remember calling up the Office of Personnel Management
2 and saying I'd like to come over and meet with you on
2 this subject with a Mr. Dutcher, and Mr. Dutcher said

2439

1 well, why don't we have lunch?
2 Once again I'm the one with my hand out, I'm
3 asking him for something. So I had to pay for lunch and
4 I know that when we were lobbying for the National
5 Association of Realtors, to try to break them down on
6 the fair housing amendments, I had to take the general
7 counsel of the National Association of Realtors to lunch
8 and he wanted pepper steak at the Jockey Club. I
9 remember that very well. So Mr. North from the National

10 Association of Realtors had lunch twice at the Jockey
11 Club and I know I paid both times because once again I
12 was asking him to move his position and not the other
13 way around.
14 And I know that we had a National Association
15 of Realtors-HUD task force on the testing guidelines and
16 that was - and that was the whole task force and in
17 essence I think Mr. Weigand, who was the president of
18 the realtors at the time, paid for the realtors and I
19 didn't feel - this was a very expensive restaurant.
20 This was Maison Blanche. I remember the restaurant.
2 And I did not think that the HUD employees who were on
2 the task force should have to pay for this very
2 expensive dinner, so I paid for it, and so I paid for
2 the HUD employees and Mr. Weigand paid for the realtor
2 employees.

2440

1 I mean there was a lot of this. It was very
2 expensive.
3 Q Does HUD have any kind of taxpayer allocation to
4 fund this type of lobbying activity for the Secretary or
5 the Executive or anybody in the Secretary's office?
6 A Well, the Secretary has an entertainment fund for
7 foreign dignitaries. If he wanted, for instance, to
8 have a mayor for lunch there is a small amount of money
9 where he can send out and get food and come in and do

10 the lunch but it was only for his use and it was a very
11 small fund.
12 I think sometimes when you go to a foreign
13 country they give you something and you give them
14 something when you get off a plane. That's what that
15 fund was used for, but there's nothing like that for any
16 other HUD employee and I certainly made a very nice

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17 salary and I was more than happy to do it. I considered
18 it part of the job, and I made a nice salary.
19 Q what was the Secretary's relationship with
20 Janet Hale when she was Federal Housing Commissioner?
2 MR. O'NEILL: Judge, I believe we went over
2 all of this yesterday at considerable length.
2 MR. WEHNER: It's a transition question.
2 THE COURT: All right, let's move ahead.
2 MR. WEHNER: Yes, sir.

2441

1 A The Secretary had a lot of respect for Miss Hale.
2 Q who succeeded Miss Hale?
3 A Mr. DeBartolomeis.
4 Q And when did he succeed Miss Hale?
5 A In -
6 Q Approximately?
7 A I believe that -- I believe it was the early part
8 of 19 86.
9 Q Did he then become responsible for the day-to-day
10 administration of the moderate rehabilitation program?
11 A Yes.
12 MR. WEHNER: with the Court's permission, I'm
13 going to put on the stand Dean Exhibit 62.
14 THE COURT: All right.
15 BY MR . WEHNER:.
16 Q At the time Mr. DeBartolomeis became Federal
17 Housing Commissioner who was Susan Zagame?
18 A I can't see that. I'm sorry, once it gets to
19 Colorado I can't see any more.
20 MR. WEHNER: I'm not sure we're going to be
2 able to solve this.
2 A Okay, fine. That's great.
2 Q who was Miss Zagame?
2 A Miss Zagame was originally a Deputy Assistant
Secretary of the Office for Fair Housing and Equal

2442

1 Opportunity and at this point in time she had moved to
2 the Office of Policy and Budget. That had been the
3 office that Janet Hale had had under Phil Abrams,
4 Maurice Barksdale, and then Janet Hale moved up.
5 Susan Zagame moved into that job.
6 Q Okay. Directing your attention to the chart, does
7 that reflect funding decisions made on or about May
8 22nd, 1986?
9 A Yes, those were the decisions that were signed on
10 May 22nd, 1986.
11 Q Do you recall testifying yesterday about
12 James Watt?
13 A Yes.
14 Q Okay. Directing your attention to the second
15 project on that list.
16 A Also the decisions were made before May 22nd.
17 That's the day that they were signed.
18 Q Okay. why don't you describe what led up to those
19 funding decisions, please? Generally.
20 A well, there were - there was some input from the
2 Secretary. I can look there and see input from the
2 Secretary. There was input from Mr. DeBartolomeis and
Page 1370

2 there was – I can see one Senator – I think there are
2 two Senators, a Congressman, three Senators and one or
2 two Federal -former
Federal Housing Commissioners.

2443

1 Q Directing your attention though to the method by
2 which the selections were made in terms of the
3 difference between Miss Hale and Mr. DeBartolomeis, was
4 there any difference?
5 A Yes.
6 Q what was it?
7 A Well, there was no difference actually at this
8 point. It wasn't really until after this funding round
9 that there – problems began to occur, but the Secretary
10 did not have the respect for Mr. DeBartolomeis that he
11 had for Miss Hale and the Secretary had more of an
12 interest in keeping an eye on Mr. DeBartolomeis than he
13 did on Miss Hale. So Miss Hale was rather autonomous.
14 Mr. DeBartolomeis was not in that category. He was
15 asked basically to report more on what he was doing.
16 Q Mr. DeBartolomeis, was he an Acting Housing
17 Commissioner?
18 A Yes.
19 Q Or was he the Presidential appointed Housing
20 Commissioner?
21 A He was an Acting – he was Acting Housing
22 Commissioner and he had actually lobbied to become the
23 General Deputy, and that I think is where the beginning
24 of the problems started because Secretary Pierce had
25 started to get phone calls and a letter or two saying

2444

1 why not appoint Silvio to be General Deputy as opposed
2 to him just Acting, and I remember that the Secretary
3 was not pleased with that because he was lobbying
4 outside the agency for a position inside the agency
5 where he already was, and if the Secretary wanted to
6 appoint him for a position, he would have done it.
7 Q Directing your attention to the Springfield,
8 Massachusetts allocation, the first one on the list for
9 100 units.

10 A Yes.
11 Q Do you recall who the consultant was that was

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12 lobbying for those units?
13 A No. Not off the top of my head.
14 Q Do you recall an individual testifying about -
15 testifying about an individual previously by the name of
16 Joseph Strauss?
17 A Yes.
18 Q And does that refresh your recollection as to who
19 the developer was?
20 A I did not know Joseph Strauss was involved in that
2 project until the Inspector General's report came out

2 many years later. I mean if Mr. -- After the Puerto
2 Rico problem Secretary Pierce made it very clear to me
2 that he did not want Mr. Strauss involved in any project
2 that had to do with discretionary funding. That was

2445

1 very clear.
2 Q Was that - why?
3 A Well, Mr. Strauss had overreacted to Secretary
4 Pierce's good judgment in bringing back those units and
5 readvertising them and he had then sued the Secretary or
6 attempted to sue the Secretary and the suit of the
7 Secretary claimed that the Secretary had made this award
8 to Mr. Strauss project specific which of course would
9 not have been within the regulations. I mean it was
10 somewhat fractious - it was a silly lawsuit, but it
11 certainly did anger the Secretary, and the Secretary was
12 angered that someone who had been a Special Assistant to
13 him would have put him in the position of having
14 appeared to have made a decision that was not
15 appropriate.
16 THE COURT: We need to take a break.
17 MR. WEHNER: Yes, Your Honor.
18 THE COURT: All right, we'll take our morning
19 recess at this time, ladies and gentlemen. We'll make
20 it a little under 15 minutes and we'll be back for our
2 next section before lunch.
2 Remember the admonition to not talk about the
2 case.
2 Thank you.
2 All right.

2446

1 (Recess from 11:10 a.m. to 11:37 a.m.)
2 THE COURT: All right, we had a little longer break
3 than I anticipated with some other matters in chambers. We're
4 ready to go now.
5 MR. WEHNER: Judge, what time would you like me to
6 break?
THE COURT: 12:15 or so.
8 MR. WEHNER: Yes, sir.
9 THE COURT: whatever is good for you.
10 (Jury in.)
11 THE COURT: All right, we're ready to resume.
12 BY MR. WEHNER:
13 Q. Ms. Dean, you testified yesterday that you had not been
14 aware in 1985 as to the amount of money various consultants may
15 have been making as a result of the Moderate Rehabilitation
16 Program. Do you recall that testimony?

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17 A. Well, I, I mean, I knew that some people -I
knew Joe
18 Strauss was making money as a consultant. I mean, I don't
19 remember who I knew or didn't know were consultants.
20 Q. Well, why don't you recall as best you can and tell us when
21 you first learned that, that these people were making
22 considerable amounts of money.
23 A. Well, see, that's my problem is who are "these people"?
24 Q. Any people.
25 A. I learned that Joe Strauss had said that he could sell those

2447

1 units when that Puerto Rico issue came up, and I don't remember
2 anybody being connected with Durham Hosiery Mill, and I, I know
3 that Janet Hale had mentioned Ed Brooke to me, and I remember
4 that I did not know whether or not he represented them or he was,
5 or he was interceding for them as a politician. I just didn't
6 know.
7 So at that point, I did not know about Senator Brooke,
8 for instance, but I learned later that Senator Brooke was
9 attorney/consultant.
10 Q. Directing your attention to the time of May 22, 1986, at
11 that point, were you aware that significant amounts of money were
12 being paid to private individuals?
13 A. No. I mean, I knew that there were people who were being
14 paid, but I did not know how much they were being paid. I mean,
15 I never discussed with anybody how much they were paid for
16 anything or if they were being paid.
17 And sometimes it's very confusing. I don't know if a
18 lawyer brings in a client, is he charging a lawyerly fee for so
19 much an hour, or is he charging by -- I just don't know. I
20 wouldn't have a clue as to how people do that or how they arrange
21 it or work it out.
22 Q. Did you have discussions at HUD regarding what you should
23 find out or what you should know or what the state of your
24 knowledge should be -
25 A. Yes.

2448

1 Q. -- regarding how people were being paid?
2 A. Yes. I talked to -- Lance Wilson before he left told me
3 that it would be very inappropriate to ever have a discussion
4 with anybody about how much money they were being paid to
5 represent someone or to represent an issue in front of the
6 department, that that was, that I just should never ask that
7 question, and that made sense to me.

8 But also when we were talking -- when I was talking to

9 Secretary Pierce throughout the Puerto Rico situation, which went
10 on for a while, he also said that it was something we should
11 never address. We should never -- that should not come into our
12 thinking, because we were the government, and how much somebody
13 was being paid or wasn't being paid or whatever should not enter
14 into our decision-making process, and so we should never enter
15 into those conversations, and he didn't enter into those
16 conversations, and he made that very clear that he never did
17 that.

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18 Q. With regard to Springfield, Massachusetts, in the award of
19 May 22, 1986, were you aware at that point that former Senator Ed
20 Brooke was receiving funds in relationship to the Springfield,
21 Massachusetts project?
22 A. No.
23 Q. Did you ever become aware of that?
24 A. I'm sorry, I thought you had said before we broke that that
25 was Mr. Strauss.

2449

1 Q. Oh, I'm sorry, I apologize. I've got Mr. Brooke in
2 Massachusetts.
3 A. Sorry.
4 Q. Sorry, Mr. Strauss.
5 A. No, I did not know that until the inspector general's report
6
7 came out.
8 Q. Okay. Now did you know at the time the allocation was made
9 that any consultant was involved with the project?
10 A. With Springfield, Massachusetts?

11 Q. Yes.
12 A. No. I mean, if, if I had known that Joseph Strauss was
13 involved with Springfield, Massachusetts, I would have told that
14 to Secretary Pierce immediately because of his former instruction
15 that he did not want discretionary monies to go anywhere near
16 Joseph Strauss. So that would have been something I would have
17 wanted to know, and it would have been something that Secretary
18 Pierce would have wanted to know.
19 But I was not told of that, and I don't believe
20 Secretary Pierce knows that. As a matter of fact, Springfield,
21 Massachusetts, is the hometown of Congressman Boland.
22 Q. Yes.
23 A. And I do not, I would not be surprised if there were some
24 communication from Congressman Boland as well about that.
25 Normally things did not go to Springfield, Massachusetts, without
26 his intervention of some kind.

2450

1 Q. You're not sure?
2 A. I'm not sure at all, no. I don't remember.
3 Q. Directing your attention to the second project of the list,
4 which is the Maryland DCA 312 units, do you recall yesterday
5 discussing a series of meetings that took place between former
6 Secretary of the Interior James Watt, you, Mr. Strauss, and the
7 secretary?
8 A. No, Mr. Strauss was not at that meeting.
9 Q. Okay. I did not mean to suggest he was at the meeting --

10 A. Sorry.
11 Q. -- but that there were discussions involving those
12 individuals.
13 A. Yes.
14 Q. Okay. Directing your attention to those discussions and the
15 312-unit designation to Baltimore --

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16 A. Maryland DCA.

17 Q. I'm sorry, Maryland DCA.

18 A. Right.

19 Q. At the time of that allocation, were you aware of James
20 Watt's involvement in that allocation?

21 A. Yes. I was in Secretary Pierce's office when he received a
22 phone call from James Watt regarding Maryland units, 312 units in
23 Maryland.

24 Q. And what did you overhear the secretary say during the
25 telephone conversation?

2451

1 MR. O'NEILL: Objection, Your Honor.

2 THE COURT: All right, I'll sustain the objection.

3 BY MR. WEHNER:

4 Q. As a result of your hearing that telephone conversation,
5 what did you understand Secretary Watt's involvement to be in the
6 312 units?

7 A. I understood that he was a consultant on that project.

8 Q. Directing your attention to Dean Exhibit 580, I ask you if
9 this purports to be a letter from James G. Watt to Samuel R.

10 Pierce, signed by James G. Watt, regarding 312 units?

11 A. Yes.

12 MR. WEHNER: Your Honor, I'll move the admission of
13 Dean Exhibit 580.

14 MR. O'NEILL: No objection, Your Honor.

15 THE COURT: All right, 580 is admitted.

16 (Defendant's Exhibit No. 580 was
17 received in evidence.)

18 BY MR. WEHNER:

19 Q. Ms. Dean, would you please read that letter?

20 A. "Dear Sam:

21 "Thanks. You are a man of your word. Silvio has
22 carried out the necessary paperwork to give the County of
23 Baltimore 312 units of Section 8 mod rehab units. This is as we
24 discussed and will make an excellent project for all concerned.
25 "Leilani and I have made our move. The whole scene is

2452

1 marvelous. We look forward to the time you and Barbara can visit
2 us in our new home in Jackson Hole.

3 "Sincerely yours, James Watt."

4 Q. Ms. Dean, are those the same 312 units that were sent to
5 Baltimore DCA with the funding documents reflecting the funding
6 on May 22, 1986?

7 A. Yes.

8 Q. What was your understanding as to the relationship between
9 the pull-back of the Puerto Rican 300 units and these 300 units

10 to Baltimore?

11 A. Secretary Watt had pushed Secretary Pierce very hard about
12 the Puerto Rico project, and he had made things very difficult,
13 and he was continuing to pressure and pressure the secretary, and
14 at the end of the meeting on Puerto Rico, he said, "Well, maybe
15 I'll call you back some day, and you can make it up to me."

16 And a year-and-a-half later, he called, and I happened
17 to be in the office with Secretary Pierce when he called, and the
18 secretary said, "The son-of-a-bitch called back." And he

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19 couldn't believe, he couldn't believe that kind of pressure was
20 being placed on him, and he thought it was inappropriate.
21 Q. Those units were ultimately funded?
22 A. Yeah.
23 Q. Ms. Dean, with respect to the 30 units next on the list to
24 Philadelphia, Pennsylvania?
25 A. Philadelphia, Beaver County, Pittsburgh, Allegheny were all

2453

1 sent as a request from Senator Heinz, and I think I said
2 yesterday that Secretary Pierce and I had met with Senator Heinz
3 about some legislation that was up in front of the Banking
4 Committee on the fair housing amendments, and at that time,
5 Senator Heinz had requested -- there are not a lot there, 45, 60,
6 it's roughly 100 units.
7 And then through the regional office, we identified
8 which, where they should go in the State of Pennsylvania, and the
9 regional office worked with Senator Heinz's office and more than
10 likely also Senator Specter's office and decided on the four PHAS
11 that the regional office felt could best handle the units. So
12 those were the four localities they went to.
13 MR. WEHNER: Your Honor, with the Court's permission,
14 I'll move the introduction of Dean Exhibits 585, 584, 582, and
15 581, which are funding documents for those four projects.
16 MR. O'NEILL: No objection, Your Honor.
17 THE COURT: All right. I thought that 584 had been
18 previously admitted.
19 MR. WEHNER: Judge, it probably had been with respect
20 to another funding.
2 THE COURT: Yes.
2 MR. WEHNER: And I have a duplicate for the funding, so
2 I think you're probably correct. This was a, includes
2 Philadelphia Housing Authority as well as Roanoke Redevelopment
2 Housing Authority, so it may have been admitted under Roanoke.

2454

1 THE COURT: All right. No objection, 584, 582, and 581
2 will be admitted. 585, I believe, has been previously
admitted -
I'm sorry, 585 will be admitted. 584, I think, had
4 been previously admitted. They'll be admitted. All right, those
5 were all admitted.
6 (Defendant's Exhibit Nos. 581, 582, and
7 585 were received in evidence.)
8 MR. WEHNER: Your Honor, I'll also move the admission
9 of the funding document, Dean Exhibit 588. It's dated May 22,
10 1986.
11 MR. O'NEILL: No objection, Your Honor.
12 THE COURT: All right, 588 will be admitted.
13 (Defendant's Exhibit No. 588 was
14 received in evidence.)
15 BY MR. WEHNER:
16 Q. Now, Ms. Dean, we'll come back to the Prince George's County
17 project.
18 A. You skipped over Roanoke and D.C.
19 Q. Do you have any recollection of the Roanoke and D.C.
20 fundings?
2 A. I have no recollection of anything from the office of the
2 secretary's standpoint on Roanoke, so that came up from
2 Mr. DeBartolomeis.
2 Q. And concerning the District of Columbia?
2 A. Charlene Drew-Jarvis had asked to see the secretary, and he

2455

asked me to meet with her, and she had discussed an allocation
2 for the District of Columbia for I believe it was 200, but the
3 Washington, D.C. field office had use for 185, so 185 went.

4 Q. Now back to Prince George's County, Maryland. Do you have a
5 recollection regarding the Georgia RFA funding for 50 units?

6 A. I don't have any independent recollection of it. That had
7 to have come from Mr. DeBartolomeis, also. I remember the ones
8 that came from the office of the secretary.

9 Q. Okay, with regard to Shreveport, Louisiana, do you have any
10 specific recollection as to your knowledge of when that was
11 funded?

12 A. Both Shreveport and Lake Charles were done, I believe,
13 Shreveport, I remember Shreveport was Congressman Henson Moore,
14 and Lake Charles, Louisiana, both of them had come up from, I
15 remember, the director of New Orleans' office, and his name was
16 Richard Franco was the director, and I remember him, because we
17 had done a fair housing campaign in New Orleans, and I had gotten
18 to know him well because of that, and he had sent those up.
19 But we had also received phone calls from Congressman
20 Moore on Shreveport, and Lake Charles might have been either
21 Congressman Breaux or Congressman Moore, but I definitely know
22 there was a congressional interest in Lake Charles. I just don't
23 remember which of those two it was.

24 Q. Let me show you what I've marked for identification as Dean
25 Exhibit 590, which purports to be a letter to Honorable Samuel R.

2456

1 Pierce from Bennett Johnston regarding 150 land units from the
2 Shreveport Landmark Rehabilitation Project, Inc. Do you
3 recognize this document?

4 A. Um-hum. Yes, Senator Bennett Johnston is a senator from
5 Louisiana, and he would have written in support of the project.

6 Q. And did he -
was a carbon copy of that letter sent to you?

7 A. And it was sent to me and Richard Franco, yes.

8 MR. WEHNER: With the Court's permission, I'll move
9 into evidence Dean Exhibit 589, which is the funding document for
10 Shreveport and Lake Charles, and also Dean Exhibit 590, which is
11 the letter I've just described.

12 MR. O'NEILL: I haven't seen 590, Your Honor.

13 THE COURT: All right.

14 MR. WEHNER: Pardon me.

15 THE WITNESS: I believe I also spoke to Senator
16 Johnston about that, also.

17 MR. O'NEILL: Again, Your Honor, based on your earlier
18 rulings, I have no objection.

19 THE COURT: All right, we'll admit it then. It's 589
20 and 590?

21 MR. WEHNER: 589 was the funding document, Your Honor,
22 and 590 was the funding letter from Senator Johnston to Secretary
23 Pierce.

24 (Defendant's Exhibit Nos. 589 and 590
25 were received in evidence.)

2457

BY MR. WEHNER:

2 Q. Ms. Dean, would you read, if you can

3 A. No.

4 MR. WEHNER: Your Honor, with the Court's permission,

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5 can I read the first paragraph?

6 THE COURT: All right, go ahead. It's in evidence.

7 MR. WEHNER: "Dear Mr. Secretary:

8 "I am writing in follow-up to the letter of January 22,

9 1986, addressed to the general deputy assistant secretary for

10 Housing, which I signed along with Representative Buddy Roemer

11 and Senator Russell Long, concerning the application submitted by

12 the Shreveport Housing Authority for 150 Section 8 moderate

13 rehabilitation units for the Shreveport Landmark Rehabilitation

14 Project, Inc."

15 That's the first paragraph. With the Court's

16 permission, I'll just read the last sentence: "With thanks for

17 your attention to this request, I am sincerely, J. Bennett

18 Johnston, United States Senator."

19 Q. Now, Ms. Dean, with regard to Lake Charles, Louisiana, do

20 you have any specific recollections of what you knew at that time

21 regarding that funding application?

22 A. Well, not after my recollection was so bad on Shreveport. I

23 think maybe Lake Charles was for Henson Moore. I definitely

24 remember Henson Moore being a part of one of those fundings. I

25 just don't remember which one.

2458

1 Q. With regard to Omaha, Nebraska, 120 units, do you have a
2 recollection that Senator David Carnes was involved in that
3 allocation?

4 A. No, I don't think that Senator Carnes was involved at this

5 point. My memory is that this Omaha, Nebraska 120 units,

6 although it might have been supported by Senator Carnes, and I

7 don't know about that, but my recollection of that 120 units is

8 that Dubois Gilliam, who was an employee of the department, had

9 spoken to the secretary about Omaha, Nebraska, and about them

10 receiving units. I remember Mr. Gilliam told me he had spoken to

11 the secretary.

12 Q. Directing your attention to Ogden, do you have a

13 recollection of a consultant by the name of Judith Siegal being

14 involved in that project?

15 A. No, because Judith Siegal was Mr. Strauss' partner, and I

16 would have -- that would have stood out, once again, if I had had

17 any knowledge of their involvement.

18 Q. And again, I'm talking about your knowledge at the time of

19 the funding.

20 A. At the time of the funding, absolutely not.

21 Q. With regard to 84 units to Salt Lake City, Utah, do you have

22 a recollection of a developer by the name of Cook and a

23 Mr. Joseph Queenan being involved in that project?

24 A. No, I did not at that time, and I do not know who

25 Mr. Queenan was at this time, and it wasn't mentioned to me, and

2459

1 I did not mention it to the secretary.

2 Q. With regard to Colorado Housing Finance Agency and the

3 Clayfield Apartments for 79 units, did you know at the time that

4 Mr. Queenan was involved in that project?

5 A. No, I did not.

6 Q. Let me show you what I've marked for identification as Dean

7 Exhibit 595. It purports to be a letter to Mr. Silvio

8 DeBartolomeis from David W. Herlinger, Executive Director of the

9 Colorado Housing Authority.

10 A. Yes.
11 Q. Have you seen that letter before?
12 A. Yes.
13 Q. Okay. And under what circumstances did you see it?
14 A. I gave it to you.
15 Q. No, no, under what circumstances did you first see it?
16 A. I saw this when the Independent Counsel gave us documents to
17 look at to prepare for this case.
18 Q. Are you familiar with the way that letters of this type are
19 kept at the Office of Housing and Urban Development?
20 A. Yes.
21 Q. Okay. Ms. Dean, with respect to San Diego, California, 150
22 units, are you familiar that Mr. Tim Coyle was involved in that
23 project?
24 A. No, I'm not, and I wasn't at the time.
25 Q. Do you know who Tim Coyle is or was?

2460

1 A. Yes. He, Mr. Coyle was a HUD employee working at HUD at the
2 time, and, and I don't believe that he has any involvement in
3 this project. I mean, I don't think he owns it. I don't want to
4 leave an impression of that. I was not aware that he had any
5 interest in it then and --
6 Q. Was he from San Diego?
7 A. I believe so, yes.
8 Q. With respect to the Reno, Nevada funding for 100 units, did
9 you have knowledge at the time as to if any consultants were

10 involved in that project?
11 A. I'm a little confused between Reno and Clark County, Nevada.
12 Consultants, no. I mean, I knew who the developers were of one
13 of those projects.
14 Q. Let me show you what I've marked for identification as Dean
15 Exhibit 597 -- it's also a government exhibit -- and ask you if
16 this refreshes your recollection regarding your knowledge of the
17 events surrounding the Clark County project?
18 A. Yes.
19 Q. And what is now your recollection?
20 A. The Clark County, Nevada project was a project for Philip
21 Abrams. He was a former federal housing commissioner and former
22 under secretary of HUD. He wrote me a letter telling me that
23 Clark County -- well, it's, let me see exactly what he told me.
24 He must have called me, also, because this is a follow-up to the
25 phone conversation, and basically he's letting me know that they

2461

1 have an application in for more than what they need, but what
2 they need is 160 units. He breaks it down in the bedroom
3 configuration, and that's it. Of course, there is also an
4 application from the housing authority and everything else.
5 And there was also, there was a lot of Congressional
6 phone calls from, on both Reno and Clark County. I know that
7 Senator Hecht called on one, and Senator Laxalt called on the
8 other. I just don't remember which one called on which project,
9 but I know they both spoke to Secretary Pierce personally.
10 Q. Let me show you what I've marked for identification as Dean
11 Exhibit 598, which purports to be a letter to D. Dean from T.C.
12 with regard to Senator Hecht, and ask if you recognize that?

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13 A. Yes. This was a note that was written to me during a
14 Congressional hearing, I believe, when the secretary was
15 testifying, and that's why it's written so large. I mean, that's
16 my, that's my memory is that it was written -- these letters were
17 real big so that it could be put in front of me and I would see
18 it.

19 I believe that -20

MR. WEHNER: Your Honor, at this time, I'll move its
21 introduction into evidence. It's Dean Exhibit 598.

22 MR. O'NEILL: No objection, on the same grounds.

23 THE COURT: Do you have a date or anything like that
24 when this occurred?

25 MR. WEHNER: October 15, Your Honor. There is no date

2462

1 apparent on the face of the document, no date written on the face
2 of the document.

3 THE COURT: Ms. Dean, do you have a recollection when
4 that would have been?

5 THE WITNESS: Absolutely not, no. It was certainly not
6 unusual for Senator Hecht to request moderate rehabilitation
7 units, and it certainly was not unusual for Senator Laxalt to
8 request moderate rehabilitation units. They did it more than
9 once. So this may or may not relate to this funding. It
10 probably doesn't because of the date.

11 BY MR. WEHNER:

12 Q. It does, however, relate to mod rehab units generally?

13 A. Yes.

14 Q. Requested by Senator Hecht?

15 A. And Senator Hecht called either regarding Reno or Clark
16 County, and Senator Laxalt called on the other one. And then
17 there were some Congressional calls as well on Clark County.
18 Mr. Abrams was always very certain that whenever he had
19 a project in front of the department, that all the Congressional
20 people called in support of it as well.

21 THE COURT: Do you know who the note is from?

22 THE WITNESS: I'm sorry?

23 THE COURT: Do you know who the note is from?

24 THE WITNESS: "T.C." is, I assume, Tom Casey. It's his
25 handwriting. Tom Casey.

2463

1 THE COURT: And he was with the federal housing
2 commissioner's office?

THE WITNESS: Yes. He was the executive assistant to
4 Janet Hale, and -- now this may have been before this, so that's
5 possible. I think after Janet Hale left, Mr. Casey remained in
6 that office, but there wasn't a federal housing commissioner.
7 But he remained there awaiting a federal housing commissioner.
8 At that time, we were trying to get one confirmed and into the
9 department as quickly as possible.

10 THE COURT: All right, I'll admit it based upon my
11 earlier ruling.

12 (Defendant's Exhibit No. 598 was
13 received in evidence.)

14 BY MR. WEHNER:

15 Q. Ms. Dean, would you read this to the jury, please?

16 A. "D. Dean: Senator Hecht will likely raise a matter
17 involving a request for MR" -- mod rehab. "This request was made
18 late in September and without any groundwork having been laid.
19 Constituent was advised to package a pros -- p-r-o-s. Talk to
20 Las Vegas PHA, and have them make a request for '87 funding. You

2 Q I direct your attention to Dean Exhibit 602 and ask

2466

1 you to -- which purports to be a letter dated April
2 23rd, 1985 with a letter to Secretary Pierce from
3 Herbert E. Ellingwood and ask you if you recognize that?
4 A Well, I've seen it before, yes, but I never saw it
5 at the time.

6 Q Okay. When did you -- and how did you see it for
7 the first time?

8 A It was produced by the Independent Counsel in
9 discovery.

10 Q Is it a letter to Secretary Pierce?

11 A Yes, it is.

12 Q And what does it relate to?

13 A It relates to an enclosed letter.

14 Q I'm going to show you what I've marked for
15 identification as 603 and ask you if that is the letter
16 that it relates to, I'm sorry, that relates to 602?

17 A Well, it appears to, yes. I mean it's stamped in
18 subsequent numbers and the dates are relatively -- and
19 it's to Mr. Ellingwood, yes, so I would say it does
20 relate, yes.

2 Q And how are those marked received?

2 A The cover note was received into the Executive
2 Secretariat April 24th, 11:50 a.m., 1985.

2 MR. WEHNER: Your Honor, I'll move Dean
2 Exhibits 602 and 603.

2467

1 MR. O'NEILL: No objection, for the reasons
2 previously stated, Your Honor.

3 THE COURT: All right, with the reasons of
4 course given earlier I will admit 602 and 603.

5 THE DEPUTY CLERK: Defendant's Exhibits 602,
6 603 marked for identification and received in evidence.

7 (Defendant's Exhibits 602 and 603
8 marked for Identification and
9 received into Evidence)

10 BY MR. WEHNER:
11 Q Miss Dean who was Herbert E. Ellingwood?

12 A I don't know.

13 Q Directing your attention to -- I'll
try to

14 pronounce this correctly, the County of Clackamas?

15 A Yes, Clackamas.

16 Q Clackamas? Are you aware of any consultants being
17 involved in that funding?

18 A No, both Clackamas and Longview, Washington, the
19 last project on the list, were as a result of telephone
20 conversations with the Regional Administrator in Region
2 10. They had been -- they'd been sent in from Region
2 10.

2 Q And did you have those conversations with the
2 Regional Administrator?

2 A Yes, I did.

2468

1 Q What did you say to the regional administrator?

2 First of all, do you remember the name of the regional

3 administrator?

4 A His name is William Nishimura.

5 Q Can you spell that?

6 A N-i-s-h-i-m-u-r-a.

7 Q And what did you say to Mr. Nishimura during the

8 telephone conversations?

9 A Well, this particular time I believe I spoke with

10 each of the Regional Administrators, and had asked them
11 were there projects in their specific regions that they
12 were particularly supporting. We were – we wanted
13 their input into the funding rounds at this particular
14 point in history. And I spoke to Mr. Nishimura, and
15 Mr. Nishimura had those two projects and we were
16 interested at that time, Secretary Pierce wanted a more
17 national scope. He wanted some to go down to Louisiana,
18 out to Oregon, as opposed to being concentrated in
19 certain areas.

20 THE COURT: When you say those two projects,
2 for the record, will you identify them please?

2 THE WITNESS: Clackamas County, Oregon and
2 Longview, Washington.

2 BY MR. WEHNER:

2 Q Now, Miss Dean, you testified concerning a May

2469

1 22nd, 1986 funding decision, and Mr. DeBartolomeis was

2 Acting Housing Commissioner at that time?

3 A Yes, he was.

4 Q Would you describe your relationship to

5 Mr. DeBartolomeis at that time and Secretary Pierce's

6 relationship to Mr. DeBartolomeis at that time?

7 A You mean a personal relationship?

8 Q Professional relationship.

9 A Yes. I did not have a personal relationship with
10 Mr. DeBartolomeis at this time. He was the Deputy -- he
11 had been head of Multi-family Housing and was now the
12 General Deputy Assistant Secretary, Acting Federal
13 Housing Commissioner, and I was the Executive Assistant,
14 and Secretary Pierce was the Secretary.

15 Q What were your respective roles in the May 22nd,
16 '86 funding?

17 A I'm sorry. Well, Mr. DeBartolomeis was in charge
18 of running the program and making certain that these
19 were good projects and that they met all the criteria,
20 et cetera, et cetera, and he was in charge of bringing
2 forth recommendations and checking out any preferences

2 that Secretary Pierce might have, and making certain
2 that they were all right to go forward. So that was his
2 role, and my role which was why I remember actually more
2 the Congressional input, was because that was really

2470

1 more -- I sort of fielded a lot of those phone calls and

2 letters, and so that's what I remember more than

3 anything else.

4 I'm certain that another person might remember

5 more about the Housing Authority or more about the

6 needs. I remember more about the other input that came

7 in through the Secretary or through outside sources, and

8 the Secretary's role at this particular time was what

9 does Silvio's list look like, has everything that I
10 asked to be taken care of been taken care of and checked
11 out.

12 What do you know or understand about any of
13 these projects in specific. Do you have any information
14 that I should know about any of these fundings, and if
15 there's nothing of significance or nothing, then it's
16 all right to move ahead and have them funded.

17 I remember that on May 22nd there was also
18 some sort of a moratorium on spending that was lifted on
19 May 22nd and that's why the units went out, all went out

20 at that time.

2 Q I believe previously admitted into evidence was

2 Dean Exhibit 597 which was a letter dated 5-10-86 from
2 Mr. Philip Abrams.

2 A Yes.

2 Q Do you recall that letter?

2471

1 A Yes, I do.

2 Q Did you have a discussion concerning that letter
3 with Secretary Pierce?

4 A Yes.

5 Q What did you say to Secretary Pierce?

6 A I told him that I had received a phone call from
7 Mr. Abrams and that I had received a note from
8 Mr. Abrams regarding Clark County, Nevada, and
9 Mr. Abrams was requesting 160 units, and Secretary
10 Pierce said that he thought that that was an appropriate
11 request and that it was all right to fund it, if the
12 project checked out from Silvio's office.

13 Q Now, this lists approximately 25 different cities
14 for funding. Did you consider other projects at that
15 point in May of 1986?

16 A Yes, Mr. DeBartolomeis had other projects that he
17 wanted to fund that - but the decision was made to fund
18 this certain amount of money at that time. We were
19 expecting a new Federal Housing Commissioner shortly and
20 Secretary Pierce didn't want to commit any more than
21 this amount of money before the new Federal Housing
22 Commissioner arrived.

23 Q Now, who were these decisions made in consultation
24 with?

25 A Mr. DeBartolomeis?

2472

1 Q With anyone.

2 A Well, Mr. DeBartolomeis had a list -- he had
3 projects that he thought were appropriate to be funded
4 and there were also ones that came down from the office
5 of the Secretary like the Maryland one and the ones from
6 Senator Heinz and the District of Columbia and the two
7 in Louisiana and Nebraska. And Clark County. There's
8 not - I don't want to deny that there wasn't some
9 participation from the office of the Secretary. Those

10 had gone to Mr. DeBartolomeis from the office of the
11 Secretary and those were to have been checked out and
12 reviewed by him.

13 Now, of course the region had already checked
14 out the ones for Senator Heinz, and Mr. Nishimura had
15 already done the ones for Clackamas and Longview, but
16 the other ones, he was supposed to make certain they
17 were good PHA's and how the PHA's had been rated or
18 ranked, whatever. To make certain that these were not
19 going to the wrong place, that they would do a good job
20 if they got the money.

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2 Q Now, did you have any reason to believe during your
2 consultations regarding these projects, during your
2 involvement with those projects, that any of them were
2 inappropriate or unlawful or otherwise improper awards?
2 A No, that was Mr. DeBartolomeis' position. That was

2473

1 his role to make certain that those projects that -- you
2 know, the sign-off to be funded were appropriate, good
3 projects. That was his job.

4 Q And do you have any reason to believe that
5 Secretary Pierce knew that any of these were bad or
6 unlawful or not appropriate projects?

7 A Absolutely he thought that every one of them was
8 absolutely on line. He wouldn't have funded them if he
9 had thought anything else.

10 Q Now, directing your attention to the time period
11 after May 22nd, 1986. Did you learn, come to learn
12 anything about consultants' roles in the funding of
13 those projects afterwards, that you did not know at the
14 time they were funded?

15 A Yes.
16 Q Would you describe what you learned and how you
17 learned it? Without talking about what someone may have
18 said to you. Just your understanding what you learned.

19 A That's hard.

20 Q Yes.
2 A Secretary Pierce received information that several
2 projects that had been funded in this round had
2 connections to the Winn group, to Phil Winn in some
2 way. And we didn't know which ones, but that there was
2 some connection and because --

2474

1 Q Who was Philip Winn?
2 A Philip Winn was the former Federal Housing
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3 Commissioner who had gone back to Colorado, I believe,
4 to run for Governor, and he testified here. That's the
5 older man, thin. That's Mr. Winn.
6 Q Okay.
7 A And -
8 Q Continue.
9 A He went back and went back into his business which
10 was real estate, and Mr. Abrams was Mr. Winn's partner,
11 and when Mr. Abrams sent in a letter for the 160 and
12 knew that Secretary Pierce would know this was from
13 Mr. Abrams for Mr. Abrams or Mr. Winn not to have also
14 informed the secretary that they had other projects in
15 was not right, that was wrong. And when Secretary
16 Pierce got information that the Winn group might have
17 been involved in other projects without informing him,
18 he was not happy about that, and he was not happy that I
19 didn't know it.
20 Q Did you have a discussion with him about his
2 unhappiness with that state of affairs?
2 A Yes, he was actually much more unhappy with
2 Mr. DeBartolomeis because there really -I
really
2 couldn't check into everything that Mr. DeBartolomeis
2 brought up to the office. So we obviously -- Mr. -

2475

1 Secretary Pierce at that time basically told me that he
2 felt he could no longer trust Mr. DeBartolomeis because
3 Mr. DeBartolomeis' ties to Mr. Winn and Mr. Abrams were
4 too strong, and I just couldn't trust him, and from now
5 on keep an eye on everything that Mr. DeBartolomeis does
6 and --

7 Q After that event occurred, what was your under-
8 standing of what you were supposed to do, specifically
9 with regards to Mod Rehab and Mr. DeBartolomeis?
10 A Secretary Pierce said that what he thought should
11 happen would be that there should be a committee of
12 people and that he would like certain people to sit on
13 this committee. And he thought that the Undersecretary
14 should be on the committee and that the Executive

15 Assistant, whoever was the Executive Assistant, should
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16 be on the committee, and the Federal Housing

17 Commissioner.

18 well, we didn't have an Undersecretary. If
19 there was no Undersecretary then he thought maybe the
20 general counsel but at that particular time we were in
2 flux on a general counsel as well and I was a little
2 confused as to who I was supposed to set this committee
2 up with because we didn't have people in the building at
2 the time, but I knew that's what he wanted to do.
2 He wanted to have a committee of people to

2476

1 review the decisions by the Federal Housing

2 Commissioners because now he had had several instances

3 of the Housing Commissioners doing things that he did

4 not know about before they did them and he was getting

5 very concerned about people's motivations and it was

6 becoming very apparent that -- you see, this idea that

7 the Commissioners were supposed to bring these things

8 up, disclose everything, and then get an okay from the

9 secretary was really an honor system and if they didn't

10 honor it, if they didn't tell you what they knew or

11 they, you know, they could fund things without telling

12 you. They had the ability to do that.

13 That's the way the signature authority

14 worked. They didn't require the Secretary's signature.

15 It just required their doing it, and there was a trust
16 policy, and the Secretary was getting less and less
17 feeling that he could trust them.

18 So he wanted to set up this committee but, as

19 I said, the people were moving in and out and we were
20 waiting for a Federal Housing Commissioner and we were
2 hoping that there would not -- we would not have to

2 spend any more money in this program until an Assistant
2 Secretary had been named and confirmed by the Senate and

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2 the Secretary had a chance to tell him exactly the way
2 he wanted him to run the program.

2477

1 Q One of the projects that we did not spend very much
2 time discussing was the Foxglenn project in Prince
3 Georges County, Maryland.

4 A Right.

5 Q And I'd like to direct your attention specifically
6 to that project.

7 I'm going to show you what I've marked for
8 identification as Dean Exhibits 263, 266, 269, 268, 272,
9 and 270.

10 Now, by only referring to the documents to the
11 extent you need to, to refresh your recollection, would
12 you describe to the jury what occurred with regard to
13 the Foxglenn project?

14 A I don't understand your question.

15 Q How it came to be funded.

16 A Apparently -- I know what most of these are. All
17 right. Well, apparently the Housing Authority,
18 Department of Housing and Community Development for
19 Prince Georges County dealt directly with someone in HUD
20 Central and someone at HUD apparently told the Housing
2 Authority that they wanted the Housing Authority to work

2 with Altman Properties and to work specifically on the
2 Foxglenn Apartments.

2 MR. O'NEILL: Your Honor, I don't mind some
2 hearsay but this is --

2478

1 THE COURT: All right. I'll sustain the
2 objection the way that answer has been given and strike
3 it because it's all theory about what someone may have
4 said.

5 BY MR. WEHNER:

6 Q Miss Dean, I'm going to direct your attention --

7 A I'm sorry.

8 Q We'll go through it slowly.

9 Miss Dean, I'm going to direct your attention

10 to Dean Exhibit 263 and ask if you can identify that?
11 A Yes, it is a letter that the Independent Counsel
12 produced to us and it is a letter from Israel Roizman,
13 Vice-President of Altman Realty, to Andrew Sankin,
14 regarding Foxglenn Apartments.
15 Q Okay. Directing your attention to Dean Exhibit
16 266, what is that?
17 A It is a letter from Major Riddick, Jr., Executive
18 Director of the Housing Authority, to Richard Manuel,
19 Director of Housing Development Division of HUD in the
20 Washington, D. C. Area Office.
2 Q And what is the date of that letter?
2 A May 19, 1986.
2 MR. WEHNER: With the Court's permission, I'll
2 move the introduction of Dean Exhibit 266.
2 MR. O'NEILL: Objection, Your Honor.

2479

1 THE COURT: Approach.
2 (Bench conference)
3 THE COURT: Can I see that letter, please?
4 Okay. And the objection is that this is not a HUD
5 document.
6 MR. O'NEILL: well, for one thing. For
7 another, it's not signed. I assume maybe there's a
8 signed copy. I don't know. I would have to check that
9 out.
10 MR. WEHNER: It was signed and dispatched.
11 MR. O'NEILL: It's printed signed and
12 dispatched, just for the record.
13 MR. WEHNER: That's true.
14 MR. O'NEILL: Your Honor, I don't want to be
15 in a position to object to hearsay.
16 THE COURT: I understand.
17 MR. O'NEILL: But there are innumerable
18 hearsay statements coming in orally and then getting
19 into the document. I don't want to get up all the time.
20 If Your Honor wants to note the Government's -2
THE COURT: I understand. This is a letter
2 from apparently, she said, the Executive Director of
2 P.G. County Housing Authority to HUD Washington Office
2 saying that the local Housing Authority approved the
2 developer, contingent apparently on getting housing

2480

1 assistance from HUD. You want to put this in as a HUD
2 record?
3 MR. WEHNER: Yes, it's the only basis I have
4 to put it in on, at this point, through this witness.
5 THE COURT: well, if he's objecting, I'll
6 sustain it. This is a little different than the other
7 one. This is from another person outside talking about
8 other matters, not in the normal course of business
9 inside the HUD offices.
10 MR. WEHNER: Yes, sir, I can't get that from
11 this witness, thank you.
12 (Bench conference concluded)
13 THE COURT: All right.
14 BY MR. WEHNER:.

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15 Q Miss Dean, I direct your attention to Dean Exhibit
16 269 which purports to be a memo on HUD – United States
17 Department of Housing and Urban Development, Office of
18 Housing, from Silvio J. DeBartolomeis, General Deputy
19 Assistant Secretary for Housing, Federal Housing
20 Commissioner, dated July 28, 1986. Do you recognize the
2 handwriting?
2 A Yes.
2 Q Are you aware as to what it refers?
2 A Yes.
2 Q To what does it refer? what project did it refer

2481

1 to?
2 A It refers to a request being made by the Regional
3 Administrator regarding Foxglenn.
4 MR. WERNER: I'll move the admission of Dean
5 Exhibit 269, Your Honor.
6 MR. O'NEILL: Just one quick voir dire, Your
7 Honor.
8 THE COURT: Yes.
9 BY MR. O'NEILL:
10 Q Miss Dean, does that relate to the funding of the
11 Mod Rehab or subsequent waiver?
12 A I believe it is subsequent funding.
13 Q For a waiver or for a particular amount of units?
14 A The one that's attached to it says that it is for
15 subsequent funding.
16 MR. O'NEILL: Nothing further, Your Honor. No
17 objection.
18 THE COURT: All right. 269 is admitted. 266
19 was not admitted.
20 THE DEPUTY CLERK: Defendant's Exhibit 269
21 marked for identification and received in evidence.
22 (Defendant's Exhibit 269 marked for
23 Identification and received into
24 Evidence)
25 BY MR. WEHNER:

2482

1 Q Miss Dean, your testimony was that this refers to
2 the Foxglenn funding?
3 A Yes.
4 Q Okay. would you read it?
5 MR. O'NEILL: Your Honor, that's what the voir
6 dire was about.
7 MR. WEHNER: And she testified it was the
8 funding.
9 MR. O'NEILL: Subsequent funding.
10 THE COURT: All right. The answer was
11 subsequent funding. I'll allow it.
12 MR. WEHNER: Very well, Your Honor, subsequent
13 funding.
14 A Yes.
15 Q would you read this, please?
16 THE COURT: It's not on the screen. The
17 screen is not on.
18 MR. WEHNER: Sorry, Judge.
19 BY MR. WEHNER:
20 Q Let's make sure the jurors have them.
2 A I'm sorry. It's to Larry Goldberger, who was the
2 head of the division over – that oversaw the Mod Rehab
Page 1391

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2 office that Miss Hastings, who testified, that she
2 runs. He's the head of that. Over that. So it's Larry
2 Goldberger. "This appears to be a most unusual case.

2483

1 I'm not sure if we would normally grant such a request.
2 However, in order to prevent an assignment I believe it
3 would be appropriate for me to" --
4 Q Is that me or us?
5 A It's very hard for me to see, "for us to,"
6 something, "the requested amendment. Please review and
7 fund, if appropriate. Thanks, Silvio," and then there's
8 a courtesy copy to Pam Patenaude, and then Maddy, which
9 is Maddy Bastings and Louise Kleffner, "Please review

10 and advise me ASAP," and then I don't know whose writing
11 that is below.

12 Q Now, Miss Dean what document was attached to this?

13 A It was a memorandum from the Regional
14 Administrator, Ken Finlayson, to Mr. DeBartolomeis.

15 Q And what did it request?

16 A Well, it basically said that the money that had
17 gone for the Foxglenn project or to the Public Housing
18 Authority basically fell short of what they needed to do
19 Foxglenn. There's a lot of bureaucratise in this memo,
20 but what it breaks down to is you need to send another
2 \$200,000 if you want Foxglenn done.

2 Q And is that Dean Exhibit 272?

2 A Yes.

2 Q Which is a memorandum to Silvio J. DeBartolomeis
2 dated July 22nd, 1986 from Kenneth J. Finlayson,

2484

1 Regional Administrator?

2 A Yes.

3 MR. WEHNER: I move the admission of Dean
4 Exhibit 272.

5 MR. O'NEILL: No objection, Your Honor.

6 THE COURT: Defendant's 272 is admitted.

7 THE DEPUTY CLERK: Defendant's 272 marked for
8 identification and received in evidence.

9 (Defendant's Exhibit 272 marked
10 for Identification and received
11 into Evidence)

12 BY MR. WEHNER:

13 Q And ignoring the bureaucratise, would you just
14 quickly summarize what that says?

15 A I really would have to look at it. I just looked
16 at it briefly and I -- I read it before, but I would
17 really want to be careful.

18 Q Sure. I'll bring it up.

19 A Well, it says the subject -- it really -- can I
20 just read it quickly because I think it -2

Q Yes.

2 A I'm sorry, I don't want to try to redo what it
2 says. It says, "Subject project was funded in May, 1985
2 for 172 one-bedroom units." When it says subject
2 project it means the project that the memo is about

2485

1 which is Maryland Three Nine K, and then it goes on.
2 So you know that that's the project they're referring to
3 and now that 172 units are Foxglenn, so that's -- "The
4 Prince Georges County Housing Authority's top rated
5 proposal is for the rehabilitation of a failed insured
6 project known as Kennedy Woods. The mortgage for
7 Kennedy Woods was endorsed in the fall of 1983 and was
8 scheduled for final endorsement in January, 1984."
9 And the rest basically is sort of a cover of

10 what it is he's really trying to say, which is that
11 Kennedy Woods becomes Foxglenn, but that creates
12 problems because you're not allowed to put Moderate
13 rehabilitation units on a project that has already
14 received HUD subsidy within a year.
15 The next paragraph. "HUD has been sent an
16 assignment request," which means for HUD to take over
17 the project, "which is being held in abeyance by
18 informal agreement with the mortgagee pending the
19 outcome of a proposed sale of the project to a third
20 party," and the third party is the Altman Brothers.
2 "That third party is the principal behind the
2 Authority's top ranked moderate rehabilitation
2 proposal." Foxglenn. "Unfortunately, their proposal is
2 for 58 one bedroom, 73 two bedrooms and 41 three bedroom
2 units. This bedroom distribution requires \$211,032 in

2486

1 additional contract authority. We are recommending that
2 you make these additional program funds available so
3 that the proposal can be approved."
4 So what Mr. Finlayson is saying, in essence,
5 if you intended Foxglenn to be done you didn't send us
6 the right amount of money, and then Mr. DeBartolomeis is
7 saying to Mr. Goldberger, oh, this isn't about Mod
8 Rehab. This is really about an assignment. But it's
9 not. And Mr. Goldberger later writes back to
10 Mr. DeBartolomeis and I think sees through that.
11 Q I'm going to show you what purports to be a note to
12 Silvio DeBartolomeis from Larry Goldberger dated, I
13 believe, August 1, 1986 and ask if that is the response
14 you just referred to?
15 A Yes.
16 MR. WEHNER: Your Honor, with the Court's
17 permission, I move the admission of Dean Exhibit 268.
18 MR. O'NEILL: No objection.
19 THE COURT: All right, Goldberger memo 268 is
20 admitted.
2 (Defendant's Exhibit 268 received
2 into Evidence)
2 BY MR. WEHNER:
2 Q Now, without reading that, if you can, can you tell
2 us what it says, in summary?

2487

1 A In essence Mr. Goldberger writes back and says that
Page 1393

2 you have a problem because Kennedy Woods is a section
3 221-D-4 project. Another category of project. And
4 therefore you can't put Mod Rehab on this project
5 because it had subsidy within a year. Unless you can
6 give a waiver. And Mr. DeBartolomeis would have to sign
7 that waiver.

8 And he then points out in the last

9 paragraph, "It is noted that since the Mod Rehab funds
10 were reserved in fiscal year '86 this is not an
11 amendment request. This is a request for new units."
12 And then he says that he doesn't think that
13 Mr. DeBartolomeis should do it because it would set a
14 precedent and he didn't believe that it was appropriate.
15 Q Now, Miss Dean, finally with regard to the Foxglenn
16 project, I'm going to show you Dean Exhibit 270 which
17 purports to be a letter to I. Margaret White, Manager,
18 United States Department of Housing and Urban
19 Development, dated December 29, 1987 from Linda G.
20 Given, Director, Department of Housing and Community
2 Development, and ask you if that letter concerns the

2 Foxglenn project?

2 A Yes, it does.

2 MR. WEHNER: Your Honor, I move the admission
2 of Dean Exhibit 270.

2488

1 MR. O'NEILL: Although not on a letterhead,
2 Your Honor, the Government has no objection.
3 THE COURT: All right. It's not identified as
4 a HUD letter?

5 MR. WEHNER: It's written to Miss I. Margaret
6 White, Manager, United States Department of Housing and
7 Urban Development, Washington, D. C. Field Office, 451
8 7th Street, Southwest, Washington, D. C. and it's signed
9 off - it is printed off on, not signed, by Linda G.
10 Given, Director, Department of Housing and Community
11 Development.

12 THE COURT: Who is Miss Given?

13 THE WITNESS: She's the Director of the
14 Housing Authority, apparently.

15 MR. WEHNER: Who is Miss White?

16 THE WITNESS: She was the manager of the
17 Washington, D. C. Area office.

18 THE COURT: All right, I'll overrule the
19 objection. It's admitted.

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20 THE DEPUTY CLERK: Defendant's Exhibit 270
21 marked for identification and received in evidence.
22 (Defendant's Exhibit 270 marked for
23 Identification and received into
24 Evidence)
25 MR. O'NEILL: Judge, so it's clear, I said no

2489

1 objection.

2 THE COURT: I'm sorry. It's admitted.

3 BY MR. WEHNER:

4 Q Miss Dean, this letter states in paragraph one,

5 two, three, four, five, "In the spring of 1986 the HUD

6 Central office approached the Housing Authority and

7 recommended that we work with Altman Properties to

8 rehabilitate Foxglenn. Moderate rehabilitation funding

9 would be provided by HUD expressly for this property and

10 we would issue housing revenue bonds for a HUD

11 co-insured mortgage. Altman Properties was represented

12 to us verbally and on a HUD previous participation

13 certification as experienced in this type of venture."

14 Miss Dean, were you the representative from

15 the HUD Central Office who approached the Housing

16 Authority and recommended that they work with Altman

17 Properties to rehabilitate Foxglenn?

18 A Absolutely not.

19 Q Another paragraph on page two of the letter

20 reads, "On June 16th, 1986 Mr. Riddick wrote Miss White

2 affirming that Foxglenn was our first priority project

2 for Mod Rehab and requesting additional monies. On

2 September 2nd, 1986 Mr. Riddick addressed the same

2 request to Silvio J. DeBartolomeis, General Deputy

2 Assistant Secretary for Federal Housing Commission."

2490

1 It goes on to state that that request was

2 approved by Miss white in a letter dated September 26,

3 1986. The last sentence of that letter says, "Clearly

4 at the outset of this project it was understood that HUD

5 Central wanted this project to proceed expeditiously and

6 we were pleased to comply."

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7 were you the individual from HUD Central
8 that wanted this project to proceed expeditiously?
9 A Absolutely not.
10 Q And you were not the individual reflected with
11 regard to the additional \$200,000 request for funding,
12 is that correct?
13 A No, I didn't know about it until I looked through
14 the Independent Counsel's papers.
15 Q And who was that individual?
16 A It -
Mr. DeBartolomeis.
17 MR. WEHNER: with the Court's permission, I
18 will display Dean Exhibit 61.
19 THE COURT: All right.
20 BY MR. WEHNER:
2 Q Now, Miss Dean, with respect to the 94 units funded
2 on or about September 5th, 1986, do you recall Rick
2 Davis being involved in that request?
2 A Yes, Mr. Davis worked at the White House and he did
2 call me about Waterbury, Connecticut.

2491

1 Q Did you report that to Secretary Pierce?
2 A Yes, I did.
3 Q Was the project subsequently funded?
4 A Yes.
5 Q Directing your attention to the Columbia, South
6 Carolina, do you recall receiving information on that
7 request from Congressman Quillan?
8 A Yes, and Congressman Quillan -I'm
trying -- I
9 know he spoke to me and I know he spoke to other people
10 but I don't know if he spoke to the Secretary or not.
11 Q Did you report that to the Secretary?
12 A Absolutely.
13 Q Do you have any knowledge of the Northwestern
14 Housing Authority funding in terms of -
15 A Do you know what State that's in?
16 Q North Carolina.
17 A No, I don't -I
don't have any recollection. I do
18 know that this particular round of funding was -- had a
19 lot of input from Regional Administrators, and so that
20 very easily could have been at the request of the
21 Regional Administrator.
22 Q You don't recall any consultant or politician
23 particularly being involved in that?
24 A Not at this time.
25 Q What about the Jefferson Community Development in

2492

1 Kentucky?
2 A Jefferson County, Kentucky?
3 Q Yes.
4 A No, I don't.
5 Q Elizabethtown, Tennessee?
6 A No, I don't.
7 Q Morristown, Tennessee?
8 A No.
9 Q And again, these are your recollections at the time

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10 regarding involvement of any political influence or
11 consultant, and by that I don't mean to be perjorative,
12 I just mean these were requests from the Regional
13 Administrator is your best recollection?
14 A That is my best recollection, the -- yes, that's my
15 best recollection.
16 Q Directing your attention to Shreveport, Louisiana,
17 75 units. Do you recall that Senator Bennett Johnston
18 was involved in supporting that request?
19 A Not specifically, but I'm not surprised.
20 Q I show you what I've marked for identification as
2 Dean Exhibit 610 and ask you if you can identify that?
2 A It's the -- well, actually this is the same letter
2 that you showed me before.
2 Q Okay. And it's been introduced into evidence.
2 What is it?

2493

1 A Oh, I understand -- I now understand it. This
2 letter is for 150 units, and 75 units went to Shreveport
3 in this round and I believe the other chart had
4 Shreveport for 75 as well. So they must have been split
5 funded. Some funded earlier and some funded later.
6 Q That was a total of 150 units based upon Senator
7 Johnston's request?
8 A Yes. That makes sense now.
9 Q With regard to the City of Baton Rouge, the

10 Parish -- excuse me, the Parish of East Baton Rouge,
11 Louisiana, 150 units, do you recall that there was a
12 Senate race involving a John Breaux at or about the time
13 that was funded in September, 1986?
14 A I do remember that there were requests for Baton
15 Rouge, Louisiana for soon-to-be Senator Breaux, yes.
16 Q I'm going to show you what I've marked for
17 identification as Dean Exhibit 611 which purports to be
18 a handwritten note on United States Department of
19 Housing and Urban Development stationery entitled in
20 printed letters Deborah G. Dean, Executive Assistant to
21 the Secretary, which purports to be a note dealing with
22 Louisiana, Baton Rouge, 150 units, is that correct?
23 Baton Rouge, excuse me.
24 A Yes, those are my notes of a meeting that I was
25 having at the time with Jay Stone.

2494

1 Q Who is Jay Stone?
2 A He -- well, he at one time worked for, I believe,
3 Congressman Breaux or he might have worked for -- I
4 can't remember. Whoever it was. Somebody in Louisiana.
5 Q One of the Congressional delegations from
6 Louisiana?
7 A And I think he also went onto do political
8 consulting work because he was very involved in politics
9 in the South in certain raises. He ran -- I know he
10 worked for Treen. Congressman Treen, that's who he
11 worked for.
12 Q From Louisiana?

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13 A Yes, I think he ran his Senate campaign or his
14 something campaign.
15 MR. WEHNER: Your Honor, I move the admission
16 of Dean Exhibit 611.
17 MR. O'NEILL: No objection, Your Honor.
18 THE COURT: All right, 611 is admitted.
19 THE DEPUTY CLERK: Defendant's 611 marked for
20 identification and received in evidence.
21 (Defendant's Exhibit 611 marked for
22 Identification and received into
23 Evidence)
24 BY MR. WEHNER:
25 Q Miss Dean, based upon your handwritten notes of this

2495

1 conversation can you describe what you said in the
2 conversation?
3 A Governor Treen, he was running for Governor, I
4 remember now. It says, "Louisiana, Jay Stone, Baton
5 Rouge, Section Eight, 150 units, Mod Rehab," then it has
6 project number under it which means that some of it had
7 to have already been funded or else it wouldn't have a
8 project number. I don't think. That's an unusual
9 thing. I'm not exactly sure what that means. It does

10 say City of Baton Rouge, and then below it is another
11 project which was a hundred unit motel in Tulane Avenue,
12 New Orleans, elderly and handicapped, and there was some
13 legal problem with it because those are my notes to
14 refer it to Michael Dorsey. And it's a turnkey, which
15 is a public housing project. So there must have been a
16 legal problem with it at some point. So I'm just
17 referring it to him.
18 Q Do you have any recollection as to where or on what
19 basis the units were sent to Baton Rouge?
20 A Well, I believe it has something to do with -
2 MR. O'NEILL: Objection, Your Honor.
2 A No, I really don't. It has something to do with
2 the meeting with Jay Stone. I can't even remember who
2 Jay Stone was working for at that point.
2 Q Did you report that conversation to the Secretary?

2496

1 A Yes.

2 Q With regard to the Oklahoma Housing Finance Agency,

3 do you recall any consultants or political pressure

4 being put on the Office of the Secretary to fund those

5 units?

6 A No.

7 Q With regard to the Missouri 200 units, do you

8 recall the name of a consultant by the name of

9 Dan Hughes?

10 A I know who Dan Hughes is.

11 Q Who was he?

12 A He was a former HUD employee who was the Deputy
13 Undersecretary for the Field Coordination. That's the
14 job that Tim Coyle later was in, but I did not know Dan
15 was involved in that Missouri project at that time. I
16 know that he was involved with a later project when
17 Mr. Demery was Assistant Secretary and that was the only
18 time I ever knew of Mr. Hughes' involvement. So I did
19 not know that then.

20 Q Directing your attention to the Housing Authority
2 of St. Louis, are you aware of political pressures being

2 brought in the office of the Secretary for those 139
2 units?

2 A Not that I can recall.

2 Q Do you recall a consultant by the name of Sandy

2497

1 Sanders?

2 A Yes, Sandy Sanders was another former HUD employee
3 who was the General Deputy Assistant Secretary for
4 Housing, and once again I would not have known Sandy
5 Sanders' involvement in those -in
that project.

6 Q Do you know David Barrett?

7 A Yes, I know David Barrett.

8 Q You would not have known his involvement at that
9 time, correct?

10 A In what?

11 Q In that project.

12 MR. O'NEILL: I object to the leading
13 questions.

14 THE COURT: Yes. Thank you.

15 BY MR. WEHNER:

16 Q Davis county, Utah, directing your attention to 100
17 units to Davis County, Utah. Were you aware at the time
18 that a consultant by the name of Queenan was involved in
19 that project?

20 A No.

2 Q Did you subsequently become aware of that?

2 A I had -- yes, it was Mr. Queenan who was involved
2 in the 20 -- the May 22nd projects that the Secretary
2 knew were involved with Mr. Winn somehow. So I then
2 knew who Mr. Queenan was. I did not know who he was

2498

1 previous to this.

2 Q Directing your attention to Aurora, Colorado

3 Housing Authority, do you recall the name Rick Price?

4 A Yes.

5 Q Who was Rick Price?

6 A Another former HUD employee.

7 Q And do you recall talking to Mr. Price about that

8 project?

9 A I know that Mr. Price did put a call into my

10 office. I don't remember talking to him. I know that

11 he did put a call through because I didn't know who he

12 was when he called, because he had left HUD before I

13 came to HUD.

14 Q I'm going to show you what I've marked for
15 identification as Dean Exhibit 617 which purports to be
16 a letter to you written on Security Pacific Mortgage
17 stationery from Rick Price, Assistant Vice-President,
18 Production Loan Officer, Multi-family Lending. Do you
19 recall receiving that letter?

20 A Well, it says, "Thank you for consideration during
21 the May 22nd funding round." This is the September 5th

22 funding round.

23 Q Do you recall receiving the letter from Rick Price?

24 A No, no, but I'm sure I did. I believe it came out
25 of my files.

2499

1 Q Does that refresh your recollection as to who
2 Rick Price was?

3 A No. I remember him calling my office. I remember
4 not knowing who he was and then subsequently knowing
5 that he was a former HUD employee.

6 Q Directing your attention to the Housing Authority
7 of the County of Riverside, California, do you recall
8 any white House involvement in that funding request?

9 A I remember that the - that I was asked to meet
10 with the developers, the actual developers on that
11 project who were a young couple named Horn, and -12

Q I'm sorry, named what?

13 A Horn.

14 Q H-o-r-n?

15 A Yes, and I can't remember if it was brother and
16 sister or husband and wife. I don't remember. But they
17 were - and someone had placed them on my calendar. It
18 was either the White House or the Undersecretary, and I
19 don't remember which one.

20 Q And did you meet with them?

2 A Yes, I did.

2 Q And did you report that to the Secretary?

2 A I'm certain I would have told him that when this -2
when we went through this list that I had actually met
2 with the people who were represented on this list, yes.

2500

1 Q Directing your attention to the Housing Authority

2 of Garden Grove, California, September 5th, 1986. Do

3 you know who Robert K. Dornan is?

4 A Yes, he's a Congressman from Garden Grove,

5 California.

6 Q Let me show you what I've marked for identification

7 and it's Dean Exhibit 620 and ask you if that purports

8 to be a letter on Congress of the United States

9 stationery, Robert K. Dornan, California, written to
10 Samuel R. Fierce and signed Bob, Robert K. Dornan. Is
11 that with respect to the Garden Grove?

12 A Yes.

13 Q Does it reflect a received stamp in the Secretary's
14 office?

15 A It went to the Executive Secretary as opposed to
16 the Secretary.

17 Q Does it reflect a received stamp?

18 A Yes.

19 Q And what date?

20 A October 25th at 12:56, 1985.

2 MR. WEHNER: At this point I'll move into

2 evidence Dean Exhibit 620.

2 MR. O'NEILL: Judge, the Government would
2 object on relevance grounds.

2 THE COURT: All right. Bring it up to me,

2501

1 please.
2 (Bench conference)
3 THE COURT: Okay. This is not a project at
4 issue, is that what you're saying?
5 MR. O'NEILL: Yes, Judge, that is what I'm
6 saying.
7 MR. WEHNER: It's not a project at issue,
8 Judge.
9 It's admissible on two grounds. One, it is

10 relevant because it shows the continuous political input
11 into the entire moderate rehabilitation process at BUD
12 directly to the Secretary as well as to Miss Dean as
13 well as to the undersecretaries.
14 Number two, even more importantly, it's
15 relevant and admissible pursuant to rule 404 (b) because
16 it shows the common practice of the Department of HUD in
17 terms of funding moderate rehabilitation units based on
18 political decision making. It's clearly a common scheme
19 and plan to do that. The evidence is overwhelming as to
20 that.
21 MR. O'NEILL: I think nine-tenths of what's
22 gone on from the Government's perspective is
23 non-relevant, Judge. Obviously Mr. Wehner is trying to
24 set up a defense, which I understand what he's doing,
25 but I think some of this is getting a little far afield,

2502

1 so I just wanted to note that for the record.
2 THE COURT: All right, I'm admit this, but I
3 agree with the Government. I think you have to keep it
4 in line with the -- as to the evidence as it affects her
5 directly. We've got evidence of these other awards that
6 she's accused of having arranged for, that her
7 intangible benefits were politically directed, that she
8 had senators order the awards or the White House order
9 awards, Mr. Pierce order the awards, that's one thing.

10 But evidence of lots of other awards politically, I
11 think is a little too far afield.
12 MR. WEHNER: My response to Mr. O'Neill's
13 argument if we go further into this, if we do, is that
14 her testimony is that she's discussing each of these
15 political influences with the Secretary and this is
16 directly corroborative of those discussions. In fact,
17 there are letters directed to the Secretary back from
18 members of the Congress.
19 THE COURT: I'll let this one in.
20 MR. WEHNER: Thank you, Your Honor.
2 (Bench conference concluded)
2 THE COURT: 620 will be admitted over
2 objection.
2 THE DEPUTY CLERK: Defendant's Exhibit 620
2 marked for identification and received in evidence.

2503

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1 (Defendant's Exhibit 620 marked for
2 Identification and received into
3 Evidence)
4 MR. WEHNER: Your Honor, at this time I'll
5 move the admission of Dean Exhibit 619, 618, 616, 615,
6 614, 613, 612, 609, 608, 607 and 606. I believe there's
7 no objection.
8 MR. O'NEILL: No objection, Your Honor.
9 THE COURT: All right.

10 will you list those?
11 THE DEPUTY CLERK: Defendant's Exhibits 608,
12 609, 612, '13, '14, '15 and '16, '18 and '19 marked for
13 identification and received in evidence.
14 (Defendant's Exhibits 607 through
15 609, 612 through 616 and 618 & 619
16 marked for Identification and
17 received in Evidence)
18 BY MR. WEHNER:
19 Q Miss Dean , with respect to Reno, Nevada, do you
20 recall Senator Laxalt being involved in the request or
21 political pressures for moderate rehabilitation units?
22 A I know that one of the Senators from Nevada was
23 involved.
24 Q I direct your attention to Dean Exhibit 621 which

25 purports to be a letter dated June 16, 1986 from

1 Secretary Pierce to Paul Laxalt.
2 A Yes.
3 Q Does that reflect being received in the office of
4 HUD?
5 A Yes, in the Exec Sec on June 18.
6 Q I also show you what's been marked for
7 identification as Dean Exhibit 622 which purports to be
8 a handwritten note dated 8-5-86 to Deborah Dean, signed
9 off on by, "Thanks, Starr.
10 A Yes, that was attached to that.
11 Q And who is Starr?
12 A Starr was Secretary Pierce's confidential
13 assistant.
14 Q And is this a note to you from her?
15 A Yes.
16 Q Concerning the letter from Senator Laxalt?
17 A Yes.
18 MR. WEHNER: Your Honor, at this time I'll
19 move the admission of Dean Exhibits 621 and 622.
20 THE COURT: Can I look at those a minute?
21 MR. O'NEILL: Judge, I have to object.
22 THE COURT: All right. Thanks. They will be
23 admitted, 621 and 622.
24 THE DEPUTY CLERK: 621 and 622 marked for
25 identification and received in evidence.

2505

1 (Defendant's Exhibits 621 and 622
2 marked for Identification and
3 received into Evidence)
4 BY MR. WEHNER:

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5 Q Exhibit 621, is that the request from Senator
6 Laxalt for funding 225 units?
7 A Yes, it is.
8 Q And the note from -
9 A From Starr?
10 Q From Starr to Deborah Dean, is that in Starr's
11 handwriting?
12 A Yes, it is.
13 Q Would you read it quickly, please?
14 A "Per our conversation, please prepare response for
15 Secretary's signature, stating that we will try to help,
16 and let the Secretary know just what can be done for
17 Senator Laxalt. Thanks, Starr."
18 MR. O'NEILL: I renew my objection, Your
19 Honor. It's dated approximately 45 days later.
20 THE COURT: Did the witness testify to those
21 related documents or not?
22 MR. WEHNER: Yes, Judge, and it's actually
23 June, July, actually about 50 days later. One is dated
24 June 16, 1986. The other is dated 8-5-86. That's
25 not -

2506

1 THE COURT: I'll -- it's admitted.

2 BY MR. WEHNER:

3 Q Regarding Lane County, Oregon, Yamhill County,

4 Oregon, Washington County, Oregon, Salem, Oregon, were

5 you aware then or are you aware now that any consultants

6 were involved in those projects?

7 A No, I don't believe so. All of them were from the

8 Regional Administrator.

9 Q Is that also true for the Housing Authority of
10 Vancouver?

11 A Yes.

12 Q And Pierce County Housing Authority of Washington?

13 A Yes. And Thurston County, Washington.

14 Q And Thurston County, Washington?

15 A Yes

16 Q Now, Miss Dean, at this point in the selection
17 process for Mod rehabilitation units, had the
18 relationship in terms of the respective roles that you
19 played and the Secretary played and Mr. DeBartolomeis
20 played, changed?

2 A Yes, they did.

2 Q what occurred?

2 A Well, Mr. DeBartolomeis had a group of fundings
2 that he wanted to see funded in September when it became
2 apparent that we would not have a Federal Housing

2507

1 Commissioner by the time of the end of the fiscal year,
2 that there was going to have to be some more fundings
3 done for this program. And he had a list of projects
4 that he wanted to fund, and Secretary Pierce believed
5 that the best way to do this would be to do it with
6 the -- through the Regional Administrators, and so he
7 had me place a conference call through Mr. Coyle's
8 office to the Regional Administrators.

9 Q who is Mr. Coyle?

10 A He was the Deputy Undersecretary for Field
11 Coordination. He's the person that all the Regional
12 Administrators reported to, to report to the Secretary.
13 And Mr. Coyle set up a conference call, and all ten
14 Regional Administrators were on the line at the same
15 time and basically were asked what projects were they
16 aware of that they were in particular support of. And
17 so a list was derived that way, plus there were some
18 that -- I spoke earlier of, that there were some
19 interaction of the Office of the Secretary involving,
20 and there were some that Mr. DeBartolomeis had, but
2 Mr. DeBartolomeis was very unhappy because he said that

2 he had made some commitments and that he needed to
2 fulfill those commitments and a disagreement ensued
2 between Mr. DeBartolomeis and the Secretary but the
2 disagreement was actually through me.

2508

1 Secretary Pierce did not want to talk to
2 Mr. DeBartolomeis about this problem directly because

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3 Mr. DeBartolomeis had been putting a great deal of
4 pressure on the Secretary, requests for meetings and
5 letters to the Secretary, et cetera, from other Senators
6 and things, pushing Mr. DeBartolomeis to become the
7 Federal Housing Commissioner. He wanted that job, that
8 promotion, and the Secretary did not want him to have
9 that promotion and he also did not want to have any
10 in-depth conversations with Mr. DeBartolomeis on why he
11 was not going to get the promotion.

12 And so Mr. DeBartolomeis went on strike. He
13 just would not sign the documents when they had been

14 done and --

15 Q which funding round is this for, are you referring

16 to?

17 A This is for September 5th. He eventually did sign
18 them. But it was -- I think Miss Zagame and he both
19 testified to a meeting that the three of us had in my
20 office and I had spoken to Mr. DeBartolomeis several
2 times before that meeting. I had spoken to Secretary
2 Pierce and repeated everything Mr. DeBartolomeis said
2 and what his concerns were, which were that he wanted
2 the job, and that he had made commitments and he wanted
2 to discuss those commitments with the Secretary, and the

2509

1 Secretary did not want to discuss specific projects with
2 Mr. DeBartolomeis.

3 So the Secretary told me to instruct

4 Mr. DeBartolomeis that he was an Acting Federal Housing
5 Commissioner, that he was not his choice for the job,
6 and that he was not going to get the job and that he
7 should do his role, play his role, make certain these
8 projects are good projects, sign the documents, check
9 them out. Make certain of all the rules and
10 regulations. But that in this particular funding round
11 with a couple of exceptions of projects I believe that
12 he had on there, and I don't remember which are which, I
13 know he had some input, but he was to, in essence, carry
14 out the function of that office and wait for a Federal
15 Housing Commissioner to be appointed for any future
16 discussions.

17 Q And subsequently was --subsequently
a different

18 Federal Housing Commissioner was appointed, is that
19 correct?

20 A Yes.

2 Q Much later?
2 A Yes.
2 Q Who was that?
2 A Tom Demery.
2 Q Now, additional funding took place under

2510

1 Mr. DeBartolomeis' rein as Acting Federal Housing
2 Commissioner, is that correct?
3 A That is correct. Very shortly -- actually the -4
4 the subject of these commitments that Mr. DeBartolomeis
5 had made didn't go away. And he me with me shortly
6 again after the meeting that he and Susan Zagame came to
7 and he came upstairs and he went through these
8 commitments and who he had made them to and I told him
9 that I just didn't see any way in the world that the
10 Secretary was going to fund these.
11 Q What did you say to him and what did he say to you
12 during those meetings?
13 MR. O'NEILL: That's patently improper, Your
14 Honor, to ask that kind of a question.
15 MR. WEHNER: Why?
16 MR. O'NEILL: What Silvio said -
17 THE COURT: Come up here.
18 Ladies and gentlemen, we'll let you go for
19 your three o'clock recess. Remember the admonition not
20 to talk about the case, please.
2 (Bench conference)
2 THE COURT: Isn't he a co-conspirator?
2 MR. O'NEILL: No, sir.
2 THE COURT: I thought he had pled to
2 something.

2511

1 MR. O'NEILL: He did plead, absolutely. If
2 they want to admit that he's a co-conspirator I have no
3 problem, Judge.
4 THE COURT: He's not a co-conspirator as to
5 this conspiracy, as to her awards? It was with someone
6 else that he had a conspiracy?
7 MR. O'NEILL: He was under indictment when the
8 indictment was returned so he was never ever considered
9 to be a witness in this case at that time. Just to give

10 Your Honor the background. Now, subsequently he did
11 plead guilty and he pled guilty, so the Court knows, to
12 conspiring with Deborah Dean.
13 THE COURT: Yes, that's what I thought.
14 MR. O'NEILL: Okay.
15 THE COURT: How is he not a co-conspirator
16 here? I'm lost.
17 MS. SWEENEY: Not on these particular
18 conspiracies, Your Honor.
19 MR. O'NEILL: Are we taking judicial notice of
20 the fact that there's a conspiracy and that both are
21 members?
22 THE COURT: I don't know. If he pled guilty
23 to conspiracy with Deborah Dean to impede the proper
24 functions of the Government, I don't know where we're

1 (Recess from 2:58 p.m. to 3:33 p.m.)

2 THE COURT: Are you ready? We're ready for the jury.

3 (Jury in.)

4 THE COURT: All right, we'll go ahead and continue for
5 the rest of the afternoon, please.

6 BY MR. WEHNER:

7 Q. Now, Ms. Dean, did you have -- you've described for us,
8 pardon me, the process in which you participated regarding the
9 September 5, 1986 funding round --

10 A. Yes.

11 Q. -- for moderate rehabilitation units.

12 A. Yes.

13 Q. And I believe when we broke off your testimony, you were
14 talking about your conversations with Mr. Silvio DeBartolomeis
15 regarding his activities at the time.

16 A. Yes.

17 Q. Okay. Based upon the Judge's ruling, would you please tell
18 the jury what Mr. DeBartolomeis said to you and what you said to
19 him during those meetings subsequent to the funding round?

20 A. Well, Mr. DeBartolomeis, as I said, was very concerned about
21 these commitments that he had made -- that's the term that he had
22 made, he used with me -- and he very much wanted to discuss with
23 Secretary Pierce these particular projects in person, and he met
24 with me in my office, and I told him that Secretary Pierce did
25 not want to discuss with him specific projects, and he, in

2515

1 essence, said that he would not participate any longer in any
2 function unless three projects could be funded.

3 And there were three specific commitments that he said
4 that he had made. And I remember that he used the term, "I have
5 to have this." Those were his exact words, "I have to have
6 this."

7 And I went back to Secretary Pierce. I didn't even
8 know how to go back and tell Secretary Pierce this. This was, I
9 just never had anyone say anything like that. And I went back
10 and I told Secretary Pierce what he had said, and Secretary
11 Pierce, it was a mixture of anger and exasperation, and he, he
12 said to me, "Do you have any idea who these, why he wants these
13 three projects, or who they're for or anything?"

14 And I said no, but that I had a pretty good guess.

15 And Secretary Pierce said, "Yeah, I guess I know who
16 they're for, too." And he said, "Well, Silvio will not be in the
17 department long. When the new assistant secretary comes, he'll
18 have to leave." And he said, "If the projects are okay and
19 they're worthy and they could be funded under normal course of
20 business, go ahead and let them go."

2 And then they were subsequently funded in the next
2 round.

2 Q. And when did the next round take place?

2 A. Well, actually we did not believe that there was going to be
2 another round until there was an assistant secretary. We were

2516

1 really -- we had Mr. Demery almost in the building. He had
2 already been nominated by the President. His FBI investigation
3 was ongoing. We expected him to be confirmed before the end of

4 the fiscal year.

5 So we were waiting and waiting, and if we had had to
6 wait until September 30 at 5:30 to send them out, we would have
7 done that so as not to get into this same situation again with
8 Mr. DeBartolomeis.

9 And then on September 12, on a Friday, midmorning,
10 Mr. Kliman, who was the head of the Budget Office, came in -11
called me, I believe, on the telephone and said that there was
12 something he had to discuss with the secretary right away, and I
13 said all right, and I found the secretary was available.

14 Mr. Kliman came in and told us that he had just
15 received a phone call from the Office of Management and Budget
16 and that they were going to basically rescind all monies in
17 certain categories that had not been spent by that evening.

18 Q. What does that mean?

19 A. That means that they were going to take it back and not use
20 it. They were going to return the money to the treasury.

21 Q. And how did that affect the status of the amount of money
22 left for moderate rehabilitation on that day? What did it mean
23 in terms of funding?

24 A. It would have ended it. There would have been zero. And we
25 had been holding off and holding off spending the money, waiting

2517

1 for a federal housing commissioner, and now we were going to lose
2 it.

3 So the secretary said, "Call Silvio DeBartolomeis on
4 the telephone, and set up -- and start to fund. Get the money-
5 out of the building now, fast."

6 And I called -

7 Q. How did that avoid, if it did, a rescision?

8 A. Well, the rescision was going to take effect Monday morning,
9 so if we could get it out Friday night, OMB would have not known
10 when it went out. They just would have known it went out
11 sometime before they asked for the money back.

12 Q. Okay. And on -- and how did you -
how does one go about,

13 when you were at HUD, getting money, as you say, out of the
14 building? What is the document that means OMB can't rescind the
15 funding?

16 A. I'm not sure. I know that it has to be technically
17 committed, and if that commitment is a 185 or a rapid reply, I
18 don't know. If it goes into some computer system, I don't know.
19 But it somehow had to get from the Office of Housing to the
20 Office of Management Administration. I do know that.

2 Q. Based on that information, what did you do?

2 A. I called Mr. DeBartolomeis' office and was told that
2 Mr. DeBartolomeis had left for the day, and he lived in Rehoboth
2 Beach, and it was Friday afternoon, and I assumed he had just
2 taken off early.

2518

1 But it was now, I would say, between twelve and one or
2 twelve and two in the afternoon, and I knew that I couldn't wait
3 for him to get all the way to Rehoboth Beach, call him and tell
4 him to come all the way back, because that would have meant that
5 the people who had to actually do the funding documents
6 downstairs in Funding Control would have had to stay in the
7 department until two or three in the morning to get -- if we
8 started at five or six in the evening.

9 But if we started earlier, they would have some chance
10 to get home before midnight, and as a result, I believe most of
11 them were there past midnight, quite a few people, trying to get
12 this money out.

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13 Q. what did you do in terms of the, within the department
14 itself after you discovered that Mr. DeBartolomeis was not
15 available?
16 A. well, I went back and told the secretary that, that
17 Mr. DeBartolomeis had, was not available and that -- and he said,
18 "well, who is here?"
19 And I said, "well, Ms. Zagame is here, and your special
20 assistant for Housing, Ms. Morgan, is here," and Hunter Cushing,
21 I believe, was there, and who was the deputy assistant secretary
22 for Multi-Family Housing now? Mr. Casey had moved up to
23 legislation, I believe. Maybe he was still down in Housing, I
24 don't remember, but he was around.
25 And they had undertaken a project down in Housing of

2519

1 taking all the application letters from the public housing
2 authorities and putting them in these large, black binders, and
3 so I asked that the large, black binders be brought up from
4 Mr. Casey's office, where they were kept, to my office, and then
5 I had sort of a circular, round table, and basically just anybody
6 who was available, free, not attached to doing something else at
7 that moment I brought in and started saying, "Go through the
8 black books and find any application that is alive, that we can
9 use, that is -- let's get the money out, move it out."
10 And that is the meeting that Ms. Zagame testified to
11 that there was a clipboard and she was taking down numbers as
12 fast as she could.
13 Q. Let me show you what has been marked for identification as

14 Dean Exhibit 125.

15 THE CLERK:
16 identification.

17 MR. WEHNER:

18 THE CLERK:

19 MR. WEHNER:

20 THE CLERK:

2 BY MR. WEHNER:

Defendant's Exhibit No. 125 marked for

It's previously been used.
It has been marked.
But it has not been introduced.
Okay.

2 Q. And ask you if you recognize that document?

2 A. That is the -

well, I can't recognize it, no. I know what
2 it is, because Ms. Zagame said what it was. It's the list that
2 she took down in the office.

2520

1 MR. WEHNER: Your Honor, we've previously had this
2 identified, and I would move its admission at this time.

3 MR. O'NEILL: No objection, Your Honor.

4 THE COURT: All right, it's admitted.

5 (Defendant's Exhibit No. 125 was
6 received in evidence.)

7 THE COURT: That was not a government exhibit that was
8 admitted?

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9 MR. O'NEILL: No, Your Honor, not that one.

10 THE COURT: That was on a different list?

11 MR. O'NEILL: It's a little variation of the same list.

12 THE COURT: Oh, all right. 125 is admitted.

13 THE CLERK: Defendant's 125 received in evidence.

14 MR. WEHNER: With the Court's permission, I'll publish

15 the first page of that.

16 THE COURT: All right.

17 BY MR. WEHNER:

18 Q. Now, Ms. Dean, is this the list you testified in

19 Ms. Zagame's handwriting that she was writing down?

20 A. Yes.

2 Q. Can you kind of describe to your best recollection who was

2 in the meeting and what everybody was doing as this list was

2 being prepared?

2 A. I don't remember it all that well. I remember Ms. Zagame

2 helping me basically pull applications from around the country,

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1 because I remember at the end of this exercise, we actually took
2 a map of the United States and began to mark in the states and
3 how many units had gone to the states, because there were so many
4 going out in this particular -- I wanted to make certain that
5 they were going all the way around the country.
6 So she was helping me do that, and she was writing down
7 this list, and other people were doing other things. They were
8 attempting to find applications that were still valid. That's
9 all I --

10 Q. Okay. Now Mr. DeBartolomeis was not present during the

11 meeting?

12 A. No.

13 Q. Okay. Did he have any input into the decisions that were

14 made on that Friday?

15 A. The three projects that he had said he had committed to were

16 funded during this, this meeting here, as per the secretary's

17 approval.

18 Q. Okay. Do you recall which three projects those were?

19 A. Yes. There were two in Puerto Rico and one in Trenton, New

20 Jersey.

21 Q. Okay. Now this was a Friday when this activity was

22 occurring?

23 A. It was Friday evening, late Friday afternoon and Friday

24 evening.

25 Q. What happened Friday night in terms of getting the money

2522

1 committed to getting money out?

2 A. Well, once this list -- that's why actually we were hurrying
3 so fast, because the people who actually have to prepare the
4 documents were waiting downstairs for them, and it was a little
5 burdensome to ask all of these people to stay to do all this work
6 because we didn't realize that this recession was coming in.
7 So I was working as fast as I could so that they would
8 not be too inconvenienced downstairs, although it ended up that
9 they were terribly inconvenienced, because there was a lot of
10 work to preparing the documents.

11 But -I

missed the question, I'm sorry.

12 Q. I'm sorry, it's been a long week and a long day. What was
13 occurring downstairs? What had to occur downstairs to get the
14 funds out? What did they have to do?

15 A. Well, the application had to be reviewed. Budget and

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16 contract authority had to be determined for that area. The fair
17 market rent in Alaska is different than the fair market rent in
18 Washington, D.C. And so contract and budget authorities have got
19 to be put into a computer, and that has to come out. If there
20 are different bedroom mixes, then you have to have the fair
2 market rent for a one bedroom, a two bedroom, a three bedroom.
2 All that has to be calculated.
2 Tapes are actually run on, like, an adding machine that
2 get attached. They have to make certain that the housing
2 authority is administering the program.

1 All this is things that normally would have been done
2 with days of preparation by the deputy assistant secretary for
3 Multi-Family Housing. There just wasn't time to do all that, so
4 it fell upon the people in Funding Control to do the best that
5 they could to make certain that, that this had been done.
6 So they're checking out housing authorities, they're
7 checking out to make certain that the monies are correct.
8 They're actually preparing the papers, et cetera, et cetera, all
9 the things that go into it, and it's a complicated process.

10 Q. Now Mr. Kumagai was the funding control officer?

11 A. Yes, he was the head of that office, and he stayed that
12 evening with his staff.

13 Q. Okay. And Ms. Zagame had been present in the meeting; is
14 that correct?

15 A. Ms. Zagame was there taking the list down to give to
16 Mr. Kumagai, who worked for her.

17 Q. Let me show you what I've marked as Dean Exhibit 897.

18 THE CLERK: Defendant's Exhibit 897 marked for
19 identification.

20 (Defendant's Exhibit No. 897 was
21 marked for identification.)

22 MR. WEHNER: And 898.

23 THE CLERK: 898 marked for identification.

24 (Defendant's Exhibit No. 898 was

25 marked for identification.)

2524

BY MR. WEHNER:

2 Q. 897 purports to be a note to Russ Kumagai from Susan Zagame,
3 dated September 12, 1986, which is a list of Section 8 moderate
4 rehabilitation units for which HUD Form 185 should be prepared.

5 A. Yes. This was, this was attached to her handwritten list to
6 Mr. Kumagai.

7 Q. Dean Exhibit 125, previously admitted?

8 A. Yes.

9 MR. WEHNER: Your Honor, at this time, I'll move the

10 admission of Dean Exhibit 897.

11 MR. O'NEILL: No objection, Your Honor. Those two are
12 already admitted under the government, so no problem.

13 THE COURT: All right, I'll admit them as a Dean
14 exhibit as well, 897.

15 THE CLERK: Defendant's 897 marked and received in
16 evidence.

17 (Defendant's Exhibit No. 897 was
18 received in evidence.)

19 BY MR. WEHNER:

20 Q. Now, Ms. Dean, after this was sent downstairs and that work
21 that you described was being done, was a document produced as a
22 result of the machinations that occurred downstairs?

23 A. Yes. Once --

24 Q. And what was that document?

25 A. Once those decisions went down to Mr. Kumagai's office and

2525

1 his staff did what they did Friday night, those funds then were
2 technically spent. So when OMB called Monday morning, "what do
3 you have left in the mod rehab account?"

4 "Oh, hardly anything."

5 And so that was technically done. But also, the 185s

6 and whatever had to be prepared, those that had not been done

7 yet, to send the money actually out into the field. The

8 emergency situation was over, and now we had a couple of days to

9 actually get all the work done.

10 So Monday morning, a computer printout was prepared of

11 the decisions that had been made and the monies and numbers of

12 units that had been committed Friday night, and Ms. Zagame

13 brought it to my office on Monday for me to review it with the

14 secretary.

15 Q. I'm going to show you what has previously been identified as
16 Dean Exhibit 124 and ask you if that is a computer printout that
17 was brought to you?

18 A. Yes.

19 Q. Or a copy of the computer printout that was brought to you?

20 A. Yes.

21 Q. And does it have your handwritten changes on that computer

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22 printout?

23 A. Yes.

24 Q. And is the last page of that exhibit a memorandum for the

25 file from you, I'm sorry, recording an instruction that you left

2526

1 with the Funding Control Division --

2 A. Yes.

3 Q. -- as a result of your review of the list?

4 A. Yes.

5 MR. WEHNER: Your Honor, I would move the admission of

6 Dean Exhibit 124.

MR. O'NEILL: I haven't seen it.

8 No objection, Judge.

9 THE COURT: All right.

10 MR. O'NEILL: These are government exhibits as well

11 THE COURT: All right, 124 will be admitted for

12 defendant.

13 THE CLERK: Defendant's 124 received in evidence.

14 (Government's Exhibit No. 124 was

15 received in evidence.)

16 BY MR. WEHNER:

17 Q. Now, Ms. Dean, this is -- I'm going to put the first page of

18 this on the video presenter, Your Honor.

19 THE COURT: All right.

20 BY MR. WEHNER:

21 Q. These funding decisions for mod rehab had been made the

22 Friday before. You are now getting a list backup, computer list,

23 correct?

24 A. Correct.

25 Q. You're making changes to it?

2527

1 A. Well, these were the changes that were made after my
2 discussion with the secretary.

3 Q. How did you come to make the changes exactly?

4 A. Well, as I said before, we actually took a small map of the
5 United States and actually marked on it the states and the number
6 of units that were going to those states, and some of the states
7 we colored in that the White House had called about wanting
8 monies to go to those states, because this was that, what we've
9 talked about before, this is that, that 1986 election cycle.

10 And we also had the problem of the fact that units had
11 been committed by the white House and to the white House for
12 which we did not on September 12 have applications. This became
13 a major problem, because the money had to go out that Friday, and
14 yet we had already committed to certain people that monies would
15 be coming to them before November.

16 And so this was a decision Secretary Pierce had to
17 make: Do you go ahead and send out all the rest of that money
18 for that year so we don't take a chance of losing any, or do you
19 want to try to hold onto some of it to fill the commitments we
20 made to the white House and to other people and fight OMB on it?
21 And he said, "No, I don't want to lose a single unit.
22 Send them all out, and we'll take care of the ones that we don't
23 have the proper paperwork for when we get our new fiscal year
24 money," which would come October 1, two weeks later.
25 So he separated the list down in two. And then there

2528

1 was one project, well, this Puerto Rico Housing Finance
2 Corporation was one, and there was another project that he
3 believed should be funded in this round, and as a result, I
4 then -- because he didn't make all these specific changes. He
5 just wanted to fund one other project, which I believe is on the
6 next page.

7 And as a result of putting those two projects in -- no,
8 I think it's -- well, there's Altoona Housing Authority. I
9 believe it's, yes, it's the City of Tulsa is what I remembered.
10 That particular project he decided should go now, as opposed to
11 in October, and I don't know why. I don't really have any
12 recollection about it at all except that it should go now instead
13 of then.

14 And as a result of having to put that many units in, I
15 had to go around to other places and lower the number of units
16 going to other housing authorities to make up the number that was
17 added, and that's what all the rest of the changes are.

18 Q. Now did you take that list to the mod rehab -I'm
sorry, to

19 Ross Kumagai?

20 A. No. I probably gave it to -I
don't remember giving

21 anything to Ross Kumagai directly.

22 Q. Did you attempt to?

23 A. No. I probably gave it to Ms. Zagame and had Ms. Zagame
24 send it to Mr. Kumagai.

25 Q. And the document that was previously on this screen was the

2529

1 one that accompanied this, what's now on the screen?

2 A. No, it wouldn't have accompanied this.

3 Q. Were these additional changes?

4 A. No. They actually, I don't know if -- hold on. I can tell

5 you.

6 More than -- either they reflect the changes on that

7 list, or they are additional changes, because there just wasn't

8 enough money to get all of that out. I know that at one point 9

I don't, I know that I called down there and I said, "No more

10 changes. My word on it," because they had all worked so hard.

11 And I just said, "No more changes."

12 I think there were some problems with having enough

13 money.

14 Q. Now were those the final changes you made to the list?

15 A. I think that telephone call reflects the final changes.

16 Q. That were made to the list from the secretary's office?

17 A. Yes.

18 Q. Okay. Now was Mr. DeBartolomeis back in town by that time?

19 A. Yes.

20 Q. Okay. Did you have any conversations with Mr. DeBartolomeis

21 about what was funded?

22 A. I believe that I, I did talk to him about the fact that he

23 wasn't in the office on a Friday and that we had to go ahead, and

24 I explained to him, you know, "I'm sorry that you weren't here,

25 but you probably should have been here."

2530

1 But there wasn't a substantive discussion about whether

2 or not he should sign or not sign the documents. That never came

3 up.

4 Q. Did you subsequently learn that projects were, any project

5 was funded that was not as a result of the list that had been

6 approved by the office of the secretary?

7 A. Well, when the documents that we received from the

8 Independent Counsel came in and we then also, I mean, trying to

9 get as much information about what happened as I could before

10 testifying, I also made some FOIA requests to the department, and

11 I got all the 185s, the funding documents that went out, and I

12 started to match the 185s that went with the list that was

13 approved to go downstairs, and there was obviously a glaring

14 mistake. There was a project there that was not on the list that

15 had come down from the secretary's office.

16 Q. Which project was that?

17 A. I believe it's in Oklahoma. I don't, I don't remember.

18 Sorry.

19 Q. That's okay.

20 A. Sorry, but I know there is an extra 185 in that group that

21 wasn't, that should not have been there.

22 Q. Now, Ms. Dean, did that complete the funding round for

23 September, or were there further fundings subsequent to that rush

24 job on September 12 through the 16th?

25 A. There might have been one or two other things that went out

2531

1 if there was extra money after all the calculations were done. I
2 really don't know.
3 I know that we then funded in October the rest of the
4 list that had been approved on September 12, and that was funded,
5 I believe I sent Mr. Demery, who was now in the building and had
6 now been confirmed, and I sent Mr. Demery the remaining list of,
7 of ones that now had letters, et cetera, et cetera, that had
8 already been approved, and then there were a couple of other ones
9 that were just problem ones that had been hanging around.
10 For the most part, the ones that were already
11 authorized, the letters were then in, I sent down to Mr. Demery
12 and told Mr. Demery that this was the remainder of the decisions
13 that had been made on September 12 and that they should go out
14 before the election, and I believe that the 185s were
15 announced -- decisions were announced and 185s went out on
16 November 3.
17 MR. WEHNER: Your Honor, that's a convenient breaking
18 point for the testimony, with the Court's permission.
19 THE COURT: All right, we'll break now a little early
20 tonight. Ladies and Gentlemen, I spoke to you earlier this week,
2 and I'll remind you again we have a long weekend for you all. I
2 have to take up another case that's going to take me all of
2 tomorrow/ and its time has come. I just cannot continue that
2 other case any longer. So I'll take that up tomorrow, and we'll
2 not be sitting in this case.

2532

1 Monday is a holiday, so you have a four-day weekend,
2 Columbus Day. So we'll be back on Tuesday then at 9:30 in the
3 morning. I think we'll complete the evidence phase of this case
4 hopefully by Wednesday, and again, we'll probably complete the
5 case to the jury for sometime Thursday or Friday to begin
6 deliberations. I thought last week we'd be through the case a
7 little earlier than that, but I'm not sure now we will be.
8 I'm going to ask you to please be careful over the long
9 weekend about discussing this case or reading or watching or
10 listening to anything about this case if it's carried in the
11 media. Remember my admonition at all times. Don't talk about it
12 with each other going home or at any other time.
13 We're going to have you back here then on Tuesday at
14 9:30 a.m., all right?
15 Could I see Ms. Chisolm for a second before she leaves?
16 All right, the others may be use excused.
17 (Jurors out.)
18 (Bench conference on the record with Juror Chisolm.)
19 THE COURT: Thanks, Ms. Chisolm.
20 I don't want to embarrass you in any way, but you've
21 seemed to have trouble staying awake in the last day or two. Is
22 there some concern, work at night or weather?
23 JUROR CHISOLM: Nothing other than I teach an aerobics
24 class.
25 THE COURT: At night, you mean?

2533

JUROR CHISOLM: Um-hum.

2 THE COURT: Okay. Would you like to get relieved at
3 this point or not? You're an alternate. The trial is about a
4 week from concluding. We have two other alternates. It's up to
5 you. But I obviously want jurors who can -6

JUROR CHISOLM: No.
7 THE COURT: -- stay alert and follow the case.
8 THE WITNESS: Okay.
9 THE COURT: All right? Do you still want to stay on
10 the case?
11 JUROR CHISOLM: Yeah.
12 THE COURT: Okay. Come back Tuesday.
13 (End of bench conference, Juror Chisolm out.)
14 THE COURT: How much longer do you think you're going
15 to be with Ms. Dean?
16 I've asked counsel how much longer with
17 Ms. Dean.
18 MR. WEHNER: I'll finish Ms. Dean on Tuesday, I will.
19 THE COURT: I'm sure you'll finish Tuesday, but Tuesday
20 morning?
21 MR. WEHNER: I think Tuesday by noon.
22 THE COURT: All right. I think you should.
23 MR. WEHNER: Yes.
24 THE COURT: And then we'll see about those other
25 witnesses or not on Tuesday or Wednesday. This is going to take

2534

1 until then probably.
2 MR. WEHNER: Yes.
3 THE COURT: All right. We'll see you back here then on
4 Tuesday at 9:30. If instructions are ready tomorrow afternoon,
5 I'd appreciate the draft of your suggested ones so we can work on
6 them over the weekend. Be back then Tuesday at 9:30.
7 MR. WEHNER: Your Honor, could I have custody of the
8 defense exhibits over the four-day holiday?
9 THE CLERK: These are all in evidence, Your Honor.
10 THE COURT: That's all right.
11 MR. WEHNER: Thank you, Your Honor.
12 THE COURT: We stand in recess.
13 (Recess from 4:07 p.m. to 9:30 a.m., October 12, 1993.)
14
15 CERTIFICATE OF THE REPORTERS
16 We certify that the foregoing is a correct transcript of the
17 record of proceedings in the above-entitled matter.
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1 UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
2
UNITED STATES OF AMERICA, Criminal No. 92-181-01
3
vs. Washington, D.C.
4 October 12, 1993
DEBORAH GORE DEAN, 9:45 a.m.
5

FILED

Defendant.
6

OCT 13 1995

7

CLERK U.S. DISTRICT COUFT

TRANSCRIPT OF JURY TRIAL DISTRICT OF COLUMBIA
8 BEFORE THE HONORABLE THOMAS F. HOGAN
UNITED STATES DISTRICT JUDGE

9

VOLUME XX

10

APPEARANCES:

11

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(Pages 2535 - 2680)

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2

COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

INDE X

DIRECT CROSS REDIRECT RECROSS

3 WITNESS ON BEHALF OF

THE DEFENDANT:

4

Deborah Gore Dean 2540

5 (Resumed)

EXHIBITS

8 DEFENDANT'S: MARKED RECEIVED

9 Nos. 255, 256, and 259 2646

10 519 and 623 2652

11 624 2650

12 625 and 862 2663

13 626 and 627 2627

14 628 2565

15 629 2569

16 630 2581

17 631 2588

18 782 2554

19 783 2547

20 785 2567/2662

21 787 2636

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2537

PROCEEDING S

2 (In chambers, Defendant present,

3 Jury out.)

4 THE COURT: All right, I'll put this on the record.

5 Good morning. United States v. Deborah Gore Dean, 92-181, on

6 October 12.

7 This morning I called counsel in chambers just because

8 it would be easier to talk about it. We received information

9 this morning from the jury lounge and then confirmed it ourselves

10 again that Juror No. 12, William George, 60 years of age, had a

11 massive heart attack on Friday, was admitted to G.W. Hospital,

12 where he's in the coronary intensive care unit. He's still

13 there, so he will not be available for the rest of the trial, and

14 I'm going to have to replace him with Alternate No. 2, Carolyn

15 Newman, a 32-year-old lady who's been here through the trial,

16 obviously.

17 I don't have any other words. I don't know if the

18 other jurors know this or not. He or somebody in his family had

19 called the jury lounge, and then as I said, we just double20

checked to make sure that was accurate. So we've got no

21 alternative except to replace him at this time. That's why we

22 have alternates.

23 what I will do is replace him and move Ms. Newman into

24 seat 12. Then I'm going to take the two other alternates and

25 move them up to sit in the jury box in seats 13 and 14 so they

2538

don't have to sit in the front.

2 I don't know what that does to the dynamics of the

3 jury. They've all gotten to know each other fairly well, very

4 talkative and all. We've had the same sort of problem as

5 Mr. White. He was unavailable for other reasons, apparently.

6 So we'll have to replace him. There's no indication

7 that we could wait for a day or so and he'd be back, with that

8 kind of a problem.

9 On planning, Ms. Dean will be on the rest of the

10 morning, you think, Mr. Wehner?

11 MR. WEHNER: Or the rest of the day, Judge.

12 THE COURT: On direct?

13 MR. WEHNER: It's arduous, Judge. We're moving as fast
14 as we can.
15 THE COURT: I'm just worrying about the timing and
16 working with the jury. This will back up another day, which will
17 probably get us into next week. All right.
18 All right, are you ready to go? Okay. All right.
19 MR. WEHNER: Ready to keep on going.
20 (Open court, Jury out.)
21 THE CLERK: Criminal No. 92-181, United States of
22 America v. Deborah Gore Dean. We have Robert O'Neill and Paula
23 Sweeney for the government, Stephen Wehner for Ms. Dean.
24 THE COURT: All right, we're going to bring in the jury
25 and explain to them the situation and then proceed with the

2539

examination of Ms. Dean on direct.

2 MR. WEHNER: Yes, Your Honor.
3 (Jury in.)
4 THE COURT: All right, good morning.
5 THE JURORS: Good morning.
6 THE COURT: Ladies and Gentlemen, you'll notice Juror
7 No. 12, Mr. George, is not here. Tragically, over the weekend,
8 he had a heart attack, and he is in George Washington Memorial
9 Hospital, in the coronary care unit, and is obviously not going
10 to be available to attend the rest of the trial. He's recovering
11 all right, but he's going to be there for some time at G.W.
12 coronary care unit over at George Washington Medical Center. So
13 we have to replace Mr. George, unfortunately, and I feel badly
14 about that, I'm sure we all do, and we wish him the best.
15 That will mean Alternate No. 2, Ms. Newman, will move
16 over to the No. 12 slot, please. Again, that's why we have
17 alternates, why they're very important in the case.
18 Alternates 3 and 4, Ms. Lea and Ms. Chisolm, you might
19 be more comfortable, you could move up now to those other seats,
20 and you'll be more comfortable sitting up there. Alternate No. 3
21 should sit in the seat in the first row and then Ms. Chisolm up
22 in the second row as Alternate No. 4. And that will make it a
23 little easier for everybody.
24 All right, Ladies and Gentlemen, that's unfortunate.
25 That's one of the things that occurs in a long trial. As I said,

2540

1 we wish Mr. George a speedy recovery.
2 As you'll recall when we left off on Thursday, Ms. Dean
3 was testifying in direct. She's going to continue that testimony
4 today. We'll see if we can complete her testimony today.
5 I had thought we might finish the case for your
6 deliberations later this week. It may happen, or it may go into
7 early next week, we aren't sure yet. It depends how we're going
8 today and tomorrow and the next day. So I'm glad you all got
9 back otherwise safely and soundly for the rest of you all.
10 All right, we'll proceed now again with the testimony
11 of Ms. Dean at this time, please.
12 MR. WEHNER: Thank you, Your Honor.
13 Good morning.
14 THE JURORS: Good morning.
15 DEBORAH GORE DEAN, DEFENDANT'S WITNESS, RESUMED
16 DIRECT EXAMINATION (Cont'd.)
17 BY MR. WEHNER:
18 Q. Ms. Dean, I'd like to direct your attention to the time

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19 period when Thomas Demery became federal housing commissioner.

20 Do you remember approximately when that was?

21 A. Yes. He, he arrived at the HUD building, I believe, in
22 August or September and worked as a, an expert to the department
23 until his confirmation, and he was confirmed in October.

24 Q. What year?

25 A. It was late October 1986.

2541

1 Q. Okay. who had just left the federal housing commissioner
2 post at that time?

3 A. Well, Mr. DeBartolomeis was then the acting federal housing
4 commissioner, and he stayed on as general deputy until sometime
5 in December.

6 Q. At what point in that late 1986, late 1986 time period did
7 Mr. Demery assume the role of federal housing commissioner with
8 responsibility for the Moderate Rehabilitation Program?

9 A. In, well, he became the federal housing commissioner and
10 therefore was in charge of all the rules and regulations in late
11 October, but he did not have a meeting with Secretary Pierce
12 regarding the Mod Rehab Program until sometime in January.

13 Q. Okay. Directing your, your attention to the time period of
14 October 1986, did you have occasion to meet with Mr. Demery
15 regarding the Mod Rehab Program?

16 A. Yes. I met with Mr. Demery before he became assistant
17 secretary and several times right after he became assistant
18 secretary. I remember I had a meeting with, with he and
19 Mr. Goldberger, who ran the office, and Mr. DeBartolomeis and
20 myself, and I don't know whether or not Mr. Dorsey was there, but
21 I remember we had a long talk about the fact that it seemed that
22 Mr. DeBartolomeis had, that office was not running well and that
23 Mr. Demery needed to take a look at revamping the Mod Rehab
24 Program.

25 Q. Did you have any discussion -
did you talk about any

2542

1 committee function vis-a-vis the Mod Rehab Program at that time?

2 A. Yes. I talked to both Mr. -- I told Mr. Demery when he was
3 interviewing for the position that there was going to be this
4 committee that he would sit on and, in essence, chair, and I
5 talked to him about it several times, I think, in October, and I
6 know that I spoke to Mr. Dorsey about it, because Mr. Dorsey, who
7 was moving to general counsel's position, would also be sitting
8 on the committee, and I spoke to him about it.

9 Q. Directing your attention to October of 1986, then did there
10 come a time when mod rehab decisions were made?

11 A. No, the decisions for October were made in September, but we
12 just, we didn't have the, all the applications in, and they
13 couldn't be made then, and we ran out of -

well, I think I told
14 you before Secretary Pierce decided that instead of losing units,
15 he would send out everything he could by the end of that fiscal
16 year, and if we didn't have the actual application in for a
17 commitment that we had made, we'd have to wait and send it during
18 the next fiscal year in October.

19 So no decisions were made in October; they were made in
20 September.

21 Q. Directing your attention to October 22 of 1986, I'm going to
22 show you what I've marked for identification as Dean Exhibit 781,
23 which purports to be handwritten notes of a meeting in your
24 handwriting. Is that what that is?

25 A. Yes. Those are notes of a meeting that I had with Secretary

2543

Pierce.

2 Q. And do they relate in part to the Moderate Rehabilitation
3 Program?

4 A. Yes, and they're dated October 22, 1986, and the Item No. 4
5 is the Moderate Rehabilitation Program and the HODAG Program, and
6 my notes say, "Before apportionment," which meant that the
7 secretary had decided to go ahead and send out the money before
8 OMB had given us our apportionment for that year.

9 MR. WEHNER: Your Honor, I'll move the admission of
10 Dean Exhibit 781.

11 THE COURT: No. 781?

12 MR. O'NEILL: Judge, legally I'd have to object.

13 THE COURT: All right. Why don't you come up on that
14 and we'll look at it.

15 (Bench conference on the record.)

16 THE COURT: She could testify to her recollection, I
17 guess, about the meeting or something and it's refreshing, but I
18 don't see how else this comes in, unless it's past recollection
19 recorded.

20 MR. WEHNER: That's exactly what it is.

21 THE COURT: She didn't indicate she didn't have any
22 memory of it. I don't think it qualifies.

23 MR. WEHNER: Your Honor, I can establish that it comes
24 in as a prior recollection recorded. I did not anticipate an
25 objection to that, so -

1 MR. O'NEILL: Judge, based -- and I don't want to be
2 objecting to all of these.

3 THE COURT: That's all right.

4 MR. O'NEILL: But based on what you were ruling the
5 last few days of trial, lots of this was coming in even though
6 the government feels it's hearsay.

7 THE COURT: I understand.

8 MR. O'NEILL: Was that the only notation you really
9 wanted to get in?

10 MR. WEHNER: Yeah.

11 THE COURT: There's nothing else in here at all, it
12 seems to me, to affect the case.

13 MR. O'NEILL: It's on the record.

14 MR. WEHNER: It establishes she discussed mod rehab
15 with Pierce. That's why we want it in.

16 THE COURT: If you can lay a foundation for it, I'll
17 consider it, but otherwise, she can recall.

18 MR. WEHNER: Okay.

19 (End of bench conference.)

20 BY MR. WEHNER:

21 Q. Ms. Dean, was it your habit to take notes during meetings
22 with Secretary Pierce?

23 A. Yes.

24 Q. And on occasion, did you write these notes in your own
25 handwriting?

2545

A. Yes.

2 Q. Do you recall taking notes on October 22, 1986?

3 A. Yes.

4 Q. And do you have a specific recollection today as to what was
5 discussed or what was written on October 22, 1986?

A. Yes.

7 Q. Okay. Directing your attention to the handwritten memo,
8 would that assist you in recalling precisely what was said during
9 that meeting?

10 A. I remember the secretary was leaving for Paris and taking a
11 trip to Iowa, and there was a letter of recommendation he wanted
12 me to write for somebody, and there were funding decisions that
13 had to be made. I remember it very well. I remember the meeting
14 very well.

15 Q. Okay. What was Mr. Demery's position as of October 22,
16 1986?

17 A. He was either just being sworn in or had just been sworn in,
18 and I don't know what date in October. It was late October.

19 Q. Directing your attention to Dean Exhibit 783, which purports
20 to be a list of projects, do you recognize that?

21 A. Yes, I do.

22 Q. What is it?

23 A. Can I say one thing before? That list that you have on the
24 board there, that isn't the list that I gave Mr. Demery for
25 October. I just wanted to point that out. The list that I gave

2546

1 Mr. Demery, which I think the government had as an exhibit, right
2 after Moline, Illinois, said Texas, 44 units, and it ended up
3 somehow that Lansing, Michigan, got 44 units instead of Texas.
4 So I just wanted to point out that that chart doesn't represent
5 the list that the secretary approved.

6 This is a list that was made in my office on January 9,
7 1987, of moderate rehabilitation projects. Mr. Demery had come
8 to my office on January 9 and wanted to discuss funding mod
9 rehab.

10 Q. Was it in the regular course of business for you to create
11 such documents?

12 A. It was the regular course of business for Mr. Demery to
13 create and for me to help him create this document. This was -
14 these were notes that he took and that I added two things to
15 during that meeting.

16 Q. And was it in the regular course of business, was this
17 document made in the regular course of business?

18 A. Yes.

19 Q. And do you recall when it was made?

20 A. Yes. It was made on January 9, 1987.

21 MR. WEHNER: Your Honor, I'd move the admission of Dean
22 Exhibit 783.

23 MR. O'NEILL: No objection.

24 THE COURT: All right, 783 will be admitted.

25

2547

1 (Defendant's Exhibit No. 783 was
2 received in evidence.)

BY MR. WEHNER:

4 Q. Ms. Dean, with regard to the time period October '86 through
5 January '87, would you please describe the activities as you
6 recall them vis-a-vis the Mod Rehab Program?

7 A. Well, the decisions that had been made in September were
8 given to Mr. Demery as things fell into place. A letter from a
9 housing authority that we were missing or whatever had come in
10 either downstairs and someone had let me know or whatever, and I
11 kept sort of a running list, and I know that the government
12 entered it as an exhibit, and it looks like it's all different

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13 kinds of handwriting, and that's because it was written on
14 different days as things would come in.
15 And then I put a note on the bottom that said "T.D.,
16 let me know when these are done. I need to call OMB. Very
17 important." And the reason was because it was being done before
18 the apportionment and I needed -19
Q. What was apportionment?
20 A. Well, OMB, when Congress gives you money, the Office of
2 Management and Budget then tells you where you can spend that
2 money, even though Congress has already told you where to spend
2 the money. OMB then gets it and decides that they're going to
2 tell you their spin on where you spend the money.
2 But you are allowed to spend, I believe it's up to 10

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1 percent of your yearly apportionment between when the fiscal year
2 starts and when OMB hands you your numbers. So it was decided to
3 go ahead and send out 10 percent of the moderate rehabilitation
4 units for fiscal year 1987 before the November 4 or 6th election,
5 whichever it was, and that was -- that represented this list,
6 with the exception of Lansing, Michigan, which wasn't on the
7 list.

8 Q. So these projects that were funded between October of 1986
9 and January of 1987 were actually determined, the fundings were

10 determined when?

11 A. In September.

12 Q. Okay. Did you have occasion to meet with Mr. Demery and
13 Secretary Pierce regarding the Mod Rehab Program?

14 A. No. Mr. Demery came to see me on January 9 and told me that
15 he wanted to fund some moderate rehabilitation units, and he
16 subsequently from that --do you want me to tell you about that?
17 I mean, is that --

18 Q. Just tell us what you said to Mr. Demery during that
19 conversation.

20 A. I said that you can't fund moderate rehabilitation units
21 without having a committee meeting. You need to talk to the
22 secretary. And he said that he didn't have to talk to the
23 secretary and that he had the statutory authority and that he was
24 going to send them out anyway.
25 And I said, "You can't do that." I was really shocked.

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1 I said, "You just can't do that, Tom."
2 And he said that he had gotten outside legal opinion
3 that said that the Moderate Rehabilitation Program came under the
4 federal housing commissioner, not under the secretary, and I
5 nervously laughed at that point. I don't know anyone who gets an
6 outside legal opinion on how to run a government agency.
7 And I said to him, "where in the world would you have
8 gotten an opinion like that?"
9 And he said, "well, never mind," and, "I'm going to go
10 ahead and fund these."
11 And we got into a rather heated discussion about the
12 fact that he needed to talk to the secretary.
13 Q. Did you -14

A. And he said to me, "well, the secretary doesn't need to know
15 anything about this." He goes, "You just tell me what you want

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16 to fund, and I'll fund what I want to fund."
17 And I said, "Tom, you do not understand how this
18 works." And I said, "You just cannot do that."
19 And he said, "well," he said, "I was always under the
20 impression that you were making these decisions."
21 And I said, "No, Tom. That is not how this works." I
22 said, "You must talk with the secretary."
23 And he started to make this list, and the first couple
24 of ones on this list are things that had been given to him
25 earlier in the year before, in 1986.

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1 Q. When you say "the list," are you referring to
2 A. This, this list that you gave me here.
3 Q. 783? 9

A. Yes.

5 MR. WEHNER: with the Court's permission, I'm going to
6 publish this to the jury at this time.
7 THE COURT: All right.
8 BY MR. WEHNER:
9 Q. Ms. Dean, if you need to, you can step down from the stand
10 and look at your monitor. I don't know how easy this is going to
11 be to see as you refer to it.
12 A. Well, the Massachusetts Housing Finance Agency, the
13 Tennessee Housing Development Authority, and the State of New
14 Jersey are on that list that you had up, and those had already
15 been given to Mr. Demery as decisions that had been made before,
16 and he had those written on this list.
17 And then he had these projects that were written, and
18 when we got -- and I kept saying to him, "You're going to have to
19 go to the secretary and explain why you want to fund these
20 projects." And he kept arguing with me and going on.
2 And we got to Richmond Housing Authority, and I said

2 that I knew who was, that I knew what this was, the Richmond
2 Housing Authority, and I said, "Are you doing this for Lynda
2 Murphy?" Because I had heard that Lynda Murphy represented --
2 and Lynda Murphy is a friend of mine. And I said, "Are you doing

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1 this for Lynda Murphy? Because," I said, "I wouldn't -
I can't
2 vote for this." And I said, "You're really, this is going to be
3 a problem."
4 And he said, "No, I'm not. It has nothing to do with
5 Lynda Murphy."
6 And I said, "well," I said, "it's funny, because that
7 just happens to match what I know she's looking for."
8 He said, "No, it has nothing to do with Lynda Murphy.
9 I'm doing it for somebody else."
10 I said, "well, I still think you're going to need
11 to --"
12 He goes, "what if we just cut it in half and make it
13 100 units?" That was my handwriting, "100 units." I was nodding
14 my head, going along and trying to figure out where this
15 conversation was going to end.

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16 Then he went to Chicago, Chicago, Chicago. But he
17 wouldn't give me any information about what they were for or how
18 they had gotten to him or anything. He just, just kept on going.
19 And then at the end, this is my handwriting here,
20 "Housing Authority of Tulsa, Oklahoma City, and D.C.," because
2 those were still three projects that we did not have units for at
2 that time back in October, when the funding went out. We'd used
2 up all the units we had under the apportionment, and these were
2 three things that the secretary had agreed that he would fund.
2 And so this is my handwriting, adding that to the bottom of the

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list. And then he had these two at the bottom of the list.
2 But at the end, we just still had some left, and I told
3 him that it had to go to the secretary, that there just wasn't
4 any way around this, at which point he became, I would say not
5 violent, but very close to it, and he was a very big man, and he
6 leaned across my desk, and he leaned on the desk, and he said,
7 "If you don't let me send these out today, you will never get
8 your job that you're looking for. You'll never get through the
9 Senate. I have connections. I have friends. I'll kill you," is
10 what he said.
11 And I said, "Tom," I said, "I think you've lost it.
12 You've just, you're not making any sense."
13 At which point, the -- Sherrill, my secretary, came in
14 and she said, "Deborah, Secretary Pierce is on the telephone,"
15 and he was traveling, I believe, at that time, and I remember she
16 turned to Mr. Demery and said, "You should step outside while Ms.
17 Dean talks to the secretary."
18 And I said, "No, stay here."
19 And I picked up the telephone, and I said, "Secretary
20 Pierce, I'm having an unbelievable conversation with Mr. Demery,"
21 and I said, "Mr. Demery would like to send out some moderate
22 rehabilitation units." And I was trying to be as calm as I
23 could, because frankly, the man had scared me to death. And I
24 said, "He would like to send out moderate rehabilitation units,
25 and he would like to send them out today."

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1 And the secretary was, like, "Is he crazy?"
2 MR. O'NEILL: Objection, Your Honor.
3 THE COURT: All right, I'll sustain the objection as to
4 what the secretary said. Go ahead.
5 THE WITNESS: I'm sorry.
6 The secretary was, was very surprised that this
7 conversation was occurring.
8 MR. O'NEILL: Objection again, Your Honor.
9 THE COURT: All right, go ahead and say what you did.
10 THE WITNESS: He gave me instructions, and I got
11 through the meeting with Mr. Demery, and I told Mr. Demery that
12 the secretary -- actually, I'm sorry, the secretary got on the
13 phone with Mr. Demery and, in essence, told him to do nothing -14
MR. O'NEILL: Objection again, Your Honor.
15 THE COURT: I've got to sustain that. Say what you did
16 and what you understood, but not what he said to someone else.
17 THE WITNESS: All right. Mr. Demery took the phone,
18 spoke with Mr. Pierce, and then my understanding was that
19 Mr. Demery understood he was to do nothing.
20 And then I was back on the telephone, and I was given
21 instructions, and as a result of those instructions, I called the
22 office of the assistant secretary for Management and
23 Administration, who is the person who actually runs the bank that

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24 sends the money out, that does the forms and sends it to the
25 field. This was a Friday afternoon. I told her, "Under no

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1 circumstances are any funding documents to leave the Department
2 of Housing today until you hear directly from Secretary Pierce."
3 That way he could not send them out of the building.
4 And then I called Mr. Cushing, who was the deputy
5 assistant secretary for Multi-Family Housing, and I told
6 Mr. Cushing that he was not to sign any rapid reply letters, and
7 he told me that he had already signed them, that Mr. Demery had
8 been to his office with, I believe it was five rapid replies and
9 ordered him to sign them.

10 MR. WEHNER: Your Honor, with the Court's permission, I
11 believe without objection, I'll move the admission of Dean
12 Exhibit 782.

13 MR. O'NEILL: That's fine.

14 THE COURT: All right. No objection, 782 is admitted.

15 MR. O'NEILL: No objection.

16 (Defendant's Exhibit No. 782 was
17 received in evidence.)

18 MR. WEHNER: If I could publish the first page of that?

19 THE COURT: All right.

20 BY MR. WEHNER:

21 Q. Ms. Dean, you testified that you had a conversation with
22 Mr. Cushing?

23 A. Yes.

24 Q. And your understanding regarding that as a result of that
25 conversation is that he had already signed?

2555

1 A. He told me that Mr. Detnery had been in his office and had
2 ordered him to sign rapid replies.

3 Q. Dean Exhibit, the first page of Dean Exhibit 782, is that
4 one of the rapid replies?

5 A. You'll have to pull it down so I can see where it's going.

6 Yes. There were three, three different sets of units

7 going to Puerto Rico, and there was one for Holyoke,

8 Massachusetts, and I don't remember what the other one was.

9 Q. Now this reflects it was signed on January 9, 1987, correct?

10 A. By Mr. Cushing, yes.

11 Q. And this is the same date you recall the meeting that you
12 just described taking place with Mr. Demery?

13 A. Yes. Mr. Cushing told me he had already signed the rapid
14 replies, and I told him that he wasn't to worry, because I had
15 called Assistant Secretary Tardy and told her not to send any
16 money out, but that Mr. Cushing should not do anything in regards
17 to funding moderate rehabilitation units until he heard directly
18 from the secretary.

19 Q. Do you know if the secretary held a meeting with Mr. Demery
20 subsequent to that date?

21 A. Yes. There was a, there was a flurry of activity. I had
22 been directed also to talk to the general counsel and to find out
23 what the legal line of authority was for the Moderate
24 Rehabilitation Program and to find out if there had ever been a
25 delegation of authority -- that is when the secretary delegates

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1 his own authority over all of the, the HUD programs to someone
2 else -- and found out that there was no delegation of authority
3 over the Moderate Rehabilitation Program, and I had drafted a
4 memo, a small part of an overall memo to the secretary regarding
5 the fact that there was, his legal position.
6 And he had also asked me to make certain that Michael
7 Dorsey, who was the general counsel, was on stand-by on February
8 13 -I
9 mean, January 13, which would have been the Tuesday, and
10 the secretary was not going to be in on that Monday. So he
11 scheduled a meeting for Mr. Demery and he to discuss the moderate
12 rehabilitation program and Mr. Demery's views on it and
13 Mr. Demery's actions on January 9 for January 13. So I prepared
14 a memorandum for the secretary on that.
15 Meanwhile, Mr. Demery had suspended Mr. Cushing for not
16 obeying his direct orders, because he attempted again to fund the
17 Holyoke project even after this, and Mr. Cushing refused to sign,
18 saying that he had been given orders -18
19 MR. O'NEILL: Objection again, Your Honor.
20 Everything's hearsay.
21 THE COURT: All right. You can say what happened but
22 not what these people are telling you.
23 THE WITNESS: All right. Mr. Cushing did not sign the
24 rapid reply, even though Mr. Demery had ordered him, and
25 Mr. Demery then attempted to suspend Mr. Cushing from his
position. Secretary Pierce revoked the suspension. Then the

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1 meeting on January 13 occurred between Mr. Demery and Secretary
2 Pierce.
3 BY MR. WEHNER:
4 Q. Were you present at the meeting between Mr. Demery and
5 Secretary Pierce?
6 A. No, I was not. However, because of where the phone lines
7 were and that door that I talked about between Secretary Pierce's
8 office and my office, I certainly heard a great deal of the
9 meeting, and I could often hear Secretary Pierce, and he could
10 often hear me, so I heard parts of the meeting unintentionally,
11 but I was not there except at the very tail end. And Secretary
12 Pierce opened the door and told me that he -
13 MR. O'NEILL: Objection, Your Honor.
14 THE WITNESS: I'm sorry.
15 THE COURT: All right, I'll sustain it.
16 BY MR. WEHNER:
17 Q. What was your understanding of the result of that
18 conversation with the secretary?
19 A. My understanding was that the secretary was going to allow
20 Mr. Demery to fund what I understood to be the five rapid replies
21 that Mr. Cushing had signed. It turned out that apparently they
22 must have discussed more projects than that, because there was a,
23 then a January 13, in essence, funding round, but I was not a
24 part of it.
25 I only thought the secretary was telling me that it was

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1 all right to fund those 5, but apparently 13 or 14 were funded,
2 and they would have included the list that went down, that list
3 of Selma and Chicago and Chicago. And my understanding was that
4 Mr. Demery had told Secretary Pierce -5
5 MR. O'NEILL: Objection, Your Honor.
6 THE COURT: Yes, I'll sustain it.
7 THE WITNESS: My understanding from Secretary Pierce
8 was that the units in Puerto Rico were for Gerald Carmen and that

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9 the secretary thought that that was all right. And I said that I
10 did not understand why Gerald Carmen, who knew Secretary Pierce
11 very well, would be in touch with Mr. Demery, who had only been
12 there for a couple of months, and if Mr. Carmen was really
13 supporting these projects, why didn't Mr. Carmen call Secretary
14 Pierce himself?
15 And the secretary just said, "I made a decision --"
16 MR. O'NEILL: Once again, Your Honor, all we're doing
17 is getting into hearsay.
18 THE COURT: Can't we get into just what you're doing,
19 please?
20 THE WITNESS: I'm sorry.
21 THE COURT: Thank you.
22 THE WITNESS: I was told that -- no, the fundings went
23 ahead.
24 BY MR. WEHNER:
25 Q. Did you have an understanding as to whether those fundings

2559

1 were based on a consultancy arrangement with Joseph Strauss?
2 A. I came to find that out several days later. I happened to
3 have been in a meeting with Jerris Leonard, who was the attorney
4 from Mr. Strauss, and Mr. -- on a completely different subject
5 that was, had nothing to do with HUD, and he was explaining to me
6 about the legal authority of the assistant secretary, and this
7 wrong legal opinion came right out of his mouth. So it didn't
8 take long to figure out who had given Mr. Demery this legal

9 opinion.

10 And he was telling me about this new company that he
11 had just set up for Mr. Strauss, and one of the members of the
12 company was Mr. Carmen's son. And so I went back and reported
13 that to the secretary, that, in fact, I believed that those units
14 had been for Joseph Strauss.

15 Q. Did you become aware that Secretary Pierce ever discussed
16 that with Mr. Demery?

17 A. I don't believe so. I know he discussed it with Mr. Carmen.

18 Q. Ms. Dean, do you remember approximately when this series of
19 events took place with Mr. Demery?

20 A. Which series?

2 Q. That you just described.

2 A. That, that, the meeting with Secretary Pierce occurred on
2 January 13.

2 Q. Of 1987?

2 A. Yes.

2560

1 Q. Okay. Directing your attention back to the October 24,
2 1986, I believe you testified that certain of those decisions had
3 been made previously.

4 A. Yes.

5 Q. I'd like to go briefly through a couple of these projects
6 that were funded on October 26, 1986.

7 A. Actually, there's one on there that was not made, a decision
8 was not made in September, and that is Des Moines, Iowa. That
9 was made in fiscal year '87, and that was because Secretary

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10 Pierce was traveling to Iowa and wanted to announce that he was
11 giving 50 units to Des Moines. So that one was not made in
12 September.
13 That's the only one that I can see that's not accurate.
14 Q. Directing your attention to Atlanta, Georgia, do you recall
15 someone by the name of Mack Mattingly?
16 A. Yes. There was a letter, I don't remember who it was from,
17 but the secretary had a note attached to it that said Mack
18 Mattingly, and that's all it said was Mack Mattingly, and he sent
19 it to me, and it was a moderate rehabilitation request, and I put
20 it in the folder behind my desk.
21 Q. What did you do as a result of receiving that note?
22 A. I put 200 units for Atlanta on the list in September.
23 Q. And who was Mack Mattingly?
24 A. He was the senator from Georgia.
25 Q. And was he in a Senate race at that point?

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1 A. I believe he lost. It was very, very close. And I remember
2 that the President was in Atlanta campaigning for Mr. Mattingly
3 right as these units were going out.
4 Q. Jacksonville, Florida, do you recall that Paula Hawkins was
5 a senator from that state?
6 A. Yes.
7 Q. And do you recall whether she was in a Senate race at that
8 point?
9 A. Oh, yes.

10 Q. And do you recall why those units were funded to
11 Jacksonville, Florida?
12 A. Not right now, no.
13 Q. Directing your attention to Santa Clara, California, I
14 believe we discussed that previously.
15 A. Yes. That was the, the one that the secretary had written
16 the note, "I'd like to help this lady but not ad infinitum."
17 That was the one that Ms. Hastings recalled that I had a direct
18 involvement in that she testified about.
19 Q. Directing your attention to the next chart, which is
20 January 21, 1987, through February 27, 1987, could you tell us
21 what occurred between the decisions that were made --or that
22 were finalized in October and January of 1987 with regard to your
23 communication with Thomas Demery on the moderate rehabilitation
24 funding?
25 A. I didn't have any communication. He had come to an

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1 agreement with Secretary Pierce. He funded those units, and I
2 was, I was, I knew that Holyoke, Vega Baja, Humacao, Ceiba, and I
3 think there was supposed to be another one -- oh, there were
4 three in Puerto Rico -- those four, and then I knew that
5 Secretary Pierce had already okayed Tulsa and Oklahoma.
6 Trenton, New Jersey, was another Joseph Strauss
7 project. Selma, Alabama, I don't have any recollection of. Fort
8 Lauderdale and Chicago and Richmond, Virginia, I eventually came
9 to learn had been done for someone named Sandy Sanders, but I did
10 not know they were funded at the time.
11 Q. You had no involvement in those funding decisions whatsoever

12 that you recall?

13 A. Well, I reminded Mr. Detnery on January 9 the secretary had
14 made a commitment to Tulsa and Oklahoma City and Washington,
15 D.C., so he was aware of that. Other than that, I had nothing to
16 do with any of them, no.

17 Q. Now from the time period of January of 1987 through March of
18 1987, what was your involvement in the moderate rehabilitation
19 process at that time?

20 A. I can't recall having anything. If the secretary had an
21 interest in a project -- and I really, unless you put the chart
22 up there, I won't remember, because I don't remember what was
23 funded in March. I can remember one.

24 Q. I'm not up to the March round yet.

25 A. Then nothing. I had nothing to do with it, because we now

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1 had an assistant secretary, so I didn't really have much of a
2 role unless there was going to be a meeting.

3 Q. Okay. Directing your attention to April of 1987, did you
4 have occasion to be involved in those fundings?

5 A. Yes. There was a funding committee meeting between
6 Mr. Demery, Mr. Dorsey, and I, and these projects were discussed.
7 Although Washington, D.C., had already been approved, it might
8 have just been -- I don't know if that was discussed in that
9 meeting, because it had already been approved. So it might have
10 just been sent out at that time.

11 I don't remember anything about Birmingham, Alabama. I
12 remember the Dade County, Florida. There were two Dade County
13 Florida's, and I remember the only thing that I really sort of
14 added to the meeting was asking why we funded Dade County twice.
15 In other words, one was for 200 and one was for 212.

16 Q. Yes?

17 A. And I said, "Why didn't we fund 412? Why did you fund Dade
18 County 200 and Dade County 212?" And I asked Mr. Demery to add
19 them up so it didn't appear as though we were telling Dade County
20 what to fund.

2 Although I do know that one of those Dade County's was
2 placed on the list by the office of the secretary, the one for
2 212.

2 Q. I'm sorry, the one for 212?

2 A. Yes. There was a, there was a request for 212 -
well, see,

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1 I asked them to add it so it said 412. But the, there was 212,
2 there was a request for 212 from Dade County, and there had been
3 a phone call to Secretary Pierce, and he had placed it on the
4 list for consideration by the committee. He didn't say to fund
5 it. I remember this is one he did not say, "I want this done."
6 He just said, "Place it on the list."

7 Q. Do you recall the 200 units to Arlington, Virginia?

8 A. Yes. That was some -- I remember that there was a sit-in at
9 HUD from some tenants from the Lee Apartments, I'm almost
10 certain, and they met with Mr. Demery or Mr. Schoenberger, I
11 don't remember, his deputy, and I know that Mr. Demery had worked
12 out some arrangement to fund Arlington County, and he had taken
13 that directly to the secretary, and the secretary had agreed to
14 fund that. So being on the list was sort of perfunctory for this
15 one.

16 Q. Do you recall that that particular project had the support
17 of Senator Warner, Senator Tribble, and Mr. Wolfe?

18 A. No. I just remember it had already been approved by the

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19 time it got to me.

20 Q. I'll show you a document that I will mark as an exhibit and
21 see if that refreshes your recollection as to Congressional
22 support.

23 A. Well, I would say it definitely had support from Senator
24 Tribble, Senator Warner, and Congressman Wolfe.

25 MR. WEHNER: Your Honor, I'd mark that for

2565

identification as Dean Exhibit 0628

THE COURT: what number?

MR. WEHNER: 0628.

THE COURT: 628?

MR. WEHNER: Yes.

6 (Defendant's Exhibit No. 628 was
7 marked for identification.)

8 BY MR. WEHNER:

9 Q. Ms. Dean, what was your position as of April of 1987?

10 A. I was the executive assistant to the secretary.

11 Q. Okay.

12 A. And on this committee, I was, you know, supposed to be

13 putting forth any Congressional interests that had come to the

14 attention of the secretary or the office of the secretary and

15 supposed to be representing Secretary Pierce's interests, if he

16 had one, in the meeting.

17 Q. Ms. Dean, I'm going to show you what I've marked for
18 identification as Dean Exhibit 785, which purports to be the
19 official job description of the executive assistant to the
20 secretary. Just look at it briefly, and let me know if that's
21 what it is.

22 A. I've never seen this before.

23 Q. Would you look at it, please?

24 A. Yes. It's actually a very good description of the job.

25 Q. And is it the job description for the executive assistant to

2566

1 the secretary at the time you were executive assistant?

2 A. Yes.

3 MR. WEHNER: Your Honor, at this time, I'd like to move
4 it in as Dean Exhibit 785.

5 MR. O'NEILL Judge, may we approach for one second?

6 THE COURT: Sure.

7 (Bench conference on the record.)

8 MR.
9 where it came
10 THE
11 MR.
12 MR.

O'NEILL
from.
COURT:
O'NEILL
WEHNER:

Judge, I'd just like to know basically

Yes.
I have no real --
It came from HUD personnel. It's a HUD

13 document. That's where it came from.
14 MR. O'NEILL : I have no objection.
15 MR. WEHNER: It's a job description.

16 THE COURT:
17 seen it before, so it
18 MR. O'NEILL
19 THE COURT:

As long as you can -- she said she hadn't
would have to come in by a stipulation.
: Right.
But it describes the job. But you can

20 represent to the Court that this came from HUD personnel, you

21 said?
22 MR.
23 THE
24 MR.
25 book from HUD

WEHNER: I can represent --
COURT: I just want a label on where it came from.
WEHNER: I can represent that it came out of the

. That's the best I can do.

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1 MS. SWEENEY: It doesn't have a time period, either,
2 Your Honor.
3 MR. WEHNER: I can find the book and bring it in, but
4 it is actually a job description from the appropriate time.
5 THE COURT: well, I'll let it in subject to you
6 bringing wherever this came from in or being able to just
7 identify further where it came from so it's connected up to her
8 time frame there.
9 MR. WEHNER: Okay.

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10 THE COURT: I mean, I don't know if this was just
11 drafted last month or this was eight, nine years ago.
12 MR. WEHNER: It would have been drafted much
13 differently if it would have been drafted then.
14 THE COURT: I'll let it in subject to identifying it
15 further.
16 MR. WEHNER: Thank you, Your Honor.
17 (End of bench conference.)
18 THE COURT: All right, 785 will be admitted as
19 discussed.
20 (Defendant's Exhibit No. 785 was
21 received in evidence.)
22 BY MR. WEHNER:
23 Q. Ms. Dean, in April 1987, do you have any further
24 recollection of discussions you would have had with Mr. Demery or
25 with Secretary Pierce up through the fundings of those projects?

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1 A. Well, Arlington County, Texas, I know had, that this actual,
2 the real Mr. Carmen had actually come into the department in late
3 January and discussed Arlington County, Texas, with the
4 secretary, and the secretary did not mention it to me.
5 Mr. Demery called me and told me that he had had a discussion
6 with Secretary Pierce regarding Arlington County, Texas.
7 Q. And what did Mr. Demery say to you about Arlington County,
8 Texas?
9 MR. O'NEILL: Objection on hearsay and relevance
10 grounds, Your Honor.
11 THE COURT: All right, I'll sustain it. Go ahead.
12 BY MR. WEHNER:
13 Q. Did you reach an understanding as to whether, why Arlington,
14 Texas was going to be funded as a result of your conversation
15 with Mr. Demery?
16 A. Yes.
17 Q. What was that understanding?
18 A. That Secretary Pierce had approved it to be funded.
19 Q. Ms. Dean, I'm going to show you what I've marked for
20 identification as Dean Exhibit 629 and ask -- which purports to
2 be a memo dated March 4, 1987, for you from Thomas Demery,
2 subject: moderate rehabilitation funding decisions.
2 Is that, in fact, what that is?
2 A. Yes. He memorialized the decisions that were made in the
2 committee meetings in a memo and sent them to Mr. Dorsey and to

2569

1 me after the meeting was over.
2 MR. WEHNER: Your Honor, at this time, I'll move the
3 admission of Dean Exhibit 629.
4 MR. O'NEILL: No objection, Your Honor.
5 THE COURT: All right, 629 will be admitted.
6 (Defendant's Exhibit No. 629 was
received in evidence.)
8 THE WITNESS: You know, that's -- the only thing I
9 don't understand is that here it says -- oh, okay. Never mind.
10 I understand it. Apparently the decisions that were made are on
11 this memo.
12 The actual units that went out at that time are
13 different than what's on there, because here the 198 units for
14 the District of Columbia are on the list, as is Sumter, South
15 Carolina, but for some reason, they don't show up on that list,
16 and I don't know if they show up later or not, but -- oh, yes,
17 there they are. I see them except for Sumter.

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18 BY MR. WEHNER:

19 Q. Ms. Dean, would you read the first paragraph for the record,
20 please, of that memo?

2 A. "This will confirm our funding decisions resulting from our
2 moderate rehabilitation selection meeting of Monday, March 2,
2 1987. The committee resolved to fund the following PHA
2 requests:"

2 Q. And would you read the last four lines of that, please?

2570

1 A. Well, I'm not -- what's on the monitor ends at "Total Units
2 Funded." Is that --

3 Q. I'm sorry. I'm sorry, yes, the last four lines.

4 A. "Requests considered but not funded: Charleston, South
5 Carolina, 304; Montgomery, Alabama, 200; Houston, Texas (Holiday
6 Inn), 197."

7 Q. Now who were the members of the committee that is referred
8 to in this memo?

9 A. Myself, Mr. Dorsey, and Mr. Demery.

10 Q. And when was the committee established?

11 A. Well, this committee was established on January 13 in the
12 meeting between Mr. Demery and Secretary Pierce.

13 Q. So for --

14 A. I mean, Secretary Pierce had always wanted to do the
15 committee, and he had talked about it earlier.

16 MR. O'NEILL: Objection, Your Honor.

17 THE COURT: All right, I'll sustain that objection. Go
18 ahead.

19 THE WITNESS: This committee was set up on January 13.

20 BY MR. WEHNER:

2 Q. 1987?

2 A. 1987.

2 Q. Now who brought information to the committee meeting?

2 A. I'm looking to see if anyone brought anything that --
2 Tennessee Housing Development Agency would, it came from

2571

1 Mr. Demery, but the Tennessee Housing Development Agency was a --
2 that was 40 units that needed to make an earlier request work.

3 D.C. government had already been approved, as I said, and the 212
4 from the Metro Dade application had come down from the office of
5 the secretary to Mr. Demery. Then he put it all together and
6 brought it up to us, which is how it was supposed to work.

7 Q. Do you recall the committee meeting that was held on or
8 about that date?

9 A. Really the only thing I remember was adding that 212 and the
10 200. For some reason, that, you know, it says, "Per D. Dean."
11 But that's all I remember. That and I remember the 212. That's
12 all I remember.

13 Q. And do you recall if Mr. Dorsey was present at the meeting?

14 A. Yes, he was there.

15 Q. And Mr. Demery?

16 A. Yes, he was there.

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17 Actually now that I think about it, I also remember
18 that Kinston, North Carolina, I remember that we had gotten a
19 letter from the governor of North Carolina. I remember that
20 looking at it.
2 Q. Now subsequent to April of 1987, your position was still

2 executive assistant to the secretary, correct?

2 A. Yes.

2 Q. Between April 1987 and May of 1987, what discussions do
2 you -- before the next funding decisions, what discussions do you

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1 recall having regarding the Mod Rehab Program?

2 A. Well, I didn't have any discussions until it was time to do
3 the next round, and Mr. Demery came up to my office and wanted to
4 discuss the projects that he was bringing forth to the meeting, I
5 believe it was the following day.

6 Q. Did that meeting take place?

7 A. Yes.

8 Q. Okay. And who was present during the meeting?

9 A. Mr. Demery and myself.

10 Q. Anyone else?

11 A. No.

12 Q. Okay.

13 A. I mean, in the pre-meeting.

14 Q. Yes.

15 A. Mr. Demery came to see me, and I believe he told me he was

16 also going to see Mr. Dorsey. I don't remember. I don't

17 understand why we were having the meeting.

18 Q. Okay.

19 A. He came up. He wanted to talk about it. And I said,

20 "okay."

2 Q. Directing your attention to the actual meeting when these

2 funding decisions were made, did that meeting take place?

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2 A. Yes.

2 Q. Okay. And who was present at that meeting?

2 A. Mr. Dorsey, Mr. Demery, and myself.

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1 Q. And this was the day following the day Mr. Demery came up to
2 see you?

3 A. That is correct.

4 Q. Okay.

5 A. Meanwhile, I'd had a meeting with Secretary Pierce.

6 Q. Did you reach an understanding with Mr. Demery during the
7 pre-meeting as to which projects he wanted funded and why?

8 A. He didn't discuss every one. He went down the list, and I
9 wrote the list out as he was reading it to me, and I guess he was

10 trying to see if there was going to be any discussion during the
11 meeting. I mean, I think he wanted to sort of basically grease
12 the meeting before the meeting.

13 So I wrote them down very hurriedly on a piece of paper
14 and asked him some questions. He gave me some information, and I
15 took that information to the secretary, and I then attended the
16 meeting, I believe it was the following day.

17 Q. Did you have a discussion with Secretary Pierce regarding
18 what was on the list?

19 A. I had a discussion with him about -- I gave him the list,
20 but there were four projects that I wanted to discuss with him
2 before they were funded.

2 Q. And did you discuss those with him?

2 A. Yes, I did.

2 Q. Which four were they?

2 A. Prince George's County; the Dade County, Florida, for 203;

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1 there is one for wisconsin for, no, not 8, Brown County,
2 wisconsin, for 75; and one was for the Michigan State Housing
3 Development Authority, which eventually was not funded but was on
4 the list that Mr. Demery gave me.

5 Q. Did you discuss those with Secretary Pierce?

6 A. Yes. Mr., Mr. Demery had -- I wrote down the list, and I
7 know that it's a government exhibit that they, I believe they
8 have the list, and when we got to the ones where I had a problem
9 or I felt I needed to talk to Secretary Pierce, I put a square

10 around them to remind myself which ones they were, and so I •-

11 and I had problems with those four.

12 MR. WEHNER: with the Court's permission, I would like

13 to publish to the jury Government's Exhibit 202.

14 THE COURT: 202, is that right?

15 MR. WEHNER: Yes, Your Honor.

16 THE COURT: Has it been previously admitted?

17 MR. O'NEILL: Yes, Your Honor.

18 MR. WEHNER: Yes, sir.

19 THE COURT: All right, go ahead.

20 BY MR. WEHNER:

2 Q. Ms. Dean, is this the list to which you've been referring?

2 A. Yes.

2 Q. Now this list was written by you --

2 A. Yes.

2 Q. -- as a result of a meeting with Mr. Demery?

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1 A. Yes. He was reading them to me. He had a piece of paper in
2 his hand, and he had some PHA letters, and he was reading the
3 list to me.

4 Q. And you testified that you put a square around those for
5 what purpose?

6 A. To discuss them with Secretary Pierce in detail.

7 Q. Okay. Why did you put a square around "Metro Dade, 203
8 units"?

9 A. Because Mr. Demery told me that Lou Kitchin was supporting

10 that particular application and --

11 Q. Did you relate that to Secretary Pierce?

12 A. Yes, I did. I was very concerned.

13 Q. Why?

14 A. Because I was in the process of decorating Mr. Kitchin's
15 apartment, and I didn't think I ought to be making a decision on
16 something that he was supporting.

17 Q. And did you reach an understanding with the secretary as to
18 whether that project should be funded?

19 A. He said that I should not --

20 MR. O'NEILL: Objection, Your Honor.

2 THE COURT: All right, I'll sustain it.

2 BY MR. WEHNER:

2 Q. What was your understanding based on your conversation with
2 the secretary?

2 MR. O'NEILL: Objection, Your Honor.

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1 THE COURT: All right, I'll sustain it. I think you're
2 going to have to approach it a different way.

3 BY MR. WEHNER:

4 Q. Did you reach an understanding with the secretary regarding
5 the funding of the Metro Dade project?

6 A. Yes.

7 Q. What was that understanding?

8 A. My understanding was that I was not to say a word about it
9 during the meeting, not to vote on it.

10 Q. Directing your attention to P.G. County, is that your square
11 around "P.G. County"?

12 A. Yes.

13 Q. What was your concern about P.G. County?

14 A. Well, Mr. Rick Shelby had come to see me several weeks or a
15 month or so before this project, and he had -- I had known that
16 he was involved in projects before, but he had never actively
17 asked me to help him, and he came and said, "I would like your
18 help in getting these 88 units for Prince George's County."

19 And Mr. Shelby was a friend of mine, and I had never
20 had someone who I knew personally ask me for something like that
2 before, and I remember telling him that I couldn't, I couldn't do

2 anything except take it to the secretary.

2 I had taken it to the secretary, and the secretary -- I
2 mean, I told him, I said, "Someone who I consider to be a
2 personal friend, not a HUD friend, has come to me and asked me to

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1 help him, and I felt very awkward about it."

2 He asked me who Mr. Shelby was, and I went through a
3 long history of Mr. Shelby and who he was and everything else,
4 and he said, "well, if the project makes it --"

5 MR. O'NEILL: Objection, Judge. And I'm just put in
6 the same position of objecting to everything.

7 THE COURT: I understand. Let's just go ahead with
8 your own testimony, not what other people said to you.

9 THE WITNESS: I'm sorry. I'm sorry.

10 I said to the secretary that I was uneasy about it, and
11 I was, I didn't do anything else about it. I didn't put it -- I
12 didn't send it downstairs, I didn't do anything with it. It came
13 up from Mr. Demery, and I felt I had to raise it again with
14 Secretary Pierce.

15 That and the fact that it was also in Prince George's
16 County, which was in my home state of Maryland, and I always made
17 it a matter of policy to discuss with Secretary Pierce anytime
18 anything happened that was of a discretionary nature in Maryland,
19 because I didn't feel that it ought to look like I was doing
20 anything for my own home state, which was the same reason that I
21 squared "MSHDA," because Michigan State Housing was Mr. Demery's
22 home state, and I thought that Secretary Pierce ought to be aware

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23 that Mr. Demery was going to fund his own home state.
24 And I was given a different instruction on Prince
25 George's County, and I was -- and my impression of what was said

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1 to me was that just because I knew someone who was working on a
2 project, I couldn't not consider the project, and that as far as
3 the secretary was concerned, 88 units going to Prince George's
4 County was perfectly fine, legitimate. I had brought my concern
5 to him, he understood it, he didn't think there was anything
6 wrong with it, and I should proceed with having that one on the
7 list.

8 BY MR. WEHNER:

9 Q. You also squared "Wisconsin"?

10 A. Yeah. Michigan was the same thing. He felt that -
I'm

11 sorry, my impression was that it was all right to leave Michigan
12 on the list, that Mr. Demery couldn't just never send money to
13 Michigan, because he was from Michigan, that my concerns about
14 this were a little more than Secretary Pierce thought were
15 necessary.

16 And "Wisconsin" I squared because Mr. Demery told me
17 that he had gotten a phone call from Senator Proxmire, that
18 Senator Proxmire had talked about it directly, and Senator
19 Proxmire and Secretary Pierce were not on the best of terms, and
20 I felt this was something that the secretary needed to know, that
21 Mr. Demery was communicating with Mr. Proxmire personally and
22 that also he was going to fund a project for Secretary Proxmire.
23 So those were the four that I squared.

24 Q. You relayed all this information to the secretary?

25 A. Yes, I did.

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1 Q. You received instruction from the secretary as to how to
2 proceed?

3 A. How I was to proceed in that meeting, yes.

4 Q. And did you follow those instructions?

5 A. To the letter.

6 Q. Now was there a subsequent meeting between you, Mr. Dorsey,
7 and Mr. Demery?

8 A. Yes.

9 Q. Did you attend and participate in the meeting?

10 A. Yes, I did.

11 Q. Do you recall whether Mr. Dorsey raised questions regarding
12 Metro Dade?

13 A. Yes. We had funded, as I said, in the earlier round 412
14 units for Metro Dade, and now there was another 350 on the, the
15 next funding round, and Mr. Dorsey asked Mr. Demery if we weren't
16 sending too many units to Metro Dade, and Mr. Demery said that
17 no, he felt Metro Dade was in serious need of housing, which it
18 is, and that there was nothing unusual about this number of units
19 going down to that area. Mr. Dorsey said, "Fine."

20 Mr. Demery attempted to engage me in conversation about
21 Dade County, Florida, and I said, "Unh-unh. I'm not talking."
22 And I said, I said, "I have a reason not to vote on this."

23 Q. Did Mr. Demery and Mr. Dorsey agree to fund the projects,
24 the four that you had mentioned to Secretary Pierce?

25 A. Yes. And there was a lively discussion on Houston as well,

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1 205 in Houston. Mr. Demery voted against that; Mr. Dorsey and I
2 voted for it. The, both, both Metro Dades were Mr. Dorsey and
3 Mr. Demery, with my abstaining, although I didn't say I was
4 abstaining. I just didn't say anything.
5 Prince George's County, I believe that there was
6 actually some mention of Mr. Shelby during that, and I told
7 everyone that I had spoken to the secretary about it and that it
8 was up to them to vote for it, but that I had, I had at least
9 said my piece about it to Secretary Pierce, that I thought he
10 felt okay to go ahead and move on with that one.
11 And there was no discussion about Wisconsin, because it
12 didn't bother Secretary Pierce it was on the list, so there was
13 no discussion about it. And there was some discussion about
14 Sackets Harbor, New York, and Spring Valley, New York, because
15 they were -
and maybe the Puerto Rico ones as well. I think
16 those were requests from Senator D'Amato. And I don't remember
17 anything else about the rest of them.
18 Q. With respect to the Texas project, are you familiar with the
19 name of Mosbacher?
20 A. Yes. Mr. Mosbacher was the head of the President's
2 Committee on Private Sector Initiatives. Secretary Pierce was a
2 member of that committee as well, and there was a project that
2 the Private Sector Initiatives --it was some Ronald Reagan
2 special program, Private Sector Initiatives. It came out of that
2 committee, and they asked would we please consider the, the 205

1 units for something that was being done by this Private Sector
2 Initiatives group.
3 Q. Did Mr. Mosbacher write a letter to you in support of that
4 project?
5 A. Yes, he did.
6 Q. I show you what purports to be that letter marked as Dean
7 Exhibit 630 and ask you if that is the letter?
8 A. Yes.

9 MR. WEHNER: Your Honor, with the Court's permission,
10 I'll move into evidence Dean Exhibit 630.
11 MR. O'NEILL: No objection, Your Honor.
12 THE COURT: All right, then 630 is admitted.
13 (Defendant's Exhibit No. 630 was
14 received in evidence.)
15 THE WITNESS: We had attempted to fund that through
16 different, other programs, but it didn't work. I think we were
17 trying to do vouchers or certificates, and that had not worked,
18 and eventually it ended up the only program that worked was
19 moderate rehabilitation, but Mr. Demery didn't want to do that.
20 THE COURT: Are you going to a different chart now?
2 MR. WEHNER: Yes, sir.
2 THE COURT: All right. We're going to take a morning
2 break, all right?
2 MR*. WEHNER: Yes, sir.
2 THE COURT: All right. Ladies and Gentlemen, we'll

take a short morning recess at this time, 15 minutes, please.
Remember the admonition of the Court about not talking about the
case at all among yourselves or with anyone else during the

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break. Be back in 15 minutes.

THE COURT:
MR. WEHNER:

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(Jury out.)
All right, 15 minutes.
Thank you, Judge.

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1 (Recess, 11:08 a.m. to 11:27 a.m.)
2 MR. WEHNER: Your Honor, there's one matter
3 before the jury comes in.
4 Your Honor, I have marked for identification
5 as Dean Exhibit 631 which are basically before and after
6 photographs of the Regent Street project.
7 Mr. O'Neill -
8 THE COURT: Let me see them.
9 MR. WEHNER: -- has indicated to me he would
10 object to showing those to the jury.
11 THE COURT: This is the restoration in
12 Philadelphia to Mr. Rosenthal? All right. The
13 objection being not relevant?
14 MR. O'NEILL: Relevance, Your Honor.
15 THE COURT: What's the relevance?
16 MR. WEHNER: The relevance is, Judge, it shows
17 what the money is being spent for.
18 THE COURT: Is there any allegation the money
19 was not spent appropriately once it was funded? There's
20 an allegation that the funding was inappropriate, the
2 awards of the funding, but not that projects themselves
2 were inappropriate type projects. If there's some
2 suggestion before the jury that these funds somehow
2 disappeared into somebody's pocket I could understand
2 showing that the projects were completed and well done.

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1 He testified that he already received an award
2 for rehabbing this historic building.
3 I'll sustain the objection at this time as to
4 not being relevant. All right.

5 MR. WEHNER: Judge, could I revisit that for
6 one second?
7 THE COURT: Sure.
8 MR. WEHNER: The reason it's relevant is
9 because I think even after five or six weeks of this
10 trial I don't know that there's a good understandable
11 explanation of what results when a Mod Rehab project is
12 funded and I think showing what the funds are used for
13 in a pictorial sense helps the jury understand what the
14 program was all about and I don't think it matters as to
15 whether the Government's theory frankly is that the
16 funds were misused or not misused.
17 THE COURT: So you are offering it to try to
18 show - not about a theory about misuse of the funds,
19 you're just offering an example of what Mod Rehab does.
20 MR. WEHNER: Yes, sir, and I don't intend to
2 argue that Regent Street because it won an award there
2 was nothing wrong with the funding. I just want them to
2 see what happens to the dollars after these funding
2 decisions are made and I think it shows that - it shows
2 to an extent the reality of the program. It's at least

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1 some kind of -- it is at least compelling evidence that
2 the dollars weren't wasted and even though that's not an
3 allegation in the indictment I think based upon the
4 testimony that has been elicited from the immunized
5 consultants, et cetera, there must be some question in
6 the jury's mind as to where the money went and whether
7 it was properly used ultimately.
8 I don't find that actual pictures of the
9 before and after use of the money certainly is not

10 overly prejudicial to the Government's case.
11 THE COURT: All right.
12 Mr. O'Neill?
13 MR. O'NEILL: Yes, Your Honor. The only
14 relevance it could have is to show that the money was
15 not being wasted, that is not an allegation in the
16 indictment, nor has it been a topic in the Government's
17 case and, therefore, it's not relevant testimony.
18 THE COURT: what about just explaining what
19 the program does and what it is in a practical sense so
20 they could actually envision what it does? I mean
2 actually results in rehabbing old buildings.
2 MR. O'NEILL: I think that's been done, Your
2 Honor, and nothing precludes the defendant from doing
2 that, or any defense witness. Obviously the defense
2 picked the one project that received awards and is a

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1 very, very top flight example of moderate rehabilitation
2 use and the Government feels --

3 THE COURT: The only concern I have is to make
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4 sure the jury understands that the allegation does not
5 involve an inappropriate embezzlement or misuse of the
6 funds actually awarded as opposed to the awarding
7 process. And that they understand that there's no
8 allegation in this case at least that these funds once

9 allocated were misspent or misused and we're really
10 looking at the process as opposed to the final
11 expenditures.

12 MR. O'NEILL: Your Honor, isn't that what jury
13 instructions are for?

14 THE COURT: All right. I'll sustain the
15 objection as I did before. I still don't see the
16 relevancy of it and if there are any concerns of the
17 jury's perception of what happened we will take care of
18 that at the appropriate time in the instructions to the
19 jury as to what's involved.

20 MR. WEHNER: Your Honor, if we remove the
2 reference to Regent Street and just use an example of a

2 moderate rehabilitation program, I'd move its admission
2 on that basis.

2 THE COURT: Again it's just an example of what
2 Mod Rehabilitation is.

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1 MR. WEHNER: Yes, sir, not – without any
2 testimony tying it to a specific project in this
3 indictment or anyplace else.

4 THE COURT: The same objection?

5 MR. O'NEILL: Yes, Your Honor, that's why it
6 won the award because of the way it looks.

7 THE COURT: Well, there's nothing wrong with
8 showing a good example of what this can do, whether it's

9 in this case or another instance of another kind of an
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10 award of another Mod Rehab project not related to the
11 defendant, trying to explain to the jury. I think that
12 the concept of showing moderate rehabilitation, of how
13 it actually works, is not a bad one for the jury.
14 MR. O'NEILL: Your Honor, if I may, are you
15 saying not even tied into any project in this
16 indictment?
17 THE COURT: That's what he said.
18 MR. O'NEILL: Then I have no objection.
19 THE COURT: He would offer it simply as an
20 example of a moderate rehabilitation award when the
2 monies are spent.

2 MR. O'NEILL: I have no objection to it.
2 THE COURT: All right, I'll admit it on this
2 basis, Regent Street being removed, and no testimony
2 about it being part of this process.

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1 MR. WEHNER: It's been removed. Your Honor.
2 THE COURT: All right.
3 what number is that?
4 MR. WEHNER: 631.
5 (Defendant's Exhibit
6 631 received into Evidence)
7 (Jury present)
8 THE COURT: All right, ready to proceed.
9 BY MR. WEHNER:
10 Q Miss Dean, directing your attention to May of 1987,
11 you had finished reviewing those projects that were
12 funded on or about that time.
13 A Yes.
14 Q Subsequent or after May of 1987 what was your
15 involvement in the Mod Rehabilitation funding process?
16 A Secretary Pierce asked me one time whether or not
17 we had any Moderate Rehabilitation units available
18 because I remember writing him in early June that we
19 had - that 150 units were coming back to the
20 Department, and that he had asked me about Mod Rehab.
2 I remember that was -- but I don't remember
2 the specifics of it, and that would have been the last I
2 had anything to do with the program at all.
2 Q Directing your attention to a chart labeled August,
2 1987, do you have any recollection of involvement in the

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1 funding of those projects?
2 A No, I was no longer - I left my position on I
3 believe it was July 3rd of '87, so these things occurred
4 after I left.
5 Q The day you left the department -- I'm sorry, the
6 day you left your position as Executive Assistant --
7 A Yes.
8 Q - what was the status of the Moderate
9 Rehabilitation Program as you understood on the day you

10 left your position as Executive Assistant?
11 A The committee was still in effect and it was
12 Mr. Demery, Mr. Dorsey and when I left, the

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13 Undersecretary, Mr. Covitz, became a member of the
14 committee and I did meet with Mr. Covitz and discussed
15 with him about the committee and what it did and what --
16 because he was basically taking my role in the committee
17 of the political input, and so I did meet with him and
18 discussed what his functions on the committee would be.
19 Q Miss Dean, do you know an individual by the name of
20 Aristedes Martinez?

2 A I know he testified here but I've never met him
2 before.
2 Q Do you know an individual by the name of Louie
2 Nunn?
2 A Yes, I've met Governor Nunn.

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1 Q And prior to this trial how many times had you met
2 Governor Nunn? Approximately?
3 A Well, I know that Governor Nunn testified that he
4 had met me at Lance Wilson's farewell reception, but I
5 don't remember that, and the first time I can remember
6 meeting Governor Nunn to sort of know that that face
7 went with that name was after I had left HUD and we had
8 lunch at the Four Seasons Hotel and I was having a
9 discussion with him about the Bush campaign.
10 Q Do you remember speaking to Governor Nunn on the
11 telephone during your tenure at HUD?
12 A Yes.
13 Q What do you remember saying to Governor Nunn during
14 that time period?
15 A I had called Governor Nunn one time when John was
16 in England, John Mitchell was in England, about the
17 problems I was having with my confirmation hearings and
18 there - and to seek his advice, and it was one of those
19 things where I had a short conversation with
20 John Mitchell on the telephone. He said call Louie Nunn
2 and find out if there's anything that he knows or
2 anything that he can do to help you, and so I did, and I
2 talked to him and I - then I knew that Governor Nunn
2 had an interest in Ms. Wiseman's career at HUD when she
2 was advancing to General Deputy Assistant Secretary and

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1 I don't remember if he called me directly or if he
2 passed some message to me through someone else but I
3 remember definitely hearing from him about Ms. Wiseman
4 and her advancement.
5 Q Are those the only conversations you had with
6 Governor Louie Nunn when you were at HUD that you can
7 recall?
8 A Yes.
9 Q When did you first meet John Mitchell?
10 A Oh, well, it was after the Watergate hearings in
11 front of the Senate. I remember that because I remember
12 watching him testify and saying to myself oh, that man's
13 behind it all. I mean he's the one. He's the bad guy.
14 I remember that when I then met him I was so taken back
15 by the kind of person he was versus his public tough guy
16 stonewall sort of attitude. So it would have been -17
and it was obviously before his trial. It was between

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18 those two times, and I don't know what those years
19 were. I believe I was just beginning college.
20 Q would that have been the early seventies?
2 A Yes, early seventies.
2 Q would you please describe John Mitchell's
2 relationship to your family, including your mother, from
2 your perspective?
2 A well, he and my mother were very good friends. I

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1 remember the -I
remember that I was with them the
2 night that they met and I had -it
had been a long time
3 since I saw my mother sort of act like that. I mean she
4 was acting more like a woman than someone who had been a
5 widow for many many years, and she was twirling her
6 necklace and I remember thinking to myself -
7 MR. O'NEILL: Judge, is this Mod Rehab?
8 A I'm sorry.
9 THE COURT: All right, I'll overrule the
10 objection.
11 MR. WEHNER: Judge, I move to strike.
12 THE COURT: All right. I'll strike the
13 comment by counsel.
14 Ladies and gentlemen of the jury, listen to
15 the testimony and don't worry about counsel's comments.
16 MR. WEHNER: Your Honor, could we approach?
17 THE COURT: Sure.
18 (Bench conference)
19 MR. WEHNER: Your Honor, that statement by
20 Mr. O'Neill is particularly out of line, given the
2 testimony that this jury has heard on direct with regard
2 to the relationship between Miss Dean and John Mitchell
2 and her family and I would ask that you admonish the
2 Government to restrain his impulses.
2 MR. O'NEILL: I have sat through three days of

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1 hearsay upon hearsay, of leading a witness through
2 completely irrelevant nonsense and I finally have said
3 something. Mr. wehner and his client throughout the
4 Government's case would laugh and guffaw at various
5 statements made by witnesses. I have not engaged in
6 this. when I hear about her mother curling her hair -
7 THE COURT: She said her necklace.
8 MR. O'NEILL: - like a school kid, this is
9 absurd, Judge, it has nothing to do with this case and
10 if they want to get on with it, after four days the
11 patience of the Government is wearing a bit thin.
12 THE COURT: well, the impatience of the
13 Government should not be exhibited by comments that
14 provoke laughter from the jury at a time when the
15 defendant is testifying about a principal unindicted
16 co-conspirator in the case and her relationship with him
17 which I think is relevant, and the Government is relying
18 on the testimony of the person closest to her mother as
19 the tie as to why she took certain actions that you
20 allege shows a conspiracy exists although we have no
2 direct evidence.
2 I agree that much of the other evidence that
2 we've been hearing is hearsay and I've given the
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2 defendant a lot of scope and latitude because of the
2 nature of the charges in this case, which to the Court's

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1 mind, as I said before, present some difficulty and I
2 have given the defendant the benefit of my concerns but
3 I don't think on either side it's appropriate.
4 I didn't notice the defendant's counsel going
5 unremonstrated against by the Court when he would make
6 comments about particular things. So I would think on
7 both sides the admonition stays, but I do think the kind
8 of comment when she's testifying about a crucial
9 allegation in the case, I think her mother's response to
10 this man and what she believed the relationship was and
11 what her motivation would be is very important. So
12 restrain yourselves, and if you want to object come up
13 and object and I'll hear it.
14 MR. O'NEILL: Your Honor, the Government will
15 abide obviously by your rulings. I don't have too much
16 choice even if I disagreed with you since you are the
17 Judge.
18 However, the Government will notify the Court
19 that I will start objecting on legal bases such as
20 leading and non-relevant matters.
2 THE COURT: That's fine. I don't mind.

2 MR. WEHNER: Thank you, Your Honor.
2 (Bench conference concluded)
2 THE COURT: All right, ladies and gentlemen,
2 once again we'll ignore inappropriate comments of

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1 counsel. We're here to try this case and we'll have no
2 bons mots tossed at each other. All right.
3 MR. WEHNER: Thank you.
4 BY MR. WEHNER:
5 Q Miss Dean, would you please describe to the jury
6 what you perceived your mother's relationship to
7 John Mitchell to be?
8 A Well, they were both older. My mother of course
9 had already been married and had her children.

10 Mr. Mitchell had been married twice before and he had
11 already had his children. It wasn't as though they were
12 going to start a new life together. They were good
13 friends and she was very kind to him during a very very
14 hard time in his life and she knew him, I would say, far
15 better than my brother and I did. We were off at school
16 or doing other things. We didn't know him as well
17 and -- but he acted as a very close friend of my mother
18 and advisor when she needed them.
19 He advised my brother and I about school and
20 whether we should go on to law school or what to do, and
2 he acted as a -- as a mentor, I would say, to both my
2 brother and I.
2 And he oftentimes at my mother's request
2 advised her on family matters or anything that required
2 an intelligent mind that might have come up in our

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1 lives.

2 Q Do you know if Mr. Mitchell was in a business when
3 he -- during the time that he had a relationship with
4 your mother?

5 A I don't remember when Global Research International
6 started. I just have no recollection of that at all,
7 but at one point of course I knew that he did go into
8 business and he had this company called Global Research
9 International.

10 Q Did you work for that organization for a period of
11 time?

12 A Yes, I did, for about two months, two months, two
13 and a half months.

14 Q What did you do?

15 A I only went for -- I only did one thing for them.
16 They were having a party or wanted to have a party for
17 the new Ambassador to Saudi Arabia and my job completely
18 entailed arranging this particular function and getting
19 the guest lists and the RSVP's and the room and the
20 food, and that's all I did for them.

2 Q From the early seventies to the time you went to

2 work for Global Research what was your relationship with
2 Mr. Mitchell?

2 A I really didn't know him that well, but I liked him
2 and I -- I felt terribly sorry for him and what was

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1 going on in his life and I tried to be kind to him and
2 he was very kind to me.

3 Q Directing your attention to the time period you
4 worked at Global Research, did you ever meet Governor
5 Louis Nunn during that time period?

6 A No.

7 Q To your knowledge, did he ever call that office?

8 A No. But they had a receptionist. I really
9 wouldn't - I just worked on that party, but I never
10 heard his name before that.

11 Q From 1972 through 1988, were you aware of any
12 business dealings between Governor Nunn and
13 Mr. Mitchell?

14 A Well, I knew that at one point Governor Nunn was
15 sharing Mr. Mitchell's office but I didn't - I didn't
16 know anything about the cellular phones that they were
17 talking about, I didn't know anything about that. I
18 didn't know why he was sharing his office or -19

Q Based on your experience with Mr. Mitchell did you
20 have a sense or did you have an impression as to whether
2 his business was successful or unsuccessful?

2 A I had the distinct impression that it was very
2 unsuccessful.

2 Q Why did you have that opinion?

2 A Because he didn't have any money. He was - it was

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1 always very tight for him.

2 Q Do you know an individual by the name of
3 Jack Brennan?

4 A Yes.

5 Q How do you know him?

6 A Colonel Brennan was working in the office of Global
7 Research when I worked there for the two or two and a
8 half months doing this party and I was sort of supposed
9 to, you know, report to him on how this function was

10 going and I knew that he used to work at - he used to
11 work for President Nixon but I never had a very good
12 understanding of - if Mr. Brennan worked for John, with
13 John, I never really understood exactly how it worked.
14 John would say one thing. My mother would say something
15 else. Mr. Brennan would say something else. So I was
16 never really clear on exactly what the relationship was.
17 Q Directing your attention to the time period when
18 you were in the offices of Global Research, do you
19 recall what Mr. Mitchell and Mr. Brennan were working on
20 at that time?

2 A Yes, they had a -- they worked for Hess &
2 Eisenhardt Armored Cars and they had some deal with this
2 armored car company to sell armored cars around the
2 world and I remember they also -- I think they ventured
2 into a travel agency or something like that, but the

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1 armored cars is what they seemed to have been working on
2 when I was there because that was the interest in the
3 Ambassador to Saudi Arabia. That he wanted armored cars
4 to be sold to the Middle East.

5 Q I believe you previously testified with regards to
6 your getting an appointment to the Department of Energy?

7 A Yes.

8 Q You testified that Mr. Mitchell had aided you in
9 getting that job?

10 A Yes, he did. He contacted Mr. Odle of the
11 Department of Energy and he had also made other
12 contacts. I know I interviewed at the White House and I
13 interviewed at the Department of Energy and I decided to
14 go to the Department of Energy.

15 Q And who was Mr. Odle?

16 A He was the Assistant Secretary at Energy and he had
17 had some position in the Nixon Administration and that's
18 how he knew Mr. Mitchell, but I don't know what that
19 was.

20 Q You previously described how you came to move to
2 HUD.

2 A Yes.

2 Q From the Department of Energy. Did you have any
2 discussion with John Mitchell at that time regarding
2 your move from the Department of Energy to HUD?

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1 A Yes, I did, and he did not want me to move to HUD.

2 He wanted me to move to the white House.

3 Q what was his understanding -- what was your
4 understanding from this conversation with Mr. Mitchell
5 as to why he did not want you to move to HUD?

6 MR. O'NEILL: Objection. Hearsay.

7 THE COURT: It's overruled. It's relevant to
8 the underlying allegations of conspiracy with
9 Mr. Mitchell.

10 A He just felt that I had -- that my career would
11 move better if I worked at the white House than if I
12 worked at HUD, but I wanted to work at HUD, and so I
13 did. I went and took that job instead.

14 Q Did Mr. Mitchell assist you in getting the job at
15 HUD?

16 A No.

17 Q Over the time period that you worked at HUD, did
18 you come to an understanding of who also worked for HUD
19 who knew John Mitchell?

20 A well, I knew that -I
knew Secretary Pierce knew
2 John Mitchell.

2 Q How did you know that?

2 A well, I -- well, I knew that Secretary Pierce had
2 been the general counsel at the -- he worked for the man
2 who was Secretary of State, I can't remember which

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1 department -- Labor I think it was, the general counsel
2 at Labor, and when John had been Attorney General, and I
3 remember one time he -- Secretary Pierce told me a funny
4 story, and so I knew that he knew Mr. Mitchell. And one
5 time John and I had gone to a reception we both had been
6 invited to, the Home Builders' Association reception,
7 and we walked in behind Secretary Pierce, and Secretary
8 Pierce turned around and say oh, hi, John, how are you,
9 and they shook hands. So I knew they knew each other.

10 Q Do you know if Mr. Mitchell had a relationship with
11 Lance Wilson?

12 A I know that John knew Lance. Lance didn't tell me
13 that when I first worked at HUD that he knew John but
14 later as I got to know Lance better, Lance told me that
15 he had been with Mudge, Rose, Guthrie & Alexander, a law
16 firm in New York, and that was the law firm that John
17 had been a partner in and that they knew each other, not
18 from there but I -- I think I remember Lance saying that
19 he had come down to Washington to talk with Mr. Mitchell
20 about municipal bonds or something along that line and
21 had met him that way, and then -- there were other -- do
22 you want me to go through who I think he knew?

23 THE COURT: Not who you think he knew, people
24 you know he knew.

25 THE WITNESS: I'm sorry. I know that he knew

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1 the Undersecretary when I first started working there,
2 Don Hovde, and I believe that he knew the then Assistant
3 Secretary for Public and Indian housing, Mr. Lindquist,
4 because Mr. Lindquist had run the Rockefeller real
5 estate holdings in New York and John had done some
6 municipal bond work for them as a lawyer from his firm
7 and -8

Q How about the name Clifford Brown?

9 A Yes, the Regional Administrator in Region Four,
10 Clifford Brown knew John and so did Ray Harris who took
11 his place as Regional Administrator, they both knew John
12 well from the Nixon Administration.

13 Q And Mr. Raymond Harris?

14 A He took Mr. Brown's place and I knew he knew John
15 well because I remember him telling me some stories with
16 regard to John.

17 Q With regard to the Federal Housing Commissioner,
18 directing your attention to Maurice Barksdale, did
19 John Mitchell ever tell you that he knew Mr. Barksdale?

20 A No.

2 Q Did you ever come to an understanding that he knew
2 Mr. Barksdale?

2 A No.

2 Q Did Mr. DeBartolomeis?

2 A I introduced Mr. Mitchell to Mr. DeBartolomeis at a

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1 reception that was held at the home of Henry Berliner to
2 retire the campaign debt of Tom Evans who had been a
3 Congressman from Delaware, and Mr. DeBartolomeis had
4 been from Delaware, lived in Delaware, and so he was at
5 the reception and John was there and I was there and I
6 introduced them.

7 Q Do you recall approximately when that was?

8 A I would say I went to HUD in November of '82, so I
9 would say it would have either been very late in '82
10 or '83.
11 Q Did you have occasion to know of any dealings that
12 Mr. Mitchell had with Mr. DeBartolomeis while you were
13 at HUD?
14 A Well, I believe, and I -
15 MR. O'NEILL: Objection, Your Honor.
16 THE COURT: All right, I'll sustain the
17 objection.
18 BY MR. WEHNER:
19 Q If you have a best recollection, please give it,
20 and if you don't -2
A It seems to me I remember one time John calling me
2 when I was in the Executive Secretariat and asking me a
2 question that I didn't know the answer to and I referred
2 him to Silvio. But I don't remember what the question
2 was.

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1 MR. WEHNER: Could I please see Government
2 Exhibit 12?
3 BY MR. WEHNER:
4 Q Miss Dean, I'm going to show you Government's
5 Exhibit 12 and ask you if you've seen that letter
6 before?
7 A Yes, I have.
8 MR. WEHNER: With the Court's permission, I
9 would like to publish that again to the jury.

10 THE COURT: All right.
11 BY MR. WEHNER:
12 Q Miss Dean, if you could, stepping down from the
13 stand if you need to, would you read that letter,
14 please?
15 A It's to Mr. Mitchell, John Mitchell, at 2828
16 Pennsylvania Avenue, and it says, "Dear friend: You
17 will find enclosed a recommendation from the Atlanta
18 office concerning the Miami housing matter.
19 My name appears in the first paragraph of the
20 memorandum so I guess there is no need for secrecy
2 concerning my involvement.
2 I know that you will use this only for
2 verification that payment was recommended from the
2 Atlanta Regional Office and I believe that you will find
2 adequate explanation of the alleged fraudulent

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1 documents.
2 This is certainly a justifiable cause and the
3 damages resulting from the conduct and behavior from HUD
4 is much greater than represented in the amount for which
5 payment is requested. Be sure that no one obtains a
6 copy of this memorandum because my client
7 enlists" -"
8 insists that he would not want to create
8 difficulty for any person furnishing him the information
9 even though it appears to be nothing that one could not

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10 obtain by public record" -"
from any public record.
11 Thanks.
12 Your friend, Louie.
13 See you soon. My client has suffered and
14 continues to suffer as the direct result of HUD. Five
15 million could be received in" -- I can't read that. In
16 the something?
17 Q In the Courts?
18 A "In the Courts," "in the Courts."
19 Q Miss Dean, that letter is dated March 31st, 1983?
20 A Yes.
2 Q Now, there is an attachment to that letter, is that
2 correct?
2 A Yes, there is.
2 Q And what is the date on that?
2 A January 27, 1983, and it's to James Hammernick to

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1 the attention of Sharon Mizell from James Mills,
2 Director of Office of Regional Housing, and it's
3 regarding the three 202 projects that Marbilt, that was
4 Mr. Martinez's company -- apparently there was a problem
5 with the Jacksonville office and Mr. Martinez felt that
6 something -- that he had a right to sue or whatever.
7 Anyway, this is a memorandum regarding those three 202
8 projects, and recommending that Marbilt, Incorporated be
9 paid or settled with.
10 Q Who is the memorandum from?
11 A It's from James Mills, Director of Office of
12 Regional Housing, and it says 4W, which means Region
13 Four, maybe it's 4H, is that -14
Q who is it for?
15 A It's for James Hammernick, who is the Director of
16 Multi-family Housing, which is the top career person
17 under the Deputy Assistant Secretary for Multi-family
18 Housing.
19 Q Now, Miss Dean, did you have any understanding on
20 March -in
the spring of 1983 as to how Mr. Nunn
2 received that memorandum that's attached to Government
2 exhibit 12?
2 A well, I think -- yes, it was rather obvious that he
2 had received it from the Atlanta Regional Office which
2 had sent it to Headquarters.

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1 MR. WEHNER: May I have Government's Exhibit
2 17, please?
3 BY MR. WEHNER:
4 Q Did you have a conversation with Mr. Mitchell at
5 that time, at or about that time, the spring of 1983?
6 A Yes, I did.
7 Q With regards to --
8 A To this.
9 Q This project?
10 A Yes, I did, about -- yes, about the problems
11 Marbilt was having in Jacksonville.
12 Q What did he say to you and what did you say to him?
13 A Well, he told me that Louie Nunn had a client and

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14 that his client was having problems in the Jacksonville
15 office and he assigned the blame to, to a woman who
16 works in the Jacksonville office. And that she was
17 holding up the project or making life difficult for
18 Mr. Martinez or whatever. And he asked me would I
19 please check into it and see if -- what was going to
20 happen, and that Mr. Nunn was -- this was Mr. Nunn's
2 client and that, you know, Mr. Nunn was getting the
2 runaround, and could I please look into it, and so I
2 did. I called Mr. Hipps, George Hipps, who at that time
2 was in Multi-family Housing.
2 Q And did you have a conversation with Mr. Hipps?

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1 A Yes, Mr. Hipps came to my office in the Executive
2 Secretariat. I gave him this, the letter, to
3 Mr. Mitchell and the attached memo, in part because I
4 wanted him to know that there was an internal HUD
5 memorandum that had gotten in someone's hands before it
6 had probably gotten to Headquarters, and he gave me --
7 basically he gave me the information about this
8 project. He said that nothing could be done for it,
9 that they had looked into it and that it was --that
10 Mr. Martinez did not have a claim.
11 Q Based on that conversation with Mr. Hipps, did you
12 correspond with Mr. Mitchell?
13 A Yes, I wrote him back a letter.
14 MR. WEHNER: I'll publish for the jury
15 Government Exhibit 17.
16 THE COURT: All right.
17 BY MR. WEHNER:
18 Q would you read that, please, Miss Dean?
19 A It says -- it's to John Mitchell at his home
20 address and it says, "Dear Dad, Here are two memoranda
2 to add to the one supplied by your friend in Florida. I
2 think they explain the story rather well. You can see
2 from the George Hipps memo that the Department tried as
2 best it could to be lenient. Stronger actions might
2 have seemed appropriate to others.

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1 One piece of news that might be helpful to
2 Mr. Martinez -- apparently, the Regional Office was quite
3 upset by Headquarters' last response to them saying no.
4 Mr. Martinez has someone fighting in his corner down
5 there. If he appeals again they might prove useful.
6 As you know, I stand behind the decision of
7 the career people in Headquarters. Intervening in a

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8 situation like this would be like jogging through

9 quicksand. I think it's time that we say adios. This
10 information is now a matter of public record and you may

11 feel free to copy it and share it, if you wish.

12 Love, Deborah."

13 And attached to it were two documents that
14 Mr. Hipps had given me to send to Mr. Mitchell.
15 Q Miss Dean, I'm going to show you the first document

16 the Government reflects was attached to Government's
17 Exhibit 17, a memorandum dated October 7, 1983. Was

18 this memo one of the ones that was attached?

19 A I can't see it clearly.

20 MR. WEHNER: Your Honor, can she step down to
2 the monitor?

2 THE COURT: Sure.

2 MR. WEHNER: Thank you, Your Honor.

2 A Yes, that would be one of them, I believe. Because
2 that's saying no.

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1 Q I'll next put on the screen the second attachment
2 to that letter.

3 A No, that's -- that did not come from me. I've seen
4 that before among the documents and I don't know what
5 that is.

6 Q Have you ever seen that memo before?

7 A I saw it when the Independent Counsel was reviewing
8 their case, you know, exhibits, and I believe I said at
9 that time I did not believe that had been attached to it
10 since I had never seen that before.

11 Q Do you have a recollection today as to what was
12 attached to that letter?

13 A There was a memo from Mr. Hipps which is referenced
14 in my letter and then there is another memorandum with
15 regard to the project.

16 Q Do you have a recollection today as to what that
17 memorandum showed?

18 A It showed why Mr. Hipps believed that they didn't
19 have a case, and Mr. Hipps provided it to me to provide
20 to him to say that they don't have a case.

2 Q Miss Dean, what was your understanding at that time
2 regarding a relationship between Mr. Mitchell and
2 Mr. Nunn?

2 A Well, I mean the way Mr. Mitchell put it to me was
2 that he was interceding on behalf of Mr. Nunn because

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1 Mr. Nunn couldn't get a response from the Department.

2 MR. WEHNER: Government's Exhibit 16, please?

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3 BY MR. WEHNER:

4 Q Miss Dean, I'm going to publish, with the Court's
5 permission, Government's Exhibit 16?

6 THE COURT: All right.

7 BY MR. WEHNER:

8 Q What is that?

9 A It is a note from Mr. DeBartolomeis who was then

10 Special Assistant to the Secretary, to me, re: Marbilt,
11 and then I jotted to John N. Mitchell, "for your
12 information, love D." I sent on to him what was
13 attached to this note.

14 Q I'll publish Government's Exhibit 18 beside that.

15 Can you describe again -- would you tell us what the
16 relationship is between Government's 16 and 18?

17 A Well, the Government Exhibit has the Daddy, FYI
18 note to what the note on the right was attached to.

19 They have the wrong note on the wrong exhibit. What was
20 below that note is what was attached to the original
21 note. I don't know what was attached to the Daddy, FYI,
22 but what's below it was attached to the note that you
23 showed first.

24 Q So the second page of Government Exhibit 18 was in
25 reality in your recollection attached to Government

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1 Exhibit 16, is that correct?

2 A Yes, that's what I believe.

3 MR. WEHNER: Could I have 17?

4 BY MR. WEHNER:

5 Q Miss Dean, after Government Exhibit 17 was sent to
6 Mr. Mitchell, did he contact you regarding the issue?

7 A No.

8 Q Did you do anything at that point or ever, to
9 attempt to change the decision as was reflected in the

10 letter you wrote to Mr. Mitchell?

11 A No, I -- frankly, I -- when Mr. Hipps came up and
12 explained to me, this note is almost verbatim of what
13 Mr. Hipps said to me. At this point I didn't even
14 understand what the issues were. I was very new to the
15 Department and learning a lot about the programs and I
16 just took what Mr. Hipps said and basically wrote it out
17 and signed my name to it.

18 Q Miss Dean, I'm going to show you again Government
19 Exhibit 18 and ask you if you recognize the handwriting
20 in the upper righthand corner of that Exhibit?

21 A Yes, I do.

22 Q Whose is it?

23 A It's Lance Wilson's handwriting, who was then
24 Executive Assistant to the Secretary.

25 Q Did Mr. Wilson ever discuss this Marbilt issue with

1 you?

2 A No, but I did receive this from Mr. DeBartolomeis

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3 and I then passed it on to Mr. Mitchell and this is a
4 different decision than the one Mr. Hipps described to
5 me. Apparently Mr. Abrams, that's his signature at the
6 bottom, who is the Federal Housing Commissioner or
7 Undersecretary at this point, reversed the decision and
8 Mr. Wilson sent, through Silvio, to me a copy of the
9 reversal of that decision and I then sent it on to
10 Mr. Mitchell.

11 THE COURT: Should we break for lunch?

12 MR. WEHNER: Yes, Your Honor.

13 THE COURT: All right.

14 Ladies and gentlemen, we'll take our luncheon
15 recess at this time. We'll go to 1:30. Remember the
16 admonitions of the Court during luncheon recess, don't
17 talk about the case among yourselves or anyone else,
18 don't let anybody speak about it in your presence. Be
19 back at 1:30 from lunch, please.

20 (Jury dismissed)

2 THE COURT: All right, 1:30.

2 (Lunch recess, 12:20 to 1:30 p.m.)

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AFTERNOON SESSION

2 (1:40 p.m.)

3 (Defendant present, Jury out.)

4 THE COURT: Are you ready to go?

5 MR. WEHNER: Yes, sir.

6 THE COURT: I'm going to have to retire today at -- a
7 nice word -- retire from this hearing at 4:20, approximately. I
8 have a 5:00 meeting I have to attend out of the courthouse, a
9 committee meeting. So 4:20, all right?

10 MR. WEHNER: Yes, sir.

11 THE COURT: All right.

12 (Jury in.)

13 THE COURT: All right, we're ready to resume with the
14 afternoon session, Ladies and Gentlemen, with the continuation of
15 testimony of Ms. Dean at this time.

16 Thank you, Mr. Wehner.

17 MR. WEHNER: Thank you, Your Honor.

18 Good afternoon.

19 THE JURY: Good afternoon.

20 DEBORAH GORE DEAN, DEFENDANT'S WITNESS, RESUMED

21 DIRECT EXAMINATION (Cont'd.)

22 BY MR. WEHNER:

23 Q. Ms. Dean, we were talking about the Arama project when we

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24 broke. Do you recall generally that testimony?
25 A. Do you know, I don't remember the last question. I'm sorry

2615

1 Q. We were dealing generally with the Arama project, and
2 keeping the Arama project in mind -
3 A. I think we were talking about Marbilt.
4 THE COURT: Yes, you were talking about Marbilt.
5 MR. WEHNER: I'm sorry, Your Honor. That's correct.
6 Q. Keeping the Marbilt project in mind, excuse me, did you ever
7 attempt to influence any HUD decision with regard to Marbilt?
8 A. No. I -- the only conversation I had was with Mr. Hipps,
9 and he gave me the information, that was no, and that's what I
10 passed on, and the decision was reversed later, but without
11 any -- I didn't know it was going to be reversed, and I didn't
12 have anything to do with it.
13 Q. You have testified concerning your relationship with John
14 Mitchell.
15 A. Yes.
16 Q. When was the very first time that you learned that
17 Mr. Mitchell was being paid for consulting work he was doing in
18 relationship to HUD?
19 A. The -- I learned about it the day that the HUD Inspector
20 General report came out on the Mod Rehab Program after -
well,
2 it was in 1989, I believe. And it was a, a big report, a long
2 report. Everybody had been waiting for it to come out.
2 And it was basically an investigation of developers'
2 ties to a charity that Mr. Demery had been sponsoring and whether
2 or not that had any influence on decisions that were made, and it

1 was of great interest. And I remember calling the Inspector
2 General's office, to the man who was running the report -- who
3 wrote the report, the head of the investigations unit, his name
4 was Al Cain, and I called him, and I said, "How do I get a copy
5 of the report?"
6 And I remember it was, sixty-some dollars was the fee
7 to get it, and I remember sending Marti Mitchell at that time
8 down with it, a check to pick up the report, and the report came
9 back, and I opened it up, and about the second or third page, it
10 said -11
MR. O'NEILL: Objection, Your Honor.
12 THE COURT: I'll sustain it.
13 I think the question was what did she learn of any
14 payments to Mr. Mitchell.
15 THE WITNESS: I learned about it when I opened up the
16 report.
17 THE COURT: All right.
18 BY MR. WEHNER:
19 Q. Did you read the report?
20 A. I, around the second or third page of the report, as I
2 remember, there was a listing of consultants who had earned fees
2 in the Mod Rehab Program and had said John Mitchell -2
MR. O'NEILL: Objection, Your Honor.
2 THE COURT: I'll sustain the objection to the report
2 unless you have some other grounds to offer it. She can testify

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that's how she learned of it.

2 THE WITNESS: That's how I learned about it, and it had
3 an amount of money.

4 BY MR. WEHNER:

5 Q. Okay. After you learned -- was that the first time you knew
6 that John Mitchell was receiving dollars based on consulting with
7 HUD?

8 A. Yes.

9 Q. This was in May -- or, I'm sorry, April of 1989?

10 A. Yes, the day the report came out.

11 Q. Was John Mitchell alive, or had he passed away by then?

12 A. He had died the previous November.

13 Q. Did you place any telephone calls after you heard that in
14 the report -- after you discovered that information?

15 A. Yes.

16 Q. Who did you call?

17 A. I called Al Cain.

18 Q. What did you say to Mr. Cain?

19 A. I told him that I considered him to have been a friend and I
20 couldn't believe that he wouldn't have told me about this before
21 now and that I knew it wasn't true, that John would never have
22 done that, and that he better be prepared, because I was really
23 mad, and I wanted to see that check, and if there had been a
24 check written to John Mitchell, Al better have a copy of it, and
25 I was coming down there, and if I found out that he was, in any

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1 way had misinterpreted or had misrepresented John's actions, I
2 was going to have a press conference and I was going to scream
3 and yell and carry on.

4 And Al said, Al told me that he -

5 THE COURT: I'll sustain the objection. Don't get into
6 what he said.

BY MR. WEHNER:

8 Q. Did you have any further conversation with anyone else other
9 than Mr. Cain shortly after you discovered that information?

10 A. Yes. I called Jack Brennan and told Jack Brennan that I
11 wanted him to come to my office with all of John's papers so that
12 I could prove that John hadn't done any business with HUD and
13 hadn't gotten any money.

14 Q. Did you learn during that conversation that Mitchell had
15 received money?

16 A. Yes. He told me that -

17 MR. O'NEILL: Objection once again, Your Honor.

18 THE COURT: All right.

19 BY MR. WEHNER:

20 Q. Based on your conversation with Mr. Brennan, did you reach
2 an understanding then as to what Mr. Mitchell's role was in the
2 mod rehabilitation process?

2 MR. O'NEILL: It's hearsay, Your Honor.

2 THE COURT: Yes, it is still hearsay. I think she can

2 say what actions she took and what she learned of things.

2619

BY MR. WEHNER:

2 Q. Did you speak to Mr. Shelby at that point?

3 A. No. I understood from Mr. Brennan that Mr. Shelby might be
4 involved, and I have never spoken to Mr. Shelby since that day,

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5 and I didn't call him. I didn't understand how it could have
6 happened.
7 Q. When did you find out that Mr. Mitchell, the amount of money
8 that Mr. Mitchell made?
9 MR. O'NEILL: Objection. Asked and answered, Your
10 Honor.
11 MR. WEHNER: It hasn't been asked and answered, Judge.
12 THE COURT: The amount of money, you're talking about
13 apart from whatever she said she learned earlier?
14 MR. WEHNER: No, the initial question was when she
15 initially learned that John Mitchell had made money.
16 THE COURT: This is how much money?
17 MR. WEHNER: This is how much.
18 THE COURT: All right, go ahead.
19 Go ahead. The question was when did you find out how
20 much money Mr. Mitchell had made?
21 THE WITNESS: The -- the day or two before the, before
22 the Independent Counsel issued an indictment, they had me come
23 down to the office, and they read to me what was going to be in
24 the indictment, and that was the first time I understood the
25 extent to which Mr. Mitchell had been involved.

2620

BY MR. WEHNER:
2 Q. Ms. Dean, I'm going to publish on the screen Government's
3 Exhibit 28, with the Court's permission.
4 THE COURT: Sure.
BY MR. WEHNER:
6 Q. Would you please tell the jury how you came to write this
7 letter?
8 A. Yes. Shortly after Mr. Wilson had left and I became
9 executive assistant, Mr. Mitchell, John, called me on the
10 telephone and told me that Mr. Nunn had a project that had been
11 funded, and there was some problem with a, an option on the
12 property, that the developer had to know whether and when the
13 funds were coming, along that line, and he asked me would I
14 please check into it and see what I could find out, and I called,
15 I believe, Maurice Barksdale, and he said to me that -
16 MR. O'NEILL: Objection, Your Honor.
17 THE COURT: Don't get into what he talked about.
18 THE WITNESS: Sorry, sorry.
19 THE COURT: Just say what you did after you spoke with
20 him.
21 THE WITNESS: After I spoke with Mr. Barksdale, I, in
22 essence, wrote down what Mr. Barksdale said to me and sent it to
23 Governor Nunn, which is what I'd been asked to do.
24 BY MR. WEHNER:
25 Q. At the point when this letter was written, which was July 5

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1 of 1984, what was your understanding of what John Mitchell's role
2 was in relationship to the Arama partnership?
3 A. I didn't think he had a role. I thought he was just placing
4 the phone call for Governor Nunn, because I didn't know Governor
5 Nunn, and he knew that I would make a phone call, find out what
6 it was that Governor Nunn needed, and basically just help him
7 out.
8 I just didn't see anything --it wasn't --it did not
9 seem important to me. It just seemed, I was just passing

10 information on to him that he had asked for.
11 Q. When you spoke to Mr. Barksdale, did he display any
12 reluctance providing you the information?
13 A. No, he knew all about it. He said, in essence, what was in
14 the letter, and that it was done, it had already been done, and
15 it would be, you know, coming out of the department in a few
16 days.
17 Q. Now what was your position as of July 5, 1984?
18 A. I was the executive assistant to the secretary.
19 Q. How long had you been executive assistant to the secretary?
20 A. Oh, about ten days officially.
21 Q. And what was your understanding at that point as of July 10,

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2 1984, as to the, how the Moderate Rehabilitation Program worked?
2 A. Well, I don't have much of an understanding at all about how
2 it worked. The -- I had that one, that one time I told you about
2 that I had gone down to his office when I was executive

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1 secretariat and had passed that note on to him from the secretary
2 about a project, and the next time I heard about the Moderate
3 Rehabilitation Program was when the problem erupted with Puerto
4 Rico, and I didn't have any interaction with it one way or the
5 other. I just was basically new on the job, and I didn't know a
6 lot about it.
7 Q. Did you know in July of 1984, July 5 of 1984 that John
8 Mitchell was receiving money due to Arama?
9 A. Of course not. No.

10 Q. What would you have done if you would have known that?
11 MR. O'NEILL: Objection, Your Honor.
12 THE COURT: Yes, I'll sustain that. It's speculation.
13 BY MR. WEHNER:
14 Q. Do you recall today the date on which the Arama project was
15 funded?
16 A. I believe the rapid reply was about a week or ten days after
17 that. I remember that Mr. Barksdale brought it to me, and I
18 don't know when the 185 would have gone out. Soon after that, I
19 would assume, but I don't know.
20 Q. You testified previously that you were familiar with an
21 individual by the name of Jack Brennan.
22 A. Yes.
23 Q. Do you have a recollection of meeting with Mr. Brennan on
24 Friday, June 6, 1986?
25 A. I know that I had a meeting with, with Mr. Brennan.

2623

1 Q. I'm going to show you Government's Exhibit 7 and ask you if
2 you did, in fact, have a meeting with Mr. Brennan?
3 A. Yes, at 1:30 on Friday, June 6.
4 Q. Would you please describe what you said to Mr. Brennan and
5 what Mr. Brennan said to you during that meeting?
6 MR. O'NEILL: The question is improper, Your Honor.

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7 THE COURT: All right.
8 MR. WEHNER: Your Honor, could we approach on that?
9 THE COURT: Sure.
10 (Bench conference on the record.)
11 THE COURT: Okay.
12 MR. WEHNER: Judge, he's an unindicted co-conspirator.
13 THE COURT: Brennan is?
14 MR. WEHNER: Yes.
15 MR. O'NEILL: That's right.
16 THE COURT: In this area?
17 MR. WEHNER: Yes.
18 THE COURT: The question was what they talked about at
19 this time this meeting was alleged by the government to have been
20 part of the conspiracy accomplished at this time?
21 MR. O'NEILL: well, was this the meeting in which they
22 discussed the -I
don't know.
23 MR. WEHNER: Yes. It's the only meeting they ever had.
24 THE COURT: Okay.
25 MR. O'NEILL: well, there are a couple entries where

1 they have meetings.
2 MS. SWEENEY: They have had more than one meeting.
3 MR. WEHNER: Is that -
MR. O'NEILL: Yes, there is. There are several
notations.
6 MR. WEHNER: This is the specific meeting in which the
7 project was discussed.
8 MR. O'NEILL: That's fine. I withdraw the objection.
9 THE COURT: Okay.
10 (End of bench conference.)
11 MR. O'NEILL: Just for the record, Your Honor, I'll
12 withdraw the objection.
13 THE COURT: All right.
14 BY MR. WEHNER:
15 Q. would you please tell us what you said to Mr. Brennan and
16 what Mr. Brennan said to you during that meeting?
17 A. well, it was a very short meeting, and Mr. Brennan came in
18 and gave me some documents and said that he was there to deliver
19 these documents and that Louie Nunn was interested in a project
20 in Metro Dade, Metro Dade, and he also told me that there was a
21 problem with some other consultants who were trying to get their
22 client away from them, and I remember that he used the name
23 Russell Cartwright.
24 And I remember not understanding why he was telling me
25 this and saying, well, that we were, we were inundated with

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1 requests from Metro Dade, that it just seemed that every person
2 was in Metro Dade trying to do a Mod Rehab Project, and that I
3 certainly didn't know if it would be successful or not, sort of
4 gave him the standard line of, you know, make certain that you're
5 No. 1 in the housing authority pipeline, make certain that you
6 have Congressional, you know, that kind of thing.
7 It didn't seem that he really was interested in that.
8 It was more that he was just delivering me these documents.
9 And I don't think the meeting lasted ten minutes, and
10 he basically sort of said he was on his way down to see his son,
11 and he, that was it. It was just very, very short.
12 And he handed me the documents, and one was a letter
13 from a housing authority, and, and one was a letter to him from,
14 from, I can't remember if it was Mr. Martinez or Mr. Nunn, but he
15 gave them to me. I -
he didn't ask me to -

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he asked me, he
16 said, "Anything you can do," that sort of thing, "Anything you
17 can do."
18 And I didn't feel that there was any need to discuss
19 that with Secretary Pierce, because I didn't see why Secretary
20 Pierce would be interested in this, and I, there wasn't anything
21 that I particularly wanted to do for Mr. Brennan, so there was no
22 need for me to bring it up with Secretary Pierce, and so I put it
23 in my "out" box, and I wrote "Send to Housing" on it, which was
24 my way of sending it downstairs to the appropriate office.
25 Q. Ms. Dean, I'm going to show you what I've marked for

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identification as Dean Exhibit 626 and Dean Exhibit 627 and ask
2 if you can identify those, please?
3 A. Yes. The attached letter here is the one from Metro Dade
4 Housing Authority, from Mr. Adams, Mel Adams, and my handwriting
5 on the top right-hand side says "Send to Housing."
6 And then Mrs. Hawkins, my secretary, has written a note
7 down to another secretary in Housing that says, "Deborah asked me
8 to forward this to Housing. Please send it to the appropriate
9 office. Thanks."
10 And he also gave me this letter, which is from
11 Mr. Martinez to Governor Nunn. This would have been
12 inappropriate to send, so it just went in the "out" box, and I
13 assume that Mrs. Hawkins then filed it along with a copy of this,
14 because these came out of my files.
15 Q. Do you recognize the attachment to 626 and 627 as being the
16 documents that Mr. Brennan delivered to you?
17 A. Yes.
18 Q. And do you recognize 626, the first page, as being a Xeroxed
19 copy of the note that Mrs. Nettles-Hawkins sent?
20 A. Yes. That's her handwriting, and it's signed by her.
21 MR. WEHNER: I move the admission of Dean Exhibits 626
22 and 627.
23 MR. O'NEILL: No objection, Your Honor. They're
24 already government exhibits as well.
25 THE COURT: All right, 626 and 627 are admitted.

2627

(Defendant's Exhibit Nos. 626 and 627
were received in evidence.).

BY MR. WEHNER:

4 Q. Ms. Dean, what was your understanding of Jack Brennan's
5 relationship with John Mitchell at that time?
6 A. Well, as I said before, I really, I did not know if they
7 were partners, if there was a salary. I just, I did not know.
8 I never saw them work on anything together. I just didn't know.
9 And he never mentioned Mr. Mitchell during the meeting,

10 and I just, I did not know what Mr. Brennan was doing there. So

11 I -- and I didn't have any particular interest in it, and I

12 didn't, he didn't ask me to take it to Secretary Pierce or

13 anything else.

14 So I just sent it through the system, which is where I

15 thought it ought to go.

16 Q. Did you ever discuss that project with John Mitchell?

17 A. Never.

18 Q. Did you ever discuss that project with Governor Nunn?

19 A. No.

20 Q. Did you ever discuss that project with Sam Pierce?

21 A. No.

22 Q. Did you ever try to influence that project in any way?

23 A. No.

24 Q. Who was the federal housing commissioner at that time?

25 A. Which time?

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1 Q. As of 1986, June of 1986.

2 A. Mr. DeBartolomeis.

3 Q. How long had he been federal housing commissioner?

4 A. I never have gotten this. You've asked me that a couple
5 times. I never have gotten that right. I think it was the
6 beginning of 1986, January-February.

7 Q. Ms. Dean, directing your attention to January of 1985, did
8 you have occasion to meet with Andrew Sankin and John Rosenthal?

9 A. I don't know.

10 Q. Let me show you what has been previously identified as
11 Exhibit 107 and ask you if that refreshes your recollection as to
12 whether you met on that date?

13 A. Yes. January 19, 1985.

14 Q. Who else was at that meeting?

15 A. Mr. Rosenthal, Mr. Sankin, myself, Mr. Cushing, Mr. Hammer-
16 nick, and I don't know if Tim O'Neill from Senator Heinz's office
17 was there or not. He's listed, but he's listed up here. I don't
18 know what that means. Mr. O'Neill visited often, so it wouldn't
19 stick out in my mind.

20 MR. WEHNER: Excuse me a minute, Your Honor.

21 THE COURT: All right.

22 BY MR. WEHNER:

23 Q. What was your understanding of the purpose of the meeting
24 with Mr. Sankin on the 19th and others on the 19th?

25 A. This was regarding the Necho Allen Hotel, and Mr. Rosenthal

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1 was the developer of the Necho --or owner or potential owner of
2 the Necho Allen Hotel, and they needed exception rents for the
3 hotel.

4 Q. What are exception rents?

5 A. Well, the, the statute gives you a ceiling of rents that you
6 can go to, which is 120 percent of the fair market rent. An
7 exception rent is if you were allowed to go a little higher than
8 that for unusual costs, and there are rules on what those unusual
9 costs can be.

10 Q. And if exception rents are granted, what does that mean?

11 A. It means they get higher rents than 120 percent of the fair
12 market rent.

13 Q. Why would you get, why would -- if you know, why would any
14 project get 120 percent of the fair market rents?

15 A. Well, the fair market rent is a rent that is set in a
16 statistical area, and that is exactly what it is. It's the fair
17 market rent for a one-bedroom or two-bedroom or a three-bedroom
18 unit or an efficiency, and the statute for the Moderate
19 Rehabilitation Program says that your rents can be 120 percent of
20 the fair market rent, so that you can pay for the additional
21 rehabilitation that is required in order to fix up the units for
22 people to live in.

23 So Congress gives the authority for an extra 20 percent
24 above what is the fair rent so that that money can be used to
25 rehabilitate the units.

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1 Q. Let me show you what's been previously identified as
2 Government's Exhibit 106, and I'd ask you if that reflects the
3 initial decision that was made with regard to the exception
4 rents?

5 A. Request for exception rents, this is an initial response
6 from Silvio DeBartolomeis for Ken Finlayson, drafted by Louise
7 Kleffner, turning down the exception rents for Necho Allen Hotel.

8 Q. And the date of that is what?

9 A. 12-31-84.

10 Q. So that's before your meeting on January 19 of 1985,
11 correct?

12 A. Correct. But there is more to that memorandum. I mean, I
13 remember that -

yes, this is attached to this. These notes were
14 attached to this memorandum.

15 Q. Okay.

16 A. And the notes reflect that this memorandum says, see, this
17 is Mr. Hammernick, who's the head of the office, and
18 Mr. Hammernick is saying, "Silvio said he talked to Region III
19 and to NAR -

which is No Appropriate Response -- this request.

20 John Hammernick."

2 So Mr. DeBartolomeis had turned down the turn-down on
2 December 31, '84.

2 Q. You have to explain that in simpler terms, please.

2 A. Well, obviously, the region had made a request for exception
2 rents.

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1 Q. The region was in support of exception rents?
2 A. I don't know, because it's, this is the response back. So I
3 don't know. If there -I
believe that there is a memorandum
4 that is in support of it, and the, I mean, the government did
5 provide that to us, and I have seen it, and it's a memo from
6 Mr. Finlayson to Mr. DeBartolomeis saying, "We support it," and
7 that was a month or so before this.
8 And then this came out, saying no. And then
9 Mr. DeBartolomeis and Mr. Cushing and Marv Hillman and
10 Mr. Hammernick are all basically saying, "No, this is not the
11 decision we're going to make, so do not follow --do not send
12 this memo." In other words, the decision had been made before
13 they had met with me on January 19.
14 Q. Okay. which decision had been made?
15 A. well, the decision had been made certainly to, to not turn
16 it down. I can't tell from this whether a decision had been made
17 to actually give them exception rents, but I can tell from this
18 that certainly a decision had been made not to turn them down.
19 Q. who made the decision to approve the exception rents?
20 A. well, the meeting with Mr. Rosenthal was very technical, and
2 Mr. Hammernick had asked Mr. Rosenthal for more information
2 regarding the --he had to go back and find other units in the
2 area that had rents at the same level that he wanted to charge
2 for the Necho Allen Hotel, and he gave him, in essence, homework
2 to do in order to come back and prove his case.

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1 And these notes also reflect that he, they were asking
2 for a 10 percent increase, and I suggested that they go for a 5
3 percent increase. I certainly couldn't have done that without
4 Mr. Hammernick telling me that 5 percent was appropriate.
5 So there was a lot of back-and-forth. I remember that
6 it was a, a rather lengthy meeting. There were a lot of
7 questions and answers that went on, and at some point,
8 Mr. Hammernick would have come up with the decision that it was
9 appropriate and all right to give exception rents and at what
10 level to give them.
11 And then I at that point would have taken it to
12 Secretary Pierce and said, "Here is a case that we've been
13 working on. These people came in to see me. This is the story.
14 Mr. Hammernick says that this is whatever the rents ought to be.
15 Mr. Finlayson has sent in a memorandum saying that he is in
16 support of it. Do you, you know, do you have any input on it?"
17 And he's, like, "No, it's fine. If it's legal and the
18 staff supports it, go ahead."
19 But technically, it would not have been done without
20 Mr. Hammernick.
21 Q. Let me show you what's been marked and admitted into
22 evidence as Government's Exhibit 110A.
23 A. Yes. It is the memorandum back to Mr. Finlayson from
24 Secretary Pierce, and it says, in essence, it says, "Based on
25 your recommendation, in order to allow the project to move

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1 forward, you may give exception rents," and he waives the Section
2 882.408(b) in order to do that, and it's courtesy copied to
3 Shirley Wiseman.
4 Q. Now there's an attachment to that; is there not?
5 A. Right, yes.
6 MR. WEHNER: with the Court's permission, I'm going to
7 publish that on the monitor.
8 THE COURT: All right.

9 BY MR. WEHNER:

10 Q. Now is this attachment a draft, Ms. Dean?

11 A. Yes. If you'll bring it down a bit, yes, it's, "Based upon
12 your recotnmendation --" it's the exact language of the
13 memorandum, and that was drafted by Mr. Hammernick's office so
14 that we would know what to write in the memorandum. And then I
15 append the secretary's signature to it.

16 And then that's my secretary's handwriting, "Per
17 Deborah Dean," and the date. And then the initials underneath
18 are the executive secretariat, saying that it was then all right
19 for the machine to be used to Autopen it.

20 Q. And that is a draft that appears in final form in 110A; is
2 that correct?

2 A. It's the same, yes.

2 Q. It shows a carbon copy on that, the final version, to
2 Shirley Wiseman. Did you discuss it with Shirley Wiseman?

2 A. I don't have a specific recollection of discussing it with

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1 Shirley Wiseman, but she would have been copied on anything that
2 went to the secretary or from the secretary that had to do with
3 housing, and then Mr. Cushing, who was the secretary's special
4 assistant for housing, part of his job assignment was to keep her
5 informed of anything that was going on in the office of secretary
6 having to do with her area and what was going on and everything
7 else.

8 And she certainly would have been invited to any
9 meeting or had any input that she wished, and that's why she's
10 courtesy copied. But I don't have an independent recollection of
11 discussing it with her, no.

12 Q. Let me show you what's been marked for identification as
13 Dean Exhibit 787. It purports to be a letter written to you
14 regarding Necho Allen, dated January 24, 1985, from A. J.
15 Pacenta, Mayor of the City of Pottsville.

16 A. Right.

17 Q. Is that a letter that the mayor of that city sent in support
18 of those exception rents?

19 A. Just looking at it really quickly, I don't see, I don't see
20 a reference to exception rents, but it certainly is, he says,
21 "It's the key to our downtown development plan, and we really
22 want to do it."

23 And he obviously was invited to the meeting that was
24 held on the 19th and couldn't make it due to the inability to get
25 landing clearance at National Airport, and so he's writing a

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1 letter saying, "Please, we're in support of it." And the Necho
2 Allen Hotel was in Pottsville.

MR. WEHNER: Move for admission of Dean Exhibit 787.

4 MR. O'NEILL: Judge, I'd object for the same reasons we
5 couldn't get it in.

6 THE COURT: I'm sorry?

7 MR. O'NEILL: I'd have to object to this.

8 THE COURT: Let me see it, please.

9 (Bench conference on the record.)

10 THE COURT: Okay. It's not a normal business document?

11 MR. O'NEILL: Judge, we tried to get a stipulation to
12 put it into evidence, because we need somebody from the City of
13 Pottsville. We couldn't get that stipulation, so we took it out
14 of our inventory.

15 THE COURT: I see. Okay. She identified this as she
16 received this down at HUD?

17 MR. WEHNER: Yes, sir.

18 THE COURT: I'll overrule the objection. I'll let it

19 in.

20 MR. O'NEILL: Judge, can I note my objection for the
21 record on that one?

22 THE COURT: Sure.

23 MR. O'NEILL: Just for the record, it's a letter that
24 has nothing to do with Ms. Dean other than being mailed to her.

25 THE COURT: It's a letter to her about the Necho Allen

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1 project, which was one of the projects involved in the case?

2 MR. O'NEILL: Judge, this is the problem: That was one
3 of our exhibits, but when the defense doesn't stipulate to it, we
4 cannot put it into evidence. Now the defense is seeking to
5 introduce it into evidence -

6 THE COURT: Can't she identify it as something she
7 received?

8 MR. O'NEILL: I guess she could. Whether she could say -
9 it's made in the regular course of business, I doubt it. Well,
10 she could say it, but -

11 MR. WEHNER: Judge, I mean, the government could have
12 subpoenaed anybody they wanted to to identify this document.

13 MR. O'NEILL: Correct.

14 THE COURT: Okay.

15 MR. WEHNER: And you didn't.

16 MR. O'NEILL: As could you.

17 And there's no other way to get it into evidence.

18 THE COURT: I understand the arguments of counsel. I'm
19 letting in.

20 MR. O'NEILL: Okay, Judge. Thanks

2 (End of bench conference.)

2 THE COURT: It's admitted, 787.

2 (Defendant's Exhibit No. 787 was
2 received in evidence.)

2 BY MR. WEHNER:

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1 Q. Ms. Dean, would you read the first paragraph of that letter,
2 please?

3 A. "On January 17, 1986, we were asked to attend a meeting at
4 your offices to support the rehabilitation of the Necho Allen.
5 As you know, my staff and I were unable to attend this meeting
6 due to the inability to get landing clearance at National
7 Airport. We understand from Mr. Rosenthal that you indicated a
8 willingness to be of assistance to us in bringing this important
9 project to fruition."

10 Q. Would you look again at the date? I believe you said, "On
11 January 17, 1986." I think it actually reads "1985."

12 A. Oh, I'm sorry, 1985.

13 Q. Ms. Dean, Mr. Rosenthal was not only involved in the Necho
14 Allen project; he was also involved in the Regent Street Project,
15 was he not?

16 A. That's correct.

17 Q. When is the first time you remember hearing of Mr. Rosenthal
18 in connection with the Regent Street project?

19 MR. O'NEILL: Objection, Your Honor. We've gone over
20 the Regent Street project at great length.

21 THE COURT: Have you already gone into this?

22 MR. WEHNER: No, sir. Only as a project that was
23 funded on the charts. I don't think we went over it in great
24 detail vis-a-vis Ms. Dean's dealings with Mr. Rosenthal and
25 Mr. Sankin.

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1 THE COURT: All right, I'll allow it. Go ahead.
2 BY MR. WEHNER:
3 Q. When is the first time you recall hearing of Mr. Rosenthal
4 in association with the Regent Street project?
5 A. I believe after the Necho Allen Hotel was completed or had
6 closed, I -- Mr. Rosenthal called and asked, said he was in town
7 and would I have lunch with him while he was in Washington, and I
8 said that I would.
9 And the first time that I -- although I had spoken to
10 him several times on the phone, I believe that the first time I
11 heard of Regent Street was at this lunch.
12 Q. To your knowledge, was that luncheon appointment set up by
13 Andrew Sankin?
14 A. No.
15 Q. Did Andrew Sankin attend the luncheon?
16 A. I don't remember Andrew Sankin being there. I remember
17 having a conversation with Mr. Rosenthal. But he might have been
18 there. It was in 1985.
19 So, I mean, I can't say for certain. I don't remember
20 him being there.
21 MR. WEHNER: With the Court's permission, I'm going to
22 publish Government's Exhibit 115.
23 THE COURT: 115?
24 MR. WEHNER: Yes.
25 THE COURT: All right.

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BY MR. WEHNER:
2 Q. Ms. Dean, is this letter addressed to you?
3 A. This is the letter from Mr. Sankin. I didn't see the top of
4 the letter. Is that the one that --
5 Q. I'll pull it down, sorry.
6 A. Yeah, this is -- yes. I know this was introduced as a
7 government exhibit, but I never got this letter, and I had never
8 seen it before.
9 Q. You'd never seen it before when?

10 A. I never saw it before it was introduced as a government
11 exhibit, and it's not in my files.
12 Q. Now I'm going to hand you the exhibit and ask you if it
13 appears to have been made on original stationery?
14 A. Yeah. Yes.
15 Q. And is there a signature?
16 A. No. This letter was never sent, and it was never received.
17 MR. O'NEILL: Objection, Your Honor.
18 THE COURT: All right.
19 MR. O'NEILL: How would she know that?
20 THE COURT: She can testify it was never received.
21 THE WITNESS: It was never received by me.
22 MR. WEHNER: Your Honor, at this time, I'd like the
23 jury to pass this among themselves.

24 THE COURT: All right, you can publish it to the jury.
25 That means, Ladies and Gentlemen, you can look at the

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1 document, the original document.

2 MR. WEHNER: Thank you, Your Honor.

3 THE COURT: All right, let's go forward.

4 BY MR. WEHNER:

5 Q. Ms. Dean, do you recall having lunch with John Rosenthal on
6 May 10, 1985? I'll show you what has been previously introduced
7 as your calendar page, Government's Exhibit 5G on that date.

8 A. Yes.

9 Q. Did you, in fact, have lunch with Mr. Rosenthal on that

10 date?

11 A. Yes, and he brought up the subject of Regent Street.

12 Q. Okay. Would you, without telling what Mr. Rosenthal said to
13 you, would you tell us, please, what you said to Mr. Rosenthal
14 during that luncheon conversation regarding Regent Street?

15 A. That I didn't believe there were any more -- I believe that
16 he had broached the subject of mod rehab or additional funding,
17 and I said I didn't think there would be any possibility of that
18 happening in 1985 from what I knew of the funding situation, that
19 maybe he ought to consider alternate, alternative ways of doing
20 the project.

21 It was 26 units, but it was actually an 80-unit
22 project, and it was a, it was a Philadelphia Housing Authority,
23 and it was a scattered site development. They wanted to do more
24 than what he had the units for. So in order to do all that they
25 wanted to do, he needed to have 26 additional units to complete

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1 the whole package, the whole area.

2 And I just told him I didn't, I didn't see how that was
3 going to happen, but I told him, you know, once again this spiel
4 about you first on the waiting list, get Congressional support,
5 make certain that the housing authority wants to do your project,
6 et cetera, you know, same general, you know, advice that you give
7 everyone that, that broaches you on the subject, and that he
8 ought to look into seeing if there was any sort of alternative
9 programs he might be able to use to do the same, same job.

10 Q. I'm going to show you what has been previously introduced as
11 Government's Exhibit 119 and ask you to take a quick look at that
12 before I request permission to publish it. It might be hard for
13 you to read on the screen.

14 A. Yes. This is a memorandum to me from Hunter Cushing, where
15 I tell him to prepare a response back to a letter that
16 Mr. Rosenthal had sent me about using Section 8 existing
17 certificates, as opposed to moderate rehabilitation.

18 Q. Who was Hunter Cushing?

19 A. Special assistant to the secretary for Housing.

20 Q. Would you read the first paragraph of that memo, please?

2 A. "Per your request, I have reviewed the letter from Pennrose
2 Properties concerning the use of Section 8 existing certificates
2 on a project specific basis in conjunction with moderate
2 rehabilitation funds."

2 Q. Did Mr. Cushing analyze this for you?

2642

1 A. Yes, he did, and said it wasn't possible to do.

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2 Q. Would you read the conclusion, please?

3 A. "While legally permissible to use Section 8 existing units
4 on a site specific basis, this precedent-setting action is not
5 advisable."

6 But I think that it was also not legally correct. I
7 think that was not permissible at that time.

8 Q. Did you continue to discuss Regent Street with Mr. Rosen-
9 thai?

10 A. Yes. It seems to me that he wrote me several letters.

11 Q. And did you respond to those letters?

12 A. Yes.

13 Q. Did Mr. Rosenthal ever succeed in getting Congressional
14 support for the Regent Street project?

15 A. Yes. I believe you've introduced letters from Senator Heinz
16 and Senator Specter on this project.

17 Q. And did Mr. Rosenthal ultimately receive the units?

18 A. Well, I'm going to assume so. I never knew that he did
19 until recently, but yes, I suppose he did. I mean, I know, I
20 have, I know it's been completed. The project was completed.

2 Q. Ms. Dean, directing your attention to Eastern Avenue, when

2 did you learn of Mr. Andrew Sankin's involvement in a project
2 called Eastern Avenue?

2 A. I believe that either I read it in the Inspector General's
2 report that came out in April of '89 or I read it in the

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1 newspaper. I don't remember which one came first.

2 Q. Okay. And when did you learn of Richard Shelby's interest
3 in Eastern Avenue?

4 A. Well, as I said this morning, that was the 88 units in
5 Prince George's County, and he came to my office and asked me
6 would I please help him secure the units for that project, and I
7 went and I told the secretary about it at that time, and I raised
8 it with him again when it came up from Mr. Demery on that list.

9 Q. Let me show you what I've marked for identification as Dean
10 Exhibits 255, -56, and -59. I ask you if you recognize these,
11 and would you describe each of them, please, without reading
12 them?

13 A. This is the application from the housing authority.

14 Q. With regard to what project?

15 A. Well, it's Prince George's County, Maryland, 88 units.

16 Q. Okay.

17 A. In Seat Pleasant, Maryland.

18 This is a, this is a memorandum -- okay, sorry. This
19 comes first.

20 Q. Which number?

2 A. Dean Exhibit 256 is a note from Mr. Cushing saying that,
2 wondering if there's a kind of funding for Eastern Avenue that's
2 not mod rehab, it's loan management set-aside, and then there
2 is -- which is another program -- and a memo from the person that
2 this memo is to back to Mr. Cushing discussing possible loan

1 management set-aside funds for the Eastern Avenue Apartments.

2 Q. For those three documents, is it in the regular course of
3 business for HUD to keep those documents?

4 A. Yes.

5 Q. And are those documents kept in the regular course of

6 business of HUD?

A. Yes.

8 Q. And do they appear to have been generated on or about the
9 date reflected on the document?

10 A. Yes, yes, and yes.

11 MR. WEHNER: Your Honor, I move the admission of Dean

12 Exhibits 256, 255, and 259.

13 MR. O'NEILL: Objection, Your Honor.

14 THE COURT: Okay. Let me see it then.

15 (Bench conference on the record.)

16 THE COURT: Okay. The objection is that?

17 MR. O'NEILL: She can say yes all she wants to to a

18 business record foundation, Your Honor, but does it appear to be

19 generated at or about that time, it's not a business record of

20 HUD. One, for the record, is a handwritten note, it appears,

21 from Hunter Cushing, I believe his signature is at the bottom.

22 It's on his letterhead.

23 THE COURT: Dated 10-16-86.

24 MR. O'NEILL: How would she know that's HUD business

25 records?

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MR. WEHNER: wait. The reason she knows it's a
2 business record is because it says on the upper left-hand corner

3 "United States Department of Housing and Urban Development."

4 THE COURT: Let me just go through these, please. The

5 other is October 23, 1986, 255. It's a formal typewritten thing

6 to Cushing from Finch, Deputy Director to the Office of Multi7

Family Housing.

8 And the third one is a letter to Mr. Demery as

9 Commissioner of Federal Housing Authority from the Director of

10 Department of Housing and Community Development, Prince George's

11 County.

12 I'll overrule the objection. I think they're all

13 identified and made in the course of business and received in

14 HUD. They are similar to other ones we have had.

15 MR. O'NEILL: Judge, it might save time, if you would

16 overrule them on those bases all along, I won't bother objecting.

17 THE COURT: I don't know each time what you're talking

18 about if you just say, "Objection." I haven't seen the exhibits.

19 I don't know what else you are objecting to or the basis each

20 time, whether it's the same basis or not.

21 MR. O'NEILL: The Department of Housing and Community

22 Development is not part of HUD.

23 THE COURT: Right, I understand that.

24 MR. O'NEILL: Okay.

25 THE COURT: But it's being received.

2646

1 MR. WEHNER: Thank you, Your Honor.

2 (End of bench conference.)

3 THE COURT: All right, 255, 256, and 259 are admitted.

4 (Defendant's Exhibits 255, 256, and 259

5 were received in evidence.)

6 BY MR. WEHNER:

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7 Q. Ms. Dean, I'm going to -- as opposed to publishing these,
8 I'm going to just set these in front of you, and would you please
9 explain from the exhibits what they mean with regard to the
10 Eastern Avenue project?
11 A. Mr. Cushing, who was then the deputy assistant secretary for
12 Multi-Family Housing, is concerned that someone apparently has
13 brought him the information that there are two projects that are
14 about to be assigned or have been assigned to HUD. That means
15 that they have defaulted on their mortgage and HUD is going to
16 have to start running the project itself, which is something that
17 we do attempt to avoid as much as possible.
18 One of the projects is Eastern Avenue, and the other
19 one is Benning Heights Apartments. And he would like to know if,
20 basically if somebody buys these, can we approve the assignment
2 by giving them loan management set-aside, which is a kind of
2 additional money onto the rent we already pay, and it's basically
2 to manage the loan, loan management, and it's a set-aside amount
2 of money, so it's called loan management set-aside. And he wants
2 a status report and an analysis.

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1 And then coming back from his staff is an analysis that
2 they fit the criteria for two different kinds of programs,
3 flexible subsidy and Section 8 loan management set-aside.
4 And then it goes on to discuss that there are problems
5 with doing both those kinds of things with these projects. There
6 are problems with the projects. And it says that no matter if
7 someone buys it or whether HUD takes it over or whatever, more
8 than likely given the problems with the, these two particular
9 projects, that HUD will have to increase the amount of Section 8
10 monies that are going to the, to the projects to fix them up.
11 There apparently are vacancy problems with both of these
12 projects.
13 And this is the, this is a letter from the director of
14 the Department of Housing and Community Development in Landover,
15 Maryland, to Mr. Demery requesting 88 units of moderate
16 rehabilitation for Seat Pleasant, Maryland, which is the
17 application that came in on Eastern Avenue Apartments, and it has
18 a courtesy copy to Israel Roizman.
19 Q. Do you know who Mr. Roizman is?
20 A. Yes, I do. Mr. Roizman is a consultant and a, he was a
21 personal friend of Mr. Demery's. I don't know what he has to do
22 with this project. But he was also one of the larger fundraisers
23 for Mr. Demery's charity and a subject of part of the I.G.
(Rectangle comment Administrator
12/13/2005 10:28:01 AM
blank)
24 report.
(Rectangle comment Administrator
12/13/2005 10:28:06 AM
blank)
25 Q. Directing your attention to the dates of those memos -

2648

A. Yes.
2 Q. -- would you have spoken to Mr. Shelby regarding Eastern
3 Avenue before those memos were written, or those documents were
4 written, I should say, or afterwards?
5 A. I would definitely have spoken to him before the letter came
6 in from the housing authority, because the letter from the
7 housing authority came in two days after the funding meeting,

8 where it was decided to fund it. And my educated guess would be
9 that when -10

Q. Not a guess, just your best recollection, please.

11 A. I don't have a recollection, but -12

Q. Okay. Do you recall that Eastern Avenue was finally funded
13 on April 7?

14 A. Well, I know that as a result of reading, I know that 88
15 units went to Seat -- went to Prince George's County, and I know
16 from reading the I.G. report that it did not go to Eastern Avenue
17 Apartments. They were not the successful applicant.

18 Q. Did you ever attempt or take any steps to encourage or
19 direct or help the State of Maryland to choose the Eastern Avenue
20 project?

21 A. Oh, no, no. I was in that funding meeting. I had a meeting
22 with Mr. Shelby. I spoke to Secretary Pierce about Mr. Shelby's
23 relationship with, with me twice, and that is the extent of it,
24 and I don't know anything about any of the rest of this.

25 Q. What about with the housing authority?

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1 A. I've never -- I do not know Ms. Given, who is the director.

2 I've never spoken to her. I've never met her.

3 Q. Did you ever have a discussion with Mr. Shelby as to why
4 that project was not ultimately funded?

5 A. No.

6 Q. Ms. Dean, with regard to any of the projects you've
7 discussed, did you take any action to cause them to be funded?

8 A. I don't know, which projects are you talking about?

9 Q. The projects that we've discussed today.

10 A. Necho Allen? Well, I did get the recommendation from the
11 staff, and I did discuss it with Secretary Pierce.

12 On Regent Street, I did meet with Mr. Rosenthal, and --

13 although I never knew that the units actually ended up going to
14 Regent Street, I, I did meet with him and tell him how to go
15 about the process, and I did discuss my meetings with Mr. Rosen-
16 thal with Secretary Pierce. I mean, I discussed any meeting I
17 ever had with anybody like that with Secretary Pierce if it was
18 going to end up on a list.

19 South Florida I, I didn't do anything on South

20 Florida I at all. Arama, I didn't do anything to have it funded.

21 I just sent that note.

22 Am I missing any?

23 Q. Those are the ones we discussed.

24 Now directing your attention to the Alameda Towers

25 project, you testified last week, I believe, that approximately

600 units had been sent to Puerto Rico.

2 A. Right.

3 Q. And that is the Alameda Towers project, connected with the
4 Alameda Towers project?

5 A. Well, half of it ended up being the Alameda Towers project,
6 and I didn't do anything to help fund that one, either.

7 Q. Let me show you what's been marked for identification as
8 Dean Exhibit 624 and ask you if that is the funding document for
9 the Puerto Rico Housing Finance Corporation?

10 A. Yes. This was the original funding of the 610 units that

11 went to Puerto Rico.

12 Q. In January of 1984?

13 A. In June --

14 Q. I'm sorry.

15 A. -- of 1984.

16 MR. WEHNER: June of 1984, thank you.

17 Your Honor, I move the admission of Dean Exhibit 624.

18 MR. O'NEILL: No objection, Your Honor.

19 THE COURT: All right, 624 is admitted.

20 (Defendant's Exhibit No. 624 was

21 received in evidence.)

22 BY MR. WEHNER:

23 Q. Ms. Dean, where did you get this document?

24 A. I made a FOIA request from HUD, Freedom of Information Act

25 request from HUD.

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1 Q. And was it produced to you?

2 A. Yes. I Freedom of Information Act all the rapid replies and
3 the 185s from HUD years ago.

4 Q. Were you the executive assistant when that 185 was signed?

5 A. I'd been appointed to the position in -- yes. I was
6 technically not able to call myself executive assistant until the
7 white House had cleared me for the position, and that didn't
8 happen until the 24th of June, but I believe it was the 4th or
9 the 6th of June that Mr. Wilson was no longer there and I was

10 sitting in the office.

11 Q. Were you aware of that project at the time it was funded?

12 A. No. As a matter of fact, I'm very surprised, because as I
13 said, I learned of the Puerto Rico project, the 610 units going
14 down by Mr. Richards coming in to see me, to tell me that he had
15 problems with it, and I had no idea that this actually had been
16 funded after I was there already in that office.

17 But these things take a while, so certainly the
18 decision was made before I became executive assistant.

19 Q. Ms. Dean, I'm going to show you what I've marked for
20 identification as Dean Exhibits 519 and 623, 519 being written
21 purportedly to a Mr. Pietrantonio and 623 being written to
22 Mr. Eugenio Prado.

23 A. Urn-hum.

24 Q. Now are those identical letters except for the addressee?

25 A. And the signature.

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1 Q. And how did the signature -- what is the signature on Dean

2 Exhibit 519?

A. And the date.

4 Q. What is the date and the signature on Dean Exhibit 519?

5 A. This is the, this is the Autopen for the secretary, and this
6 is the secretary's signature. And if you remember the other day,
7 I told you it bumped and it sort of made a star in the middle of

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8 the "a." That's how I can tell that's an Autopen.
9 Q. Which one was the Autopen signature?
10 A. This one.

11 Q. Which number?

12 A. Dean Exhibit 519.

13 Q. And which one was the personal Samuel R. Pierce signature?

14 A. Dean Exhibit 623.

15 MR. WEHNER: With the Court's permission, I'll move for

16 the admission of Dean Exhibits 519 and 623.

17 MR. O'NEILL: No objection, Your Honor.

18 THE COURT: All right, 519 and 623 are admitted.

19 (Defendant's Exhibit Nos. 519 and 623

20 were received in evidence.)

2 BY MR. WEHNER:

2 Q. Ms. Dean, I'm going to put Dean Exhibit 519 on. And which

2 signature is this?

2 A. That's the Autopen.

2 Q. And how can you tell that's the Autopen?

1 A. Because of the star in the middle of the "a." There was a
2 skip in the machine, and it pushed the "S" into the "a," and it
3 made that sort of star shape.

4 Q. Do I have a pencil resting on the star --

5 A. Yes.

6 Q. -- for purposes of the record?

7 A. Yes.

8 Q. And 623?

9 A. That is his signature.

10 Q. With no star?

11 A. That's correct. And that one was dated the day before,
12 which is why I knew it was all right to Autopen the one the day
13 after since it's the identical letter.

14 I believe I discussed that letter earlier. It was the
15 one that I drafted for the secretary that said they had to
16 advertise the 610 units competitively.

17 Q. Now this is an original signature of Secretary Pierce?

18 A. Yes, sir.

19 Q. Would you read the first sentence of the second paragraph,
20 please?

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21 A. "As you know, HUD does not allocate Section 8 moderate
22 rehabilitation funds on a project specific basis. HUD honored
23 your request for 610 units and 284 units of Section 8 moderate
24 rehabilitation funds because of the demonstrated need for
25 additional safe and decent affordable housing in Puerto Rico.

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1 Your letters dated September 16, 1983, and May 8, 1984, indicated
2 your endorsement and selection of the --" Mr. Wehner, you're --
3 Q. Excuse me.
4 A. "... and selection of the specific properties identified
5 therein. Because of those requests of September 16, 1983, and
6 May 8, 1984, we subsequently allocated 894 units to you."
7 MR. WEHNER: I'm sorry, Your Honor, I didn't realize
8 you were still looking at that.
9 THE COURT: That's all right.

10 All right, thank you.
11 THE WITNESS: And I stated before this was at a time
12 when there was a proposed lawsuit, and we were, you know,
13 attempting to tell Puerto Rico they had to go by the rules and
14 regulations.
15 BY MR. WEHNER:
16 Q. Okay. I believe we've covered fairly specifically before
17 the situation with units in Puerto Rico.
18 A. Yes, I think so.
19 Q. Okay. Now directing your attention to Mr. Sankin again --
20 A. Yes.
21 Q. -- would you tell us please what you said to Mr. Sankin with

2 regard to units in Puerto Rico?
2 A. Well, I -- the only conversation that I can remember having
2 with Andrew Sankin about mod rehab at all was that I did not want
2 to, I did not encourage him to become a consultant, because I

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1 didn't know what he knew about anything to consult with somebody
2 about, and I thought that he should get a job working for
3 somebody who was a consultant, and maybe in a couple of years
4 he'd know something that he could actually consult about.
5 But I didn't understand -- I tried to explain to him
6 you just don't walk in the door and become a consultant. So I
7 was, I did not encourage him.
8 He seemed to be aware of the situation in Puerto Rico,
9 and I believe I had a brief conversation with him about it, but
10 it certainly wasn't in any way -I
11 did not tell him, "You should
12 do something in Puerto Rico." I said, "You should get a job
13 working for somebody."
14 I did, however, have conversations with other people
15 about Puerto Rico.
16 Q. who did you talk to regarding Puerto Rico?
17 A. well, I talked -- well, when the secretary first decided
18 that we should not allow the 300 units that were not going to be
19 used to be taken back to the treasury, I called Lance Wilson, my
20 predecessor, because I really didn't know anybody in the
21 business, and I asked him for some names. He suggested that I
22 call Mr. Monticciolo, which of course, was the appropriate thing

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22 to do, and I hadn't thought to do that, and I called
23 Mr. Monticciolo, who was our regional administrator, and I said,
24 "We need to encourage people to work with the housing
25 authorities, work in Puerto Rico, find somebody to use these 300

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units."

2 And there were some legal problems that had to be
3 worked out about separating the 600 units and sending them
4 from -splitting
5 off whether they went to San Juan or a
6 different housing authority. Mr. Monticciolo had some things he
7 had to work out with Ms. Hale, who was then the assistant
8 secretary, et cetera.
9 And I spoke to a lot of people about the fact that
10 there were these units down there and that if they could find a
11 project that would be good and use the units, that they should do
12 it.
13 Q. why did you speak to a lot of people about the units in
14 Puerto Rico?
15 MR. O'NEILL: Objection. Asked and answered.
16 THE COURT: I'll allow it again. Go ahead.
17 THE WITNESS: Because Secretary Pierce did not want
18 those units to be taken back and made of no use. We wanted to
19 get the, we wanted to get people into housing, and we were not
20 allowed to bring the units back from Puerto Rico. It had to be
21 done there. So I was trying to encourage people to, to find
22 buildings that would be suitable and find a housing authority
23 that could work within the 300 limit.
24 BY MR. WEHNER:
25 Q. Let me show you what's previously been introduced as
Government's Exhibit 5L and ask you if that reflects a meeting

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with Tom Broussard?

2 A. Yes, on Thursday, October 3 of 1985. And I definitely
3 remember telling Mr. Broussard about these units in Puerto Rico.
4 Q. Do you recall how you came to have lunch with Mr. Broussard?
5 A. Yes. It wasn't about the Puerto Rico units. He was a
6 friend of my predecessor, Mr. Wilson, and I know that Mr. Wilson
7 had asked me to be nice to Mr. Broussard if he ever called or if
8 he ever wanted to meet with me, to please do it, and I said all
9 right.
10 It was sort of a "get acquainted" meeting, like,
11 "Hello, I'm Deborah Dean."
12 "I'm Mr. Broussard."
13 And at that time, he said that -- I think he did a lot
14 of work with elderly and handicapped housing. He was a
15 consultant for that.
16 And I told him about the units in Puerto Rico and that
17 we were looking for someone to develop them.
18 Q. Did -
19 was Mr. Broussard one of the individuals that you had
20 mentioned to Mr. Sankin as someone he might work for?
21 A. I don't think so, but I don't -- I don't think I knew
22 Mr. Broussard to mention it to Mr. Sankin at that time. I know
23 that I did give him the name of Richard Shelby, I do know I did
24 that, and a couple of other people, but I, I can't remember who
25 they were at the time.
26 THE COURT: Is this the same area or a different area?

MR. WEHNER: Pardon me?

THE COURT: Is this the same area or a different area?

3 MR. WEHNER: Same area, but I can, it's fine to break
4 now if Your Honor chooses.

5 THE COURT: All right. Let's take an afternoon break,
6 Ladies and Gentlemen. We're going to be recessing this
7 afternoon, Ladies and Gentlemen, about 4:20 because of other
8 matters, so we'll take a break now for about 15 minutes and then
9 be back until 4:20, and then we're going to have to recess for
10 the evening.

11 Remember the admonition during the break, please.

12 Don't discuss the case among yourselves or with anyone else,
13 please.

14 (Jury out.)

15 THE COURT: All right, take 15 minutes.

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2659

1 (Recess 3:08 p.m. to 3:30 p.m.)

2 THE COURT: Are we ready? Any preliminary
3 matters, or are we ready to go?

4 MR. WEHNER: There's one, Your Honor. An
5 evidentiary matter.

6 Your Honor, there are four handwritten notes
7 that I had identified and authenticated by Mr. Sankin
8 during his cross-examination and I would intend to move
9 those into evidence now. Mr. O'Neill has indicated an

10 objection to that. They are marked as Dean Exhibits
11 315 - I'm sorry, Judge, 314, 315, 317 and 127.

12 THE COURT: What kind of notes are these?

13 MR. WEHNER: They're handwritten notes, Judge,
14 of Mr. Sankin's dealings with Puerto Rico and the Puerto
15 Rican project, and they are corroborative of two
16 aspects. One is the information that Miss Dean says she
17 provided to Mr. Sankin in terms of what his thoughts
18 were in terms of responding to her discussion, and
19 secondly, it is corroborative of the defense theory
20 regarding Mr. Sankin's dealings with Mr. DeBartolomeis
2 with specific reference to Dean Exhibit 127. It has a
2 reference to Silvio, Dean, Gustafson, Tom Broussard and
2 150 units.

2 THE COURT: Are those from himself or his
2 files or are they letters to somebody?

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1 MR. WEHNER: Judge, I'll hand them up to the
2 Court.
3 THE COURT: I'm looking at my notes of the
4 examination of Mr. Sankin. You identified 127.
5 MR. WEHNER: They are notes -- his own
6 personal notes I guess would be the way to describe
7 them.
8 THE COURT: You had all these identified by
9 him?
10 MR. WEHNER: That's my recollection, Your
11 Honor.
12 THE COURT: I see 127 in my notes. I don't
13 see the others discussed by him. I see some other
14 numbers. Maybe they were under some other notes. Do
15 you have them identified?
16 THE DEPUTY CLERK: I only have 127 as being
17 identified on September the 23rd.
18 THE COURT: Right. I have 128, 129, 130,
19 131.
20 The objection, Mr. O'Neill, was that these are
2 not identified or --
2 MR. O'NEILL: Hearsay, Judge.
2 THE COURT: Do you have any recollection that
2 these were identified?
2 MR. O'NEILL: No, Your Honor, I truthfully

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1 don't know one way or the other.
2 THE COURT: All right. I have 127 he
3 definitely discussed here in his testimony. I don't see
4 the three identified. I see 127 identified, what it
5 says, but then he said it wasn't reflective of a
6 discussion he had with DeBartolomeis. I'll sustain the
7 objection at this time. I don't see any grounds for
8 offering them. I don't see them identified except as to
9 the first one by Mr. Sankin that he said it's his
10 notes. Just because he identified them, that doesn't
11 make them admissible. It was used to impeach him
12 basically.
13 MR. WEHNER: Judge, the reason it's
14 admissible -- I was only referring of course to
15 Mr. Sankin for authentication purposes. The reason it's
16 admissible is because it's a prior inconsistent
17 statement by a witness in his own handwriting.
18 THE COURT: well, I think they can be used to
19 impeach him, but I don't think it makes them
20 admissible. I'll sustain the objection.
21 MR. WEHNER: Very well, Your Honor. That was
22 the one issue.
23 I guess there's one other one.
24 Your Honor, I have retrieved the cover page to
25 the job description for Executive Assistant to the

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1 Secretary and I've shown it to Mr. O'Neill and I believe
2 he agrees that with that conditional acceptance it can
3 be --
4 believe he withdraws his objection. I represent
5 to the Court that --
6 THE COURT: All right, what is shown to the
7 Court is a cover page of a position description on the
8 Office of the Secretary, of the Executive Assistant to

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8 the Secretary, Deborah Dean's name filled in, and signed
9 apparently by Mr. Pierce. And it's Agency position
10 number 99333-2 and then attached to that the Executive
11 Assistant to the Secretary's job description. All
12 right. with no other objection to it that will be
13 admitted.
14 That was, Gloria, what exhibit number?
15 THE DEPUTY CLERK: I think it's 785.
16 THE COURT: Yes, 785.
17 THE DEPUTY CLERK: Okay.
18 (Defendant's Exhibit 785 received
19 into Evidence)
20 MR. WEHNER: With the Court's permission,
2 could we substitute the one the Court just reviewed?
2 THE COURT: All right.
2 All right. You can bring the jury in.
2 (Jury present)
2 THE COURT: All right. we'll resume with the

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1 testimony at this time, please.
2 BY MR. WEHNER:
3 Q Now, Miss Dean, with regard to Alameda Towers, I
4 want to show you what I've marked for identification as
5 Dean Exhibit 862 and 625, Exhibit 862 purporting to be a
6 letter on United States Senate stationery written to
7 Maurice L. Barksdale with regard to Alameda Towers and
8 signed by Paul Tribble, T-r-i-b-l-e, as well as Dean
9 Exhibit 625, which is - which appears to be a response
10 to Senator Tribble to his letter of October 5th.
11 A Yes.
12 Q And ask you if those are what I've - what they
13 purport to be?
14 A Yes.
15 MR. WEHNER: Your Honor, I move the admission
16 of Dean Exhibits 862 and 625.
17 MR. O'NEILL: No objection to the HUD
18 document, Your Honor, but an objection to the Senatorial
19 one.
20 THE COURT: Right, the Senator's letter. All
2 right. I'll allow them. Go ahead.
2 (Defendant's Exhibits 862 and 625
2 received into Evidence)
2 BY MR. WEHNER:
2 Q Now, Miss Dean, was Alameda Towers funded?

1 A Yes.
2 Q when?
3 A In 1984.
4 Q Did you have anything to do with the funding?
5 A No.
6 Q What was your position at the time?
7 A I was a Special Assistant to the Secretary,
8 awaiting to be given permission to then take the title
9 of Executive Assistant to the Secretary, but I was
10 sitting in the Office of the Executive Assistant to the
11 Secretary.
12 Q what interest did you have in seeing that this
13 Alameda Towers project was awarded?
14 A well, I mean I wanted to see anyone use the 300
15 units so that they wouldn't be recaptured and I wanted
16 what Secretary Pierce wanted and what he told me to do,

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17 find someone to use them.
18 MR. WEHNER: Dean Exhibit 862, with the
19 Court's permission, I'm going to exhibit that to the
20 jury.
2 THE COURT: All right.
2 BY MR. WEHNER:
2 Q Miss Dean, would you read that, please?
2 A "Dear Maurice: Eduardo Lopez-Ballori, Alameda
2 Associates recently contacted me regarding an

2665

1 application for Alameda Towers in Puerto Rico which is
2 being considered at the Department of Housing and Urban
3 Development for rehab units.
4 I would appreciate your giving this applicant
5 every appropriate and fair consideration.
6 Please advise me when a decision has been
7 made.
8 Paul Tribble."
9 Q Who is Paul Tribble?
10 A He's a Senator from Virginia.
11 Q Do you know why the Senator from Virginia was
12 writing with regard to an allocation of Mod Rehab units
13 to Puerto Rico?
14 A Not specifically, but this sort of thing was not
15 unusual.
16 Q I direct your attention to Dean Exhibit 625 and
17 without reading it, reading it totally, what does the
18 letter reflect?
19 A The last paragraph -I
think from - I read it
20 earlier and it basically says there are no -I
believe
2 it's this year funds, but it says "it might be of
2 interest to Mr. Lopez-Ballori to know that during fiscal
2 year 1984 HUD did provide moderate rehabilitation funds
2 for approximately 610 units to Puerto Rico Housing
2 Finance Corporation. We suggest that Mr. Lopez-Ballori

2666

1 contact the Housing Finance Corporation to learn more
2 about the availability of these funds," and Mr. Ballori
3 was eventually Mr. Cleofe Rubi's, I think that's the man
4 who was here, Mr. Rubi's partner, and Alameda was
5 successful.
6 Q Now, at the bottom of this exhibit are one, two,
7 three, four, five, six, seven, eight, nine, ten boxes?
8 A Right.

9 Q Do those boxes have any significance?

10 A Yes, those are the concurrence chain for the letter
11 and I believe it starts out with Bell, then Shean,
12 Hastings, Hammernick, DeBartolomeis, and then it goes
13 right on around but I can't see it on the screen, HCB is
14 Hunter Bourne, SM is Stephen May, who was the Assistant
15 Secretary for Legislation. Shirley Wiseman is the SW
16 there. DK, I don't know who that is.

17 Q In the regular course of business, are these
18 signature blocks initialed prior to the letter being
19 sent?

20 A Well, the person who writes the letter sends it to
2 their boss who sends it to their boss who sends it to

2 their boss and as it goes up the chain they sign their
2 initials and they put the date that they reviewed the
2 letter for its accuracy.

2 Q Is it fair to say that each individual who has

2667

1 initialed this saw the letter before handing it to the
2 Secretary?

3 A I believe that was signed by the Assistant
4 Secretary.

5 Q Sorry. Signed by the Assistant Secretary.

6 A Yes, that's the custom, that's the policy,
7 procedure.

8 Q Now, Miss Dean, you previously -- you testified
9 over the last four or five days with regard to your

10 duties as Executive Assistant to Secretary Pierce.

11 A Yes.

12 Q And I'm going to show you what I've marked and
13 what's been admitted into evidence as Dean Exhibit 785
14 and ask you if you recognize that as the job description
15 for Executive Assistant?

16 A This is what you showed me earlier and I reviewed
17 it per your instructions and said that it was an
18 accurate reflection of what the position entailed.

19 MR. WEHNER: with the Court's permission, I'm
20 going to exhibit this.

2 THE COURT: All right.

2 BY MR. WEHNER:

2 Q Miss Dean, would you read down to where I have the
2 pencil? I'll just put a check mark.

2 A Stop there? "The incumbent of this position reports

2668

1 directly to the Secretary of Housing and Urban

2 Development, who has responsibility for directing a

3 great variety and number of nationwide housing and

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4 community development programs. With this wide scope of
5 responsibility, it is impossible for the Secretary to
6 give individual attention and time to all matters which
7 deserve his personal attention. It is incumbent upon
8 this personal assistant to undertake on his behalf a

9 great variety of responsible assignments, frequently
10 crossing functional and organizational lines, dealing
11 with issues and program concerns throughout the
12 Department."

13 Q Would you read paragraph three, please?

14 A "As requested by the Secretary, or acting upon his
15 or her own judgment, assembles and digests all available
16 information on various issues relating to HUD policies
17 or specific actions on matters within his or her
18 purview. Makes presentations to the Secretary, together
19 with the views and reactions of interested Departmental
20 staff, and his or her own evaluations and
2 recommendations."

2 Q And that is under duties and responsibilities, is
2 it not?

2 A Yes.

2 Q Would you read paragraph number eight, please?

2669

1 A "Serves as the Secretary's personal representative
2 and spokesperson in meetings within and outside the
3 Department, as in, with the White House staff, members
4 of Congress, Federal, State and local officials, public
5 and private interest groups, et cetera. In this
6 capacity, presents the Secretary's personal views and
7 serves as the Department's advocate of its programs
8 policies, et cetera. As requested, provides staff

9 support to the Secretary on special committees at which
10 he or she is a member, as in the Domestic Council and

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11 the Economic Policy Group, et cetera."
12 Q Number ten?
13 A Can you bring it down?
14 Q Sorry.
15 A "Review incoming and outgoing correspondence for the
16 Secretary relating to policy issues of particular
17 interest to the Secretary; discusses substantive content
18 on behalf of the Secretary with appropriate HUD
19 officials and may authorize affixing the Secretary's
20 signature to such correspondence. Conduct or prepares
2 interagency and other outgoing correspondence for the

2 Secretary with responsibility for assuring timely
2 response to incoming inquiries and correspondence
2 regarding such matters."

2 Q And, finally, under supervision and guidance.

2670

1 A "The incumbent reports directly to the Secretary who
2 provides broad policy guidance. The incumbent is
3 expected to act independently with little supervision.
4 Performance is evaluated in term of results achieved."

5 Q Thank you.

6 Now, Miss Dean, was this your job description
7 at the time you became Executive Assistant to
8 Secretary Pierce?

9 A I'd say that's a little broad, but it - it
10 accurately reflects, I think, what the Executive
11 Assistant to the Secretary was supposed to be.

12 Q And throughout all of the projects that we've
13 discussed, all the matters we've discussed over the past
14 four days, did you act consistently with that
15 description?

16 A I believe I acted a little less independently
17 than - than that says, because it was a discretionary
18 program and those were his decisions to make, and so I
19 did not act independently but I think that I attempted
20 to use my judgment as best I could and to report to him.

2 Q You have mentioned on several occasions in your
2 testimony an individual by the name of Lance Wilson.

2 A Yes.

2 Q Is Mr. Wilson present in the Court?

2 A Yes, he is.

2671

1 Q Would you point him out to the members of the jury?

2 A He's in the second row in the back with his hand
3 up.

4 Q Miss Dean, there's been testimony regarding a
5 payment of a bill for a birthday party.

6 A Yes.

7 Q Directing your attention to that, would you please
8 tell us, as accurately as you can recall, how that came
9 about?

10 A Yes. Some friends of mine at the Department got
11 together, and I don't know the whole -- the whole group,
12 but I know that there were two individuals in particular
13 who got together and decided that I had been going
14 through my confirmation hearings and Senator Proxmire
15 was being very rough with me and that I was going

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16 through a bad time and they wanted to cheer me up.
17 So they put together a surprise birthday party
18 for me and they invited a lot of people in the industry
19 and around town and friends and -- it was a very
20 eclectic group of people, I remember. Actually a very
21 fun party. It was a good group of people.
22 And I was -- I got to the place where the
23 party was held and surprise, you know, and there were
24 all manner of different kinds of people there, including
25 some people who I guess you might term consultants.

2672

1 There were political people there and ex-HUD officials
2 and all sorts of people, plus people that I had worked
3 with privately and before HUD, and family members and
4 all sorts of different things.
5 The next thing that I heard about the party
6 was a telephone call that I received from -- I believe
7 the first phone call I received was from Mr. Mitchell
8 and he told me that the -- that Senator Proxmire's
9 investigator had arrived at the club where the party was
10 held with a subpoena and wanted the bill and the guest
11 list and that in order to stop any problem with this he
12 had taken a check over and paid for the birthday party.
13 And that my mother was then going to reimburse him for
14 that.
15 And I remember at the time asking him a lot of
16 questions about, well, who was going to pay for the
17 party and what is -- and he said you don't want to know,
18 and he said it's not your fault, you didn't know about
19 it. But heaven only knows what they could make of it.
20 And your mother and I have just decided to put an end to
21 it right here. And then I only was able to pick up bits

2 and pieces of it from Abbie Wiest, who was a friend of
2 mine who had helped put the party together, and another
2 friend of mine who was out of the Department,
2 Linda Murphy, who had helped put the party together, but

2673

1 they -- they felt that in their own best interests it
2 was best not to tell me too much, and they didn't.
3 And it was just -- that's really all I know

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4 about it. It was a surprise party. And I don't know
5 why it was of interest to Senator Proxmire and I don't
6 understand what could have been wrong with it but I know
7 that my mother and Mr. Mitchell decided not to put me in
8 that sort of spotlight and to try and fix it. And
9 that's how that came about. They never intended to have
10 a very expensive party for me. I know that.
11 Q Now, Miss Dean, you testified it was a surprise
12 party.
13 A Yes.
14 Q Explain what your - at that point in time what a
15 surprise party meant in terms of your position as
16 Executive Assistant?
17 A Well, I mean it was a surprise party in that I did
18 not know I was going to have a birthday party and I did
19 not know where it was going to be. However, at the same
20 time, somebody had thrown me a surprise birthday party
2 every year for three or four years so I wasn't
2 hysterically surprised that I had a surprise party, but
2 I didn't know I was going to have a party either.
2 So -I
knew I had one the year before and I
2 had one the year before that.

2674

1 Q And you characterize all of them as surprise
2 parties?
3 A Well, you try to.
4 Q Now, Miss Dean, you testified to your relationship
5 with John Mitchell.
6 A Yes.
7 Q Do you recall when Mr. Mitchell passed away?
8 A Yes, he passed away November 7th, I believe, of
9 1988.
10 Q And did you receive any funds, dollars, or anything
11 of value from his estate?
12 A No. His daughter inherited his estate and to the
13 best of my knowledge there was no estate to inherit.
14 Q Did you have occasion to fund any expenses arising
15 out of his death?
16 A Yes, I paid for his funeral. My mother and I paid
17 for his funeral.
18 Q Do you recall approximately how much that was?
19 A No, I don't but I do remember that it was all the
20 money that -it
was more money than my mother had in
2 the bank, it was more money than I had in the bank, and
2 I did take some money from the Stanley Arms Apartment
2 account and transferred that to myself to help pay for
2 the funeral expenses. It was expensive.
2 MR. WEHNER: Your Honor, could we break for

2675

1 the afternoon at this point?
2 THE COURT: Let me see counsel at the bench
3 for a minute, please.
4 (Bench conference)
5 THE COURT: What's left?
6 MR. WEHNER: One other project.
7 THE COURT: That's to play the tape?
8 MR. WEHNER: Well, there's one other, Park
9 Towers I need to do, Park Towers project. We'll do that

10 and play the tape and that's it.
11 THE COURT: So you'd finish that in the
12 morning. The tape * sabout an hour and 15 minutes?
13 MR. WEHNER: If Mr. O'Neill trusts me I'll
14 take the tape home tonight and try to cut it back,
15 because I don't have a copy of it. He's got the
16 original •
17 MR. O'NEILL : It's our tape. Well, it's not
18 even our tape ___
19 THE COURT: I understand. It came from the
20 Court reporter that was there at the hearings. But I'm
2 a little leery that you can make a copy of it and play a
2 copy.
2 MR. O'NEILL : We didn't want to make a copy
2 for the reason that if we screwed it up then -
2 MS. SWEENEY : It's an old tape.

2676

1 MR. WEHNER: Could you sit with me for ten
2 minutes and maybe I can cut it back?
3 MR. O'NEILL: I don't think that will work.
4 Somebody told me it's a hour, maybe an hour and a half.
5 I don't think so. You'd have to listen to the whole
6 thing. Can you listen to it here?
7 Under completeness, if Steve cuts out half we
8 might want that played anyway.
9 MR. WEHNER: I'll agree to play the whole
10 thing, if it applies. I mean I've never heard it.
11 MR. O'NEILL: Just so Your Honor knows, I
12 heard the first five minutes for the swearing in, just
13 to check that part out, and that was quite audible but
14 it is a -15
15 THE COURT: You'd better listen to the whole
16 thing instead of getting in the middle of it and playing
17 it and finding out whether there's problems. Maybe you
18 can sit here this evening.
19 MR. O'NEILL: You can have it. We have no
20 objection to that.
2 MR. WEHNER: Can I have it?
2 MR. O'NEILL: Oh, sure, we have no objection.
2 THE COURT: Then it's on his shoulders.
2 MR. O'NEILL: That's right, that's right.
2 THE COURT: All right.

2677

1 MR. WEHNER: And then there's one witness,
2 Michael Dorsey, J. Michael Dorsey.
3 THE COURT: The General Counsel.
4 MR. WEHNER: And he was a participant in the,
5 I believe, April 7th funding in which the Florida Park
6 Towers project was funded in. He's a brief witness.
7 THE COURT: And that will be it.
8 MR. WEHNER: I think so, Judge. We've been
9 trying to get Carolyn Jordan. I mentioned it to the

10 Court before. But the Senate doesn't want her to
11 testify. Even though she doesn't work there anymore
12 they're trying to convince her not to testify. She
13 doesn't really want to testify and I am in no position

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14 to call her as a nonfriendly witness. I'm trying to
15 convince her that she should testify.
16 THE COURT: Is your cross as a matter of fact
17 a day, or not that much? I realize we've gone four
18 days. I don't want to limit you.
19 MR. O'NEILL: I understand. It's definitely a
20 half a day. I don't like to cross forever, but there
2 are obviously a lot of things that were covered. I
2 would hope if Steve finishes at lunchtime that I
2 wouldn't go long, into the next day at most.
2 THE COURT: Wednesday, and then maybe we've
2 got Thursday with Mr. Dorsey and then any rebuttal

2678

1 people.

2 MR. O'NEILL: Perhaps, on reputation.

3 THE COURT: So maybe then depending on the

4 schedule we could look at instructions on Friday,

5 perhaps, and go to the jury Monday? Depending where we

6 are in the case at that time. At least you have a

7 weekend to get ready for the closing arguments, Monday

8 for the closing arguments. The instructions I will look

9 at today. I got them in Friday. I asked for a disc.

10 MS. SWEENEY: Yes, Your Honor, I think the
11 disc is here and I'll bring it into chambers.

12 The other thing I said to your Clerk, Your
13 Honor, is that we cleaned up a few typos, and so I have
14 another printed-out copy that I'll give to Mr. Wehner
15 and also to Your Honor.

16 THE COURT: Tomorrow morning, Gloria?

17 THE DEPUTY CLERK: Nothing.

18 THE COURT: Okay. All right. Then we'll be
19 back tomorrow morning at 9:30 and we'll try to finish up
20 Miss Dean tomorrow then.

2 MR. O'NEILL: Yes, Judge.

2 (Bench conference concluded)

2 THE COURT: All right. Ladies and gentlemen,
2 I was reviewing timing with counsel on the witnesses
2 that remain and where we are. I think we'll finish the

2679

1 testimonial, that is the evidentiary side of this case
 2 by the end of the week and will probably present the
 3 case to you for decisional purposes after you have the
 4 closing arguments and my instructions on the law that
 5 you'll follow in your deliberations early Monday, it
 6 could be Tuesday, depending on when I get my work done.
 7 We may not be sitting in this case for testimony
 8 purposes on Friday.
 9 All right. Have a good evening. we'll see
 10 you back tomorrow morning at 9:30. I have nothing else

1 scheduled early in the morning, so we'll be ready to go
 1 then.
 1 Remember the admonition about not talking
 1 about the case or reading or watching or listening to it
 1 in the media, please
 1 (Jury dismissed)
 1 THE COURT: All right, 9:30
 1 (Proceedings recessed at 4:07 p.m. to resume
 1 October 13, 1993 at 9:30 a.m.)

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CERTIFICATE OF OFFICIAL REPORTERS

It is certified by the undersigned Official Court Reporters of the United States District Court for the District of Columbia that the foregoing is the official record of the proceedings indicated.

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ORIGINAL

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1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF COLUMBIA

3 UNITED STATES OF AMERICA,

4 -VERSUS-DOCKET NO.
CRIMINAL NO 92-181
5 DEBORAH GORE DEAN,
WASHINGTON, D.C.
6 DEFENDANT OCTOBER 13, 1993

9:40 A.M.
7
FILED

8 VOLUME XXI

9 TRANSCRIPT OF TRIAL BEFORE OCI 1 «

THE HONORABLE THOMAS F. HOGAN,

10 RK .

UNITED STATES DISTRICT JUDGE, CLERK U.S.
AND A JURY. DISTRICT OF COLUMBIA

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1

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FOR THE DEFENDANT

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COURT REPORTERS:

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3RD & CONSTITUTION AVE., N.W.
WASHINGTON, D.C. 20001
PAGES 2681-2777
(COMPUTER-AIDED TRANSCRIPTION OF STENOGRAPHIC NOTES)

1
2 WITNESSES:
3 D. DEAN
4 EXHIBITS:
5 FOR THE DEFT,
6 277
7 278
8 30,31
9 397,398
10 576
1 633
1 788
1 575
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1 PROCEEDING S
2 THE DEPUTY CLERK: Criminal Number 92-181,
3 United States of America versus Deborah Gore Dean. We
4 have Robert O'Neill and Paula Sweeney for the
5 Government. Stephen Wehner for Miss Dean.
6 THE COURT: All right. Good morning,
7 counsel. All the jurors showed up today. I think we're
8 ready to go. Miss Dean is ready?
9 MR. WEHNER: Yes, Your Honor. She is in the
10 ladies room.
11 THE COURT: Do you want to do the tape
12 recording first or later?
13 MR. WEHNER: I think we'll do it later, Judge,
14 with the Court's permission.
15 There's one other matter I'd like to bring to
16 the Court's attention and I don't think it's necessary
17 to bring this in front of the jury. It's just a waste
18 of time to bring it in front of the jury. It would be
19 to move in several exhibits that have been discussed and
20 identified and not moved into evidence and if the Court
2 wants to do that at sometime convenient to the Court as
2 opposed to having the jury present, I don't object to
2 that.
2 THE COURT: All right. we'll take it up at
2 recess.

2684

1 MR. WEHNER: Yes, sir. Other than that, I

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2 listened to the tape last night. It's incredibly

3 audible for an old tape recording. It really is.

4 Better than any tape I've ever heard. I think we can

5 make it out very well just on that little clock radio.

6 THE COURT: All right. If we're ready to go,

7 Miss Dean?

8 MR. WEHNER: Can we approach real quick?

9 THE COURT: Yes.

10 (Bench conference)

11 MR. WEHNER: Miss Dean just told me she
12 wasn't feeling well.

13 THE COURT: All right. I'll be watching her.

14 Ask for a break and I'll give you a break.

15 MR. WEHNER: Yes, sir.

16 (Bench conference concluded)

17 (Jury present)

18 THE COURT: All right. Good morning, ladies

19 and gentlemen. We're ready to resume today. Thank you

20 for getting here promptly I'm glad you all are here

2 today. We're going to resume with the direct testimony

2 of Miss Dean. We expect she'll finish the direct today

2 and be subject to cross today as well. Whether we'll

2 finish that or not, we'll see. All right.

2 MR. WEHNER: Good morning.

2685

1 THE JURORS: Good morning.

2 (DEBORAH GORE DEAN, THE DEFENDANT, RESUMED THE STAND)

3 DIRECT EXAMINATION

4 BY MR. WEHNER:

5 Q Miss Dean, I'd like to direct your attention to the

6 Park Towers project?

7 A Yes.

8 Q Do you recall testimony regarding that project

9 during the Government's case?

10 A Yes.

11 Q If you recall, that project was a Metro-Dade funded
12 project for the Metro-Dade Public Housing Authority?

13 A Yes.

14 Q would you describe to the jury, please, when you
15 first became aware of that project specifically?

16 A I don't really have any recollection of that
17 project specifically.

18 Q Okay. Do you have any recollection at all of
19 discussing that project with Richard Shelby?

20 A I might have but I just don't remember. I know
2 that it was back in 1985 and I know that he testified

2 that he believed that he spoke with me about it, but I
2 just don't recollect him talking to me about it.

2 Q Directing your attention to an individual by the
2 name of Andrew Sankin, do you have a recollection of

2686

1 discussing that project with Andrew Sankin?

2 A Mr. Sankin didn't have anything to do with that

3 project.

4 Q Did you discuss that with him though?

5 A No.

6 Q Directing your attention to the first time you met

7 Mr. Shelby in the presence of Mr. Mitchell.

8 A well, I met Mr. Shelby previously one time. I had

9 spoken to him on the phone years before when I was at
10 the Department of Energy. I had to call him about

11 something and I remembered he worked at the Republican

12 National Committee, and so I knew who he was because I
13 had a very pleasant conversation with him on the
14 telephone. And met him, I believe, with

15 Mr. DeBartolomeis, and after he had met with

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16 Mr. DeBartolomeis I sort of ran into him and someone
17 said this is Rick Shelby and I said oh, yes, you
18 wouldn't remember, but I spoke with you many years ago
19 on the telephone, and I'm Deborah Dean.
20 And he mentioned that he knew John Mitchell
2 and I said that's terrific, and he asked me how John

2 was. And I said that John was fine. And he said I'd
2 really love to see John sometime. And I said, well,
2 why don't we have lunch. And the lunch with Mr.
2 Mitchell and Mr. Shelby was my idea. I put it together

2687

1 for the reason that Mr. Mitchell didn't see a lot of
2 people at that point. He was -- very much kept to
3 himself and very quiet, so I was always trying to sort
4 of get him out and engage him and introduce him to
5 people.

6 I know that Mr. Wynn testified that I had
7 lunch with him and Mr. Mitchell, and I was doing the
8 same thing. I thought Mr. Wynn was Mr. Mitchell's age

9 and they would get along and they could talk politics or
10 whatever, and it would bring John out a little.
11 Q Directing your attention to that lunch in
12 particular, what was your impression of the relationship
13 between Mr. Mitchell and Mr. Shelby at the lunch?
14 A It seemed to me that they hadn't seen each other in
15 a long time and they were -- they talked politics the
16 whole time. And who is running the campaign. Who is
17 going to be at the RNC, that sort of stuff. And I
18 basically sort of concentrated on my food because I
19 really didn't know who they were talking about. But
20 they seemed to have a good time.
2 Q Did you later find out that they in fact had a
2 relationship?
2 A I found out from the Independent Counsel, yes.
2 Q And is that the first time you discovered that
2 there was a business relationship between Mr. Shelby and

2688

1 Mr. Mitchell?

2 A Yes.

3 Q Now, do you recall a time Mr. Shelby in fact came
4 to you to discuss the Moderate Rehabilitation program?

5 A Yes, that was many years later, years later.

6 Q Let's date the Mitchell conversation that was in •
7 the Mitchell luncheon, was that in '85, '86?

8 A I believe so, yes, it was - yes.

9 Q Many years later would be approximately when Mr.
10 Shelby came to see you?

11 A Late 1986 or 1987.

12 Q And between those two dates do you recall any
13 conversations with Mr. Shelby regarding the Moderate
14 Rehabilitation program?

15 A I knew that he was working on Mod Rehab projects.

16 I knew that -- I mean I would have lunch with him on a
17 regular basis when we became friends and he was one of
18 my closest friends, and we had lunch all the time, and
19 he was always asking me questions, you know, can you do
20 this, can you do that sort of thing, and is it legal if
2 someone has this kind of - and he would basically ask
2 me a lot of questions and so I tried to answer them as
2 best I could, and help him out as much as I could
2 because he was a nice man and he had honest questions
2 and I knew the answers.

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1 So, you know, I knew he was involved and I

2 knew he had questions. So I knew he was working on

3 things. I just don't recall him having a specific

4 conversation with me until he came to my office and

5 asked me about the 88 units for Prince Georges County

6 and specifically asked for my help.

7 Q Okay. Prior to that conversation, did he ask for

8 your help with regard to any Moderate Rehabilitation

9 projects?

10 A No, because I was very taken back when he came and
11 asked me about the 88 units in Prince Georges County. I
12 really thought he had overstepped the bounds of our
13 friendship. I thought that was not a - I felt
14 personally imposed upon when he did that.

15 Q And what do you recall that he said to you during
16 the meeting in '87?

17 A He said that he had a client and he wanted these 88
18 units, and they were in Prince Georges County and could
19 I help him get them and I said no. I said I will -- I
20 said -- actually I just -- I couldn't believe he asked

2 me. I really thought it was imposing on a friendship to
2 do that, and I said, well, the only thing that I can do,
2 I can't help you and I can't even -- I couldn't vote on
2 your project if it came up because this is
2 inappropriate. It doesn't feel right.

2690

1 I said the only thing I can do is take it to
2 Secretary Pierce and I'll let him decide, and he said
3 all right, I understand that. And I think he felt
4 awkward that he had asked. He realized that I did not
5 receive that request well. And I think -- he never
6 approached the subject again.
7 Q Was that the only conversation you recall having
8 with Mr. Shelby in which a specific Mod Rehab project
9 was discussed?
10 A Yes.
11 Q As a result of that conversation did you talk to
12 the Secretary?
13 A Yes, I did. I spoke to him that day or the day
14 after.
15 Q What did you say to him?
16 A Well, I told him how really awkward I felt that
17 somebody had done that and, you know, his reaction was,
18 well, welcome to the real world. It happens to me all
19 the time. And people will -- people will impose on your
20 friendship, they do it all the time, and you just have
2 to, you know, come to me when it happens and tell me.
2 Q I want to show you what has been admitted into
2 Evidence as Government's Exhibit 84B and ask you if you
2 recognize that?
2 A I recognize the last two pages and I have seen --

2691

1 I've seen this as a Government's Exhibit. I don't
2 remember if I saw it or not before that. It doesn't --
3 I know it's addressed to me and I'm certain I got it,
4 and where it says file up in the corner, that's my
5 handwriting, so I must have got it. But I don't
6 remember this. I don't know why I would have page four
7 of a letter to somebody else. That doesn't make sense.
8 But the last two things I've seen before.
9 Q Do you recall receiving information from Mr. Shelby
10 attached to that note?
11 A No. I mean -- he sent me things on a regular
12 basis. I know that the attached -- this right here I
13 sent to him. So it couldn't be attached to this. He
14 wouldn't have sent me what I sent to him, I mean --
15 so -- I know I sent this to him.
16 Q That's one of the attachments to 84B.
17 A Right, it says that it's coming from him to me, but
18 I sent this to him, so -- and it was as a result of a
19 question that he had asked me about tenant eligibility
20 on a project that he was working on, but I don't know
21 which one, and I had just done a briefing on tenant
22 eligibility for --
can't --
put together a package,
23 and that was notes that I had from that package and I

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24 said, well -- as a matter of fact, I just did a little
25 talk on that subject, I'll send you my notes, and those

2692

1 are my notes from the talk. So I sent them to him.
2 MR. WEHNER: with the Court's permission, I'd
3 like to exhibit this to the jury, these two pages.
4 THE COURT; All right.
5 BY MR. WEHNER:
6 Q These are the notes of what you recall that you
7 just described sending to Mr. Shelby?
8 A There was more to it than these. They had been
9 hand marked out, and this one basic -looks
like the
10 basics of a Mod Rehab program which would have been the
11 beginning of the talk and then it got to tenant
12 eligibility in public housing, and there were notes
13 where I had marked through certain things and written on
14 certain things, and those went with this.
15 It was -- and I remember what his question
16 was. His question was that there was a problem with
17 relocating tenants and - you see, this is the beginning
18 of the talk and then it goes on. There are several -19
there are many more pages to this than these two.
20 Now, it doesn't makes any sense that Mr.
2 Shelby would be sending me the basics of the Mod Rehab
2 program.
2 Q I'll show you what I've marked for Identification
2 as Dean Exhibit 278 and ask if you can identify that?
2 A I know what it is, yes.

2696

1 Q Now, Miss Dean, did you ever have any conversations
2 with Mr. Shelby regarding the Park Towers project?
3 A I don't recall. It could very well have been. I
4 just don't recall having any specific conversations. I
5 don't recall the name Park Towers, for instance.
6 Q All right.
7 A He may have asked me a question about something to
8 do with it. I just don't remember him ever saying
9 anything about Park Towers, or I have a project, is
10 there anything you can do to help me about, that never
11 occurred, but he may have said to me I'm working on a
12 project in wherever. I just don't recall.
13 Q I direct your attention to the Stanley Arms.
14 A Yes.
15 Q Was that an apartment building that your family
16 owned?
17 A Yes.
18 Q How long had they owned it?
19 A well, my grandfather bought several apartment
20 buildings right after the war and the Stanley Arms was
2 one of them and we had -- the rest of them went to a -
2 an organization called Sarah's Circle that rehabilitated
2 them and used them in Washington but the Stanley Arms
2 for some reason didn't go as a part of that package and
2 we kept the Stanley Arms.

2693

1 Q What is it?

2 A This was provided for me, files of the Metro-Dade
3 Housing Authority files to -- subsequent to a subpoena
4 from the Independent Counsel and the Independent Counsel
5 provided it to us under discovery.

6 Q Without saying what -without
reading the document

7 what is it?

8 A It is a 185 going to -it's

a -- well, it's a

9 185.1.

10 Q It's a memo -11

A Actually -- I'm sorry, it's a 185 and it's a memo
12 that attaches to the 285 going from Mr. Demery to Mr.
13 Harris and it's funding some units, and then there's
14 Miss Sharifi's notes on the bottom. She testified that
15 this was her note on the bottom.

16 Q Miss Sharifi's notes. So 278 is a memorandum for
17 Raymond Harris, Regional Administrator, Regional Housing
18 Commissioner from Thomas Demery, Assistant Federal
19 Housing Commissioner, correct?

20 A Yes.

2 Q And it relates to 412 units being funded to
2 Metro-Date, correct?

2 A Yes.

2 Q What is 277?

2 A This is a rapid reply letter that was signed by

2694

1 Janet Hale on November 26, 1985 for 266 units to
2 Metro-Dade •

3 MR. WEHNER: With the Court's permission,
4 I'll move the introduction of 278 and 277.

5 MR. O'NEILL : Judge, no objection to 277.

6 Objection to 17 8.

7 THE COURT: All right. Let me see 278 for a
8 minute, I' m not sure I understood it.

9 277 is admitted.

10 (Defendant's Exhibit 277
11 received into Evidence)

12 (Bench conference)

13 MR. WEHNER: I think this is a different
14 funding. That' s '87.

15 MR. O'NEILL: Yes.

16 MR. WEHNER: This is '85.

17 THE COURT: Is this in evidence?

18 MR. O'NEILL: That's in evidence, Your Honor.

19 That's one that Miss Sharifi identified.

20 THE COURT: Oh, she identified this. The
2 objection to this one is what?

2 MR. O'NEILL: As to the handwriting, Judge.

2 THE COURT: Oh, this handwriting.

2 MR. O'NEILL: Yes.

2 MR. WEHNER: I'll be glad to delete the

1 handwriting.

2 MR. O'NEILL: That will be fine.

3 THE COURT: I'll admit 278 with the
4 redaction.

5 MR. O'NEILL: Judge, do you want to say that

6 for the record?

7 THE COURT: Yes, just say that for the
8 record, so there's no confusion. Thank you.

9 (Bench conference concluded)

10 (Defendant's Exhibit 278

11 received into Evidence)

12 BY MR. WEHNER:

13 Q Miss Dean, I'd like to draw your attention to
14 Government Exhibit 204, and is that Miss Sharifi's
15 handwriting?

16 A Well, I don't know Miss Sharifi, so I don't know.

17 I know that she identified that and I believe that -

I

18 mean one of them was done by Miss Sharifi and one was
19 done by Mr. Calabrese, according to the Government, you
20 know -

2 MR. WEHNER: I think the record should
2 reflect that the 204 was written by Miss Sharifi.

2 A Then that was Mr. Calabrese, all right.

2 THE COURT: All right.

2 BY MR. WEHNER:

2697

1 Q Directing your attention to Mr. Andrew Sankin, do
2 you recall when he started doing any work for you or
3 your family visavis the Stanley Arms Hotel?

4 A Yes, the same conversation originally that when Mr.
5 Sankin came and said I would like to work in a Moderate
6 Rehabilitation program, be a consultant, and I said you
7 don't know enough to be a consultant, but here, you
8 should go get a job, work for these people.

9 The same day he said I need to work. I'm just
10 out of school. whatever. And my grandfather had passed
11 away recently and my uncle, who was running the family
12 affairs, developed cancer and was very, very ill and
13 there was no one to run the Stanley Arms and I couldn't
14 do it because I didn't feel that I should be in -
15 helping my family run a business that was very similar
16 to what I did in the Government.

17 So I told Mr. Sankin - I said, actually we're
18 looking for someone to run this apartment building
19 and - my family, and since that is what your father
20 does and you're working for your father doing that, if
2 you want to do it we'll hire you out to do it. That's
2 the best I can do for you. I can't help you be a
2 consultant at HUD but I will see if I can get you this
2 job with my family.

2 And then I think Mr. Sankin spoke to my mother

2698

1 and started to collect the rents, buy heating oil, that
2 sort of thing.

3 Q What did the job entail?

4 A Collecting rents, and buying the heating oil, and
5 making certain that the elevators were inspected.

6 Basic -just

the basics of an apartment building

7 maintenance operation, which is what his father did.

8 They had a company that did that and he was working for
9 his father doing it.

10 Q Was he paid for the work that was being done?

11 A Yes.

12 Q At the beginning -13

A It was a standard fee.

14 Q At the beginning what was his fee arrangement?

15 A It was a percentage of the rental income, but I
16 don't remember what it was. He said it was, I think,
17 four percent, so I assume that that's probably correct.

18 Q Did there come a time when that increased?

19 A Yes, he received an increase after the - after he
20 had done the rent increase with the District, we
2 increased the percentage because we were now - the
2 building was running in the red because it was being run
2 by the trust department of a bank and they were charging
2 a lot, and so it was losing money, and just actually by
2 getting it out of the trust department of the bank and

2699

1 running it ourselves would actually sort of move it into

2 just losing a little bit of money as opposed to losing a

3 lot of money.

4 And so my family wanted to do that and then he

5 did do a good job during this rent increase, and so then

6 I think that my mother increased his percentage of what

7 he was getting from the rents.

8 Q Regarding the rent increase, were you familiar with

9 what he did in order to obtain the dispensation of the
10 city to raise the rent?

11 A It's a hardship rent increase, and actually I think

12 I talked to him maybe two times about it, but mostly he
13 dealt with my mother and he said that he had spoken with
14 Mr. Mitchell, so maybe he spoke with Mr. Mitchell to
15 deal with my mother. I really - I don't know. But I
16 only met with him a couple of times about it and that
17 was because he was unable to get an answer from my
18 mother or a decision from my mother, and so he would ask
19 me to intercede with my family to make a decision.

20 Q How long did the relationship between the Stanley
2 Arms property and Mr. Sankin continue?

2 A Until we finally were able to sell the building.

2 Q Do you remember approximately when that was?

2 A I believe it was about a year and a half ago.

2 Q When did the relationship begin?

2700

1 A It would have been late '84, early '85.
2 Q So your relationship with Mr. Sankin would have
3 been from late '84, early '85 until 1991?
4 A Well, his relationship with the Stanley Arms, which
5 was really a relationship with my mother.
6 Q Taking that entire time period from the time you
7 first met Mr. Sankin through late 1991, how many
8 conversations do you recall having with him with regard
9 to the Moderate Rehabilitation program?

10 A Well, I remember discussing with him that I didn't
11 think he could be a consultant and I remember discussing
12 with him that I never wanted to discuss Mod Rehab with
13 him and I know he kept trying to discuss it with me and
14 I kept saying Andrew, stop. I don't want to hear it.
15 And he tried to slip things in, but I can't remember
16 what they were, but he'd always say something like I met
17 Rick Shelby. I don't want to hear about it, Andrew. If
18 you go get a job with someone, go get a job. I don't
19 want to hear about it.
20 And I never discussed any of the projects that
2 he testified that he made money from in this trial.
2 I never discussed those with him, with the exception of
2 Alameda Towers where he asked me what was the story with
2 the units in Puerto Rico, and I told him what was going
2 on and told him that I didn't think he was capable of

2701

1 being involved actively.
2 Q And those were the efforts you were making to find
3 a developer for those units?
4 A In Puerto Rico, yes.
5 Q Did you become aware that Mr. Sankin was discussing
6 the Moderate Rehabilitation program with others in the
7 Department?
8 A I know it now because I've been able to go through
9 his notes and other people's notes. I know that he was

10 actively involved with other people in the Department,
11 but I didn't know it at the time.
12 Q How many lunches do you think that you had in that
13 time period with Mr. Sankin?
14 A I think maybe I've had lunch with Andrew Sankin in
15 five or six years, maybe two or three times.
16 Q And what five or six years would that be?
17 A Up until-- I mean I remember I had lunch with him
18 about two years ago when he wanted some advice on
19 getting a job. He had been out of school and - I
20 remember having lunch with him then. I believe that I
21 remember having lunch with him one time when I was
22 working at HUD, but I don't remember if I was in the
23 Executive Secretariat or Executive Assistant, and he may
24 or may not have been at that lunch that I had with Mr.
25 Rosenthal, I don't remember, and I don't want to say he

2702

1 wasn't there, because I don't remember. So I'd say two
2 or three times in -
3 Q And over what time period?
4 A From when I met him in 1983 until today.
5 Q What about dinners or breakfasts?
6 A I've never had breakfast with Mr. Sankin. I know
7 that. Dinners, I -- when he was dating a young woman
8 who was an architect and I was dating an architect, he
9 asked me several times would I please, you know, have
10 the architect give her advice on where she should look
11 for a job or whatever, and I know that the four of us
12 had dinner several times, and I know that when Andrew
13 was dating Janice Golec I believe the two of them
14 would -- we might meet after work or something like that
15 and have a few beers or a cheeseburger or something, and
16 I just -- I can't quantify it because I just -- they
17 never stuck in my mind.
18 I remember one time running into him on
19 Christmas Eve, having dinner with Miss Joyce and her
20 family, right before midnight Mass, and I know I was
2 there with another group of people and I think -- and I
2 know that he has been to my apartment for dinner on one
2 or two occasions and sometimes he would just sort of
2 drop by.
2 I mean it's -- if you were having dinner you

2703

1 sort of fed him. He did that a lot. He dropped by a
2 lot
3 Q You had a social relationship with him, correct?
4 A Well, I -- I mean he's not my age and I wouldn't
5 consider him to be sort of a friend-friend, but I did
6 sort of try to look out for him and try to give him
7 advice when I could.
8 If he dropped over it was usually because he
9 had some problem. He had problems with, as we discussed
10 before, when he and his girlfriend were dating and they
11 thought they might be having a baby and they spent a lot
12 of time in my living room, I remember.
13 So I would say that I had a sort of like a big
14 sister maybe relationship with him.
15 Q Do you recall testimony from Mr. Sankin that on one
16 occasion he gave you an expensive bottle of wine?
17 A Yes.
18 Q Do you recall that occurring?
19 A I know -I
remember him giving me a bottle of
20 port. I certainly -if
it didn't have a price tag on
2 it, I certainly wouldn't have known that it was an
2 expensive bottle of port, and it did not have a price
2 tag on it, and I don't know why anyone would spend that
2 kind of money on a bottle of port. I know I wouldn't do
2 that. And I don't remember him saying it was special.

2704

1 He just came to dinner and -- or dropped by and had
2 dinner or whatever, and I remember him bringing a bottle
3 of port with him.
4 Q Did he ever give you a Christmas present that
5 appeared to be from Georgetown Leather?
6 A No.
7 Q What about a cup and saucer?
8 A Yes, he gave me a cup and saucer for Christmas
9 right after he -- the incident with Miss Joyce and
10 himself, and he said that -- and I told him -I
11 said,
12 oh, thank you, Andy, you know. And it was a cup and
13 saucer. I didn't know what to do with it. I said oh,
14 thank you, Andy. And I put it away. I didn't realize
15 that it was a very nice cup and saucer until I saw the
16 Government's receipt. I just -it
17 just looked like a
18 cup and saucer.
19 Q Do you recall there was testimony that -earlier
20 in the trial regarding exception rents and the level at
21 which exception rents had to be approved at the Housing
22 and Urban Development?
23 A I remember that he said that he came to see me on
24 the Necho Allen Hotel because it was a Secretarial
25 decision to make exception rents, and that's why he came
26 to me. But that's not true.
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blank)
27 Q Based on your understanding of the way HUD operated

2705

1 when you were Executive Assistant, at what level were
2 exception rents approved or disapproved?
3 A They certainly can be approved by the Secretary.
4 In this case they were approved by the Secretary, but
5 they can also be approved by the Assistant Secretary for
6 Housing. You don't have to go to the Secretary for
7 exception rents.
8 Q Do you know an individual -- know of an individual
9 by the name of Linda Chavez?
10 A I know who Miss Chavez is and I met with her
11 several times when she was at the Civil Rights
12 Commission.
13 Q Who was she?
14 A She was a member of the Civil Rights Commission and
15 she later ran for Senate in the State of Maryland.
16 Q Did you financially support her?

17 A I most certainly didn't.

18 Q Did you request that others financially support
19 her?

20 A I didn't believe in Miss Chavez's candidacy and I
2 didn't get along with Miss Chavez when she was at the

2 Civil Rights Commission and I didn't support her in any
2 way.

2 Q Specifically, did you request that Mr. Sankin make
2 a donation to her campaign?

2706

1 A I most certainly didn't. There is an entry, on a

2 follow-up to your question, there is an entry in my

3 calendar that says Chavez reception, but there are lots

4 of receptions that are entered on my calendars that I

5 didn't attend, and I didn't attend that reception for

6 her.

7 Q Miss Dean, directing your attention to May 16th of

8 1987.

9 MR. WEHNER: I'm sorry, Judge, I was looking
10 for a specific entry and I couldn't find it and I

11 realize that I was looking at April instead of May.

12 THE COURT: All right. Go ahead.

13 BY MR. WEHNER:

14 Q Directing your attention to May 16, 1987.

15 A Yes.

16 Q There's an entry in that calendar, Catholic U
17 commencement, Kelly Joyce.

18 A Yes.

19 Q Who was Kelly Joyce?

20 A That was Mr. Sankin's lady friend at the time. I
2 believe that they actually were engaged. So I think

2 that Miss Joyce was his fiancée at that time and she had
2 sent me and a man that I was dating at the time who was
2 an architect, an invitation to her graduation from

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2 architecture school, and so Mrs. Hawkins wrote into this

2707

1 calendar that I had been invited to it. I didn't
2 attend.
3 Q Did you attend the commencement?
4 A No, I did not.
5 Q Where were you on that day?
6 A I was at the Preakness at Pimlico.
7 Q And was Mr. Sankin anywhere near you on that day,
8 as far as you know?
9 A No, I didn't see Mr. Sankin on May 16th.
10 Q And was he still dating Kelly Joyce at that point,
11 to your knowledge?
12 A I don't know. But I assume so.
13 Q Who else was at the Preakness with you?
14 A My Aunt Louise was there and Mr. Franco was there
15 who was the person who had had the -- a lunch. He
16 had -- he has it every year the day of the Preakness
17 and, you know, I don't remember everybody that was there
18 but -- I didn't know a lot of people who were there. I
19 think that there were a lot of politicians, and I do
20 remember there being some attorneys there, one of them
2 being Mr. Sankin's attorney but -- I
can't remember his
2 name right now, frankly. And I know him because he had
2 been one of Mr. Mitchell's attorneys. That's how I knew
2 him. I just can't remember his name right now. Plato
2 Cacheris, that's his name. Plato Cacheris. He came

2708

1 by the table and said hello.
2 Q Miss Dean, directing your attention to the
3 Government's Exhibits reflecting your calendars, I'm
4 going to set them all up here so I don't have to go back
5 and forth.
6 Can you describe, please, how your calendars
7 were kept when you were Executive Assistant at HUD, just
8 briefly?
9 A Yes, these blue calendars for '86 and '85 --

10 Q Would you identify them by number, please?
11 A I'm sorry, Government's Exhibit Five and
12 Government's Exhibit Six. They were a gift to me by
13 the -- it's one or more of the Special Assistants that
14 were in the office and so I kept it on my desk to be,
15 you know -- so they would think that I used it, but I
16 didn't use this very often.
17 However, Mrs. Hawkins kept this calendar which
18 is Government's Exhibit Seven and this was on her desk
19 and she did a very good job. I mean this actually
20 reflects the time and who I met with and who came in and
2 who went out and she would erase people if they didn't
2 show up for the meeting or the meeting was canceled.
2 So these are actually very accurate
2 calendars. So the calendar for 1986 is accurate, is
2 very accurate.

2709

1 This is not my calendar. That's -- this is

2 not mine.

3 Q Sorry.

4 A And these are copies of -- these are xeroxed copies

5 of entries of calendars, so just -- but these two were

6 on my desk and I don't know where the other calendars

7 are that Mrs. Hawkins kept. They're just not -- they

8 just didn't come back with my papers. They would have

9 been with this one, but not everything that I left at
10 HUD came back to me when we went to get my papers. They
11 were not complete.

12 And these were on my desk and they
13 basically -- they somewhat reflect meetings and -- but
14 there's a lot of things in here -- things that are
15 canceled aren't in here. Things that I was just
16 thinking about maybe doing. Someone called and said,
17 you know, could you come to New Orleans on the so and
18 so, I'd write in New Orleans. Whether I went there or
19 not I'd really have to check the travel vouchers.
20 I've just always maintained that these were
2 very inaccurate, the ones that were on my desk, and

2 Mrs. Hawkins* calendars were accurate, very accurate.

2 Q Miss Dean, I'm going to show you what I've marked
2 for identification as Dean Exhibits 30 and 31.

2 MR. WEHNER: Excuse me, Your Honor.

2710

1 BY MR. WEHNER:

2 Q I'll show you what I've marked for identification
3 as Dean Exhibits 30 and 31.

4 A Yes.

5 Q And ask you if you can identify those?

6 A Yes, those are HUD expediter lists. They're an
7 abbreviated telephone book so that you can reach
8 basically people at home and it has your home phone
9 number and your work phone number and your office and
10 your title, and these were given to the Secretary and
11 the Assistant Secretaries basically so that if there was
12 an emergency you could get somebody at home if you

13 needed to.
14 Q What is the date of Dean Exhibit 31?
15 A October of 1987.
16 Q And what is the date of Dean Exhibit 30?
17 A June, 1988.
18 MR. WEHNER: I move the admission of Dean
19 Exhibits 30 and 31, Your Honor.
20 MR. O'NEILL: Objection, Your Honor.
2 THE COURT: Pardon me?
2 MR. O'NEILL: Objection.
2 THE COURT: All right, come up.
2 (Bench conference)
2 THE COURT: Yes, sir.

2711

1 MR. O'NEILL: I don't see the relevance,
2 Judge. I asked Steve and he did give me a proffer
3 saying that Jack Brennan had said or -that
it was a
4 yellow book, that wasn't shown to anybody on
5 cross-examination to identify whether or not that was
6 the book. I don't know what an expediter list has to do
7 with this case.
8 THE COURT: Brennan was given a copy of a
9 yellow telephone book.
10 MS. SWEENEY: Your Honor, it's actually
11 Mr. Gauvry and not Mr. Brennan who testified about it,
12 but he identified it as the large book that contains all
13 the federal employees, not as a HUD book.
14 THE COURT: Yes.
15 MR. WEHNER: I don't believe that's what he
16 testified to. Maybe you're right, Paula. It's in the
17 transcript.
18 THE COURT: There is -
19 MR. WEHNER: I don't remember a large yellow
20 book that contains - I don't know if there's such a
21 book.
22 MS. SWEENEY: They have them in reference
23 libraries and they're available to the public to be
24 purchased.
25 THE COURT: Is that what he testified to?

2712

1 MS. SWEENEY: I'm really not sure.
2 THE COURT: Did he testify before Brennan or
3 after Brennan?
4 MS. SWEENEY: He testified after -- well, I
5 don't know.
6 MR. O'NEILL: He was after Brennan.
7 MS. SWEENEY: He described it as some kind of
8 federal employees phonebook.
9 THE COURT: I think it was close enough to the
10 time. My recollection is that he talked about a HUD
11 phonebook. He talked before a general telephone book.
12 What stuck to my mind was there was a suggestion
13 implicit in the testimony that he had gotten it through
14 Deborah and sort of brought the information out, as to
15 their relationship. Otherwise it was just irrelevant.
16 If that's true, it's not relevant, but if it's not the
17 right one -- let me look at his testimony for a minute.

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18 MR. WEHNER: I don't have his testimony here
19 today.

20 MR. O'NEILL: Nor I.

2 THE COURT: Could I see when he testified,
2 please?

2 THE DEPUTY CLERK: I have it being marked on
2 September 16th, I have Barksdale.

2 MR. WEHNER: I had marked it to identify it,

2713

1 but as to what they were -2

THE DEPUTY CLERK: They were marked at
3 Barksdale.

4 THE COURT: He said that the yellow 1988
5 expediter list or telephone book, 1987. He identified
6 what that was. You don't have the witness I'm talking
7 about. You're looking for who?

8 MS. SWEENEY: It's Gauvry, Your Honor.

9 THE COURT: Gauvry.

10 Do you have the days of the witnesses'
11 testimony separately listed?

12 THE DEPUTY CLERK: No.

13 THE COURT: I thought you did.

14 MS. SWEENEY: It was relatively early in the
15 trial, Your Honor. It was the first couple of days.

16 THE COURT: Here it is.

17 MR. O'NEILL: We got you, Judge.

18 THE COURT: I didn't make a note of what he
19 said about the telephone book. Here it is. Redirect.
20 Conversation with Deborah Gore Dean and yellow telephone
2 book, she was number two at HUD. That's all my notes
2 reflect. I don't know what that means. I'll overrule
2 the objection. I think it's close enough.

2 MR. O'NEILL: Judge, I'd like the record to
2 know for both of these she's no longer employed at HUD

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1 as an Executive Assistant.

2 THE COURT: This one, June of '88?

3 MR. O'NEILL: Right.

4 THE COURT: when did she leave?

5 MR. O'NEILL: She left in July of '87.

6 MR. WEHNER: That's exactly the point.

7 MR. O'NEILL: I guess are you trying to say,
8 Steve, that that's a lie? They didn't have the book?

9 THE COURT: It's a statement of what he saw
10 because he said -- he tied it directly to Miss Dean and
11 said he saw an old book with the telephone numbers from
12 HUD and he said he saw her listed as Executive
13 Secretary.

14 MR. O'NEILL: Judge, I will withdraw my
15 objection.

16 THE COURT: I have to take a break shortly
17 before 11 for about -- I'll just have an early morning
18 recess. I have another matter, about five minutes, in
19 chambers.

20 MR. WEHNER: Five minutes from now.

2 THE COURT: I'll take a break at ten of 11.

2 (Bench conference concluded)

2 THE COURT: All right, 30 and 31 are admitted,

2 MR. O'NEILL: For the record, Judge, the
2 Government is withdrawing its objection.

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1 THE COURT: Thank you.
2 (Defendant's Exhibits 30 and 31
3 received into Evidence)
4 BY MR. WEHNER:
5 Q Miss Dean, I'm going to show you what I've marked
6 for identification as Dean Exhibit 397 and ask you if
7 you recognize this?
8 A Yes, it came from my files at HUD.
9 Q Okay. And it is a memo to Larry Goldberger from
10 you?
11 A Yes, it is.
12 Q In your handwriting?
13 A Yes, it is.
14 Q And Exhibit 398 is a letter from the City of
15 Louisville?
16 A Yes.
17 Q To Secretary Pierce?
18 A Yes.
19 Q And is that -- did that letter come to you?
20 A They sent me a copy because I'm asking him to
2 prepare a response -- or it might have come to the
2 Secretary and he gave it to me for a response. It came
2 to me or the Secretary. It could have either come to me
2 or the Secretary. I'm not sure.
2 Q And does it relate to a project in which Louie B.

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1 Nunn had an interest?

2 A Yes, it says that he was a partner.

3 MR. WEHNER: With the Court's permission, Your

4 Honor, I'll move the admission of Dean Exhibits 397 and

5 398.

6 MR. O'NEILL: Objection on relevance grounds,

7 Your Honor.

8 THE COURT: Let me see it.

9 (Bench conference)

10 THE COURT: what project did this go to? It's
11 not a project?

12 MR. O'NEILL: No, Judge.

13 MR. WEHNER: It goes only, Judge, to dealings
14 between Miss Dean and Louie Nunn. Its relevancy shows
15 that she treated Louie Nunn consistently, regardless of

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16 the Government's theory as to their co-conspirator
17 relationship. She'll testify that this was handled in a
18 routine fashion, simply appropriate office policy,
19 notwithstanding the fact that he apparently had an
20 interest.

2 THE COURT: This is not a project that was a

2 part of any of the conspiracies.

2 MR. WEHNER: Absolutely not.

2 THE COURT: All right, I'll overrule the
2 objection. I think it goes to her theory of defense.

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1 (Bench conference concluded)

2 THE COURT: 397 and 398 are admitted.

3 (Defendant's Exhibits 397 and 398

4 received into Evidence)

5 BY MR. WEHNER:

6 Q Miss Dean, I'm going to publish the first page of

7 398 on the viewer. It's a lengthy document, so I'm just

8 going to do the first page. would you tell us,

9 please -- just summarize for us what the letter
10 concerns, what it is asking for?

11 A Well, it's a letter to the Secretary and it says
12 that it's regarding a housing development action grant,
13 which is the HODAG, and that it's for Park View Plaza
14 and that the partners are Mr. Simpson and Louie Nunn and
15 it's asking us for -- they're appealing the decision. I
16 guess it was ranked -- it was not ranked high enough to
17 be awarded the funds, so they're appealing the ranking,
18 and they're asking that the Department look at it again,
19 basically give it more points, and fund it.

20 Q Now, it reflects in the top that it is a limited
2 partnership between Edward Simpson and Louis B. Nunn,

2 correct?

2 A Correct.

2 Q What does that mean to you?

2 MR. O'NEILL: Objection, Your Honor.

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1 THE COURT: I'll sustain that. She can
2 identify the name if she knows it, but as to the legal
3 relationship -4

BY MR. WEHNER:

5 Q Is that the same Louie Nunn who testified here?

6 A Yes, it is.

7 Q I'm turning to 397 and I ask you to read it to the
8 jury?

9 A It says "Larry Goldberger," he was the head of the
10 office that did the rankings and the ratings on the
11 HODAG's, that's why it was addressed to him. It
12 says, "Larry Goldberger. Please provide me with an
13 appropriate response to the Mayor. Deborah."

14 Q And you wrote that note?

15 A Yes, I did.

16 Q To Mr. Goldberger?

17 A Yes.

18 Q How did you come to write the note?

19 A I received the letter, and I don't know how I
20 received that letter, but it needed an appropriate
2 response and the person to write the response was the
2 person who had done the ratings and the rankings.

2 Q Do you know how he responded?

2 A No.

2 Q Did you make any suggestion verbally or other than

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1 in this memo as to how he should respond?

2 A No, Mr. Goldberger understands from that note that
3 he is to write back a letter -4

MR. O'NEILL: Objection, Judge, to what

5 Mr. Goldberger understands.

6 THE COURT: All right, I'll sustain it.

7 A There's no telling Mr. Goldberger to do anything
8 but provide an appropriate response. Whatever

9 Mr. Goldberger thinks the appropriate response is.

10 MR. WEHNER: Can we approach?

11 THE COURT: All right.

12 (Bench conference)

13 THE COURT: Do you have a lot of these to
14 mark? Shall we mark them over the recess?

15 MR. O'NEILL: Judge, Mr. Wehner showed me
16 these yesterday. The reason I'm objecting is because we
17 never saw these before. The thing, Judge, is this is
18 discovery. I know we've suspended the federal rules of
19 evidence for a few days, which is okay.

20 THE COURT: we didn't, but that's all right.

2 MR. O'NEILL: In a criminal procedure it also
2 would be a little much to bear.

2 THE COURT: That's the purview of the Court.

2 MR. O'NEILL: I'm saying it with a smile,
2 Judge, just so the record is clear.

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1 MR. WEHNER: That's true, Judge, I did not
2 show these to Mr. O'Neill until yesterday. I have no
3 excuses for not showing it to Mr. O'Neill except that I
4 didn't have them until shortly before then and their
5 relevance did not become apparent until there were some

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6 lunches that allegedly occurred during the time that
7 Miss Dean was on sick leave.
8 THE COURT: Does that show that here?
9 MR. WEHNER: She was on sick leave for certain
10 relevant periods of time.
11 THE COURT: And you didn't have these leave
12 records of hers ahead of time to turn them over?
13 MR. WEHNER: Judge, I didn't. I didn't. I
14 don't know where they were. Whether they were in
15 Miss Dean's possession, I – frankly I assume they were,
16 but I didn't get them until yesterday.
17 THE COURT: How does this show what days she
18 was on sick leave?
19 MR. WEHNER: It shows the sick leave used
20 year-to-date. I saw it when I looked at it before.
21 THE COURT: I could see it giving a summary of
22 the month when there was sick leave but I didn't know
23 they listed the particular days that sick leave was
24 actually taken.
25 MR. WEHNER: Now that I'm looking at this –

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1 THE COURT: why don't you show it to her and
2 see if it refreshes her recollection?
3 MR. WEHNER: I can do that. As I look at it
4 now, I think it's a comparison for the three consecutive
5 time periods that shows the sick leave taken, and the
6 amount taken increases within a two-week period is how
7 it comes out. Is that a fair characterization?
8 MR. O'NEILL: I don't know.
9 MR. WEHNER: But the specific days aren't
10 there. You have to look at the hours taken and look at
11 the period of time.
12 THE COURT: The first one doesn't show any
13 sick leave. The second one doesn't show any sick
14 leave. It shows annual leave charged to Miss Dean. It
15 shows some annual leave. The last one shows -- three of
16 three of Exhibit 108 show 40 hours of sick leave which
17 would be a week of the two weeks that she was working,
18 at the time she was out sick, which is between August
19 16th and August 28th. She had some annual leave there,
20 too.
21 I think what I'll let you do is this, I think
22 if you want to ask her did there come a time, and use it
23 to refresh her recollection, in August, or whenever it
24 was, in September of '86 she became ill. She can say
25 yes, and then you can show her a date Mr. Sankin had

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1 lunch with her, show her that's the same date, and she
2 couldn't have done it.
3 I'll sustain the objection on the basis it
4 wasn't produced properly.
5 (Bench conference concluded)

6 BY MR. WEHNER:

7 Q Miss Dean, do you recall having hepatitis at any

8 time in your life?

9 A I had meningitis.

10 Q Meningitis, I'm sorry. Do you recall when that

11 was?

12 A Yes. In August of 1986.

13 Q And how were you employed at that time?

14 A I was the Executive Assistant to the Secretary.

15 Q And did you go to work during that period?

16 A No, I was out for the entire month of August.

17 Q Of 1986?

18 A I think it was like from the 3rd of August to the

19 3rd of September. My 1986 calendars actually show that,

20 that I was out. Mrs. Hawkins' calendar.

2 Q Looking at your calendars, can you tell us which

2 days you were in the office and which days you weren't?

2 A Yes. I remember this very well. August 4th is

2 when I got sick, and she runs a line all the way through

2 to -- through August 22nd, through August 29th.

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1 September 1st was a holiday. I was on leave on

2 September 2nd. And I believe I was back at work by

3 September 3rd.

4 Q I direct your attention to Government Exhibit 111.

5 Did you have lunch with Andrew Sankin during that time

6 period, Miss Dean?

7 A No.

8 Q Did you go to any restaurants for lunch during that

9 time period?

10 A I mean maybe toward the end when I was feeling a

11 little better I might have gone out and gotten something

12 to eat, but I don't remember -- I didn't have any

13 business lunches or anything like that, no. I know

14 there are lunches reflected in here with Mr. Shelby and

15 with others, but they're all canceled. And Lou Kitchin.

16 Q You've testified regarding your relationships with
17 various individuals with regards to the Mod Rehab
18 program.

19 A Yes.

20 Q I'd like to ask you other than what you told us
2 about, did other people come to you and ask for projects

2 to be funded with regard to the Mod Rehab program?

2 A All the time, a lot of people.

2 Q And how did you respond to those people that came
2 to you?

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1 A Well, I -- from the experience of the Puerto Rico
2 events, I -- I told everyone, I said you need to be
3 either picked by the Housing Authority and be number
4 one, if they have a pipeline, or you need to make
5 certain that you can compete, and if you compete, that
6 you win. But that nobody can guarantee that if these
7 units go to the Housing Authority, you're going to get
8 them. And so you basically have to have your ducks in a
9 row at the Housing Authority. You have to have a good

10 project.

11 If people got -- if people were very, very
12 technically oriented you could go into some more detail
13 about how to make your project more competitive.

14 Then I would always suggest that it was good
15 to have political support from their Senators or
16 Congressmen, because I knew that helped, and that it
17 shouldn't have had any subsidy on it within a year of
18 applying for the program. And that was about it.
19 And I told them that they're -- if they came
20 in in 1987 I basically would say there was a committee
2 that was going to sit down. If it was before that I
2 would say you need to talk to the Federal Housing
2 Commissioner. You need to talk to -- you know, I'll
2 take it to the Secretary. You know, I'll let him know
2 that you were in. I'll tell him that I met with you, et

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1 cetera, et cetera.

2 And you don't ever make anybody any promises.

3 And basically that's what I would say. And thank you

4 very much for coming in.

5 Q Other than Mr. Shelby, who you testified concerning

6 his specific requests to you, did anyone else that was

7 close to you or your family, and I say Mr. Shelby in

8 terms of a social relationship and that's all, that was

9 close to you or your family come and request moderate
10 rehabilitation units specifically?

11 A Yes.

12 Q Who was that?

13 A Well, there was a time that my cousin Jamie Gore
14 asked me - said that he had been approached by some
15 people and that they wanted to hire him to represent
16 them at the Department to get Mod Rehab units and I just
17 looked and I went no way. I said, please, I said this
18 is very, very inappropriate and there's no way that you
19 can do this. And he said, well, they offered me a lot
20 of money. And I said you can't do this. I said this is
2 the kind of thing that people go to jail over. And I

2 said do not get involved and I said please don't involve
2 me.

2 MR. O'NEILL: Judge, could we have a timeframe
2 for this conversation?

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1 THE COURT: All right.

2 A It was in 1986, I believe. It was '86. It may

3 have been early '87, but it was '86 or '87. And he said

4 that he didn't understand that I was that involved in

5 the process, and he was sorry and he apologized for

6 having brought up the conversation and he never did it

7 again.

8 And then there was a time that I suppose

9 Mr. Sankin must have had a conversation with either my
10 mother or someone else in my family because my mother
11 called and said wouldn't the Stanley Arms be a perfect
12 Mod Rehab project? And I went, Mother, no, it would
13 not. And you don't do that sort of thing. And I said
14 if you want to sell the building, sell the building, but
15 you cannot do HUD programs and be related to somebody
16 who is the Executive Assistant to the Secretary.
17 And that's two times I can remember people
18 very close to me and I would have - every once in
19 awhile I would have people like Mr. Sankin who would

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20 hear something and think that all they had to do was
2 just, you know, step in and all of a sudden they could

2 become a consultant, and I'd have to say no, this should
2 be a very technical job being a consultant and I don't
2 think you're right for it or ready for it and certainly
2 I cannot help you.

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It happened

MR. WEHNER: This would be an appropriate
place to break, Your Honor

THE COURT: All right.

Thank you

Ladies and gentlemen, we'll take our morning
recess for 15 minutes. Be back about ten after 11,
please. Remember once again the admonitions about not
talking about the case. See you back at ten after 11

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1 (Recess from 10:55 a.m. to 11:18 a.m.)

2 THE COURT: Are you ready to go forward now?

3 THE WITNESS: Yes.

4 MR. WEHNER: Yes, sir.

5 THE COURT: All right. Are you going to do the tape
6 now or later?

7 MR. WEHNER: We're going to do it right after lunch,
8 Judge. It's 1 hour and 20 minutes.

9 THE COURT: Keep us awake right after lunch. All

10 right.

11 (Jury in.)

12 THE COURT: All right, we're ready to go until
13 lunchtime now. We'll resume with the late morning session.

14 MR. WEHNER: Thank you, Your Honor.

15 Q. Ms. Dean, I'm going to put on the screen Government's
16 Exhibit 11V, which is a credit card receipt from Andrew Sankin
17 saying "Dinner with assistant secretary of HUD, mod rehab," dated
18 May 16, 1987. Did that take place?

19 A. Well, Mr. Sankin testified that he remembered he had dinner
20 with Mr. DeBartolomeis that night.

21 Q. Well, I'm asking you if you had dinner with Mr. Sankin.

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22 A. No, I did not. No.

23 Q. 11L, "Lunch with D. Dean from HUD, discussed mod rehab.

24 August 17, 1986." Did that occur?

25 A. Not. He did not have lunch with me on that day, no. I was

home sick.

2 Q. "May 16, 1987, Lunch with D. Dean, assistant secretary at
3 HUD, discussed mod rehab." Dated May 16, 1987?

4 A. No, I did not have lunch with him that day, nor did I see
5 him that day.

6 THE COURT: Is that a day you testified you were away?

7 THE WITNESS: That was the day I was, yes, at Pimlico.

8 BY MR. WEHNER:

9 Q. Was that also the day of his girlfriend's graduation --

10 A. Yes.

11 Q. --to which you'd been invited?

12 A. Yes.

13 Q. And both of those events are in your calendar?

14 A. Yes.

15 Q. Ms. Dean, I'm going to show you what's been marked for
16 identification as Dean Exhibit 631 and ask you if that is a
17 reflection of a typical moderate rehabilitation project before
18 and after?

19 A. It would be typical of a moderate rehabilitation program
20 that was a scattered site, or smaller development. You can also
21 do a high-rise. But on a small, scattered site, individual
22 townhome type of, of rehab, yes, that would be typical.

23 THE COURT: All right. You said 631?

24 MR. WEHNER: 631, Your Honor.

25 THE COURT: All right.

1 MR. WEHNER: With the Court's permission, I'm going to
2 publish this to the jury.

3 THE COURT: All right, 631 will be admitted.

4 MR. WEHNER: Thank you, Your Honor.

5 Q. Ms. Dean, directing your attention to an individual by the
6 name of Louis Kitchin --

A. Yes.

Q. --do you know who that is?

9 A. Yes, I do.

10 Q. When did you first meet Mr. Kitchin?

11 A. I met him in the end of June of 1986.

12 Q. How did you come to meet him?

13 A. He called my office and said that -- and introduced himself
14 to Sherrill Nettles, who then became Sherrill Nettles-Hawkins,
15 and said that he was the southeastern regional political person
16 for the Reagan-Bush campaign and he would like to have a meeting
17 with me. She relayed that to me.

18 I said all right, and I agreed to meet him for a drink
19 after work at the Four Seasons Hotel in Georgetown.

20 Q. Okay. Prior to that date, had you ever heard of
2 Mr. Kitchin?

2 A. No.

2 Q. Had you ever met him prior to that date?

2 A. No.

2 Q. Why did you agree to meet with him?

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1 A. Well, because he was the southeast regional director of the
2 Reagan-Bush campaign. I would have -- if I had not met with him
3 and he had asked me to meet with him, I would have more than
4 likely gotten a phone call from someone who would have directed
5 me to meet with him.

6 Q. Did you go to the Four Seasons to have a drink with
7 Mr. Kitchin?

8 A. Yes, I did.

9 Q. To the best that you can recall, what did you say to
10 Mr. Kitchin, and what did he say to you?

11 A. The -- he, he said that he had heard from Ms. Wiseman, who
12 was then the federal housing commissioner, who was, either, she
13 was still there and leaving or had just left, and I don't
14 remember which, that there was some animosity between me and
15 Mr. Kitchin, and I said, "Mr. Kitchin, I don't know who you are.
16 I've never heard of you. So I don't have any animosity towards
17 you."

18 And he said, "well, I understand that you're very upset
19 with me because I supported Shirley Wiseman for the position of
20 federal housing commissioner, and you were supporting Lance
21 Wilson."

22 And I said, "Mr. Kitchin, you could not have this more
23 wrong. I said I've never heard your name before today," and I
24 said, "Mr. Wilson wasn't my candidate. Mr. Wilson was Secretary
25 Pierce's candidate, and Ms. Wiseman was not." And I said, "I

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1 don't have any animosity toward Ms. Wiseman, much less towards
2 you." And I said, "This is all basically, you know, in your
3 imagination or someone else's imagination, and I'm terribly sorry
4 that you have even heard of such a thing."

5 But I remember saying to him, "I don't know who you
6 are. I've never heard your name before." I remember using those
7 words.

8 Q. How long did this initial meeting or session last?

9 A. About --we started --at that point, we started talking
10 about politics and about campaigns and things at that point, and
11 he was, he was very funny. He was a very funny, engaging man,
12 and we had a nice conversation until it was time for his plane to
13 leave, and about, I would say, 45 minutes before his plane was to
14 leave, he said, "I have to catch a plane."

15 And I said, "well, actually," I said, "I need to get my
16 car of the garage, because I drove here. I'll drive you on to
17 National Airport."

18 And so I drove him to the airport, and that was it.

19 Q. Okay. When is the next time you recall seeing Mr. Kitchin?

20 A. He would drop by whenever he was in Washington. He would,
21 sometimes he would make an appointment, sometimes he wouldn't.
22 Sometimes he'd -- if his plane left at 8:00 or whatever, he'd
23 come by the office around 6:00 or 6:30 and say, you know, "Can
24 you go have a drink with me before I leave?" or whatever.

25 I don't specifically recall dates. Sometimes he would

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1 have an appointment, sometimes he wouldn't.

2 But he was very, at that time, he was interested in, in
3 getting a different position or into moving into the, into the
4 then to be Bush campaign, and he was talking between, you know,
5 George Bush and Mr. Dole and a few other people and deciding what

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6 he was going to do, and it was really quite fascinating for me to
7 hear him talk about all these machinations that were going on in
8 the political world, and so I enjoyed those conversations.

9 Q. Directing your attention to the time period when, from when
10 you first met him in late June of 1986 up to January of 1987,
11 would you describe during that period of time what conversations
12 you had with him?

13 A. They were, they were all political in nature, I believe. I
14 know that, that he sent me a couple of things that either he was
15 working on or that were political things that he was involved in
16 and basically said, "I'm having a hard time getting a response.
17 Can you do something with this?"

18 And I don't remember what the dates of those are, so ,
19 I'm having a hard time answering the question. And -- but
20 whenever he sent me something, I basically sent it through the
2 system, but I did ask that it be expedited and then get an answer
2 back to him on whatever it was.

2 But for the most part, we basically talked politics and
2 talked about his life and his family and what he was doing and
2 where he was -- what he was working on in the campaign.

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1 I remember one time he was invited up to Kennebunkport,
2 Maine, to meet with the then Vice President Bush, and it was
3 really a fascinating conversation to hear what he was like, what
4 they talked about. Those were circles I was not a part of, and I
5 found them fascinating.

6 Q. Did there come a time when you had a conversation with him
7 about his desire to get an apartment in Washington?

8 A. Yes. He said that he was going to Washington more and more
9 because of the campaign and that he wanted to buy an apartment
10 here in town, and he was very specific about what he wanted,
11 because he wanted an apartment that would be an office, except
12 that he would have a room where he could also stay there, but he
13 didn't want people to know that he was staying in the apartment,
14 so it had to look like an office, but there just was one room
15 that was a bedroom.

16 So he had a very specific idea of what he wanted, and
17 it was someplace that he could meet with people or have people
18 over for a drink, I guess, or have a meeting, but that he could
19 also stay there and save on the hotel bills.

20 Q. What business was he in at that time?

2 A. I don't know. I mean, he had, he was doing all sorts of
2 things. People that run political campaigns, they're in and out
2 of all different sorts of businesses. You never really -- I
2 mean, they're four months on a campaign, and then they do
2 something else for another six. So they're always interceding on

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1 a deal, or they're working with foreign investors on a project.
2 I really don't know. It's very difficult to tell what political
3 people do for a living.

4 Q. Did you have occasion to introduce him to anyone in terms of
5 locating a condominium or an apartment?

6 A. Yes. Well, I told him that I was thinking about having,
7 starting a business and that I had sort of, was sort of doing
8 this on the side, also, for some other friends of mine. And I
9 used to enjoy going to auctions on the weekends and antiquing and
10 things like that, and I was thinking about trying to get some
11 other women together and people -- I had some friends that were
12 decorators, and they did this or tried to do it full time, but
13 they weren't making enough money at it. And then I had a friend
14 of mine that did framing, but she couldn't make enough money to
15 do it full time, either.

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16 And I thought, well, you know, if you could put some of
17 these people together and people could work at it two hours or
18 three hours or on the weekend or whatever and you all sort of
19 pool whatever money you make and you sort of have this company,
20 and I thought it would be cute to call it Designing Women, but
2 then Mrs. Hawkins told me that there was a television show coming
2 out called "Designing Women" and that wouldn't work. So the name
2 didn't last long.
2 And I probably didn't have enough time to devote too
2 much attention to it. But I did enjoy going to auctions and

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1 buying things and helping friends decorate and things like that.
2 So I told him about this idea, and frankly, that is
3 when he was saying he was looking for an apartment. It didn't
4 happen -- I was telling him the idea first. Then he said, "well,
5 actually I'm looking for an apartment."

6 And I said, "well, I'll help you do it if you want."
7 And he said that that would be terrific. And so I
8 introduced him to Janet Whitman, who testified here. And I know
9 that I showed him some apartments all over town. I drove him

10 around town and said, you know, "This is apartments in southwest,
11 and here are some in northwest, and here is the Watergate."
12 And then I thought to myself that this was actually
13 taking up too much time, so I introduced him to Janet Whitman so
14 that she could show him around. And I went one time with the two
15 of them, and then the rest of the time, I think she took him
16 around.
17 Q. I direct your attention to what I've marked as Dean Exhibit
18 576 and ask if you recognize that?
19 A. Yes.
20 Q. What is it?
2 A. It's a credit card receipt from a, from The Guards

2 restaurant, and it was a dinner that I had with Mrs. Whitman to
2 discuss with her whether or not she wanted to be a part of this
2 idea that I had, but she couldn't do it, because apparently in
2 Washington, you're not allowed to share a real estate commission.

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1 So the idea of putting real estate people together with
2 decorating people, the idea just wasn't going to work, because it
3 was against the law for them to share their, their profits. And
4 she told me that that night.
5 Q. What is the date of that receipt?
6 A. January 14 of '87. And I marked "D.W." on it for Designing
7 Women.
8 MR. WEHNER: Move the admission of Dean Exhibit 576.
9 MR. O'NEILL: No objection, Your Honor.

10 THE COURT: All right, Dean 576 is admitted.
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11 (Defendant's Exhibit No. 576 was

12 received in evidence.)

13 BY MR. WEHNER:

14 Q. This is the date of January 14, 1987, Ms. Dean?

15 A. Yes.

16 Q. And this is the "D.W."?

17 A. Urn-hum.

18 Q. Is that in your handwriting?

19 A. Yes, that's my handwriting.

20 THE COURT: All right.

2 BY MR. WEHNER:

2 Q. Now, Ms. Dean, subsequent to January 17 -- I'm sorry,
2 January 14, 1987, did you have occasion to see Mr. Kitchin
2 regarding the purchase of the apartment?

2 A. Well, I talked to him about it at, at great length. I know

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1 that I went with him, I think it was a couple of days after this,
2 I took some time and went with him and Mrs. Whitman to look at
3 apartments specifically, I believe, at the Watergate, because
4 that's where he decided he wanted to live or have an apartment.

5 Q. Did you do this during the day?

6 A. Yes, I did.

7 Q. And was it during --it was not a government holiday?

8 A. No, but I took annual leave.

9 Q. I'll show you what I've marked for identification as Dean

10 Exhibit 633, which is the, your calendar entry for Thursday,
11 January 15.

12 A. Right.

13 Q. Does that reflect that you took personal leave on that day?

14 A. Yes. I also wrote a memo to the secretary telling him that
15 I would be out and asked for permission to do this.

16 MR. WEHNER: I move the admission of Dean Exhibit 633.

17 MR. O'NEILL: No objection, Your Honor.

18 THE COURT: All right. No objection, 633 is admitted.

19 (Defendant's Exhibit No. 633 was
20 received in evidence.)

21 BY MR. WEHNER:

22 Q. Now what do you recall doing with Mr. Kitchin on that date?

23 A. Went to the Watergate and, I believe, looked at a series of
24 different-sized apartments.

25 Q. Did your brother have an apartment at the Watergate at that

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time?

2 A. Yes. He had decided on an apartment that was in the same
3 building where I thought my brother had an apartment. I didn't
4 realize he still had an apartment there at this time.
5 And then there were some questions about whether or not
6 Mr. Kitchin had to own it in his own name or in his company name.
7 He wanted to own it in his company name for, I assume, tax
8 reasons. And I called my brother or was in a conversation with
9 my brother, and I said to him, "Do you know anything about the
10 rules of the watergate and if there's any way to get around it or
11 whatever?"
12 And he said, "well, did you show him my apartment?"
13 That was the first time I realized that my brother, who
14 had moved, still had the apartment. I didn't know that. I said,
15 "No."
16 He said, "well --" and I remember there was some
17 conversation about, "well, I'll give him a better deal if he
18 likes mine."
19 So I know that at that point, Mr. Kitchin went back and
20 saw the apartment. I don't remember if we had seen it when we
21 looked at the others, because I wouldn't have recognized my
22 brother's apartment without the furniture in it. I wouldn't have
23 remembered, you know, the number or anything. And all the
24 apartments were vacant except for one that we looked at that was
25 highly decorated.

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1 And at that point, my brother said, "well, I really
2 want to sell my apartment, so I'd be more than happy to reduce
3 the price."
4 So I mentioned that to Mr. Kitchin, and he thought that
5 was terrific. And then I know my brother talked to Mr. Kitchin,
6 and my brother's real estate agent talked to Mr. Kitchin. I
7 talked to Mr. Kitchin.
8 Q. And did, did the, was a contract, to your knowledge, ever
9 signed and executed for the purchase of the condominium,
10 apartment?
11 A. Not that I know of, no.
12 Q. Do you know if your brother ultimately sold the apartment?
13 A. Yes. He has since sold it, yes.
14 Q. But he did not sell it to Mr. Kitchin; is that correct?
15 A. No, he didn't.
16 Q. Okay. Now when is the first time that you recall having a
17 discussion with Mr. Kitchin with respect to you being paid for
18 decorating his apartment?
19 A. well, when he first, when he first said that he wanted to,
20 to have me help him, I said, "well --" he said, "How much do you
2 think it would cost to do the entire apartment?"
2 And I said, "well, if you put most of your money into
2 making it look like an office sort of thing and you don't care
2 what your bedroom furniture looks like, we can get that very
2 inexpensively. Then you could probably do the entire apartment

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1 for about between 10- and \$15,000."
2 And I remember him making some joke, "well, do you

3 think you can do it for 10?"

4 And I said, "well, we'll get as far as we can get. You
5 obviously won't need a lot there if you're going to be using it
6 for business."

7 So there was a discussion about desk and couch, and I
8 remember there was, he wanted to take the closet that when you
9 walked in, there was a closet there that you opened up, and he
10 wanted to turn that into a dry bar, you know, so he could make
11 drinks for people that came over, because he didn't need a
12 closet, because there was a closet in the bedroom. So there was
13 some remodeling that was going to happen, and we discussed that.
14 I remember that the kitchen was an unusual, was a very
15 bright color, and he didn't like that. He wanted to have that
16 redone.

17 But mostly, it was, it was to buy whatever furniture we
18 could to look good as an office but not have it be very
19 expensive.

20 And he said, "well, how much do you think that --" and
21 we said 10- to 15,000.

22 And then I said, "And I would like to sort of get
23 started, see if I can do this business, and I'll do the entire
24 thing for you for \$2,000." That would be my fee for helping him
25 find the apartment, get the furniture, put it in, supervise the

1 construction of the closet, and redo the kitchen.

2 Q. And what was his response to that?

3 A. He thought that was a very good deal.

4 Q. And did he agree?

5 A. Yes. He thought that was fine. And he gave me assignments
6 to do, and I did them. He wanted a couch right away, and I went
7 and located one for him, and he wanted pictures for the walls,
8 and I went and did that, and that was it. And that's it.

9 Q. When you say you found these things, did you -- what do you

10 mean, you found them?

11 A. well, I went and located a couch that I thought was
12 appropriate and called him and told him, "I found you a good
13 couch, and this is how much it's going to cost."

14 And he kept saying, "Okay, okay, I'll get you the
15 money, I'll get you the money for it," but at the same time, he
16 didn't sign the contract for the apartment, so he didn't really
17 want to put the money down to put the furniture yet, either.

18 So there were a couple of months in there where it was
19 very ambiguous. Then he decided, "It's a go. I'm going to do
20 it." And then we had a further discussion about when he was
2 going to be able to give me the money to buy the things for him

2 that he wanted in his apartment.

2 Q. Okay. Did there ultimately come a time when he, in fact,
2 gave you funds for that purpose?

2 A. Yeah. I talked to him in early April, and I told him, I

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1 said, "You know, I have already bought four prints," and I said,
2 "I can't afford to be spending my money buying things for you."

3 And he said, "well, just buy the things and send me the
4 receipts, and I'll send you back a check."

5 And I said, "well, what am I supposed to buy it with?"

6 That seemed to me to be an unworkable situation, because he was

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7 in Atlanta, and if I wrote a check for something, by the time I
8 sent him the receipt and he sent me back a check for it, so I
9 said, "well, do you think it's possible just to have a small

10 amount of money that I can draw from in order to buy this

11 furniture for your apartment?"

12 And he said, "That seems reasonable." And he said,

13 "How much would you like?"

14 I can't, I don't remember what I said. I said, you

15 know, "Just a couple of thousand dollars would be fine." And he

16 ultimately sent me a check for \$4,000.

17 Q. And do you recall receiving the check?

18 A. Yes. I received the check by mail.

19 Q. And you deposited it?

20 A. I did deposit it, yes.

2 Q. Okay. Now do you recall approximately when you received the
2 check?

2 A. No.

2 Q. Directing your --

2 A. No, I don't have any independent recollection of -- no, I

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1 mean, I know I -- he sent it to me, and he sent it to me at HUD,
2 because I remember looking at it, and I remember where I was
3 standing when I looked at it, so --

4 Q. Where were you standing when you saw the check?

5 A. I was standing outside on the 9th floor. I was visiting
6 Abbie Wiest, and either I had just gotten the envelope -- and I
7 really don't remember if it had come to me and I had opened it up
8 when I just left her office or it came in an envelope that had
9 come to her for some reason and she gave it to me. That was my

10 original memory, but she doesn't remember that, so now I'm

11 confused.

12 But I remember that I got it. I remember opening up

13 the envelope and looking at it.

14 Q. When you received -- subsequent to that date when you

15 received the check, did you discover Mr. Kitchin was not going to
16 buy an apartment?

17 A. Before he gave me the check?

18 Q. No, after, subsequent.

19 A. Oh, after. Well, at a certain point, in June of that year,
20 he had, he and I had plans to have dinner, I think, and he came
2 to my office a couple of hours early, and I said, "well, I can't

2 leave right now, because I have to pick up my car, and I've
2 already made arrangements to do that."
2 And he said, "well, I'll come with you to pick up your
2 car."

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1 I said, "well, it's out in Rockville, but if you want
2 to, come along."
3 And so he came with me. And I remember Hunter Cushing
4 had agreed to give me a ride out there after work. So
5 Mr. Kitchin got in the car with us, and we went out, picked up my
6 car. And we were driving down Wisconsin Avenue, and I was
7 discussing with him basically where -
8 what I had bought and what
9 we were doing and the fact that my brother was getting antsy
10 about, you know, had he signed a contract.
11 And I was like, you know, "You are so slow about this.
12 Are you going to do it, or are you not going to do it or
13 whatever?"
14 And he said, "Deborah, I talked to my wife about it,
15 and she's decided that we really don't need to buy an apartment
16 in Washington. Maybe we'll do it next year."
17 And I remember exactly where the car was when he said
18 that. It was, we were driving down Wisconsin Avenue, and it's
19 just where Tenley Circle, the Tenley Theatres are, we were right
20 there. And I pulled the car over to the side lane, and I said,
21 "I can't believe this." I mean, I was pretty upset with him,
22 because he had yanked me all over Washington, D.C., and I had
23 done all this work for him, and now he's telling me that he had
24 finally discussed it with his wife and that she had decided that
25 he wasn't going to do it this year.
26 And I pulled the car over, and I said, "well," I said,

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1 "I'm going to give you the money back that you gave me."
2 And he said, "Oh, no, no, no. You worked for it. I
3 feel real badly."
4 And I said, "well, I certainly --we never agreed to
5 \$4,000. I mean, \$2,000 was going to be my fee, and I really
6 haven't finished the apartment. The work I was going to do
7 wasn't done. I'm going to give you back the money."
8 Then there was a discussion about the things I had
9 already bought for him, and I remember I was really mad at him,
10 because I was going to say, "well, what are you going to do with
11 the stuff I've already bought?" Because we'd had many
12 discussions about his wife being, redoing their house, and he
13 told me about -I
14 mean, "what are you going to do, take the
15 stuff back and hope that your wife has a place to hang it?" And
16 I was not very pleased about this.
17 And so I pulled the car over, and I wrote him a check
18 back, and I said, "And I'm going to put interest in it, too."
19 And he said, "Deborah, please don't. You know, I
20 really feel badly about this."
21 I said, "well, I feel badly about it, too, but," I
22 said, "there's no apartment, so therefore I have no way to, you
23 know, say that I earned the money. I haven't earned it. That
24 wasn't the agreement."
25 And I wrote him back a check for \$4,250.
26 Q. Ms. Dean, I'm going to show you what I've marked for

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1 identification as Dean Exhibit 788, which is a June 15 calendar.

2 Does it reflect a pickup of a car and a meeting with Lou Kitchin?

3 A. Yes. I was supposed to pick up my car at five, and I was

4 supposed to have dinner with Mr. Kitchin at seven, but as I said,

5 he arrived early.

6 MR. WEHNER: With the Court's permission, I move the

7 introduction of Dean Exhibit 788.

8 MR. O'NEILL: No objection.

9 THE COURT: All right, it's admitted, 788.

10 (Defendant's Exhibit No. 788 was

11 received in evidence.)

12 BY MR. WEHNER:

13 Q. Ms. Dean, I'm going to show you what I've marked for

14 identification as Dean Exhibit 575, which consists of a series of

15 check stubs, and ask you if you recognize 575 generally?

16 A. Yes, my check register. It's the kind that has the stub on

17 the top.

18 Q. Directing your attention directly to Check Stub No. 160,

19 does that purport to reflect the issuance of a check to Lou

20 Kitchin in the amount of \$4,250?

21 A. Yes. And this was some figuring that we had done -- this

22 relates to this particular check as well, but \$4,250, Lou

23 Kitchin.

24 MR. WEHNER: With the Court's permission, I move the

25 introduction of Dean Exhibit 575.

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1 MR. O'NEILL: No objection.

2 THE COURT: All right, Dean 575 will be admitted.

3 (Defendant's Exhibit No. 575 was

received in evidence.)

5 THE WITNESS: And there's the check to the auto place.

6 BY MR. WEHNER:

Q. That is Check No. --

8 A. 159.

9 Q. Made payable to the Auto Salon for \$155?

10 A. Yes.

11 Q. Check 160?

12 A. Lou Kitchin.

13 Q. What are the handwritten figures in the upper left-hand --

14 I'm sorry, are the figures in the upper left-hand corner in your

15 handwriting?

16 A. Yes, they are.

17 Q. Do you recall today if those figures have any relationship

18 to the \$4,250?

19 A. Yes. I had bought four prints for Mr. Kitchin's apartment,

20 and they were \$130 apiece, and that meant that I had spent \$520,

21 and he had asked me to please figure out how much money I had

22 spent to that point.

23 But I was so mad at him, I didn't even deduct them. I

24 just, I was not in a good mood at this particular time. I said I

25 would address it with him later, we would talk about them later,

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and he could discuss with his wife whether or not she wanted the
2 prints.

3 Q. Now did Mr. Kitchin take that check with him?

4 A. Yes, he did.

5 Q. Check 161 reflects a check made payable to cash in the
6 amount of \$50?

A. Yes.

8 Q. Does that have any relationship to Mr. Kitchin?

9 A. No, not that I know of. I don't remember that check.

10 Q. Ms. Dean, Exhibit 575 does not reflect a balance of \$4,250
11 in your account at that time, does it?

12 A. No. I didn't have 4,250 in my account when I wrote the
13 check to Mr. Kitchin, but I wanted to give him a check right
14 away, because -- and I had \$4,250 later, and I told him, "Give me
15 a day or two to get the money and put it in the bank. I don't
16 have 4,250, but take this check."

17 Q. And did he, in fact, cash this check?

18 A. No, he's never cashed the check, but I did give him some
19 cash, because he wouldn't cash the check.

20 Q. Did you ever have a discussion -- well, what discussions did
21 you have with him after that date regarding cashing the check?

22 A. Well, things got a little testy, because I kept calling him
23 and saying, "Please cash the check."

24 And he'd say, "Deborah, I owe you money. Deborah, you
25 worked so hard," and he wouldn't cash the check.

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1 And I kept saying, "Mr. Kitchin, please." I said, "I'm
2 asking you to please cash this check. I want -- I don't want
3 there to be anything outstanding between us."

4 And he just didn't cash the check, and he didn't cash
5 the check. And finally one time when he was in town, I decided
6 to take a different tack, because frankly, I couldn't figure out
7 why he wasn't cashing the check. I didn't understand why he
8 wouldn't cash the check. I didn't know if he was being really
9 nice about it or if he was being really difficult. I just didn't
10 understand. I decided to take a different tack with him.

11 So one time when he was in Washington and we were going
12 to have dinner, we had dinner at Morton's, and it was in the fall
13 of '87, I took with me cash to the dinner, and I said, "well,
14 Mr. Kitchin," I said, you know -- actually I called him Lou. I
15 said, "Lou, I realize that, you know, you're not going to cash
16 this check."

17 And he goes, "No, I think I owe you that money."

18 I said, "well, I'll tell you what." I said, "From now
19 on, I think I'm just going to give you whatever cash I have
20 available until that check is, is no longer in existence."

21 And he said, "well, at least I want those prints."

22 And I said, "No, I think we should just not do this at
23 all."

24 And at that particular point, I gave him \$500. And
25 then I gave him another \$500. But that is all I remember that I

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1 gave him.

2 And I did not see him after that. He started, he
3 started basically coming to Washington, but I did not see him.

4 And as -I

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did talk to him several times on the phone, and I
5 kept saying, "When are you going to -- when are you coming back
6 to Washington? I want to see you," et cetera.
7 And he'd say, "Oh, I'll call you, I'll call you," but
8 he didn't.
9 Q. And your best recollection is that you paid him how much in
10 cash?
11 A. Well, my recollection is that I paid him a little more than
12 a thousand, but I can remember paying him two things of \$500, so
13 I'll just leave it at that. I believe it was 1,250, but I can
14 remember two \$500 payments.
15 MR. WEHNER: Your Honor, that's an appropriate place to
16 break for lunch.
17 THE COURT: All right. All right, Ladies and
18 Gentlemen, we'll take a little early lunch today, and we'll be
19 back. This afternoon's schedule -- and I forgot to tell you
20 yesterday, and I sent a message out to counsel after we broke
21 when I remembered.
22 This afternoon at 3:00 p.m. to 6:00 p.m., the Court has
23 a special meeting of all the judges to consider a new program of
24 handling our civil cases -- it's called the Civil Justice Reform
25 Act -- matters, and we have a long meeting in that, and I have to

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attend that. So we cannot sit after 3:00 in this case this
2 afternoon. So you're going to get out early this afternoon in
3 the case.
4 So we'll definitely be back tomorrow finishing up
5 testimony, and we'll see about also on Friday. I've just
6 canceled some hearings I've had on Friday to try to get this case
7 to go ahead and see if we can get done at least with the
8 testimony by Friday.
9 So with that admonition --or scheduling note to you,
10 we'll go ahead for lunch, and then we'll come back after lunch,
11 we'll come back at 1:15 so we can get some time in this afternoon
12 before I have to take a break at three, and then you'll be off
13 until tomorrow morning, all right?
14 So we'll see you back at 1:15 this afternoon. Please
15 remember the admonitions again about not talking with anybody
16 about this case among yourselves or with anyone else about
17 anything to do with this case.
18 We'll see you back, please, at 1:15. Thank you
19 (Jury out.)
20 THE COURT: Do you have some exhibits you want to look
21 at, or do you want to do that after lunch?
22 MR. WEHNER: Yes, that's fine. After lunch is fine.
23 THE COURT: I don't know when you need to use them.
24 MR. WEHNER: Pardon me, Your Honor?
25 THE COURT: I don't know when you wanted to use them

particularly.

MR. WEHNER: I did not want to use them until closing
argument, Judge. That's why I was real flexible in terms of
time.

THE COURT: All right. 1:15 then.
(Recess from 12:00 p.m. to 1:15 p.m.)

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AFTERNOON SESSION

2 (1:28 p.m.)

3 (Defendant present, Jury out.)

4 THE COURT: All right, are we ready to resume? Are you
5 going to go to the tape now or in a few minutes or what?

6 MR. WEHNER: A few minutes, Your Honor.

7 THE COURT: All right.

8 MR. WEHNER: I want to finish up with the Kitchin
9 matter, and then I'm going to have some introductory testimony
10 regarding the hearing, the Proxmire hearing.

11 (Jury in.)

12 THE COURT: All right, Ladies and Gentlemen, we're
13 ready to resume with the afternoon session. As you recognize,
14 this is a shorter session because of other commitments the Court
15 has, but we'll continue now with Ms. Dean's testimony.

16 DEBORAH GORE DEAN, DEFENDANT'S WITNESS, RESUMED

17 DIRECT EXAMINATION (Cont'd.)

18 BY MR. WEHNER:

19 Q. Ms. Dean, I'm going to show you what I've marked for
20 identification as Dean Exhibit 523, which purports to be a memo
21 dated January 15, 1987, requesting annual leave for you, directed
22 to Secretary Pierce.

23 A. Yes. This was to let him know that I would be out of the
24 office that day and ask him if that was all right with him.

25 Q. And did he approve that request?

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A. Yes.

MR. WEHNER: I move the admission of Dean Exhibit 523.

3 MR. O'NEILL: No objection, Your Honor.

4 THE COURT: All right, 523 is admitted.

5 (Defendant's Exhibit No. 523 was
6 received in evidence.)

BY MR. WEHNER:

8 Q. Okay. Ms. Dean, with regard to your relationship with
9 Mr. Kitchin and the furnishing of his apartment, would you
10 describe to me, please, who he talked to about the legality of
11 having an outside business while you were employed at HUD and
12 whether you were aware that there were others at HUD that were
13 similarly situated?

14 A. Well, yes, there were - a
15 lot of people had outside
16 employment. It's not unusual at all.

16 MR. O'NEILL: Objection, Your Honor, as to "It's not
17 unusual at all."

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18 THE WITNESS: Oh, sorry.

19 THE COURT: All right, I'll sustain it. You can talk
20 about people had employment. Go ahead.

21 BY MR. WEHNER:

22 Q. And what type did they have?

23 A. Okay. Well, Assistant Secretary Tardy, who was the head of
24 Office of Management and Administration, had an antique business,
25 also, and she imported antiques from England. She would go over

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1 there on her vacation, and she'd buy antiques and bring them back
2 and sell them.

3 And under secretary for Field Coordination, Mr. Walker,
4 he did real estate lectures and tapes and things like that,
5 although he didn't quite do it right, because he was not supposed
6 to put HUD on any of his things, and he did, and there was a
7 problem with that. But the legality of his being able to do the
8 lectures and the tapes and everything was perfectly all right.
9 we had several assistant secretaries that published
10 books that they did on their own time, and of course, they
11 received the money for those things. And people wrote articles
12 and were paid for those, and that's perfectly proper. You can do
13 that, as long as you don't do it on government time, it's okay to
14 do it.

15 And let me see, people had interest in stocks and
16 bonds, and that's, you know, outside income, and they work on
17 that in their spare time. You're not supposed to do it while
18 you're in your government office, but people do it on their lunch
19 break or whatever. They read their Wall Street Journal, they
20 call their broker, however they do it.
21 But outside income is perfectly legal as long as it
22 doesn't interfere with anything you do in your government
23 service.

24 Q. Did you have any discussions with Secretary Pierce regarding
25 your interest in the decorating field?

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A. Yes. I had one -- I remember a conversation I had with him
2 about that, and --

3 Q. What did you say to him?

4 A. I was telling him about some, a project that I was working
5 on, and we talked about the antique business and that I enjoyed
6 it. He said that he didn't really have any --

7 MR. O'NEILL: Objection, Your Honor.

8 THE COURT: All right, I'll sustain it.

9 BY MR. WEHNER:

10 Q. Just what did you say to Secretary Pierce?

11 A. I just remember having a conversation with him about -- what
12 I remember of the conversation was we were talking about floors,
13 and it was just, it was a personal conversation between him and
14 I, and I was telling him about something that I was working on,
15 and he did not have an interest in that particular --he was not
16 interested in antiques or in decorating, and he just --he was
17 interested in the fact that I was interested in it, but that was
18 all I really remember.

19 Q. What, what business are you in today?

20 A. This is what I do now for a living.

21 Q. And do you have a store?

22 A. I have an antique store in Georgetown.

23 Q. And what is the name of it?

24 A. The Proud American.

25 Q. And how long have you had it --

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1 A. Three years.

2 Q. -- approximately?

3 A. Three years, three-and-a-half years, something like that.

4 Q. Ms. Dean, what was the position for which you were nominated

5 after you, after you were, you had been executive assistant?

6 A. Well, there was one position that I wanted that I did not
7 get, and then I was later nominated to be, I wanted to be the
8 assistant secretary for Fair Housing and Equal Opportunity, but
9 the white House did not feel that I would be confirmed for that,

10 because some of my views were a little different than the views
11 of the Department of Justice at that time, and I was -- I could
12 not get clearance for that. I could not get political clearance.
13 I was not on track with the white House at the moment.

14 But a better job came up after that, which was
15 assistant secretary for Community Planning and Development,
16 because it had a lot of programs in it, and there was a lot that
17 I could also do there that I had wanted to do as assistant
18 secretary for Fair Housing. So I was very delighted that
19 Secretary Pierce agreed to nominate me for the job.

20 Q. When did Secretary Pierce agree to nominate you for the
21 position of, would you name the exact title, please?

22 A. Assistant secretary for Community Planning and Development.

23 Q. Okay. When did Secretary Pierce nominate you for that
24 position?

25 A. Well, Secretary Pierce -- well, the President had to

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nominate me.

2 Q. I'm sorry.

3 A. But Secretary Pierce asked the, the President to nominate me
4 right when Mr. Moran, who was the then assistant secretary,
5 resigned. He did it the same day. Mr. Moran left; he asked the
6 white House to please consider me. And I do not recall exactly
7 when that happened, but I believe it was late '86.

8 Q. Late 1986?

9 A. Yes.

10 Q. Okay.

11 A. It would have to have been, because I remember in all of
12 '87, I was undergoing the process to move to that job. So it
13 would have had to have been in '86.

14 Q. When did these conversations take place with Mr. Kitchin
15 with regard to decorating his apartment?

16 A. Late '86 into all through '87, until I left my position and
17 afterwards.

18 Q. Did you have any -- I'm sorry.

19 A. I'm sorry, all through '87, into '88, and late '86.

20 Q. Did you have -- between the time you became -- between the
21 time the secretary forwarded your name to the white House for
22 consideration and the spring of 1987, did you have discussions
23 with Mr. Kitchin regarding what, if any, your position at HUD --
24 how your position at HUD would affect your relationship with him?

25 A. Yes. When we talked about the fact that I might get the

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1 apartment for him and decorate it, he understood that I was
2 moving to be an assistant secretary, and as executive assistant
3 to the secretary, I didn't have any line authority, so there
4 wasn't necessarily a problem with his talking to me or anything
5 else, because there wasn't anything I could do for him.
6 However, as assistant secretary for Community Planning
7 and Development, it's a different story. He couldn't have had
8 any relationship whatsoever in that office. I would have had to
9 recuse myself from anything that he did.

10 And I told him, I said, "You know, are you certain that
11 you want to do this? Because, you know, should you ever have any
12 sort of business dealings at all with that office, I would, I
13 would have to recuse myself, and it would be awkward."
14 And he told me that he had no intention of ever doing
15 anything in Community Planning and Development and he didn't see
16 it would be a problem, and given those assurances, I didn't think
17 it would be a problem.

18 Q. Was the Mod Rehab Program under Community Planning and
19 Development ?

20 A. No.

21 Q. Okay. Where was that?

22 A. That's under Housing.

23 Q. Okay. And is that a separate assistant secretary for
24 Housing?

25 A. Yes. That was Mr. Demery.

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1 Q. Also known as the federal housing commissioner?

2 A. That's correct.

3 Q. Okay. Now at the time you were talking to Mr. Kitchin about
4 the apartment, what did you know about his dealings in terms of
5 the Mod Rehab Program?

6 A. Nothing. I never discussed his having anything to do with
7 mod rehab with him ever. I mean, he never said to me, "I'm
8 involved in this." He never said anything.

9 The --we had discussions about politics, and we had

10 discussions about HUD monies going in the South, where he was
11 working. I mean, we had those discussions, but never a
12 discussion about, "I'm interested in doing something myself. I
13 have some personal interest." Never had a conversation like that
14 with him ever.

15 Q. Never?

16 A. Never.

17 Q. Not to this day?

18 A. Never.

19 MR. O'NEILL: I didn't hear the answer, Your Honor.

20 MR. WEHNER: Never.

2 MR. O'NEILL: Thank you.

2 THE COURT: All right, I'll sustain the objection to
2 counsel's remarks, once again, on the government's side. It was

2 an unnecessary comment.
2 MR. O'NEILL: I apologize.

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THE COURT: The case is not here to be made fun of but to be tried. I don't like that conduct.

3 BY MR. WEHNER:

4 Q. Ms. Dean, were the funds you received from Mr. Kitchin a
5 gratuity?

6 A. No. I worked for the money. When the apartment didn't come
7 to fruition, I wanted him to have the money back so that there
8 wouldn't be anything that was between Mr. Kitchin and I at that
9 point. I believe that I earned part of that money, but I still,
10 without a, without a physical apartment, I didn't want that to be
11 hanging out there. So I wanted him to get the money back.

12 Q. Was it a bribe?

13 A. Of course not, no. I wouldn't -
it's beyond me. I would

14 not -- it is not about me, whether I would take a bribe. I
15 wouldn't have done that to my family, I wouldn't do it to
16 Secretary Pierce, I wouldn't do it to the Department of Housing
17 and Urban Development, and I certainly do not have it in me to
18 take a bribe or a gratuity from anybody. No amount of money is
19 worth this.

20 And I tried to explain that to the Independent Counsel,
21 and they wouldn't listen to me.

22 MR. O'NEILL: Objection, Your Honor. Self-serving
23 statements again.

24 THE COURT: All right, I'll sustain the objection.

25 THE WITNESS: I'm sorry.

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BY MR. WEHNER:

2 Q. It wasn't a bribe and it wasn't a gratuity -

3 MR. O'NEILL: Objection, Your Honor. She's not charged
4 with bribery.

5 THE COURT: Overruled. It's part of the understanding,
6 I think, of the type of case it is. Go ahead. Go ahead.

7 MR. WEHNER: I also think that's a misreading of the
8 indictment, Your Honor.

9 THE COURT: That's why I overruled it. Go ahead.

10 BY MR. WEHNER:

11 Q. At the time you received those funds, did you believe that
12 it was a mistake to have taken them?

13 MR. O'NEILL: Objection, Your Honor.

14 THE COURT: I'll sustain the objection.

15 BY MR. WEHNER:

16 Q. What did you think when you took those funds?

17 MR. O'NEILL: Objection again, Your Honor.

18 MR. WEHNER: Oh, Judge.

19 THE COURT: wait, wait, wait. We aren't going to have
20 in open court on each side debates here. You can come to the
21 bench if you want to have an objection heard.
22 (Bench conference on the record.)

23 THE COURT: what kind of question is what did she
24 think? I mean -

25 MR. WEHNER: Judge, it goes to her intent in terms of

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1 what she was thinking with regard to receipt of the payment.
2 It's a very direct question that goes directly to her state of
3 mind at the time.
4 The government has to prove that she had a corrupt
5 intent. I can ask her and rephrase it and say, "what was your
6 intent?" "what would you think?" was my maybe colloquial way of
7 asking the question.
8 MR. O'NEILL: Judge, he's done it already for hours the
9 appropriate way by asking what she did, what the money was for,
10 what the basis of it is. what she thinks is totally irrelevant
11 and inadmissible.
12 THE COURT: How about in a murder case, where you say,
13 "Did you shoot somebody? Did you intend to kill him when you
14 shot him?" You can ask that, can't you?
15 MR. O'NEILL: Yes, sir, Your Honor. In all honesty,
16 you absolutely could.
17 THE COURT: It would be appropriate. I'll allow the
18 question as to her intent.
19 (End of bench conference.)
20 THE COURT: All right, you can rephrase the question.
2 MR. WEHNER: Thank you, Your Honor.
2 Q. At the time you received the funds, Ms. Dean, what did you
2 intend?
2 A. I intended to decorate, to get an apartment for Mr. Kitchin,
2 to buy him furniture, to put it in the apartment, and to have

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1 nothing else to do with Mr. Kitchin other than that, and to do my
2 job. And I looked at those two things as mutually exclusive of
3 one another.
4 Q. There obviously came a time when you realized Mr. Kitchin
5 had not cashed the check.
6 A. Yes. And I didn't understand why he didn't cash the check,
7 and I couldn't get an answer from him, and so I asked him on
8 several occasions to please cash the check, and he didn't cash
9 the check.
10 So I started giving him money so that eventually the
11 debt would be retired however way I had to get him to accept it.
12 I couldn't write him a check, because obviously he didn't cash
13 checks. So every time I saw him, I would give him money, and he
14 would take it. And therefore, I thought, okay, if this is how I
15 have to do it, this is how I have to do it, but he'll get his
16 money back.
17 Q. Did there come a time when you stopped attempting to try to
18 pay him back?
19 A. Yes.
20 Q. why?
21 A. when the HUD I.G. report came out and Mr. Kitchin's name was
22 mentioned on there as someone who had been doing work in the Mod
23 Rehab Program, I went to my -
a lawyer, and I said, "I had a
24 business dealing with this man, and I still owe him some money."
25 And my lawyer said, "Do not have any contact with

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Mr. Kitchin whatsoever."
2 And I said, "Can't I call him and make certain that
3 this is straightened out? Because I don't want there to be an
4 appearance of impropriety."
5 And he said, "No. Do not have any contact with
6 Mr. Kitchin. Don't do anything."
7 And I took that advice.

8 Q. And have you had any contact with Mr. Kitchin since that
9 date?

10 A. He called me about, I mean, a year ago, year-and-a-half ago,
11 and he was in Washington, and he wanted to meet me for a drink or
12 dinner, I can't remember which -- I think we had dinner. And I
13 had dinner with Mr. Kitchin.

14 Q. Did you have any conversation with him about the funds at
15 that time?

16 A. No, I didn't, because frankly, it was in the middle of when
17 he was up here, and they had grand juries and FBI agents and
18 everything else. And frankly, I thought Mr. Kitchin, I didn't
19 know where he was coming from or what he was doing, but I was
20 afraid that he was being a little self-serving, and I just sat
21 there basically with my mouth closed. He was very nice and
22 cordial, didn't get into any conversations, but I didn't know
23 what to think.

24 Actually, I believe I spoke to you about that. You
25 were my attorney at the time, and you said, "Do not have any

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1 conversation with Mr. Kitchin," and I didn't.

2 Q. Did you intercede with Mr. Kitchin on behalf of any projects
3 in Atlanta?

4 A. No, I did not.

5 Q. With regard to projects known as Springwood or Cutlerwood,
6 did you do anything to cause those projects to be funded for
7 Mr. Kitchin?

8 A. I did not. And I told Secretary Pierce exactly what the
9 problem was that I had with it and that I couldn't do anything
10 about it, didn't want to talk about it. I explained it to him.
11 I did not know before then, around then, after then what
12 Mr. Kitchin's interest was in those projects.

13 Actually, he told the HUD I.G. he had never received
14 money from mod rehab. I still to this day don't know -
well, I

15 guess we saw checks, but I didn't know if it was a political
16 interest when Mr. Demery told me about it or if he was a
17 consultant or an owner. Mr. Demery told me he was involved. I
18 told Secretary Pierce.

19 I did not talk about Metro Dade. I had nothing to do
20 with the funding of those projects, and I didn't know what his
2 interest was.

2 Q. Directing your attention to the position that Secretary
2 Pierce recommended you to the white House for, that was assistant
2 secretary for Community Planning and Development?

2 A. Yes.

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1 Q. Would you briefly describe the process by which you, after
2 Secretary Pierce sent your name to the white House, what happened
3 after that?

4 A. Well, he doesn't send your name to the white House. He -
5 basically the white House picks who the assistant secretaries
6 are, the President does that through his Office of Personnel, and
7 they have a, you know, a list of people that they would like to
8 see put into, you know, nice jobs in the government, and if you
9 would like, if you were in the agency and you'd like to be
10 promoted, certainly your boss asking them to consider you is
11 paramount to whether or not that works.

12 And Secretary Pierce did ask Mr. Tuttle at the white
13 House to interview me, and I -

and Mr. Tuttle told me that I was
14 a candidate but that there were other people and that that
15 decision would be made by the white House.

16 Q. As a part of the process, was there some kind of background
17 check?

18 A. Yes.

19 Q. Okay. When did the background check begin?

20 A. I don't remember. I know the President makes a decision,
2 but he doesn't officially nominate you until the FBI has
2 investigated you totally, and then if you get a clean bill of
2 health back to the white House, then the President officially
2 nominates you.

2 But you basically know that, that you are his choice,

1 I'd say, maybe six months before, and then the FBI takes a long
2 time, they interview everybody, they look into everything, and
3 then the President nominates you if the lawyer for the white
4 House says that the FBI check was okay.

5 Q. Were you nominated by the President? And I use the word
6 "nominate" officially.

7 A. Yes.

8 Q. Okay. And approximately when was that?

9 A. I don't remember. I was nominated twice, and I don't

10 remember the dates.

11 Q. Can you give us a year for the first time, please?

12 A. 1987 and 1987.

13 Q. Both in 1987?

14 A. One might have been 19- -- yeah, they were both in 1987. I
15 think maybe one was January of '88. I don't --

16 Q. I direct your attention to what has already been introduced
17 into evidence, which is your nomination hearing before the
18 Committee on Banking, Housing and Urban Affairs, United States
19 Senate.

20 A. Yes.

2 Q. And that took place on August 6, 1987?

2 A. Yes.

2 Q. Were you nominated by the President prior to that?

2 A. Yes, yes.

2 Q. Okay. Do you recall how long prior to that?

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1 A. I would have to say it would have been in the spring/early
2 summer.

3 Q. And after the nomination was made, what is the next step in
4 the process of being, of being confirmed or being officially
5 named to the post?

6 A. Well, the Senate Banking Committee, which is the Banking
7 Committee that I was in front of for the confirmation hearings,
8 has the right to review all of your documents, all of your
9 papers, your financial transactions. They can investigate you
10 themselves if they want to. They -- all the senators review you.
11 Usually you go around and meet the senators if you
12 don't know them. You have courtesy visits to the senators and
13 things like that, and they ask you a lot of questions. You have
14 interviews with staff, and they ask you questions to see if you
15 are fit for the job.

16 And then a hearing is scheduled by the chairman of the,
17 of the committee, and when the hearing is scheduled, then you go
18 up there, and very much like this, you sit there, and the
19 senators then ask you questions.

20 Q. Who was chairman of the committee in front of which you had
2 to appear?

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2 A. Senator William Proxmire.
2 Q. And who did -
were there investigators working for that
2 committee that were investigating you?
2 A. Yes.

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1 Q. Do you remember any of their names?
2 A. Yes. There was, they actually had an on-staff investigator
3 whose name was Bart Naylor, and he was very active on my
4 nomination. Senator Proxmire did not want me to be nominated.
5 MR. O'NEILL: Objection, Your Honor. Move to strike.
6 Speculation.
7 THE WITNESS: It's not speculation.
8 MR. WEHNER: It's hardly speculation.
9 THE COURT: All right, overruled. Go ahead.
10 THE WITNESS: I was nominated over his objection by the
11 white House.
12 MR. O'NEILL: Your Honor, move to strike. Once again,
13 not responsive to any question and pure speculation.
14 THE COURT: Overruled.
15 BY MR. WEHNER:
16 Q. What was your understanding of why Senator Proxmire opposed
17 your nomination?
18 A. Well, Senator Proxmire and Secretary Pierce had had some
19 disagreements over some issues, and Senator Proxmire's staff and
20 I had some disagreements over some issues, and they included
21 REMICS, the Real Estate Mortgage Investment Conduits, which is a
22 large funding of mortgage-backed securities, and Senator Proxmire
23 had one position on, on who should be able to sell these large
24 financial tools, and Secretary Pierce had a very different view,
25 and Senator Proxmire was pushing very hard for Secretary Pierce

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1 to go with his viewpoint, and Secretary Pierce, having been, in
2 essence, a Wall Street tax attorney for years, understood the
3 issue very well and disagreed fervently with Senator Proxmire on
4 this, and as a result, there was a problem there.
5 Then Senator Proxmire very much wanted a young man by
6 the name of Mr. Danny Wall to be head of the Federal Home Loan
7 Bank Board, and Secretary Pierce had been actively supporting
8 another candidate to be head of the Federal Home Loan Bank Board,
9 and there was a little bit of, "Well, if you're not nice to my
10 person, I'm not going to be nice to your person."
11 And I had had some disagreements -- Secretary Pierce
12 and Senator Proxmire had disagreed over the fair housing
13 amendments and the fair housing initiatives program, which was a
14 testing program. I came to -I
15 had a very strong disagreement
16 with his staff on the testing provisions. He did not feel that
17 this was something that should go forward; I felt very strongly
18 that it should go forward.
19 I remember one time being in Chicago, addressing a fair
20 housing conference, and Senator Proxmire's staff were there in
21 the back of the room, and I didn't understand why they felt that
22 involved. They were extremely involved.
23 They had -- we had very, very difficult hearings on
24 whether or not the government should pay for testers in
25 discrimination cases. We, of course, felt they should. They, of
course, felt that it wouldn't get through the Senate if we didn't

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1 push it, and we had some very, very big disagreements about that.

2 And Senator Proxmire thought that I was too young for

3 the position, and he thought that I didn't have the right

4 educational background, and he had a host of other, you know,

5 smaller problems that he had.

6 But the big problems were the big problems. I mean, we

7 knew what the big problems were, and the little problems were

8 what we used to get, to not discuss the big problems.

9 Q. Did you have a -

he ultimately, however, scheduled a

10 hearing for your nomination; is that correct?

11 A. Yes, he scheduled one for August 6.

12 Q. Did -- how did you prepare for that hearing?

13 A. Well, I had several meetings with the career staff of the

14 Office of Community Planning and Development and prepared to

15 answer questions on the programs under CPD, and so I got myself

16 very organized and got a lot of briefing books and read up on all

17 the programs that came under the Office of Community Planning and

18 Development and made certain that I could answer those questions

19 to prove that I had a good working knowledge of that office so

20 that I would be, so I could move ahead.

2 And we did have, I think, a meeting the night before

2 the hearing, the night before the hearing, where I asked several

2 people to get together in a room and ask me questions, ask me

2 hard questions so I'd be prepared. I'd never testified in front

2 of anybody before, so I wasn't used to this, and so I wanted

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1 people to ask me hard questions.

2 But it didn't work out very well, and they, after about

3 a half an hour, 45 minutes -- and they weren't asking me very

4 hard questions, and they didn't seem to be very relevant to me.

5 So after that, I said, "I think I'll just study in my office, and

6 thank you all for showing up, but I think I'll just work on it."

7 So I sat down and wrote out what was to be my opening

8 statement in front of the committee.

9 Q. Did anyone accompany you to the hearing when you appeared to

10 testify?

11 A. I don't remember. I was so nervous, I don't remember if

12 someone was in the car or not.

13 Q. Okay. When I said "accompany," I mean was anybody sitting

14 with you at the hearing, really.

15 A. Oh, I'm sorry, when I testified. Behind me were the deputy

16 assistant secretaries for Community Planning and Development. It

17 was Mr. Stokvis, who was the general deputy assistant secretary;

18 DuBois Gilliam; Nancy Silvers,- and Janice Golec.

19 Q. Were they present through your entire testimony?

20 A. Yes. It was a short hearing.

2 MR. WEHNER: with the Court's permission, I'll

2 distribute transcripts of the hearing to the jury, which are

2 copies that have been furnished to Independent Counsel and played

2 to the tape.

2 THE COURT: Has counsel seen the transcripts?

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1 MR. O'NEILL: No, Your Honor. I'm sure they're fine,

2 Judge.

3 THE COURT: All right. Ladies and Gentlemen, the

4 transcripts will be distributed to you. We're talking about

5 transcripts of a hearing that occurred in August before the

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6 Senate Banking Committee that are referenced to the latter part
7 of the indictment, the counts involving the perjury and supplying
8 improper or incorrect information to the Senate Banking
9 Committee.
10 The transcripts are not evidence in the case. The
11 evidence is what the tape recording is that's going to be played
12 as to what was actually said. The transcripts are meant as an
13 aid to help you to follow here. And so it's your recollection as
14 to what the tape recording says that counts, not what the
15 transcript says, but I'll allow you as an aid to follow the tape
16 recording.
17 MR. WEHNER: with the Court's permission, I'll furnish
18 one for Ms. Dean so she can follow it. I've furnished one to the
19 Court.
20 (Tapes played.)
21 MR. WEHNER: Your Honor, there are two more tapes.
22 They're about 20 minutes each.
23 THE COURT: All right. we'd better break then, because
24 I have my meeting I have to go to.
25 MR. WEHNER: Yes, sir. I can collect the transcripts,

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Your Honor.
2 THE COURT: All right.
3 All right, Ladies and Gentlemen, we'll make it 9:30 in
4 the morning then. we should have a regular day tomorrow. So
5 we'll be proceeding on tomorrow with the testimony.
6 Remember the admonitions again overnight, please, about
7 not reading, watching, or listening to anything in this case in
8 the media or talking about it with each other, with anyone else,
9 or letting anyone talk about it in your presence whatsoever.
10 Have a good evening, and be back tomorrow at 9:30, all
11 right?
12 (Jury out.)
13 THE COURT: Let me see counsel at the bench, please.
14 (Bench conference on the record.)
15 THE COURT: Mr. O'Neill, let me ask you if that had
16 been a black defendant on the stand with a white jury, would you
17 be making the same kind of smart comments you've been making with
18 a white defendant and a black jury?
19 MR. O'NEILL: Do you think I'm making those racially?
20 THE COURT: No, what I'm impugning is that you're
21 making these comments with a white defendant and a black jury
22 which you wouldn't be doing with a black defendant and a white
23 jury, and I resent that. I think it may be a basis eventually
24 for the bench to take a look at this case.
25 MR. O'NEILL: Your Honor, if I may, I understand what

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1 your concerns are. That happened numerous times in the
2 government's case, numerous times, and the record will reflect
3 that. It happened one time now after the question was asked and
4 answered, asked and answered.
5 THE COURT: This is the third time I recall you doing
6 this, and I've warned you before, all right?
7 MR. O'NEILL: Second time, Judge. I don't want to -8
THE COURT: Second or third.
9 MR. O'NEILL: I don't want to quibble. All right.
10 (Recess from 2:45 p.m., to 9:30 a.m., October 14, 1993.)
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1 CERTIFICATE OF THE REPORTERS

1 We certify that the foregoing is a correct transcript of the
1 record of proceedings in the above-entitled matter.

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ORIGINAL

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1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF COLUMBIA

3 UNITED STATES OF AMERICA,

4 - VERSUS DOCKET

NO.

CRIMINAL NO 92-181

5 DEBORAH GORE DEAN,

WASHINGTON, D.C.

6 DEFENDANT . OCTOBER 14, 1993

10:00 A.M.

7

8 VOLUME XXII

FILED

9 TRANSCRIPT OF TRIAL BEFORE OCT 15 1993

10

THE HONORABLE THOMAS F. HOGAN,

UNITED STATES DISTRICT JUDGE,

AND A JURY.

CLERK U.S. DISTRICT COLAT

DISTRICT OF COLUMBIA

11

APPEARANCES:

12

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WASHINGTON, D.C. 20001

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WITNESSES: DIRECT CROSS REDIRECT RECROSS

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EXHIBITS: FOR IDENTIFICATION IN EVIDENCE

FOR THE DEFT.

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1 PROCEEDINGS

2 THE DEPUTY CLERK: Criminal number 92-181,
3 United States of America versus Deborah Gore Dean. We
4 have Robert O'Neill and Paula Sweeney for the
5 Government. Stephen Wehner for Miss Dean.

6 THE COURT: All right. Are we ready to
7 proceed?

8 MR. WEHNER: A couple of things I'd like to
9 mention before the jury comes out, Your Honor.

10 THE COURT: All right.

11 MR. WEHNER: First of all, I'd like to recall
12 the Court's attention to the 404 (b) issue that was
13 raised pretrial with regard to the introduction of
14 evidence by the Independent Counsel and I simply want to
15 raise that now because the rule specifically provides
16 that if sufficient notice and sufficient information is
17 not given pretrial upon request, that that information
18 is not available for impeachment or rebuttal or for
19 cross-examination purposes, and I simply wanted to bring
20 that to the Court's attention because I do not want
21 Mr. O'Neill to attempt to get into any of those areas on
22 his cross-examination. If he does, I think an objection
23 would be properly sustained. I just want to bring that
24 to the Court's attention in advance of the

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2 cross-examination beginning.

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1 THE COURT: will you refresh my recollection
2 as to what areas you're talking about?
3 MR. WEHNER: Judge, they supplied a list of
4 all eight subject areas. Exhibit D to my motion of -
5 to my memoranda of September 1st, 1993, it's a copy of
6 the Independent Counsel's letter and I can hand that up
7 to the Court if that would be helpful.
8 THE COURT: You're talking September 8th, did
9 you say? At least I received one on September 8th.
10 Deborah Gore Dean's memorandum of law in support of
11 exclusive evidence, but that goes to Marwood.
12 MR. WEHNER: This is the September 1st
13 memorandum of law to prevent the introduction of
14 evidence under rule 404 (b).
15 THE COURT: All right. I've got it.
16 MR. WEHNER: And exhibit D.
17 THE COURT: The letter you're talking about
18 that -- of Miss Sweeney of August 30th.
19 MR. WEHNER: Yes, sir.
20 THE COURT: All right. Now I recall this.
21 MR. WEHNER: Yes. And the only reason -- we
22 have been through it before, Judge. The only reason I
23 bring it to your attention is because -
24 THE COURT: well, my notes reflect the last
25 four, five to eight were 404 (b). The first four really

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1 went to the charges directly. well, there's one. wait
2 a second. Perhaps one part of item number three may
3 have involved some 404 (b). I'm not sure though.
4 MR. WEHNER: Judge, I don't have any problem
5 with your ruling that it's not 404 (b) and therefore the
6 questions are proper on other grounds. All I want -
7 all I would ask the Court to do is to rule that if it is
8 404 (b), and there's not another ground for it to be
9 used, that the Court follow the rule which provides in
10 the notes, "the amendment requires the prosecution to
11 provide notice, regardless of how it intends to use the
12 extrinsic act evidence at trial, i.e. during its case in
13 chief or impeachment or for possible rebuttal." And I
14 just alert the Court to that, that if they attempt to
15 use 404 (b) evidence, that it is not anymore properly

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16 used on cross or for impeachment than it would be
17 otherwise, according to the rules.
18 THE COURT: All right.
19 MR. WEHNER: Secondly, Your Honor, I've had a
20 discussion with Mr. O'Neill this morning in the
2 interests of trying to save sometime and what I intend

2 to do with Miss Dean on the stand is to read her the
2 Exhibit numbers of Exhibits that I intend to introduce.
2 She has already examined those and she will give the
2 standard testimony we've elicited in terms of the

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1 regular course of business, et cetera, regarding those
2 in toto. I will not move their admission at that time.
3 Mr. O'Neill has agreed that we will then argue
4 about those if there's any argument and not in front of
5 the jury on an individual basis and that if further
6 authentication or identification or et cetera is
7 required for individual documents then he would not
8 object if I recall Miss Dean for that limited purpose.
9 MR. O'NEILL: That's correct, Your Honor.
10 THE COURT: All right. Thank you.
11 Have you marked this tape you're playing? Are
12 those marked as evidence?
13 MR. WEHNER: No, sir, I will do that. I will
14 mark them 790 to 794.
15 MR. O'NEILL: Judge, on that point, if I may
16 interrupt one second, you yesterday mentioned to the
17 jury the standard line that the transcripts are not
18 evidence.
19 THE COURT: Unless it's stipulated to.
20 MR. O'NEILL: well, the transcript is in
2 evidence in this case. It's the official -
2 THE COURT: I thought it was a transcript
2 Mr. Wehner had done from listening to the tapes as
2 opposed to a certified copy.
2 MR. O'NEILL: But it's really a copy in

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1 evidence.
2 MS. SWEENEY: We had thought the same thing
3 because we hadn't seen it.
4 MR. WEHNER: That is not true. Now, it isn't,
5 Bob.
6 MR. O'NEILL: No, Judge, he did give it to me
7 and we never looked for it because I took his word for
8 it. It's official.
9 THE COURT: I misunderstood. That's why I
10 asked you earlier did you see this transcript? Was it
11 all right for the jury to see it? I had an idea that
12 was prepared by the defense on its own.
13 well, I'll tell the jury then, I'll reinstruct
14 them about the standard transcript.
15 MR. WEHNER: Actually, Judge, there are a few
16 things that are in error on the transcript.
17 THE COURT: There are. I noticed that. I
18 marked them in the one I had. Five or six things I
19 noticed so far. I don't think they're crucial. We
20 haven't gotten to some of those areas yet, but I have

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2 marked those off.
2 All right. I'll inform the jury, and I
2 appreciate your bringing it up. I was not aware it was
2 the same transcript.
2 MR. O'NEILL: Judge, can we approach for a

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1 second?
2 THE COURT: Yes.
3 (Bench conference)
4 MS. SWEENEY: It's exhibit 212A, it's been
5 admitted as Government's Exhibit 212A.
6 THE COURT: It's a little different than what
7 he has in the sense that 212A is the actual publication
8 of the hearing from the Senate, what I'm looking at now,
9 the copy I have in my hand.
10 MS. SWEENEY: Yes, that might be either 212 or
11 212A. We've admitted three different versions, Your
12 Honor, into evidence, the published version, the
13 official version, the official transcript, and then the
14 version that Ms. Dean was permitted to correct and
15 return to the Committee. Each of those has been
16 introduced into evidence as a separate exhibit.
17 THE COURT: well, the version I'm reading is
18 the Committee hearing record which has exhibits and
19 other things in it which I assume are not in the
20 transcript they're looking at now.
2 MS. SWEENEY: I believe that they are. I
2 believe that Mr. Wehner has passed out copies of the
2 document that Your Honor has.
2 THE COURT: Is that right?
2 MR. WEHNER: No, that's not correct.

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1 MS. SWEENEY: Okay.
2 MR. WEHNER: And it was furnished to you in
3 advance and what is in it is a transcript of the words
4 that were spoken.
5 THE COURT: Not of the exhibits.
6 MR. WEHNER: With the exhibits deleted because
7 I didn't want to get into that. These are the words,
8 questions and answers. The letters aren't in there.
9 The resumes aren't in there. It's not there. Now, if
10 it is and, it's not, it's inadvertent. I mean we copied
11 the words that were stated because I didn't want to get
12 into that discussion.
13 THE COURT: I'll explain it to the jury.
14 Yes, sir.
15 MR. O'NEILL: Judge, just briefly. Yesterday
16 you put something on the record. I apologized for my
17 remark before the jury and it was an unfortunate
18 remark. However, I didn't understand what you said at
19 the end and I just want to put that on the record.
20 There was no intention, and I don't think the record
2 supports anything that we ever played race here. It's
2 an all black jury, but we exercised no peremptory
2 challenges on any white people.
2 THE COURT: I didn't say you did. I think the
2 import of the actions - as I said, I think if it had

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1 been a well known prominent black person as the
2 defendant in this case, as a good prosecutor, and you
3 are a very good one, and you've been very careful not to
4 show any disrespect --
5 MR. O'NEILL: I understand.
6 THE COURT: I was a little concerned with this
7 jury. All right.
8 (Bench conference concluded)
9 THE COURT: Okay.

10 THE DEPUTY MARSHAL: Yes, Your Honor.
11 MR. WEHNER: Your Honor, if it would help the
12 Court, I can give you a copy of the actual xerox.
13 THE COURT: That's okay.
14 (Jury present)
15 THE COURT: All right. Good morning, ladies
16 and gentlemen. We're ready to go. Thank you for
17 waiting a few minutes.
18 As you recall, yesterday we were about halfway
19 through the -- listening to the tape recording of the
20 hearing before the Committee on Banking, Housing and
2 Urban Affairs of the United States Senate on August 6,
2 1987 out of which some of the charges against Miss Dean
2 have arisen.
2 I had instructed you at the beginning of this
2 process in listening to those tape recordings, that the

1 transcripts are not the evidence, it was the tape
2 recordings that are the evidence in the case. The
3 Government has pointed out to me, correctly, that the
4 Government introduced copies of these hearing
5 transcripts in various forms in their case and they're
6 in the area of exhibits 212, 212A, that should be the
7 same as the transcripts you have before you, although
8 the full hearing will have some other exhibits and
9 letters, et cetera, in it, the full hearing documents.
10 But the transcripts that we're focusing on now, and I
11 told you transcript are normally not considered the
12 evidence, what you hear in the tape recordings are the

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13 evidence and you may have heard a difference in a word
14 or two from the transcript and the tapes, the tape
15 recording will be evidence in the case but also the
16 transcripts having been admitted in evidence are also
17 evidence in the case. So you can consider transcripts
18 as well and they will be available to review during

19 deliberations.
20 Normally the rule as I gave it to you
2 yesterday, that the transcripts is not the evidence,

2 it's the tape recordings, but in this instance it's the
2 transcript before you and you can consider them as well
2 as the tape recording.
2 All right, we're going to go forward, I

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1 believe, to continue with the testimony that was given
2 at the banking hearing by the way of the tape recording
3 and we'll finish listening to that this morning.

4 (DEBORAH GORE DEAN, THE DEFENDANT, RESUMED THE STAND)

5 MR. WEHNER: With the Court's permission, I
6 believe we left off at page 50, approximately ten lines
7 down.

8 THE COURT: All right. Are you all at page 50

9 at this time?

10 All right.

11 (Tape of confirmation hearing resumed, and
12 played to the end)

13 THE COURT: All right, we can pick up the
14 transcripts unless you want to go back to them for
15 awhile?

16 MR. WEHNER: I'll move the admission of Dean
17 Exhibits 790 through 794, which are the tape recordings
18 just played for the jury.

19 MR. O'NEILL: No objection, Your Honor.

20 THE COURT: All right, 790 to 794 are admitted
2 of the August 6, 1987 hearing before the Committee on

2 Banking, Housing and Urban Affairs.
2 (Defendant's Exhibits 790 through
2 794 received into Evidence)
2 MR. WEHNER: And I also move a copy of the

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1 transcript which was handed up to the jury as Exhibit

2 794.

3 MR. O'NEILL: I have no objection.

4 THE COURT: All right, we already have a

5 couple of copies, but I'll let this one go in since the

6 jury has reviewed it. All right, 794, a copy of the

7 transcript that was actually used by the jury of the

8 tapes that were played, is admitted.

9 DIRECT EXAMINATION (CONTINUED)

10 BY MR. WEHNER:

11 Q Miss Dean, I'm going to show you what I've marked

12 for identification as Dean Exhibit 943 and I know I've
13 had you review these previously. Would you state
14 generally what they are?

15 A They're all letters from the United States Senate
16 and the House of Representatives making requests of the
17 Department for Mod Rehabilitation units.

18 Q And were these letters kept in HUD's files as a
19 part of the regular course of business?

20 A Yes, they were.

2 Q And from whence did you get those documents?

2 A From the Independent Counsel.

2 Q Was it in the regular course of business for the
2 Department of Housing and Urban Development to keep
2 these records in their files?

1 A Yes, sir.

2 Q Miss Dean, I'm going to show you what I've marked
3 for identification as Dean Exhibit 13.

4 A Yes.

5 Q Which we have previously discussed. Is that a
6 memorandum for David White from Betty Park?

7 A Yes.

8 Q With the subject being consulting agreements and
9 Section Eight Mod Rehab?

10 A Yes, it's the memorandum that memorializes that
11 consulting fees are legal.

12 Q You previously read a portion of this to the jury,
13 did you not?

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14 A Yes, I did.
15 MR. WEHNER: Your Honor, at this time I move
16 the admission of Dean Exhibit 13.
17 MR. O'NEILL: No objection, Your Honor.
18 THE COURT: All right. 13 will be admitted.
19 Defendant's 13.
20 (Defendant's Exhibit 13 received
21 into Evidence)
22 BY MR. WEHNER:
23 Q Okay. Miss Dean, I'm going to show you – I'm not
24 going to have you look at each of these pieces of paper
25 since you've already looked at them this morning, but

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1 I'm just going to hand you, and I just want the record
2 to reflect that you have previously reviewed the
3 following exhibits?
4 A Yes, I have.
5 Q I need to read them to you first.
6 A All right.
7 Q I know you reviewed them all but I will ask you if
8 for the exhibits I'm going to identify was it in the
9 regular course of business for HUD to keep these

10 documents and were they in fact kept in the regular
11 course of business and were they in fact generated on or
12 about the time that they reflect. Exhibits three, four,
13 five, six --
14 THE DEPUTY CLERK: wait a minute, you're going
15 too fast.
16 MR. WEHNER: Sorry. Three, four, five, six,
17 seven, eight, nine, ten, 11, 12, 20, 21, 22, 30, 31, 32,
18 33, 35, 36, 37, 38, 39, 40 through 49 inclusive, 50, 51,
19 52, 54, 55, 56, 57, 58, 65 through 70 inclusive, 71
20 through 90 – I'm sorry, 71, 72, 73, 88, 85, 93, 94, 95,
21 96, 147, 150, 151, 152, 184, 185, 108, 112, 117, 118,
22 119, 122, 181, 123, 124, 125, 146, 190, 189, 191, 192,
23 193, 552, 551, 527, 528, 529, 530, 164, 392, 393, 532,
24 533, 534, 423, 424, 425, 426, 417 through 422 inclusive,
25 409 through 412 inclusive, 563 through 574 inclusive,

1 247 --

2 THE COURT: wait a second.
3 MR. WEHNER : Sorry, Your Honor.
4 THE COURT: 574 you said?
5 MR. WEHNER : Yes, sir, 563 through 574
6 inclusive.
7 THE COURT: Okay.
8 MR. WEHNER : 247, 877, 71, 517, 67 , 876, 881,
9 91, 858, 580, 581 through 585 inclusive, 595 , 590, 597,

10 598 , 588, 272, 610, 611, 618, 620, 612, 613 –
11 THE COURT: wait a second, six – all right.
12 613 •
13 MR. WEHNER : 614, 615, 616, 413, 868, 87 1,
14 557 , 558, 561, 545, 535, 538, 601, 602, 603, 604, 605,
15 263 , 268, 266, 269, 270, 161, 857, 864, 865, 559, 560,
16 394 , 395, 396, 562, 617, 618, 619, 608, 609, 621, 622,
17 607 , 606, 897, 781, 783, 782, 628, 785, 629, 630, 631,

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18 626 with the Court 's permission, I believe that the
19 remainder have been offered and admitted or offered and
20 refused.
2 THE COURT: All right, we'll hold those until
2 we have a chance to go through them.
2 BY MR. WEHNER:
2 Q Miss Dean, I'm going to show you what I 've marked
2 for identification as Dean Exhibit 344 and ask you if

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1 you can identify that?
2 A Do you want me to answer the first question? Yes,
3 those were kept in the normal course of business, and
4 yes, I can identify this.
5 Q What is it?
6 A It's the HUD I.G. report on the Mod Rehabilitation
7 program.
8 Q And the date?
9 A April 17, 1989.
10 Q Miss Dean, I'm going to show you what has
11 previously been identified as Dean Exhibit 190 and ask
12 if you recognize this as being a memorandum for
13 Secretary Pierce from Thomas Demery?
14 A Yes.
15 Q With the subject being Inspector General's
16 memorandum dated October 24th, 1988?
17 A Yes.
18 MR. WEHNER: Your Honor, I move the admission
19 of Dean Exhibit 109.
20 THE WITNESS: 190.
2 MR. WEHNER: I'm sorry, 190.
2 MR. O'NEILL: No objection, Your Honor.
2 THE COURT: All right, 190, the report, will
2 be admitted.
2 (Defendant's Exhibit 190 received

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1 into Evidence)
2 BY MR. WEHNER:
3 Q Miss Dean, with regards to this memorandum, what is
4 your understanding as to the circumstances under which
5 it was written?
6 MR. O'NEILL: Objection, Your Honor.
7 THE COURT: All right. what's the basis she
8 has for giving the circumstances of her understanding?

9 MR. WEHNER: It's a preliminary question, Your
10 Honor, I'll rephrase it.

11 THE COURT: All right.

12 BY MR. WEHNER:

13 Q Do you understand, Miss Dean, what the purpose of
14 this memo was, from your review of it?

15 A Yes, sir.

16 Q what was the purpose of the memo?

17 A The Inspector General had requested that Secretary
18 Pierce remove Mr. Demery from the administration of the
19 Moderate Rehabilitation Program and to replace him with
20 someone else because of the preliminary findings of
2 their report, and Mr. Demery responded back in a

2 confidential memorandum to Secretary Pierce, laying out
2 his defense to the Inspector General's allegations and
2 enclosing several documents and memoranda that explained
2 funding decisions that had been made while he was the

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1 Assistant Secretary for FHA, Housing.

2 MR. WEHNER: I want to publish the first page

3 of this to the jury if I may, Your Honor.

4 THE COURT: All right.

5 BY MR. WEHNER:

6 Q Miss Dean, could you read on the first page

7 following the colon which follows the word facts,

8 f-a-c-t-s, could you read that paragraph aloud, please?

9 A Yes, okay. well, I should read the allegation so

10 that -- to put it in context?

11 Q I'm sorry, begin with -- I didn't have that
12 proper. "The first allegation."

13 A "The first allegation. The Assistant Secretary for
14 Housing personally controlled the Moderate
15 Rehabilitation Program allocation process." The first
16 paragraph. "Facts. This allegation shows concealment of

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17 known facts by the Inspector General. As you will
18 recall, in January, 1987 you directed me to chair a Mod
19 Rehab Selection Committee comprised of your Executive
20 Assistant, Deborah Dean, and the Undersecretary, J.
2 Michael Dorsey, Acting. The committee reviewed PHA

2 letter requests for funding considerations and made
2 their selections. Mr. Adams," who was the Inspector
2 General, "is well aware of this process. For him to
2 allege that I personally controlled the MRP allocation

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1 process is a misstatement. In all cases each funding
2 action occurred as a result of a specific written or
3 verbal communications with PHA's, elected public
4 officials, the Regional or area HUD personnel. It was
5 my job to coordinate the various requests and present
6 them to the Selection Committee. The Committee, not Tom
7 Demery, decided and approved the allocation of Mod Rehab
8 units."
9 Q Miss Dean, this memo was written on November 7th of

10 1988?

11 A Yes.

12 Q When did you testify in front of the Senate
13 Committee?

14 A On August the 6th, 1987.

15 Q Now, you were asked questions concerning the
16 Moderate Rehabilitation process by Senator Proxmire and
17 the process by which those decisions were made. Did you
18 understand his questions to be limited to a particular
19 time period?

20 A Yes, gratefully.

2 Q What was that time period?

2 A Senator Proxmire asked me about 1987, then comma,
2 this year, and then he went on with his question. So
2 the question was then limited to the action on the
2 Moderate Rehabilitation Program since the January

2798

1 meeting that Mr. Demery had with Mr. Pierce.

2 Q Now, is this memorandum/ that paragraph of the

3 memorandum, consistent with your recollection of the

4 situation with regard to Mod Rehab in 1987?

5 A Yes.

6 Q And is that in fact how the Moderate Rehabilitation
Page 1557

7 process operated in 1987?

8 MR. O'NEILL: Objection, Your Honor, it's

9 continuing leading.

10 THE COURT: All right. I'll sustain the
11 objection as to leading.

12 BY MR. WEHNER:

13 Q How did the Moderate Rehabilitation process work in
14 1987?

15 A Well, for the entire year I can't answer but I did
16 testify that the January meeting, that there were
17 projects funded, of which I did not know about, but that
18 Mr. Demery and Mr. Pierce had agreed upon. And then the
19 March and April funding rounds were the Selection
20 Committee of Mr. Dorsey and myself and Mr. Demery, and
2 Mr. Demery would bring a list to the committee. We

2 would discuss them and vote on them with certain
2 exceptions, to which I testified about, in those two
2 meetings, and to the best of my knowledge, that
2 continued through 1987 but I was only present for those

2799

1 two meetings.

2 Q Miss Dean, you identified Dean Exhibit 943 as being
3 a stack of letters that had been written by Senators
4 with regard to Mod Rehab.

5 A Yes.

6 Q How often did Senators call you or write to you or
7 did you become aware of senatorial requests for Moderate
8 Rehabilitation units?

9 MR. O'NEILL: Objection, Your Honor, asked and
10 answered.

11 THE COURT: I'll allow it one more time. Go
12 ahead.

13 MR. WEHNER: Thank you, Your Honor.

14 A Specifically on Moderate Rehabilitation, maybe 20
15 to 30 phone calls a year specifically on Moderate
16 Rehabilitation, but then there were phone calls on the
17 other numerous, you know, projects in the Department.
18 So we - although I received a lot of telephone calls
19 from senators and their staffs or Congressmen and their
20 staffs, specifically on Mod Rehab maybe 30 a year.
2 Maybe a few more but -

2 Q To your knowledge, did Senator William Proxmire
2 ever request consideration with regard to the Moderate
2 Rehabilitation program?

2 A He requested consideration from Assistant Secretary

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1 Demery. He did not call Secretary Pierce or myself -
2 he did not call Secretary Pierce, that I know of. He
3 certainly did not talk to me but I do know that he did

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4 meet with Mr. Demery because Mr. Demery told me so.
5 Q Miss Dean, I'm going to show you what I've marked
6 for identification as Dean Exhibits 124, 899, 896, and

7 94.

8 MR. WEHNER: For the record, 124, 899, 896,
9 and 94.

10 Q And I ask you if these were kept in the regular
11 course of business at HUD?

12 A Dean Exhibit 94, yes. Dean Exhibit 896, yes. Dean
13 Exhibit 899 - 898, 124, and this last page should not
14 be attached to this. These are separate.

15 Q And 795, which I renumbered the last page.

16 A Yes.

17 Q Was it in the regular course of business at HUD to
18 keep those documents?

19 A Yes, sir.

20 Q Were they kept in the regular course of business?

2 A Yes, sir.

2 Q And to your knowledge do they appear to have been
2 generated at or about the time reflected?

2 A Yes, sir.

2 Q Miss Dean, with specific regard to the project

2801

1 called Baltimore Uplift One.

2 A Yes.

3 Q Do you recall when you first heard the name

4 Baltimore Uplift One?

5 A When Senator Proxmire asked me the question, had I
6 ever heard of Baltimore Uplift One, and I never heard of
7 Baltimore Uplift One when he asked me the question.

8 Q Do you know today what Baltimore Uplift One is?

9 A Well, the Independent Counsel provided

10 approximately 6000 documents on Baltimore Uplift One and
11 I read through them and it, to me, from what I've been
12 able to read and talk to Dr. Baugh, who was the head of
13 the office who ran that program, it is a public housing
14 tenant training program that at one point in HUD history
15 received some Mod Rehabilitation assistance and some
16 Section Eight certificate assistance back in 1982 and
17 1983. I believe the certificates that Mr. DeBartolomeis
18 testified to that he had sent were in 1983 and I believe
19 the moderate rehabilitation units that went into it were
20 in 1982.

21 Q Where were you in 1982?

22 A I was in the Executive Secretariat.

23 Q Today, as you sit here, have you seen anything that
24 refreshes your recollection that you knew of or were
25 aware of Baltimore Uplift One when you were asked that

2802

1 question by Senator Proxmire?

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2 A No, and I -- nothing that I saw reflected anything

3 that would have reminded me of it. I've never heard of
4 it to this dayf when I look at it I know what it is once
5 I read it, but I still don't have any recollection or
6 memory of anyone ever saying the words Baltimore Uplift
7 One to me. I just had never heard of it and it
8 certainly wasn't a Moderate Rehabilitation program. It

9 wasn't -- it looks as though there were some Moderate
10 Rehabilitation monies put into a large training program
11 and a lot of other different kinds of monies as well,
12 but it's certainly not something that I would refer to
13 as a Mod Rehab project. It is a program that came under
14 the Office of Public Housing, not Mod Rehab.
15 I did see that there was a person named Dean
16 Reger and so Dean was on there, a couple of pieces of
17 paper, but those were out of the Philadelphia Regional
18 Office, and Mr. Reger is the Deputy Regional
19 Administrator there. That Dean refers to him, not me.
20 So I -- I don't know what connection I would have had to
2 it and I did not hear of it then and did not know what

2 it was when he asked me.
2 Q Do you know an individual by the name of Bob
2 Tuttle?
2 A Yes, I know both Mr. Tuttlles.

2803

1 Q which one or either did you ever meet at HUD when

2 you were employed there as Special Assistant?

3 A I met both of them when I was at HUD.

4 Q Did you ever have a discussion regarding the

5 Baltimore project with Mr. Tuttle?

6 A No, not a discussion. Mr. Tuttle, who is not white

7 House Mr. Tuttle but the other Mr. Tuttle, came in to

8 see me one time and I believe it was regarding a project
9 in Washington, D. C , not Baltimore. But he mentioned
10 at some point that he was working with Janice Golec or
11 had been working with her for awhile on something he had
12 done in the past in Baltimore but he didn't say anything
13 about what it was and I just remember saying, well,
14 Janice is the best Special Assistant we have. If you're
15 working with her, I don't know what else to tell you to
16 do. She's great, so - and he had said something to the
17 effect that he had lost a lot of money in this project
18 he had been working on in Baltimore, but I'm not even
19 certain to this day that what he was working on had
20 anything to do with Baltimore Uplift One.
2 I know I met with Bob Tuttle and he said he

2 was working with Janice on something.
2 THE COURT: we'll take our morning recess now,
2 is that all right with you?
2 MR. WEHNER: Yes.

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1 THE COURT: we'll take a short morning recess,
2 ladies and gentlemen, for about 15 minutes. We'll be
3 back after that. Remember the admonitions of the Court,
4 please, don't talk about the case.
5 we'll take a break.
6 (Jury dismissed)
7 THE COURT: I made my calendar clear for
8 tomorrow so we can clear up everything that we want to
9 take care of.
10 MR. O'NEILL: So we'll be in Court all day
11 tomorrow, Judge?
12 THE COURT: Until 3:15 or four o'clock. We're
13 swearing in a new U.S. Attorney. So we have to get up
14 there. So we'll sit tomorrow, if you have anybody
15 available to try to finish up the testimony if we can
16 tomorrow at least.
17 MR. WEHNER: I'm going to be about 15 minutes.
18 THE COURT: You'll finish by lunch time.
19 MR. WEHNER: Yes, sir.
20 MR. O'NEILL: I assume the cross will be long.
21 MR. WEHNER: You think you'll go into
22 tomorrow.
23 MR. O'NEILL: Perhaps.
24 MR. WEHNER: I'll have my witnesses ready for
25 tomorrow, and they'll be short.

THE COURT: Okay. we'll see whether we have
anything left, or we'll get ready for closing arguments
and instructions over the weekend.

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1 (Recess from 11:15 a.m. to 11:35 a.m.)
2 THE COURT: All right. Would you bring the jury in,
3 please?
4 THE DEPUTY MARSHAL: Yes, Your Honor.
5 (Jury in.)
6 THE COURT: All right, Ladies and Gentlemen, we're
7 ready to proceed with the late morning session.
8 BY MR. WEHNER:
9 Q. Ms. Dean, just to make sure the record is, is clear, I'm

10 going to show you Dean Exhibit 625. You testified about this
11 yesterday.

12 A. Yes.

13 Q. That was kept in the regular course of HUD business?

14 A. Yes, it was.

15 Q. Was it the regular course of HUD business to prepare that
16 document?

17 A. Yes.

18 Q. And it was prepared at or about the time reflected on the
19 document?

20 A. Yes.

21 Q. Ms. Dean, after your confirmation hearing that the jury just
22 heard from the tape recordings, what happened with regard to the
23 confirmation process?

24 A. Well, if you'll remember, there was a, at one point
25 yesterday in the proceedings, the senator asked me about motor

2807

1 pool records and whether or not I could get back to the committee
2 with more information on motor pool records.
3 Well, the Senate adjourned that --he scheduled my
4 hearing for the last day of the Senate being in session, so when
5 he then asked me to give more information back to the committee,

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6 the committee was -- the Senate, in essence, ended, and my
7 nomination automatically was sent back to the White House as a
8 nomination that had not been acted upon by the Senate, which
9 meant that I then had to be renominated by the President.
10 So the entire process started all over again, and I was
11 renominated by the President over the very strong objections of
12 Senator Proxmire, once again, in the fall. And the Senate then,
13 well, Senator Proxmire would not allow it to come up for a vote.
14 MR. O'NEILL: Objection, Your Honor.
15 THE COURT: All right.
16 THE WITNESS: It did not come up for a vote.
17 THE COURT: I'll sustain it. Just say it did not come
18 up for a vote.
19 THE WITNESS: It did not come up for a vote.
20 And there were many other members of the committee who
2 signed a letter to Senator Proxmire, I think it was 12 or 13
2 other senators on the committee that said to please bring this up
2 for a vote, but he was not swayed by that.
2 And at the end of the Christmas season, the Senate then
2 again adjourned, and my nomination was automatically sent back

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1 again as not having been acted on by the Senate.
2 And in January of 1988, I met with Mr. Tuttle from the
3 White House and Secretary Pierce, and they told me that the, the
4 President hardly ever nominated anyone for a third time and that
5 it was very clear that I was never going to be able to come up
6 for a vote in the committee, even though I had the votes to be
7 confirmed, and I was not then resubmitted again for that
8 position.
9 Q. Now as a part of your effort to become confirmed, I believe
10 you testified yesterday that you provided information to the
11 White House Office of Personnel and the General Counsel's Office.
12 A. Yes.
13 Q. Did you provide them with the answers to various questions?
14 A. Yes, I did.
15 Q. And what I've showed you is marked as Dean Exhibit 789, the
16 memo dated February 12, 1987, for Peter J. Wallison, Counsel to
17 the President, from you?
18 A. Yes.
19 Q. Is that the memo that you sent at that time?
20 A. Yes. Yes.
2 MR. WEHNER: I move the admission of Dean Exhibit 789.
2 MR. O'NEILL: No objection, Your Honor.
2 THE COURT: All right. Being no objection, it's
2 admitted, 789.
2

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1 (Defendant's Exhibit No. 789 was
2 received in evidence.)
3 BY MR. WEHNER:
4 Q. Ms. Dean -- and I'm going to review page 26 of that on the
5 monitor. With regard to Question 25, from reading your response,
6 do you have a recollection as to what the question was?
7 A. I'm afraid I can't see which number goes with the --
8 Q. I'm sorry. I'll try to get it.
9 A. Okay. These are all questions from the White House counsel

10 on anything that might be said negative about you, and so you try
11 to be as honest as you can for the White House as to what might

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12 be said about you and --

13 Q. would you read paragraph 25, please?

14 A. It says, "My family's business until 1978 included three
15 restaurants with which I was associated. An unfair attack on my
16 qualifications might center on these ventures. The restaurants
17 include the Jockey Club, the Sea Catch Restaurant, and The
18 Guards. The restaurant business is not seen by many as the
19 proper background for a presidential appointment."

20 Q. And 26?

2 A. "Persons who might take steps, overtly or covertly, to

2 attack my appointment fall into two groups." It's all one big
2 blur to me. I'm sorry.

2 "First group: Current or past Department of Housing

2 and Urban Development employees which have been disciplined by me

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1 in my current position or relieved of their duties. Comments by
2 them would be to the effect that I was unfair, unsympathetic, or
3 vindictive. These people might include Leonard Burchman, Deputy
4 Assistant Secretary, Office of Public Affairs; Jack Stokvis,
5 General Deputy Assistant Secretary, Office of Planning and
6 Development; Judith Brachman, Assistant Secretary Designate,
7 Office of Fair Housing and Equal Opportunity; Bronwyn Morgan,
8 Office of the Secretary; Bernice Williams, Assistant of the
9 Secretary for Business Relations, Office of Small and
10 Disadvantaged Business Utilization.

11 "The second group: Outside political consultants or
12 former employees or Housing consultants. These individuals feel
13 that I have not been generous with discretionary money or feel
14 that because of political connections, they should receive
15 additional consideration. These people might include: Larry
16 Simmons, former Federal Housing Commissioner; R. Carter Sanders,
17 private law practice; Michael Karem, consultant and former HUD
18 employee; Joseph Strauss, consultant and former HUD employee,
19 Shirley Wiseman, consultant/developer and former HUD employee.

20 "All actions taken, which included some referenced

2 above, were discussed and concurred on by Secretary Samuel R.
2 Pierce, Jr."

2 Q. And directing your attention to the last paragraph you
2 read, "All actions taken, which included some referenced above,
2 were discussed and concurred on by Secretary Samuel R.

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Pierce, Jr.," -

2 A. Yes, sir.

3 Q. -

and relating back to your testimony regarding units being
4 sent to Maryland, would you explain to the jury what you
5 understood the question to be and what you understood your answer
6 to be when you were asked about mod rehab units being sent to the
7 State of Maryland?

8 A. Well, I meant what, exactly what I had testified here, which
9 is that I never felt comfortable with discretionary monies going
10 to my home state if I sat on the panel and voted for them, the
11 same way I didn't feel comfortable about Mr. Demery sending units
12 to Michigan or Secretary Pierce sending units to New York. I
13 just thought that it, it looked as though you were trying to take
14 care of your own state, and really we represented all 50 states,
15 and so I thought that it was inappropriate unless it was

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16 addressed at a higher level.
17 So whenever there was a request on any discretionary
18 money that had to do with Maryland, I always made certain that I
19 took it to the highest ethical person and the highest authority
20 person that I knew, both of those people being Secretary Pierce,
21 and Secretary Pierce would have to make that call.
22 It was not something that I felt comfortable doing;
23 even recommending it to him I felt uncomfortable. I wanted him
24 to be able to look into it on his own, without my recommendation.
25 Q. And when did you write this memo?

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1 A. February 12, 1987. There was a subsequent memo also to
2 this, and under people who might block my nomination, I also
3 added Senator Proxmire after the hearing, because I
4 Q. Ms. Dean, did you receive copies of letters that were sent
5 to Senator Proxmire in support of your nomination?
6 A. Yes, I did.
7 Q. And who did you receive copies of those letters from?
8 A. The Mortgage Bankers Association sent a letter to Secretary
9 Pierce, and the National Association of Realtors and the National
10 Association of Real Estate Brokers and the community development
11 organizations.
12 There were a lot of organizations that wrote letters in
13 support of my nomination, but I think the two that -- the one
14 that was, I think should have been the most effective was the one
15 from the American Federation of Government Employees, because I
16 was the only Republican presidential nominee that had ever been
17 supported by the union that represented government employees, and
18 I also received a letter in support from the local HUD union
19 headquarters, where they had sent a letter to Senator Proxmire
20 saying that I was a very fair individual who had stopped a lot of
21 strife in the department and to please allow my nomination to go
22 forward.
23 And I know the man that was the head of the, of AFGE
24 worked in South Carolina, and he flew all the way up to
25 Washington to meet with Senator Proxmire, as did Dr. Ralph

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1 Abernathy on my behalf.
2 Q. Let me show you what I've marked for identification as Dean
3 Exhibits 195, 196, 197, 201, 202, 203, 200, 199, 207, 194, 204,
4 and 198 and ask you if these are copies of letters that you
5 received supporting your nomination that were received by Senator
6 Proxmire's committee?
7 A. Yes. This is the one from Dr. Abernathy; federal government
8 employees; the local -- the Housing Local No. 476; one from the
9 Realtors, National Association of Counties; the Home Builders;
10 the National Council for Urban Economic Development; the Mortgage
11 Bankers; Congressman Mervyn Dymally; Strom Thurmond; and as I
12 said before, the National Association of Real Estate Brokers,
13 which was Mr. Holmes, who testified here.
14 Q. Ms. Dean, in terms of the process with regard to the Senate
15 committee, would you tell us your understanding of why your
16 nomination was not approved?
17 MR. O'NEILL: Objection, Your Honor.
18 THE COURT: Yes, I'll sustain that the way it's asked.

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19 BY MR. WEHNER:

20 Q. Ms. Dean, did you receive information regarding --do you
21 have an understanding as to why your nomination was not voted
22 upon?

23 MR. O'NEILL: Objection, Your Honor.

24 THE COURT: I'll sustain it. You have to come to the
25 bench and tell me the relevancy.

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1 MR. WEHNER: I will, Your Honor, on the objection as to
2 relevancy.

3 (Bench conference on the record.)

4 THE COURT: what is relevant about her understanding
5 why she didn't get nominated?

6 MR. WEHNER: well, the testimony I would intend to
7 elicit, Judge, would be that she perceived and knew at the time
8 she answered these questions by Senator Proxmire and as evidenced
9 by his obvious tone on the tape recordings and by the questions
10 of the other members of the committee that he was extremely
11 hostile to her nomination and that she was being extremely
12 careful in terms of her responses, in terms of her responses to
13 the questions, and it goes back to what I described to Your Honor
14 before in terms of relevance as far as her intent when she
15 testified in front of the committee.

16 THE COURT: I think she can certainly answer a properly
17 phrased question about when she was answering, did she perceive
18 that she was under oath and that she had to be careful, a better
19 phrased question. I think you can bring something out,
20 obviously, that she was trying to be very careful because she
21 really wanted to get the nomination and she knew the
22 investigators had been out after her and everything else, but you
23 can phrase a question and bring that out, as opposed to just what
24 her general understanding is.

25 MR. WEHNER: Yes, sir. Thank you.

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(End of bench conference.)

BY MR. WEHNER:

3 Q. Ms. Dean --

4 A. Yes.

5 Q. -- when you were answering the questions posed to you by
6 Senator Proxmire --

A. Yes.

8 Q. -- what was your state of mind?

9 A. well, I was extremely nervous. I'd been investigated and
10 charged with all sorts of -- I mean, the more malicious things
11 did not even come out. I'd been accused of everything from being
12 Secretary Pierce's mistress to stealing money, to making people
13 pay me to get their jobs, just all sorts of horrible things. I
14 didn't know what was going to be said.

15 I was nervous, and I was scared, and I was prepared to
16 discuss community development programs in great detail and got
17 asked about none of them, and I felt like I had stepped on a land
18 mine. I felt like I was in some sort of a battle, and all I knew
19 how to do was just, you know, hold my head up and do the best I
20 could, not -- you know, just do the best I could and take
21 whatever came and hope that fairness would win out, but it
22 didn't.

23 Q. Did you, in fact, do the best you could?

24 A. Of course. I did the best I could.

25 Q. And did you answer the questions as truthfully as you knew

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how?

2 A. Yes, yes. Well, I mean, needless to say, if I had not
3 answered the questions truthfully, they would have killed my
4 nomination immediately. I knew that if I made any mistakes at
5 all, that that would be a reason for them to fight me to be
6 renominated, and they couldn't find anything, and the President
7 did renominate me.

8 MR. WEHNER: Nothing further at this time, Your Honor.

9 THE COURT: All right. Do you want to start, or do you

10 want to break?

11 MR. O'NEILL: Whatever the Court deems appropriate.

12 THE COURT: Why don't we go ahead for a few minutes

13 then if you don't mind.

14 MR. O'NEILL: Okay.
[DEAN CROSS BEGINS]

15 CROSS EXAMINATION

16 BY MR. O'NEILL:

17 Q. Ms. Dean, I believe on direct examination, you talked to the

18 jury about June 15, 1987. Do you recall that date?

19 A. No. June 15? I'm sorry.

20 Q. Let me refresh your recollection. That is the date upon

21 which you had a discussion with Mr. Kitchin about not buying your

22 brother's apartment.

23 A. The day we picked up the car and came back, yes.

24 Q. Now you had a very good recollection of that day; is that

25 correct?

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1 A. I have a very good recollection of the drive in the car
2 back, yes.
3 Q. Tell us again what happened.
4 A. Mr. Kitchin and I had plans for later that evening, and
5 Mr. Cushing was going to drive me to pick up my car that was up
6 Wisconsin Avenue toward Rockville, and it's in -- I know exactly
7 the building it was in, the Air Rights Building.
8 And I picked the car up, and Mr. Cushing went along his
9 way, and Mr. Kitchin got into my car, and we were driving down
10 Wisconsin Avenue, and we were talking about his apartment and
11 what we were going to do with it, or basically I started the
12 conversation, and Mr. Kitchin turned to me and said that he had
13 spoken to his wife, "I don't think we're going to do it now;
14 we're going to do it next year."
15 And I remember exactly where we were. I don't know the
16 cross street, but it was right where the Tenley movie theatres
17 were. And I pulled the car over to the side of the sidewalk, and
18 I took my checkbook out and wrote him a check at that time.
19 Q. Now he had already given you the \$4,000 check; is that
20 correct?
2 A. Yes. I had spoken to him about giving me some money to put
2 aside in early April, and there is a calendar entry for that, and
2 I don't know if it's April 1 or April 3, but I know that it was,
2 I know that I had the discussion with him at a hotel on 16th
2 Street. I don't remember exactly what they're called. It's one

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1 of the -- the Jefferson, the Jefferson Hotel. And it's in my
2 calendar.
3 So the 1st or 3rd of June -I
mean April. And then he
4 sent me a check by mail late in April or early May.
5 Q. And the check that's in evidence is dated April 29, 1987?
6 A. I have no idea. I really don't know.
7 Q. Now I believe you testified on direct examination that you
8 were quite upset when Mr. Kitchin told you he would not be buying
9 the apartment?
10 A. Well, yes. I mean, he had put a lot of people out, and a
11 lot of people had done a lot of work.
12 Q. By "a lot of people," would you be referring to Janet
13 Whitman, Gordon, your brother?
14 A. Well, I think Gordon had sort of mentally moved on by this
15 point, and we were then discussing whether or not if he didn't
16 get Gordon's apartment, he was going to get another one in the
17 Watergate, but I think he had put Ms. Whitman out, and I think he
18 had put Mrs. Withington out, and he certainly had put my brother
19 out in the first part of the year, and he certainly put me out.
20 I mean, I did a lot of work for him.
2 Q. What were you referring to when you said Gordon mentally
2 moved on?
2 A. Well, I think that -I
know that they had a lot of
2 conversations in February or March, and then at some point, I
2 know Mrs. Withington decided to keep showing the apartment to

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1 other people because Mr. Kitchin hadn't returned a signed
2 contract, and so I think my brother was, "well, he either buys or
3 doesn't buy it, I don't much care, but if I get another contract,
4 I'm going to take it."

5 And at that point, Mr. Kitchin said, "well, even if we
6 don't get Gordon's apartment, I'll get another one at the
7 Watergate."

8 Q. After you had this conversation with Mr. Kitchin, did you
9 tell Ms. Whitman that the, Mr. Kitchin would not be buying the

10 apartment?

11 A. Well, I assume I did. I don't recollect having a

12 conversation with her, but I assume I did.

13 Q. And how about, did you have a conversation with

14 Ms. Withington about --

15 A. No, I've never met or spoken to her.

16 Q. And how about Gordon? Did you tell Gordon that Kitchin was

17 not buying the apartment?

18 A. You know, I don't remember having a conversation with

19 Gordon, either, because he might have already moved on and

20 already decided to sell his apartment to someone else at that

21 point. I really don't know. I don't have a recollection of

22 that. I just have a recollection of being very displeased with

23 Mr. Kitchin at that day.

24 Q. And that would be June 15 of '87?

25 A. It was the day that I picked up the car and was driving back

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down Wisconsin Avenue.

2 Q. Ms. Dean -- if I may approach the witness, Your Honor?

3 THE COURT: Go ahead.

4 BY MR. O'NEILL:

5 Q. Just so the record is clear, does that refresh your
6 recollection that it was, in fact, June 15 of 1987 --

7 A. Yes.

8 Q. -- when you had the conversation with Lou Kitchin?

9 A. That's correct. I remember this very well.

10 Q. Now during your direction, you talked about picking out a
11 couch.

12 A. Yes, from Colonial Furniture, in Arlington.

13 Q. After this conversation with Mr. Kitchin, did you contact
14 the company and tell them you would not be buying that couch?

15 A. No. I'd just gone to look at different couches and price
16 them. I didn't -- I didn't have an order on it or anything like
17 that.

18 Q. Now you also testified on direct examination that you had
19 bought four prints for the apartment.

20 A. Yes.

21 Q. What did you do with those prints?

22 A. I sold them in my antique store.

23 Q. And you had the antique store at that time?

24 A. No, I did not.

25 Q. So what did you do with the prints? Did you hold them for a

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1 period of time until you --

2 A. Yes.

3 Q. When did you get the antique store?

4 A. Let me see. You know, I don't know. This is 1993, and I've
5 been where I am now for two years, and I was where I was before
6 for a little over a year. So 1990, 1989-1990.

7 I'm sorry, I didn't know you were going to ask me that,

8 so I didn't go back and look at stuff. I'm sorry.

9 Q. Was it after you left HUD?

10 A. Oh, yes. It was after I left HUD and after I had already
11 been at other business and other work, and then when the HUD
12 I.G. report came out and there was a lot of press activity and a
13 lot of Congressional hearings and whatever, I just sort of, I
14 just sort of went into myself, and I knew that, that Secretary
15 Pierce was going to be investigated and that I was going to be
16 investigated, and I just stopped really doing anything.

17 And then at some point, I decided I can't live like
18 this. I have to make a living. I have to work. And so I was
19 already selling my furniture, because I had to pay for lawyers to
20 go to meetings with, you know, Congressional investigators and
21 independent counsels, and so I figured, well, I'd might as well
22 sell my furniture myself as opposed to giving it to an auction
23 house and getting less money. So I opened up an antique store to
24 sell my own stuff.

25 Q. Are you finished with your answer?

1 A. Yes, sir.

2 Q. Now, Ms. Dean, going back to discussions, did there come a
3 point in time when you told Ms. Whitman that Lou Kitchin was not

4 buying the apartment?

5 A. I told you I don't remember having a specific recollection
6 of having that conversation with her.

7 Q. Do you have any general recollection?

8 A. No. I have to assume that she knew at some point, but I
9 don't remember any specific conversation with her.

10 Q. You testified on direct examination that you were quite
11 upset about it. What, if anything, did you do immediately after
12 Mr. Kitchin told you?

13 A. I pulled the car over. I told him that I thought that this
14 was bad news. I was a little peeved with him. I wrote him a
15 check. I told him at that time, I think I had maybe a little
16 close to \$2,000 in the bank. I did not have the entire \$4,000,
17 and I wrote him out a check for \$4,250.

18 I also figured out on the check stub how much the
19 prints had cost and told him that, and he kept insisting that he
20 owed me the fee that we had agreed upon. But I said that I
21 didn't think that, if there wasn't an apartment, that that was
22 right, and I wanted him to have all his money back.
23 And he said, "well, let's talk about it. Let's talk
24 about it."

25 I said, "No, take the money. I never want to talk

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1 about this again."

2 I was peeved with him, because I thought he basically-
3 had been jerking me around.

4 Q. Ms. Dean, how many times did you go with Mr. Kitchin to see
5 your brother's apartment?

6 A. Twice, I believe.

7 Q. And do you recall the specific dates?

8 A. No.

9 Q. Do you recall approximately when that was?

10 A. I know that I did go to look at apartments on that January
11 date that I took annual leave with Ms. Whitman, and I do not
12 remember if we looked at my brother's apartment then or not. I
13 just don't recall.

14 But I know that one time, I went just with Mr. Kitchin
15 and looked at the apartment, because we walked around and talked
16 about what he wanted to do with the color of the kitchen and
17 changing the closet into a bar and what he wanted to spend on
18 certain amounts of furniture and artwork and things like that.

19 Q. Do you recall when that was?

20 A. Well, it would have to be after the January time that I --
21 but I don't have a specific recollection, but I would assume it
22 had to be after we looked at the other apartments, because he
23 then decided upon the one that my brother had, because my brother
24 was going to reduce the price.

25 Q. Now once he decided on that apartment, did there come a

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1 number of times when he went back to that apartment, to your
2 knowledge, Mr. Kitchin?

3 A. I have no idea. I don't know why he would go back without

4 me or without Mrs. Whitman.

5 Q. Okay. Now you said the apartment, he was going to do
6 several things to it; is that correct?

7 A. He wanted me to do several things to it.

8 Q. Okay. And you were going to act as the designer for him for
9 that apartment?

10 A. Yes. Well, it doesn't really require a lot of design work.

11 It required buying furniture.

12 Q. And Gordon was familiar with this,- is that correct?

13 A. I think so, yes.

14 Q. Now to your knowledge, did Mr. Kitchin and your brother,
15 Gordon Dean, converse about the apartment?

16 A. Yes. I know that they did.

17 Q. And when were they speaking; do you know?

18 A. I know that my brother called me several times. It would
19 have, of course, had to have been after Mr. Kitchin had decided
20 upon the apartment, so it had to be after the January 15 go-
21 around, so we can use that as a time frame, and before my brother
22 decided to sell it or to show it to other people and got a
23 contract on it. So I would say it would have to be sort of the
24 winter/spring of 1987.

25 Q. Did Gordon --

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A. I know that he called me several times and was not satisfied
2 with my answers as to Mr. Kitchin's intentions. He'd say, like,
3 "When is he going to sign the contract?"

4 And I would say, "I don't know."

5 So he'd say, "Can I call him?" My brother can be like
6 that.

7 I said, "Sure, call him."

8 I gave him his telephone number. I believe my brother
9 remembers talking to him once or twice or three times. I think
10 he remembers twice is what he said to me.

11 Q. When would those conversations have been in relation to your
12 receiving this \$4,000 check from Mr. Kitchin?

13 A. Well, I'm not sure they had anything to do with one another.

14 Q. Well, did the \$4,000 check have to do with decorating his
15 apartment?

16 A. It had to do with decorating an apartment at the Watergate.

17 Q. Oh, not --

18 A. Whether it was my brother's -- well, if he ended up not
19 getting my brother's, because my brother didn't want to wait for
20 as long as Mr. Kitchin took, then we would have had to do it to
21 another apartment.

22 Q. But at that period of time, Lou Kitchin is looking at your
23 brother's apartment; is that correct?

24 A. He was looking at my brother's apartment in January and
25 February, I know, because there was a lot of activity when my

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1 brother first reduced the price for him, and I don't know when my
2 brother talked to him or when Mr. Kitchin talked to my brother,
3 but I know that my brother did get his phone number from me, and
4 he did have several conversations with him.

5 And I also know at a certain point my brother got very
6 sort of fed up with Mr. Kitchin, and I know that he and

7 Mrs. Withington made an effort to then show it to other people as

10 MR. O'NEILL: Thank you, Your Honor.
11 THE COURT: Mr. O'Neill.
12 DEBORAH GORE DEAN, DEFENDANT'S WITNESS, RESUMED
13 CROSS EXAMINATION (Cont'd.)
14 BY MR. O'NEILL:
15 Q. Ms. Dean, isn't it a fact that yesterday you testified to
16 this jury that Mr. Kitchin was going to be, to pay you to
17 decorate Gordon's apartment?
18 A. At one point, yes.
19 Q. Okay. And you were very specific about it. There was going
20 to be a dry bar instead of a closet?
21 A. Right.
22 Q. And the color of the kitchen was a very bright color that
23 Mr. Kitchin did not like?
24 A. That's correct.
25 Q. Now is it also fair to say, Ms. Dean, that yesterday when

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1 you testified to this jury, you had a very specific recollection
2 of the conversation on June 15, 1987, in which you discussed with
3 Mr. Kitchin the fact that he was no longer interested in buying
4 Gordon's apartment?
5 A. No. What the -- what I remember saying yesterday was that
6 Mr. Kitchin was no longer interested in getting an apartment that
7 year, that his wife had said maybe next year.
8 Q. Do you recall, Ms. Dean, giving the following statement in
9 your testimony yesterday: "I said, "well, it's out in Rockville,
10 but if you want to, come along.
11 "And so he came with me. And I remember Hunter Cushing
12 had agreed to give me a ride out there after work. So
13 Mr. Kitchin got in the car with us, and we went out, picked up my
14 car. And we were driving down Wisconsin Avenue, and I was
15 discussing with him basically where -- what I had bought and what
16 we were doing and the fact that my brother was getting antsy
17 about, you know, had he signed a contract.
18 "And I was like, you know, "You are so slow about this.
19 Are you going to do it, or are you not going to do it or
20 whatever?"
21 Do you recall giving that testimony yesterday?
22 A. Well, I assume that I did, and I did have those
23 conversations with Mr. Kitchin. Perhaps the conversation about
24 my brother being antsy was earlier, but I think that's basically
25 correct, yes.

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1 Q. And that's what you testified to this jury yesterday?
2 A. Yes.
3 Q. Now, Ms. Dean, that was June 15, 1987; isn't that right?
4 A. Yes. But at this point, my brother may have already moved
5 on. I just don't recall.
6 Q. You didn't say that to this jury yesterday, did you, ma'am?
7 A. No. I'm trying to be as accurate as possible. I remember
8 that Mr. Kitchin was going to buy my brother's apartment because
9 he had lowered the price, but at a certain time, my brother
10 decided to do it, to put it back on the market, and Mr. Kitchin's
11 comment to me was, "well, if we don't do your brother's
12 apartment, we'll do one very similar to it."
13 And I do know that we had looked at an apartment that
14 was exactly the same as my brother's but on a different floor,

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15 and so it wouldn't have made any difference if it was my
16 brother's apartment or another apartment. The same style would
17 have carried on.
18 Q. Did you say that to this jury yesterday, ma'am?
19 A. Well, I tried to. I tried to be as complete as I possibly
20 could.
21 Q. Did you say that to this jury yesterday, ma'am?
22 A. Mr. O'Neill, I think I did, yes.
23 Q. . You did say that in your testimony?
24 A. I believe that I tried to give as complete an answer as I
25 possibly could.

2831

1 Q. Now, Ms. Dean, what was the date of the check that
2 Mr. Kitchin gave you?
3 A. I don't know.
4 Q. Ms. Dean, I'd show you, with the Court's permission,
5 Government's Exhibit 203 and ask you if that refreshes your
6 recollection that the check was dated April 29, 1987?
7 A. Mr. O'Neill, you and I -8
8 Q. Ma'am, my question is does this refresh your recollection as
9 to whether it's dated April 29, 1987?
10 A. No, it doesn't.
11 MR. O'NEILL: Your Honor, for the record, Government's
12 Exhibit 203 is in evidence and dated April 29, 1987.
13 MR. WEHNER: Objection, Your Honor.
14 THE COURT: All right.
15 MR. WEHNER: Mr. O'Neill well knows there is a dispute
16 as to the date of that check. I believe it's possible to
17 interpret it as April 20, 22nd, or 29th. There's been no
18 testimony as to the date of the check.
19 THE COURT: All right. Can we at least agree it was in
20 April 1987?
21 MR. WEHNER: Yes, sir.
22 MR. O'NEILL: Can I put all three dates on, Your Honor?
23 THE COURT: All right, sure.
24 BY MR. O'NEILL:
25 Q. Now, Ms. Dean, I believe you testified on direct examination

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1 yesterday when asked by Mr. wehner that you went to see the
2 apartment with Mr. Kitchin in January of 1987; is that correct?
3 A. I know that I took annual leave on January 15, I believe. I
4 know we showed it on the screen, and I know it's in my calendars.
5 I took annual leave, and I know I went with Mrs. Whitman and
6 Mr. Kitchin to look at several apartments in the Watergate.
7 I do not remember whether or not my brother's was one
8 of those or if that came later. And I know that I did go to the
9 apartment with Mr. Kitchin, my brother's apartment with him one

10 time in the evening, I remember, and I believe another time.
11 I also know that we saw one exactly like it, and it was
12 either several floors above or below, but it was the exact same
13 apartment and --

14 Q. Was it painted the same color in the kitchen?

15 A. I don't recall.

16 Q. Ms. Dean, let me show you --

17 A. Actually, frankly --

18 Q. Let me show you what's been marked as Government's Exhibit
19 203B.
20 A. I'd like to answer your question.
21 Q. Ms. Dean, you've testified for six days in front of this
22 jury now --

23 THE COURT: All right, you can go ahead and finish your
24 answer.
25 THE WITNESS: Mr. O'Neill, I may be mistaken about

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1 which kitchen it was that was a bright yellow or orange color, I
2 remember that. It may have been the one that looked very similar
3 to my brother's apartment. I want to be as honest as I possibly
4 can with you. I don't recall what color my brother's kitchen
5 was. I remember that a kitchen that we discussed, that we looked
6 at was a problem that he wanted changed.

7 BY MR. O'NEILL:

8 Q. I direct your attention to your testimony yesterday and ask
9 you if you told this jury you were confused about the colors of
10 kitchens yesterday?

11 A. "So Mr. Kitchin got in the car with us, and we went out,
12 picked up my car. And we were driving down Wisconsin Avenue, and
13 I was discussing with him basically where -- what I had bought
14 and what we were doing and the fact that my brother was getting
15 antsy about, you know, had he signed a contract.

16 "And I was like, you know, 'You are so slow about this.
17 Are you going to go do it, or are you not going to do it or
18 whatever?'"

19 That's -- what -20

Q. There's an entire document before you, ma'am -21

A. I'm sorry.

22 Q. -constituting

the transcript of your testimony. Why don't
23 you go through it and tell the jury if you see any part in there
24 where you tell him you were confused about the apartments and
25 there was one identical to Gordon's apartment yesterday during

1 the testimony.

2 A. Mr. O'Neill, if I said everything I remember about every
3 detail of every question, we'd be here for the six years it took
4 to do all of this. I did the best I could when you asked me the
5 question and when Mr. Wehner asked me the question.

6 Q. Well, is this not very important, Ms. Dean?

7 A. It's extremely important, but it also happened six years
8 ago.

9 Q. Let me show you Government's Exhibit 203B in evidence and

10 ask you if that refreshes your recollection as to when you

11 deposited the \$4,000 check? Let me direct your attention --

12 A. Oh, yes. It was credited to the account on May 6.

13 Q. Okay. Now, Ms. Dean, I'd ask you a question, did you buy a

14 piano on April 17, 1987?

15 A. I don't know, but I know I bought a piano.

16 Q. Let me ask you if this refreshes your recollection as to

17 whether you bought it on April 17, 1987?

18 A. It says I wrote a check for \$164 as a down payment on a
19 piano.

20 Q. Do you know what the cost of that piano was?

21 A. \$4,500.

22 Q. Did you pay cash for that, ma'am?

23 A. I paid it over time.

24 Q. So you bought it on credit?

25 A. Yes.

2835

1 Q. Ms. Dean, now you testified yesterday to this grand jury
2 that on June 15, 1987 --

3 THE COURT: To the regular jury.

4 MR. O'NEILL: Did I say "grand jury" again, Your Honor?

5 I apologize.

6 Q. On June 15, 1987, your brother was antsy about the
7 apartment, you had a conversation with Lou Kitchin, he said he
8 was no longer going to buy it; is that correct?

9 A. well, it --

10 Q. The answer calls for a yes or no, ma'am.

11 A. It may not be correct.

12 Q. Okay.

13 A. I know that I was antsy. I know my brother had been antsy.

14 I don't know if he was actually antsy on June 15.

15 Q. Let me, let me ask the question --

16 A. And if I did say that, I was mistaken, and I'm sorry.

17 Q. Did you tell the jury this morning that you were mistaken
18 about that?

19 A. I didn't realize I'd made a mistake.

20 Q. Now on May 6, 1987, the \$4,000 was credited to your account;
2 is that correct?

2 A. Yes.

2 Q. On either April 20, April 22, or April 29, right around
2 there, you received a check for \$4,000 from Mr. Kitchin; is that
2 correct?

1 A. I do not remember receiving the check, except that I
2 received it by mail.

3 Q. And you bought a piano on April 17, 1987, for approximately
4 \$4,500, and you bought it on credit?

5 A. I put \$164 down on a piano that I was going to pay so much

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6 for every single month until it was paid for.

7 Q. Was that \$4,500?

8 A. That's what the contract says, that eventually \$4,500 would
9 be paid.

10 Q. And sometime in January of 1987, you went to, with Lou
11 Kitchin to see various apartments at the Watergate; is that
12 correct?

13 A. Yes.

14 Q. Now, Ms. Dean, there is one date missing out of this whole
15 sequence. Isn't it a fact Gordon Dean's apartment was sold on
16 April 20, 1987?

17 A. I don't know, but it doesn't surprise me.

18 Q. Let me show you a contract. Was Gordon Dean's apartment
19 sold on April 20, 1987?

20 A. Well, this is dated October 5. It says that there's a
2 contract on April 20.

2 Q. And what date does your brother sign this?

2 A. On April 24.

2 Q. So is this a contract for sale for Gordon's apartment dated
2 April 20, 1987?

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A. I don't know if it's a contract for sale or if it's a
2 contract to be negotiated to have a sale later. I just don't
3 know. I've never seen any of these before.

4 Q. Let me show you a settlement statement about the closing of
5 the apartment, and is that in early June of 1987?

6 A. June 10.

7 Q. Five days before your conversation with Lou Kitchin,
8 correct?

9 A. That's correct.

10 Q. Now, Ms. Dean, you never mentioned in your six days of
11 testimony to this jury that Gordon Dean's apartment was sold at
12 or around the time you received this \$4,000 check?

13 A. That's because I didn't know it.

14 Q. And you're testifying to this jury now that you didn't know
15 that your brother had sold this apartment that you were trying to
16 sell to Lou Kitchin?

17 A. I have no idea when my brother's apartment was sold.

18 Q. Now that check that I showed you, Government's Exhibit 203,
19 in the memo entry on the check, it states "Loan," does it not?

20 A. Yes, it does, but it wasn't a loan, Mr. O'Neill.

21 Q. Ms. Dean, there's no outstanding question at this time.

22 Now, Ms. Dean, I'd like to go into another topic. Is
23 it fair to say you've been testifying as a witness in this case
24 for the last several days?

25 A. Yes, sir.

2838

1 Q. And have you been providing truthful testimony to this jury?

2 A. The best I possibly can, of course, yes.

3 Q. And is it fair to say you have provided sworn testimony in
4 various settings in the last several years concerning matters
5 affecting your employment at HUD?

6 A. You'd have to be specific, because I've tried not to do
7 that.
8 Q. Well, have you provided testimony in various settings, such
9 as in your confirmation hearing?

10 A. In my confirmation hearing, yes.
11 Q. Have you testified in grand juries when other people were
12 being investigated?
13 A. Yes.
14 Q. Okay. And am I correct that you provided or tried to
15 provide as truthful testimony as possible on those occasions as
16 well?
17 A. Yes. I did the best that I could.
18 Q. Now is it also fair to say you provided certain information
19 to various senators when you were seeking to be confirmed as the
20 assistant secretary for Community Planning and Development?
21 A. For, give me a for instance.
22 Q. Okay. Did you write them letters providing information that
23 they sought about you and your past and your background?
24 A. I can't recall anything except for the letters going to
25 Senator Proxmire.

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1 Q. Aside from, or in addition to the letters going to Senator
2 Proxmire, do you recall letters going to Senator Cranston?
3 A. I might have sent Senator Cranston or Senator D'Amato a
4 copy, yes.
5 Q. And did you provide truthful information to those senators
6 when you provided that information to them?
7 A. I can't imagine why I wouldn't have, and I don't recall the
8 letters.
9 Q. Now isn't it true, Ms. Dean, that on occasion as a HUD

10 employee, you would lie to other employees during the course of
11 your performance of your duties?
12 A. No.
13 Q. Okay. Isn't it a fact that you've admitted under oath that
14 you lied to a HUD employee while you were a HUD employee?
15 A. Mr. O'Neill, I don't know what you're talking about. You're
16 going to have to give me --
17 Q. I will, Ms. Dean.
18 A. Thanks.
19 Q. Ms. Dean, do you recall testifying before a federal grand
20 jury in Jackson, Mississippi?
21 A. Yes.
22 Q. And would that have been in 1988, do you recall?
23 A. If you say it was in 1988, I believe you.
24 Q. Do you recall stating, "There was some concern on
25 Mr. Gilliam's part that I would reinstate Mr. Sowell even though

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1 I told DuBois I wouldn't, but I kind of lied about it. I figured
2 after he was gone, it wouldn't make much difference. I'd just do
3 what I wanted to do"?
4 A. That's correct, I did say that. That's absolutely correct.
5 As you know, Mr. Gilliam had moved a career employee. He had
6 not -- it was not fair. And Mr. Gilliam was moving into my
7 position as executive assistant to the secretary, and I was

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8 moving down to head the office where this employee was, and I
9 told the employee that I would reinstate him, because what had
10 happened to him wasn't fair.
11 And when Mr. Gilliam said to me that he wanted to
12 extract a promise from me that I would not reinstate this
13 employee, I did not tell Mr. Gilliam the truth. I said, "No, I
14 probably won't," but I knew very well that I was going to,
15 because what Mr. Gilliam had done was wrong, but I wouldn't have
16 done it without talking to Secretary Pierce first.
17 Q. You were good friends with Mr. Gilliam, were you not?
18 A. No, I wasn't. I was -- I knew Mr. Gilliam well, and I never
19 socialized with Mr. Gilliam with the exception of one luncheon or
20 dinner that I had with him that was business related, and it was
21 about whether or not he could remain at HUD given the
22 investigations that were going on about him.
23 I have never met his wife or his children. I've never
24 met his family. He was a very personable person. When we had
25 meetings, they were pleasant, but now, with some maturity I look

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1 back on it, were Mr. Gilliam and I friends? No* we weren't
2 friends, but we got along well when he worked at HUD.
3 Q. Ms. Dean, do you recall testifying in that same grand jury,
4 being asked the following question and giving the following
5 answer:
6 "Question: when did you first meet with him, and what
7 was your relationship with him?
8 "Answer: well, I met DuBois, I don't know when I met
9 him. He was at HUD when I came to HUD, and I can't remember the
10 first time that I met him, but I got to know him fairly well when
11 I became executive assistant, because we had a lot of -
UDAG is
12 one of our bigger programs, and a great many political phone
13 calls from congressman, senators, governors, whatever, about
14 particular UDAGs, and you'd have to funnel those phone calls
15 through to the office downstairs or get reports from the office
16 on what the status of some of these projects were, and so I
17 became fairly friendly with DuBois. And through the time that I
18 was there, especially toward the latter time, I considered DuBois
19 to be a good friend and spent a lot of time with him."
20 Do you recall being asked that question and giving that
21 answer?
2 A. Yes, I did give that answer, and I am correcting parts of
2 that answer today. I said upon maturity and reflection,
2 Mr. Gilliam and I were not good friends. We were fairly
2 friendly. That part was accurate.

2842

1 Q. When you testified before a grand jury, were you
2 administered an oath at that time?
3 A. I don't believe so, but I would have told the truth. I was
4 attempting to tell the truth, and at that particular time, I had
5 just left HUD, and I considered people that I worked with to be
6 friends, but after you leave HUD and things happen, you realize
7 that maybe you weren't friends. I certainly haven't heard from
8 Mr. Gilliam in years.
9 Q. Ms. Dean, let me show you a document and ask you if that

10 refreshes your recollection as to whether you were sworn before
11 that grand jury?
12 A. Yes, I was sworn in.

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13 Q. Now when you spoke before about providing information to
14 certain senators concerning your confirmation hearing as
15 assistant secretary for Community Planning and Development, do
16 you recall that, that general testimony?
17 A. Not particularly, no.
18 Q. Well, do you recall prior to your confirmation hearing being
19 asked to provide certain information to Senator William Proxmire
20 about that?
21 A. About what?
22 Q. About your hearing, about your background.
23 A. About my background? No.
24 Q. Okay.
25 A. I think there were specific instances or allegations that he

asked me to address.

2 MR. O'NEILL: Your Honor, at this time, with the
3 Court's permission, I would mark this document as Government's
4 Exhibit 517 for identification purposes.
5 THE COURT: All right.
6 BY MR. O'NEILL:
7 Q. I'd ask you to look at this, Ms. Dean. It's not in
8 evidence. Is that a letter that you wrote to Senator William
9 Proxmire prior to your confirmation hearing on August 6, 1987?
10 A. Yes, it is.
11 Q. And in writing that letter to Mr. Proxmire --or Senator
12 Proxmire, Ms. Dean, you were trying to be truthful and provide
13 accurate information to him; is that correct?
14 A. Yes. As always, I did the best I can.
15 Q. Do you recall telling Senator Proxmire in that letter, "At
16 no time have I ever accepted a meal, cocktail, or expense to be
17 paid by anyone but myself or the government when appropriate"?
18 A. Do you mind if I take a look at it.
19 Q. Not at all.
20 A. I want to make certain that -- I haven't looked at this in
21 years
22 well, this is in reference to using the Diners Club
23 card.
24 Q. Does it say that, ma'am?
25 A. well, yes. The entire letter is in reference to the Diners

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1 Club card. I mean, it is not a generic statement that I've never
2 accepted a meal or a drink from anyone that I didn't pay for
3 myself or that the government paid for. It is a statement about
4 using the Diners Club card.
5 Q. Do you recall writing -- the question was, "At no time have
6 I ever accepted a meal, cocktail, or expense to be paid by anyone
7 but myself or the government when appropriate."
8 A. In reference to using the Diners Club.
9 Q. Is there any reference in that paragraph to using the Diners

10 Club?
11 A. It's, the entire letter is about the use of the Diners Club
12 card.
13 Q. Okay. So this entire letter refers to that?
14 A. I have not read that letter. If you'd like me to read the
15 letter and answer you more specifically, I would be more than
16 happy to do that.
17 Q. We'll move on, Ms. Dean.
18 Have you ever accepted a meal, cocktail, or expense to

19 be paid by someone other than yourself during your time at the
20 Department of Housing and Urban Development?
2 A. Yes.

2 Q. How about Richard Shelby? Have you ever accepted a meal
2 from Richard Shelby?
2 A. Yes, I've accepted meals from Mr. Shelby, and he's accepted
2 meals from me.

2845

1 Q. How about Andrew Sankin?
2 A. Well, if -- none of your credit cards that you put through,
3 I think, are accurate, but I think at some time did Mr. Sankin
4 ever buy me lunch or did -- and I assume, I'm going to say yes,
5 he probably did, and I know that he certainly allowed me to pay
6 for lunch and dinner on occasion, also.
7 Q. Aside from meals, did Mr. Sankin buy you flowers?
8 A. I don't recall that he did, but if you say that he did or he
9 remembers that he did specifically, I'm not going to argue with
10 that. I know I never asked him to buy me flowers.
11 Q. Let me show you, Ms. Dean, what's been previously marked as
12 Government's Exhibits 518, 519, and 520 and ask you if that
13 refreshes your recollection as to Mr. Sankin buying you flowers?
14 A. This obviously looks -- I
can't read what the card says.
15 "Congratulations on a job well done," but I can't make out the
16 rest of it.
17 Q. Would it refresh your recollection to state that it says,
18 "Dear Deborah: Congratulations on a job well done. To a truly
19 dedicated and responsible public servant. Hope to see you soon,
20 Andy," addressed to Deborah Gore Dean, Executive Assistant to the
21 Secretary, No. 1000, U.S. Department of Housing, HUD Building,
22 451 Seventh Street?
23 A. I don't know what it's in reference to, but yes. I mean,
24 the bill is to Andrew Sankin, and it says, "Dear Deborah: My
25 heart was in the right place, but" something something. And

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1 then -- and yes, it's addressed to me at my home, and it doesn't
2 have a date on it.
3 And this one is August of '88, but I know you know that
4 I was no longer a government employee then.
5 Q. How about the two that you were a government employee?
6 A. I didn't see dates on them, but I'll look. 5-9-86 and
7 8-6-87. And of course, 8-6-87, I was no longer executive
8 assistant.
9 Q. You were --

10 A. He must have sent flowers on the day of the Congressional
11 hearings.
12 Q. Does that refresh your recollection that Andy Sankin sent
13 you flowers on occasion?
14 A. Yes, it does.
15 Q. Now Rick Shelby, who you mentioned, and you said he's bought
16 you meals and you bought him meals; is that correct?
17 A. That's correct.
18 Q. And you've gone out to meals with Mr. Shelby when

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19 Mr. Mitchell was in attendance, correct?

20 A. That's correct. I believe I had one lunch with Mr. Shelby
21 and Mr. Mitchell. If there was another one, I don't recall it,

22 but I do remember one. And as I said yesterday, it was my idea.

23 Q. Let me show you a document, Ms. Dean, that's been marked as

24 Government's Exhibit 521 for identification, and does this

25 refresh your recollection as to making arrangements to have lunch

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1 with John Mitchell and Richard Shelby?

2 A. Yes. I asked that reservations be made for three people and
3 to call Mr. Shelby and Mr. Mitchell to confirm.

4 Q. Ms. Dean, how about Philip Wynn? Did you accept meals from
5 Mr. Philip Wynn?

6 A. I -- Mr. Wynn took me to lunch. I know we had an early
7 dinner one time when he was in town, and I know that he accepted
8 meals from me as well.

9 Q. I believe you said on direct testimony that it was one meal.

10 A. I believe I didn't testify about it at all.

11 Q. Okay. I stand mistaken. That was Mr. Wynn, correct?

12 A. Yes.

13 Q. And you talked about one meal. Do you remember more than
14 one that you paid for?

15 A. You know, I don't recall who paid the time we had the early
16 dinner. It was at the Occidental, and I don't remember which one
17 of us paid for that, but I always tried to keep things as even as
18 possible.

19 Q. Ms. Dean, did he also provide you with tickets to some sort
20 of presidential dinner?

21 A. I know he testified to that, and I don't remember ever going
22 to that with him, but it's possible that he did, but I just do
23 not recall, and I know he said I went with Mr. Mitchell, and it
24 seems to me that would be something that would stand out in my
25 mind, and I don't recall it at all.

2848

1 Q. How about Lance Wilson, Ms. Dean? The jury has heard
2 evidence that you replaced Lance Wilson as executive assistant at
3 HUD. Is that correct?

4 A. Yes.

5 Q. And have you testified that Lance Wilson helped you get the
6 job at HUD? Is that true?

7 A. Mr. Wilson is the person who hired me.

8 Q. And was that back in 1981?

9 A. No, that was in November of 1982.

10 Q. Is it fair to say that you and Mr. Wilson were good friends
11 while you both worked at HUD?

12 A. I worked for Mr. Wilson, and I like to think that I did a
13 very good job for him. We became better friends after he -- I
14 mean, it was more of an I-worked-for-him relationship when he was
15 the executive assistant. When he left HUD, I saw more of him on
16 more of a peer relationship, and we became very good friends, and

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17 we're friends today.

18 Q. And you pointed him out in the courtroom the other day; is
19 that correct?

20 A. Yes.

2 Q. And he's been here on numerous occasions throughout this

2 trial?

2 A. Yes. He is my friend.

2 Q. And after he left HUD, he went into the private sector as a
2 consultant; isn't that true?

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1 A. No. He went to the New York City Housing, no, New York City-
2 Housing Partnership or -- I can't remember the name of the
3 organization he went to run, and then he went to work for Paine
4 webber.

5 Q. And he was doing HUD consulting work during that period of
6 time, wasn't he?

7 A. Well, I don't know, Mr. O'Neill. I know that the HUD audit
8 lists Mr. Wilson as a partner with the Wynn Group, but I never
9 knew that, and I don't know that to this day.

10 Q. Do you recall when Mr. Wilson went to Paine Webber, he would
11 come to Washington, D.C., from time to time and take you out for
12 meals?

13 A. Mr. Wilson would take me out for meals, and I would take
14 Mr. Wilson out for meals, and I have seen his expense accounts,
15 and they are very inaccurate.

16 Q. Let's show you some of them. Do you recall having lunch
17 with Mr. Wilson on April 22 of 1986?

18 A. Would you let me see my calendar?

19 Q. Surely. I'll let you have all of them.

20 A. Thanks.

2 Q. Sure.

2 A. 1986?

2 Q. Yes.

2 A. No, I did not.

2 Q. And you can tell that from your calendars?

2850

A. Yes.

2 Q. Let me ask you then if you had lunch with Mr. Wilson on

3 May 15, 1986?

4 A. I will tell you his are very inaccurate. I've seen them

5 before, and they --

6 Q. Are you saying he, too, is lying on his taxes?

7 A. He, too? Did we mention someone else was earlier?

8 Q. Mr. Sankin.

9 A. I think that Mr. Wilson has admitted openly that his expense

10 accounts were not accurate. I know that when the Lantos hearings
11 were going on, he did contact the committee and tell them that a
12 lot of the things that were written off to Deborah Dean were not
13 Deborah Dean expenses.

14 Q. Well, how about that date in front of you?

15 A. Okay. May 15? Yes, I had lunch with Lance. It's written
16 in my calendar.

17 Q. Do you recall whether you spoke about coinsurance at that
18 time?

19 A. Lance and I wouldn't have spoken about -- Lance knew more
20 about HUD programs than I did, and I can't imagine any reason why
21 Lance and I would talk about coinsurance, but I can understand
22 why Lance might write it off to that.

23 Q. Well, Lance wasn't at HUD anymore; isn't that correct?

24 A. No, he was not at HUD anymore.

25 Q. Now, Ms. Dean, do you recall on July 17, 1986, Mr. Wilson

1 hosting a dinner party given by you for a number of different
2 people at Mr. K's Restaurant?

3 A. No, that did not occur.

4 Q. It did not happen?

5 A. It did not happen.

6 Q. And do you have a specific recollection of that?

7 A. Oh, I remember it very well. It had nothing to do with me.

8 I was at the party, I was in attendance, and it was a birthday
9 party. It's right here on my calendar. It was a birthday party

10 for Lynda Murphy. It was thrown by her husband and all of her
11 friends, and Mr. Wilson was there, and Mr. Wilson -- I mean, I
12 was invited, but it was not my party. I didn't have anything to
13 do with the party.

14 Mr. Wilson was enjoying himself, and I think he picked
15 up the check. When maybe he thought better of it the next day,
16 he decided to write it off as though it were something for me,
17 but it wasn't, and he has said that it wasn't.

18 Q. Ms. Dean, do you recall just for the record what Lynda
19 Murphy's husband's name is?

20 A. Jon Boisclair.

21 Q. Ms. Dean, did you have lunch with -- excuse me, dinner with

2 Lance Wilson on December 3, 1986?

2 A. It's not on my calendar, so I can't say whether I did or
2 not, but normally it would be on my calendar if I did.

2 Q. Did you have lunch with Lance Wilson on June 11, 1986?

A. '86?

2 Q. Yes.

3 A. It doesn't have any -- oh, no. I was out of, I was out of
4 town. I was in California on June 11.

5 Q. How about, Ms. Dean, did you have lunch with Lance Wilson on
6 July 24, 1986?

7 A. No.

8 Q. Let me show you -
9 how about 1985? That's ray mistake, I
9 apologize. July 24, 1985.

10 MR. WEHNER: I'm sorry, Mr. O'Neill, what -

11 MR. O'NEILL: July 24, '85.

12 THE WITNESS: July 24?

13 BY MR. O'NEILL:

14 Q. Yes.

15 A. There's nothing in this calendar in anything in July, I'm
16 afraid. All the pages are blank. I mean, if you have one there,
17 I'll look at that.

18 Oh, I'm sorry, I'm sorry, "Lunch with Lance," and it's
19 in my handwriting, so I would have had lunch with Lance.

20 Q. Ms. Dean, how about March 6, 1986?

21 A. Yes, it's on here, at noon, "Lunch with Lance."

22 Q. How about March 15, I believe it's 1986? If I just can look
23 for a second?

24 A. Sure.

25 Q. 1987, I'm sorry. March 16, 1987.

A. March 16?

2 Q. That's correct. Oh, no, I'm sorry, March 15 of 1987.

3 A. Yes, I had, I had dinner with Lance and Leonard Briscoe and
4 DuBois Gilliam at the Four Seasons.

5 Q. Is that the same DuBois Gilliam we spoke about previously?

6 A. Yes, it is.

7 Q. Now is it fair to say without going through a number of
8 other ones, I'll just show them to you, that there's a number of
9 entries in which you've had either lunch or dinner with Lance
10 Wilson?

11 A. Yes. As I said, Lance and I were -- this was a reception
12 for Mr. Wilson in New York that I went to. I think we talked
13 about this, didn't we, that one? And -- yes.

14 Q. And is it your testimony you did not know at this time that
15 he was doing HUD consulting work?

16 A. I don't know to this day that he was doing HUD consulting
17 work, and it seems to me that I would have known.

18 Q. How about Lynda Murphy? You mentioned her name during your
19 direct examination. Do you recall that?

20 A. Yes.

21 Q. And would you agree that Lynda Murphy was a good friend of
22 yours during the time frame you were employed at HUD?

23 A. Well, I was a closer friend to her husband, but I knew
24 Linda, and I knew her well, and as I'm certain you know, she
25 lives three houses down from me, so I see her often.

2854

1 Q. Is it also fair to say she was working as a consultant on
2 HUD-related matters during the time that you were executive
3 assistant to the secretary of HUD?

4 A. She's an attorney, and I know she does HUD closings, and I
5 know she represented a lot of different people. I never had a
6 conversation with Ms. Murphy about any consulting work that she
7 was doing. Any lawyer work that she did, yes.

8 You have to sort of phrase it for me better. Are you

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9 saying did I know Lynda Murphy was in the Mod Rehab Program?
10 Q. Yes. Did you know she was acting as a consultant on mod
11 rehab projects?
12 A. I knew that she was interested in a mod rehab project in
13 1987, but I found that out through someone else and not through
14 her.
15 Q. You also know she was interested in a mod rehab project in
16 1986 in Richmond, Virginia?
17 A. No. She represented a person in, that was a developer of
18 that on a wage rate dispute, I believe.
19 Q. Well, during this period of time, you did accept meals and
20 things of value from Ms. Murphy; is that correct?
21 A. I can certainly tell you that it was very equal between
22 Ms. Murphy and her husband and her husband's best friend, which
23 was my boyfriend at the time, and myself. It was absolutely
24 even.
25 Q. Is it fair to say that you traveled with Lynda Murphy and

2855

her husband?

A. Yes. We went on vacation -- the four of us went on
3 vacations together.
4 Q. Do you recall taking a trip to Vail, Colorado, in February
5 1986?
6 A. Yes. I didn't go with them. We went later. I think they
7 were out there for a while. We went when she had broken her leg,
8 and she had a brand new baby, and we decided to go out and help
9 bring her back and the baby back. It -- I don't ski, and it was
10 not really all that much fun.
11 Q. Where did you stay when you went out there?
12 A. We stayed in an apartment that she had rented with her
13 husband.
14 Q. Isn't it true --
15 A. It was outside of Vail.
16 Q. Isn't it true it was a condo owned by Mr. Philip Wynn?
17 A. I don't think so.
18 Q. Do you recall while you were out there Lynda Murphy buying
19 drinks at a place called The Saloon Across The Street?
20 A. That would have been impossible. She was in the hospital.
21 Q. Let me show you a document and ask you if that refreshes
22 your recollection?
23 A. Well, I mean, I'm telling you she was in the hospital the
24 entire time I was there, and then I got her out of the hospital
25 and put her on a plane and brought her home. But she had been

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1 out there for a week or so before I went out there, before she
2 broke her leg. She could have been in any saloon.
3 Q. With you, ma'am?
4 A. Not with me.

5 Q. Was Jon Boisclair the person then who bought those drinks?
6 A. I don't ever recall a place called The Saloon, nor I can't
7 imagine how I could have been in anything except one restaurant
8 that I remember, and I believe that I paid the bill, and it was
9 one evening that Mr. Boisclair and Mr. Giegengack and I went out,

10 and Linda was with a nurse or a babysitter, and she needed to be

11 alone and get some sleep, and we all went out.

12 I happen to remember that I paid, and if you'd like, I

13 can pull the receipt for you, because -- I don't know I have it.

14 And I don't ever recall a circumstance with a brand new baby and

15 a broken leg where we could have been anyplace else.

16 Q. To your knowledge, did she deduct this as a business

17 expense, are you aware?

18 A. How, Mr. O'Neill?

19 Q. You were aware of Mr. Wilson's, were you not?

20 A. That's because it came up in the Lantos hearings. I don't

2 know Linda's.

2 Q. Did Ms. Murphy testify at the Lantos hearings?

2 A. Not about credit card receipts that I know of.

2 Q. Do you recall going to dinner on July 28, 1986, with

2 Ms. Murphy and a number of other people and HUD business was

discussed?

2 A. No. On Monday, July 28 of 1986 was her husband's birthday,

3 and she threw him a party at the 1789, and I remember who was

4 there, and there were no HUD people there. I remember Donna

5 Devarona (phonetic) was there and her husband and Mr. Boisclair

and Mr. Giegengack and myself and James Ramstead, who is now a

7 congressman from Minnesota, and his fiancée, and no HUD business

8 was discussed whatsoever.

9 Q. How about John DeFranceaux. Was he not there?

10 A. Mr. DeFranceaux was not there that I can recall.

11 Q. Ms. Dean, do you recall a project named Sommerset?

12 A. Yes, but I don't remember where it was.

13 Q. Do you recall whether they were looking for rent increases?

14 A. You're giving me, I think this is one of her expense

15 vouchers.

16 Q. Look at the next page.

17 A. Oh, I'm sorry.

18 Q. Did Ms. Murphy ask for your assistance on Sommerset?

19 A. Yes. I think this was a project that was owned by

20 Mr. Arthur Wynn, and I did meet with Mr. Arthur Wynn regarding

21 this, but did Ms. Murphy and I have drinks regarding it? No, we

22 did not.

23 Q. Did Ms. Murphy ever send you tickets to a National Housing

24 Conference dinner?

25 A. No. I know I've seen a memo that says, "Here are your

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tickets," but I don't remember ever recall going to a National
Housing Conference dinner so I don't know why she would send the
tickets.

4 Q. Do you recall getting a letter from Ms. Murphy addressed to

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5 Ms. Dean at HUD enclosing tickets?

6 A. No, I do not. I know that did come from my files, so I'm
7 not going to say that never happened. Frankly, a National

8 Housing Conference, I would have had tickets myself.

9 Q. Do you recall Lynda Murphy asking you for a specific number

10 of mod rehab units in Richmond, Virginia?

11 A. No. Ms. Murphy and I never discussed mod rehab.

12 Q. Do you recall receiving a letter from her in which she
13 requested mod rehab units?

14 A. No. The letter that she sent to me did not request mod
15 rehab units. It requested --if you'll let me have it, I'll be
16 very specific.

17 Q. Sure.

18 A. Well, do you have the attachment to this letter, I mean, the
19 letter that came in originally? Because this is a thank you note
20 for the efforts, and if you have the letter that shows what the
21 efforts were, it will show you that it was a wage rate dispute.

22 Q. And whose handwriting is on this, ma'am?

23 A. That looks like Mrs. Sherrill Hawkins'.

24 Q. Your secretary?

25 A. Yes. I may be mistaken. It looks like her handwriting.

2859

1 Q. Did she ask that the project go out project specific on the
2 185?

3 A. If I may see that again?

4 Q. Sure.

5 A. I recall this letter, because it was used in the
6 Congressional hearings very mistakenly. It said, "Therefore, if
7 practical, the units can be sent out project specific," but I'd
8 be willing to bet they didn't.

9 Q. This is one of your closest friends?

10 A. No. This is someone who I knew well through my boyfriend,
11 who was also a very able attorney.

12 Q. Do you recall signing an affidavit stating, "Lynda Murphy
13 and her husband are my closest friends"?

14 A. I remember signing an affidavit in 1987 -- '86 that at the
15 time, they were my closest friends, and at the time, they were my
16 closest friends.

17 Q. But no longer? •3

18 A. Well, when people start arriving with subpoenas, your
19 friends disappear very quickly.

20 Q. And you traveled with Ms. Murphy and her husband during the
21 period that you were executive assistant; is that correct?

22 A. Yes. We -- yes, we did.

23 Q. Aside from Vail, you went to the West Indies with them?

24 A. The West Indies?

25 Q. St. Bart's?

2860

1 A. We went to St. Bart's with them. Lynda's former fiance had
2 a small house there, and we joined them for, I think, three to
3 four days of a longer vacation that they had, and we paid our own

4 way.

5 Q. Now, Ms. Dean, do you recall mentioning on direct
6 examination about the Richmond Housing Authority and Lynda
7 Murphy?

8 A. Yes.

9 Q. And do you recall saying that Tom Demery was trying to fund

10 that project for Lynda Murphy?

11 A. No, I didn't. I said I asked Mr. Demery whether or not he
12 was doing this for Lynda Murphy. As I said, I found out in 1987
13 that she had an interest in funding this project. And he said

14 no.

15 And then I believe that he mentioned Sandy Sanders.

16 And I did not know at that time whether, that Mr. Sanders and
17 Ms. Murphy had some agreement or whatever, and I told Mr. Demery
18 that I didn't think this was a very good idea, and he took that
19 list with him in to Secretary Pierce, and it came out the way it
20 came out, and I would never have funded a mod rehab project for
21 Lynda Murphy, and Lynda Murphy understood that, and she never
22 asked.

23 Q. Are you saying these units did not go to Richmond from you
24 to Lynda Murphy?

25 A. What units? It says, "Thank you for your efforts for the

2861

1 Church Hill, Richmond, Virginia project," which was a wage rate
2 dispute. "For your information, as stated in the letter from the
3 City of Richmond dated September 12, 1986, the Church Hill
4 project had been selected -- had been selected -- for a moderate
5 rehabilitation section 8 award after advertising by the city.
6 Therefore, if practical, the units can be sent out project
7 specific."

8 But I don't know what units these are referring to,
9 unless they are loan management set aside, which would be extra

10 section 8 on top of something that had already been done.

11 But Ms. Murphy never asked me for moderate
12 rehabilitation. As much as I'm not fond of her right now, she
13 never did it.

14 Q. Ms. Dean, do you recall being asked by Mr. Wehner during
15 direct examination about a number of mod rehab units going to the
16 Pacific Northwest, and it was on your board? Do you recall
17 those?

18 A. Pacific Northwest?

19 Q. Yes, specifically Clackamas County and Longview, Washington.

20 A. Yes.

2 Q. Do you recall stating that you were not aware of any

2 consultants being involved in those two fundings?

2 A. And I'm not to this day.

2 Q. Isn't it a fact, Ms. Dean, that Lynda Murphy was the
2 consultant on those fundings?

2862

1 A. I am shocked if that's true, and I don't believe it. I've
2 certainly never seen that anywhere. And I do know we do have a
3 letter that you provided us from Mr. Nishimura, who was the
4 regional administrator, to me recommending those projects.

5 MR. O'NEILL: One second, Your Honor?

6 THE COURT: Sure.

7 MR. O'NEILL: Judge, I'll go back to that in order to
8 move along.

9 Q. Now, Ms. Dean, this was the same Lynda Murphy who you
10 testified on Tuesday was one of the people who planned your
11 birthday party that John Mitchell paid for?

12 A. Yes.

13 Q. Now aside from -- let's move away from Lynda Murphy. Are
14 you familiar with the firm Black, Manafort, Stone & Kelly?

15 A. Yes.

16 Q. Am I correct that this is a lobbying consulting firm?

17 A. It's a political consulting firm, and they do lobbying. I
18 don't know what they do. They are a political consulting firm.
19 They run campaigns, they lobby, they do all sorts of things.

20 Q. Is it fair to say that during the period of time you were
2 executive assistant to the secretary at HUD, several of the
2 individuals from Black, Manafort, Stone & Kelly were involved in
2 mod rehab consulting work?

2 A. Yes.

2 Q. And are you familiar with an individual by the name of Lorry

2863

1 Gay?

2 A. Yes.

3 Q. Is it true that Mr. Gay took you out for meals and
4 cocktails?

5 A. Yes, and I took Mr. Gay -- well, I don't think I ever ate
6 with Mr. Gay alone. Usually Mr. Davis, who was with the White
7 House and then went with their firm, either accompanied us, and
8 sometimes other people accompanied us, and we were friends. We
9 were social friends.

10 And Mr. Gay did get involved with some mod rehab
11 projects, and every single one of those was, went to the
12 secretary. It had nothing to do with Mr. Gay. Mr. Gay just
13 simply represented much higher-up political people. And he was a
14 former HUD employee as well.

15 Q. Mr. Gay was?

16 A. Yes.

17 Q. And do you recall whether you had lunch with Mr. Gay on
18 July 9, 1986?

19 A. No, I did not.

20 Q. How about dinner with Mr. --

2 A. I did. I had dinner with Mr. Gay and Mr. Davis.

2 Q. And how about on December 22, 1986?

2 A. Oh, sorry, wrong month.

2 We went to a, an auction, yeah. We went to a, a HUD
2 charity auction. They accompanied me there.

2864

1 Q. That was on December 22?
2 A. Urn-hum, at Fort McNair.
3 Q. Afterwards, did you go to Mr. K's for dinner?
4 A. We might have. I remember having dinner with them there.
5 And if that is the night that we went to Mr. K's, we also went
6 out later, and I paid the rest of the evening.
7 Q. Dinner at that time was \$300?
8 A. It very well could have been. Mr. Gay and Mr. Davis do very-
9 well for themselves, and they certainly had a lot of drinks, as I

10 remember.
11 Q. Did Mr. Gay ever buy you any presents, such as ladies'
12 gloves?
13 A. No. I saw this in discovery. It says, "Replace gloves to
14 D. Dean," but I don't have any remembrance of that at all. I
15 might have lost a pair of gloves, but I can't remember why. I
16 have absolutely no recollection of that.
17 Q. Now, Ms. Dean, you previously mentioned Rick Davis. He was
18 another member of the firm of Black, Manafort, Stone & Kelly?
19 A. He was originally with the --he was a HUD employee at
20 first. We were asked to hire him. He then moved to the White
2 House, and he was the assistant to Mr. Kingon in Cabinet Affairs,

2 and then he moved to the Black, Manafort, Stone & Kelly firm
2 after that.
2 Q. And how about Russell Cartwright? Did you ever have meals
2 with Russell Cartwright?

2865

1 A. No, I've never eaten with Russell Cartwright.
2 Q. Do you recall going out to dinner with Mr. Cartwright, Abbie
3 Wiest, and yourself on October 22, 1987?
4 A. I've never eaten with Russell Cartwright.
5 Q. You mentioned Russell Cartwright during your direction
6 testimony; is that right?
7 A. Yes.
8 Q. And that was over the South Florida I project?
9 A. Yes.

10 Q. And Colonel Jack Brennan?
11 A. Yes.
12 Q. Now, Ms. Dean, did these individuals such as Loury Gay ever
13 ask you for mod rehab units?
14 A. Mr. Gay asked me if I would take his firm's request to
15 Secretary Pierce, and there were, you know, there was a distinct
16 message for the secretary from them.
17 Q. Do you recall him just asking you specifically, not
18 Secretary Pierce?
19 A. Mr. Gay understood very well that asking me was not --I
20 can't give Mr. Gay anything. He understood that. He understood
2 the system very well. He asked me to take a message to Secretary

2 Pierce, which I did.
2 Q. But he wrote to you?
2 A. I'm sure he's written me many times.
2 Q. Let me go back to Clackamas County and Longview, Washington,

2866

1 and I would ask you, Ms. Dean -
2 let me show you a document
3 previously marked as Government's Exhibit 522 for identification.
4 Does this refresh your recollection that Ms. Murphy was the
5 consultant on the Clackamas County and Longview, Washington
6 projects?
7 A. Well, it, you know, it is a letter to me that says, "Sandy
8 asked me to forward these requests to you. Both Sandy and I work
9 for this client." And then there's a whole list of requests, and
10 Clackamas and Longview are both on it.
11 But I'll tell you, I have absolutely no memory of that
12 whatsoever.
13 Q. Now when you say "Sandy," are they referring to R. Carter
14 Sanders?
15 A. I would think so, yes.
16 Q. And is he the individual that was mentioned before as one of
17 the people who might provide negative information to you on your
18 confirmation hearing?
19 A. Yes.
20 Q. Now is it fair to say that Ms. Murphy was the consultant on
21 the Clackamas, Longview, and Lane County, Oregon project; the
22 Yamhill County, Oregon project; Washington County, Oregon
23 project; and the Salem, Oregon projects?
24 A. I don't know, Mr. O'Neill. I really don't have any
25 recollection of that whatsoever, and it's one of those things
26 where I think it would stand out in my mind if Lynda Murphy had

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1 ever broached the subject with me. And if she sent me that
2 and -- I didn't do anything with it. I do know that. I would
3 not have done that.
4 Q. It wouldn't have been proper for to you do anything like
5 that, would it?
6 A. Unless there was a reason to take it to Secretary Pierce, it
7 was the same situation as with Jack Brennan. I just wouldn't
8 have done anything with it. I received things like that
9 constantly, and unless there was a reason for it to go to
10 Secretary Pierce, I didn't do anything with it except send it
11 through the system.
12 Q. When you say you received things like that constantly, are
13 you referring to correspondence on the Mod Rehab Program from
14 someone who you described as one of your closest friends at the
15 time?
16 A. I don't think that people felt that being a friend of mine
17 kept them from corresponding with me. I didn't like it, but
18 people do use people they know in government, and they also write
19 things down on expense accounts that aren't right, either.
20 But, you know, when an ethical person gets something
21 like that and an ethical person does with it what they're
22 supposed to, there's not a problem, and I do not recall doing
23 anything for Lynda Murphy with regard to this program, and if I
24 had felt that there was some need to do something for
25 Ms. Murphy or that she had some terrific project, it would have

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1 gone to Secretary Pierce, with him knowing that she was a friend
2 of mine, because that is the way that I operated.

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3 I know that did not happen.

4 Q. You told Secretary Pierce each and every time that there was
5 a communication made to you that you supported a program,
6 correct?

7 A. No, not every time -8

MR. WEHNER: Objection.

9 THE COURT: She can answer.

10 THE WITNESS: No, I got lots of correspondence that did
11 not go to Secretary Pierce. Only things that required his
12 attention. The rest went through the system.

13 A friend of mine asking me for something at HUD hardly
14 required Secretary Pierce's attention. Senators asking for
15 something required his attention.

16 BY MR. O'NEILL:

17 Q. But not your friends?

18 A. If somebody had something that was going to be put into the
19 system and, I thought, come up to Secretary Pierce and I knew
20 anything about it at all, I told him. There were other times
2 that I simply sent things through the system because I knew he
2 wouldn't have an interest.

2 Secretary Pierce would not have had an interest about
2 Lynda Murphy, who he knew, or R. Carter Sanders, who he also
2 knew.

2869

1 Q. Well, you put up on those charts the other day that those
2 projects were, in fact, funded, correct?

3 A. Yes, sir. And I told you to the best of my recollection
4 exactly why they were funded, and I have never before today known
5 that Lynda Murphy had anything to do with those projects.

6 THE COURT: All right, we're going to take a short
7 break.

8 MR. O'NEILL: Yes, Your Honor.

9 THE COURT: All right, Ladies and Gentlemen, we're
10 going to take our morning -- our morning. We're going to take
1 our afternoon recess here and be back then at 3:15. So we'll
1 take a little bit longer and let you rest. We'll be back at
1 3:15.

1 Remember the admonitions of the Court now about the
1 case. Do not talk about it in any fashion with anyone during the
1 break. Thank you.

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1 (Recess, 2:55 p.m. to 3:25 p.m.)

2 (Jury present)

3 THE COURT: All right, we're ready to go
4 again?

5 MR. O'NEILL: Yes, Your Honor.

6 THE COURT: Thank you, Mr. O'Neill.

7 MR. O'NEILL: Thank you, Judge.

8 BY MR. O'NEILL:

9 Q Miss Dean, when we left off we had been speaking
10 about certain expense accounts for certain people.
11 Isn't it your testimony that Miss Murphy falsified
12 certain expense accounts?

13 A well, I know that I did not - it doesn't truly

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14 reflect what had to do with me.
15 Q Then she falsified them.
16 A Well, I don't - I don't know. I - it does not
17 accurately reflect an expense that should have been to
18 me or having to do with me.
19 Q So they're false.
20 A It's an assumption, but my assumption would be
2 that, yes, people falsify their records.
2 Q Well, I showed you the records and you stated that
2 you were not present at certain of those meals, is that
2 correct?
2 A Yes, that is correct.

2871

1 Q So then they're false.
2 A All right.
3 Q How about Lance Wilson, the same thing?
4 A Yes.
5 Q How about Black, Manifort & Stone, the same thing?
6 A I didn't look at any from Black, Manifort & Stone.
7 I don't remember looking at any.
8 Q The Russell Cartwright entry?
9 A I didn't see it. I didn't allow you to show it to
10 me, I'm sorry.
11 Q Let me show you -
12 A Wedgewood, Wadsworth, Wiest. I don't have any
13 recollection of ever being with Miss Wiest and Mr.
14 Cartwright.
15 Q So this would be false as well, correct?
16 A He may have been with Miss Wiest.
17 Q I believe you just testified he was not with you.
18 A He was not with me.
19 Q So that is false?
20 A All right.
21 Q Now, you understand that to file false statements
22 like that would be illegal, correct, ma'am?
23 A Yes, I believe it is. Yes.
24 Q So each of these individuals has committed a crime?
25 MR. WEHNER: Objection, Judge.

2872

1 THE COURT: I'll sustain it. That's not her
2 judgment. They could be mistaken.
3 MR. O'NEILL: Very well, Judge.
4 BY MR. O'NEILL:
5 Q Miss Dean, I'd like to go back to this Linda Murphy
6 letter to you. Let me mark it for identification
7 purposes as Government's 523. And I'd ask you to look
8 at Government's Exhibit 523.
9 A Yes.
10 Q And isn't it a fact, Miss Murphy is asking you for
11 Mod Rehab units?
12 A It says here that the project that she's interested
13 in had been selected, which would make it previous to
14 this, and -15
Q She's not talking about BUD though, is she?
16 A "Mod Rehabilitation Section Eight award after
17 advertising by the city." I assume - I don't know.
18 Frankly I remember the letter that is attached to this
19 explains this very well and if you don't have the
20 attached letter I will try to find it for you. Maybe we
2 can discuss it after I do that.

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2 Q I'm discussing this letter, ma'am.

2 A Right.

2 Q Does this letter ask for Mod Rehab units from you?

2 A I don't believe so. You see, it says thank you for

1 your efforts. So it's a thank you letter for

2 something. So I don't think it's asking me for

3 anything.

4 Q Does she not ask that you state the units and put

5 them in a project specific 185?

6 A I really don't understand what that refers to. I

7 know it is spelled out in the letter that was attached

8 to that, and that letter was in my files.

9 Q And does the handwriting – whose handwriting is

10 that at the bottom?

11 A That is Mrs. Sherrill Nettles-Hawkins.

12 Q Does that not confirm that Miss Sherrill

13 Nettles-Hawkins spoke with Linda Murphy?

14 A That's what it says, spoke with Linda.

15 Q Does she not also put there 20 units to Richmond,
16 Virginia?

17 A It says 20 units and I don't know, does it say to
18 Richmond? And I have no idea what that refers to. I'm
19 sorry, I just don't know what that refers to.

20 Q This letter is addressed to you, Miss Dean?

2 A Yes, it is.

2 Q And it's entitled Dear Debbie?

2 A Yes, and I do believe that the letter that was
2 attached to that in my files explains it.

2 Q Miss Dean, I'd show you once more Government's

2874

1 Exhibit 522. This is the document you say you haven't

2 seen before today?

3 A No, I said this had come out of my files.

4 Q You don't recall seeing it before?

5 A No, I said that I did not know anything about

6 Miss Murphy representing Clackamas and Longview, but

7 this obviously is addressed to me. It came out of my

8 files. I can see the Bates stamp numbers on it. It

9 says received by the Office of the Secretary. I'm
10 certain that I got it. I'm also certain that I didn't
11 do anything for Linda Murphy.

12 Q You did not do anything for Linda Murphy on these
13 projects?

14 A Mr. O'Neill, I'm not even certain whether it's Miss
15 Murphy or Mr. Sanders. It says, "Sandy asked me to
16 forward these requests to you," I do not know today
17 whether or not Clackamas County or Washington County or
18 anything else that might have been funded eventually for
19 this, whether they represented the people who eventually
20 got those units, I don't know anything about it.

2 All I know is that if I had known anything
2 about Miss Murphy's involvement or if Miss Murphy's
2 involvement had had anything to do with their being
2 funded I would have told you about that when we went
2 through the list.

2875

1 Q You did not mention Miss Murphy's involvement when
2 we went through the list, did you?

3 A Because I didn't know about it.

4 Q And you don't remember getting this letter in May
5 of 1986? Does it bear a received stamp from HUD?

6 A It has my attorney's Bates stamp numbers on it
7 which means I gave it to you, which means I've seen it
8 before. It means it was received. It just doesn't have
9 anything to do with why they were funded.

10 Q So even though Miss Murphy, as you've stated in an
11 affidavit, is one of your closest friends, contacted you
12 on this project, it had nothing to do with the funding
13 of Clackamas County, is that your testimony?

14 A I swear to you that is the case.

15 Q Let's go to Mr. Evans for a second? That was a
16 name you also brought up during direct examination,
17 correct, Miss Dean?

18 A Yes, sir.

19 Q And do you recall stating that there's no way of
20 knowing whether Mr. Evans was a paid consultant or
2 acting as a citizen?

2 A I believe we were talking about Project Dignity?
2 That I would not have known whether he was operating -
2 like I had said, about Senator Brooke, he's a former
2 Congressman. I know that there certainly were examples

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1 when he was a paid consultant that I learned later on
2 and I know that he even came to see me. I think that I
3 had told that story, that he had come to see me in my
4 office, one time, he had talked directly to the
5 Secretary. But at the time or something like that it's
6 very hard to know whether someone who is a former
7 Senator or Congressman is representing somebody because
8 they know them politically, if they're interceding for
9 them. If they're being paid as an attorney or they're
10 being paid as a consultant, i just didn't know and I --
11 Q From the time you learned that Joe Strauss was
12 charging approximately \$1000 per unit on the Puerto Rico
13 project, you knew that consultants were being paid, did
14 you not?
15 A Yes, I knew consultants were being paid.
16 Q And these individuals that were coming to talk to
17 you about projects, did you believe that they were doing
18 it out of the kindness of their heart?
19 A I believe that what I said and I still say today, I
20 don't know how people arrange for their compensation. I
2 don't know, for instance, if a law firm that comes in

2 with a developer is being paid by the hour, if they're
2 on a year retainer, if they're being paid by the unit.
2 There just wasn't any way for me to know that or for
2 Secretary Pierce to know that or for the other people

2877

1 that people go to see in the Department.
2 Q Well, if they're on a retainer or paid by the hour
3 or] paid by the project they're still getting paid, don't
4 they?
5 A And some people come in and intercede for people
6 who aren't being paid.
7 Q John Mitchell was interceding just out of the
8 kindness of his heart?
9 A That is what I believe.

10 Q And Rick Shelby was not being paid?
11 A I assume that Mr. Shelby was being paid.

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12 Q And Jack Brennan was not being paid?
13 A I don't know what Mr. Brennan could have done that
14 you would pay him for.
15 Q He saw you, didn't he, Ma'am?
16 A He was in my office for five or ten minutes. I
17 wouldn't have paid him for that.
18 Q He came and saw you for five or ten minutes and his
19 project was ultimately funded, is that correct?
20 A The project wasn't funded for anything that
2 Mr. Brennan did. The fact that units went to that State
2 had nothing to do with Mr. Brennan.
2 Q Did it have anything to do with Mr. Mitchell, Jack
2 Brennan's partner?
2 A No.

2878

1 Q How about Louie Nunn?
2 A No.
3 Q Let's go Mr. Evans for a second, Miss Dean.
4 When you said there's no way of knowing whether someone
5 is a paid consultant or acting as a citizen. Mr. Evans
6 you dealt with on several occasions, isn't that true?
7 A I imagine that I did, yes. I'm trying to think of
8 anything that sticks out in particular and I know that
9 he came to see me once that I recall and I told him that
10 he had to speak directly to the Secretary and he did
11 speak directly to the Secretary.
12 Q Were you close to Mr. Evans?
13 A I've had dinner with him on several occasions. He
14 was a very good friend of Mr. Mitchell's. I know he
15 helped me with Mr. Mitchell's funeral arrangements.
16 Q In fact, you had lunch several times with
17 Mr. Mitchell and Mr. Evans?
18 A I don't think so. I don't remember it. I mean if
19 I did and you have it on my calendars I will say that I
20 did. I just don't recall ever having lunch with
2 Mr. Evans and Mr. Mitchell.
2 Q Were you close enough to call him Tommy as opposed
2 to Mr. Evans?
2 A Yes, I was.
2 Q And isn't it true that you invited him to be a

1 sponsor of something called the Young Friends of Red
2 Cross Ball?
3 A I think I asked a lot of people to be sponsors of
4 that.
5 Q And did you have him contact Sherrill
6 Nettles-Hawkins if he was interested?
7 A I'm not going to deny it. I don't remember. It's
8 addressed to Tom Evans and it says please contact
9 Sherrill Nettles.

10 Q That has nothing to do with HUD related business,
11 does it?
12 A No, it was a charity, and Mrs. Nettles agreed to
13 help with it.
14 Q She agreed to do that on her time?
15 A It wasn't imposed on her, no.
16 Q And would this refresh your recollection that on
17 March 8th of 1985 yourself, John Mitchell and Tom Evans

18 had lunch together?

19 A It could have happened but I don't remember. It

20 also could have been canceled. I'm sorry, I don't
2 remember, but it seems that would have stuck out in my
2 mind.

2 Q Now, did Mr. Evans also give you things such as
2 plants? Do you recall getting a plant from Mr. Evans?
2 For your assistance?

2880

1 A For my assistance? No, I don't think I got a plant

2 for my assistance. He probably sent me a plant. He

3 might have sent me flowers.

4 Q well, let me ask you if you -- Mr. Evans is asking

5 you for your assistance on various matters?

6 A It says here that -- this is from Mr. Goodrich to

7 me and it says, "Thank you for calling Hartford,

8 Connecticut HUD on our behalf," and it says, "I have

9 enclosed a small amount of correspondence in this matter
10 for your file. When the file reaches Central, Tom Evans
11 will be in touch directly," and Mr. Evans probably
12 represented either this -- he might have represented the
13 city, or the State of Connecticut. He might have
14 represented Goodrich. I don't have any recollection of
15 this at all.

16 Weguonoc Village does sound familiar. I don't
17 remember what kind of -- I think it was a public housing
18 project. I know that Mr. Evans met directly with
19 Secretary Pierce on this.

20 Q Is that reflected in that memo, ma'am?

2 A Not in this memo, it's recollected in my memory. I

2 didn't have a chance to look at the other one. Did you
2 want me to?

2 Q Please do.

2 A It looks like this might be loan management set

2881

1 aside. It's for additional Section Eight funding. It's
2 not more units. It's more rent increases. It might be
3 a rent increase or it might be an additional flex

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4 subsidy or rent set aside.

5 Q And who is he writing to, you?

6 A I think that letter is to me.

7 Q Do you recall whether you asked Mr. Cushing to do

8 anything on Wequonoc Village, per a request from

9 Tom Evans?

10 A It says "Hunter Cushing, current status report,

11 Tuesday morning at ten o'clock in my office, Deborah."

12 Q And that is in response to a memo from Tom Evans to

13 you?

14 A Yes, it is.

15 Q I'd like to change our focus to Joseph Strauss,

16 Miss Dean. Am I correct you also mentioned him during

17 your direct testimony?

18 A Yes.

19 Q Did you ever receive any gifts from Joe Strauss?

20 A Yes. When I was out that month he sent me a very,

21 very large balloon and it had a little basket on it and

22 it had a teddy bear in it.

23 Q And the previous year, did he send you flowers for

24 your birthday?

25 A I don't recall. He might have.

2882

1 Q Now, is this the same Joe Strauss that you said was
2 responsible for getting 600 units to Puerto Rico?

3 A Yes. And he and I had worked together in the

4 Office of the Secretary and we had had a falling out

5 over these Puerto Rico units and I think he was

6 attempting to try to smooth our friendship back over

7 again.

8 Q Now, by 1984 you knew Joe Strauss was a paid

9 consultant, is that correct?

10 A When the Puerto Rico thing erupted, and I believe
11 that was the summer or early fall of '84, yes.

12 Q And he was being paid approximately \$1000 per unit?

13 A What I had understood from Mr. Richards is that he

14 had said that he could get units from between a thousand

15 and \$1500 an unit. I didn't know specifically that that

16 was for Puerto Rico, but that this was a general

17 conversation and he had just gotten 610 units in Puerto

18 Rico, so I assumed of course that he had been paid that

19 much for those units.

20 Q So he stood to gain approximately \$600,000 for the

2 Puerto Rican units?

2 A Yes, at least.

2 Q And do you recall testifying that you told

2 Secretary Pierce that that looked very bad, for this to

2 be occurring?

2883

1 A Absolutely.

2 Q And it was bad that consultants were being paid

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3 this kind of money to bring units to the local PHA's?

4 A Well, what I told Secretary Pierce was that I

5 thought that it looked very bad for a former Special

6 Assistant of his to be making that kind of money off of

7 HUD programs, and he agreed, and we had a conversation

8 about what consultants were paid and he told me about

9 what consultants used to be paid in a substantial

10 rehabilitation program and we had a conversation about

11 it and we had a conversation about what his
12 understanding was about what HUD could do about people
13 getting consulting fees and, yes, we did, we did agree
14 that it looked very bad. It looked bad for - I mean no
15 one likes the idea of selling any sort of influence in a
16 Government program. Of course it looks terrible.

17 Q Isn't it a fact that the 600 units to Puerto Rico
18 represented one-tenth of the national amount of moderate
19 rehabilitation units available that year?

20 A And that's one of the reasons why it looked so very
2 bad.

2 Q And you brought that to Secretary Pierce's
2 attention, is that correct?

2 A Yes, I did, and I remember exactly where we were
2 standing when we had the conversation.

2884

1 Q And is it correct that you testified that Secretary
2 Pierce had no idea that 600 units were going to Puerto
3 Rico because Joe Strauss was involved?

4 A What he said to me was that he had been misled as
5 to how many units there were in the country. He did not
6 know that. He agreed it looked very bad and he felt we
7 should bring them back. I don't ever recall him saying
8 to me whether he knew that Joe Strauss was involved or
9 not.

10 Q Isn't it a fact that Lance Wilson is the one who
11 gave those units to Joe Strauss for Puerto Rico?

12 A I don't know.

13 Q You don't recall that?

14 A I wasn't there to recall it. I was not a party to
15 the funding at all.

16 Q Do you recall telling a special agent of the
17 Federal Bureau of Investigation back in 1987
18 that "shortly before the departure of Lance Wilson from
19 HUD he gave 600 units to Joe Strauss for projects in
20 Puerto Rico?"

2 A No, I mean -I
2 certainly can assume that, that I
2 said that to the agent, yes.

2 Q I'll show you a document and see if that refreshes
2 your recollection as to what you told the agent. It's
2 near the back, if that will help.

2885

1 A It says here "Dean" -- would you like to show me
2 where it is because I don't -- oh, I was on the wrong
3 page. Well/ I mean this is in the FBI agent notes of
4 what was said?
5 Q The question is do you recall saying that?
6 A I'm looking through a lot of this and I think it
7 pretty much encapsulates what I said to the agent and I
8 probably told the agent that it was my understanding
9 that it wasn't Secretary Pierce who had done it and
10 therefore that left Mr. Barksdale and Mr. Wilson.
11 Q I'll ask the question again, Miss Dean. Does this
12 refresh your recollection as to whether you told the FBI
13 agent that "shortly before the departure of Lance Wilson
14 from HUD he gave 600 units to Joe Strauss for projects
15 in Puerto Rico?"
16 A No, it doesn't refresh my recollection, but I don't
17 think that's inconsistent. I think that --
18 Q I don't remember asking you that, Miss Dean.
19 A I'm sorry.
20 Q Is there any mention of Maurice Barksdale?
2 A I don't know.
2 Q Now, is it fair to say that Lance Wilson sent these
2 units to Puerto Rico without the knowledge of Secretary
2 Pierce?
2 A I have absolutely no idea.

2886

1 Q Even though you said you had a conversation with
2 Secretary Pierce where he didn't know they were going
3 there?
4 A And I just told you that Secretary Pierce did not
5 tell me one way or the other whether he knew that
6 Mr. Strauss was involved. He said that he had been
7 misled. I remember that coming out of his mouth. I
8 don't know who misled him. I know I thought it was
9 wrong and he did the right thing. He brought them back.
10 Q Now, this is the same Lance Wilson we're talking
11 about previously who bought you meals, is that correct?
12 A Yes, Lance Wilson is my friend and was my

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13 predecessor and an advisor.

14 Q And he is the one you told the FBI that sent the
15 600 units to Puerto Rico.

16 A Well, what happens when I give you one answer and
17 you repeat it back to me a different way? I didn't say
18 that. I said that those are notes of an FBI agent and I
19 probably said to him, if that is his shorthand version
20 of it, that I didn't believe it was Secretary Pierce.
2 That didn't leave too many other people for it to have

2 been. And I believe also in that interview I said that
2 Mr. Strauss and Mr. Wilson were close, and they were. I
2 also don't believe I said I approved of that.

2 Q You didn't approve of what, that they were close?

2887

1 A That -- I don't approve of Special Assistants of the

2 Secretary of BUD leaving HUD and cashing in on their

3 former positions, no.

4 Q You became a lobbyist when you left HUD, did you

5 not, ma'am?

6 A I became a lobbyist, yes.

7 Q And a consultant?

8 A No, not a consultant. A consultant as in what? As

9 in Mod Rehab units? No, I did not.

10 Q As we've been speaking, you worked on HUD related

11 matters when you left, did you not?

12 A I worked on an audit finding for a company and I
13 worked on other matters. I did not go out and become a
14 \$1000 a unit consultant. No, I did not.

15 Q Miss Dean, Lance Wilson, that is also the same
16 person you claim was helping John Mitchell on these
17 matters that we talked about previously, correct, the
18 Arama project?

19 A I know that subsequent to this indictment I have
20 had a conversation with Mr. Wilson and Mr. Wilson told
2 me that he had been the person working with John.

2 Q Now, you know, Miss Dean, do you not, you've been
2 testifying here long enough, you know the rules against
2 hearsay, do you?

2 MR. WEHNER: Oh, Judge.

2888

1 THE COURT: I'll sustain the objection.
2 MR. WEHNER: Objection.
3 THE COURT: Do you want me to strike the
4 answer?
5 MR. O'NEILL: Like I'm ringing a bell, Judge.
6 THE COURT: All right, I 'll sustain the
7 ob j ection •
8 BY MR. O' NEILL:
9 Q Miss Dean, I'll be asking you a series of
10 questions I'd ask you to respond to them as best you
11 can If you do not understand the question, please let
12 me know. I'll be glad to rephrase it.
13 A All right.
14 Q Joe Strauss, is this the same Joe Strauss you once
15 shared a beach house with?
16 A Yes.
17 Q Let me show you Government's Exhibit 258 in
18 evidence. I'd ask you to look at this document.
19 A Yes.
20 Q And this is a response you received from counsel at
2 HUD , is that correct?
2 A Yes.
2 Q And that was as to whether it would be improper or
2 not to share a beach house with Joe Strauss?
2 A That is correct.

2889

1 Q And that was early on in 1984.
2 A It was 19 – I think we arranged it in '83 and we
3 were all special Assistants then, and Mr. Strauss – no,
4 I think Mr. Strauss had actually left HUD at that point
5 and we were all still very friendly and I didn't have
6 any reason to think that I would have any conflict with
7 Mr. Strauss, and there wasn't a conflict with
8 Mr. Strauss until Mr. Strauss didn't get what he wanted,
9 and then there was a conflict.
10 Q Is it fair to say in Government's 258 that Joe
11 Strauss is no longer at HUD at this time?
12 A Yes, it says a former Special Assistant.
13 Q And isn't that why you requested the opinion?
14 A I guess, yes. I wanted to make certain I didn't do
15 anything wrong.
16 Q From that point, the date of that is February 14th,
17 1984, you were aware of the Standards of Conduct

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18 applicable to HUD employees, is that correct?
19 A As they relate to sharing a beach house or having a
20 friend that's a former Assistant?
2 Q Let me read it, ma'am, it's a little broader than

2 just a beach house, is it not? Do you recall the
2 memorandum states, "Because Mr. Strauss is contributing
2 no more than his fair share of the rent, his payment
2 does not constitute a prohibited gift or gratuity

2890

1 under," and then it gives the sections, "of the
2 standards of Conduct regulation. However, in addition
3 to specific rules, HUD' s Standards of Conduct regulation
4 also requires HUD employees to avoid any action that
5 might result in, or create the appearance of, giving
6 preferential treatment to any person, losing complete
7 independence or impartiality, or making a Government
8 decision outside official channels." It cites the
9 sections again. "Because Mr. Strauss is a close
10 personal friend it could create the appearance of
11 favoritism or of loss of impartiality for you to take or
12 recommend actions which would benefit Mr. Strauss. You
13 need not avoid any particular type or extent of social
14 contact with Mr. Strauss, but if you are in a position
15 to take or recommend actions which could benefit him or
16 to expedite the consideration of such matters I would
17 advise you to refrain from doing so. If you are not in
18 a position to assist Mr. Strauss or any of your friends
19 who may deal with HUD, your outside social activities
20 will raise no Standards of Conduct issue."
2 A I never did anything to expedite or to benefit

2 Mr. Strauss.
2 Q I don't recall that being the question, Ma'am.
2 A I'm sorry.
2 Q The question was as of 1984 were you familiar with

2891

1 the standards of Conduct applicable to HUD employees?
Page 1606

2 A Yes.

3 Q Now, during your direct examination you mentioned a
4 project by the name of Durham Hosiery Mill. Do you
5 recall that?

6 A Yes.

7 Q In fact, is it fair to say you spent a great deal
8 of time talking about that project during direct
9 examination?

10 A Well, if that's your characterization, that's fine.

11 Q Do you recall testifying that Shirley Wiseman
12 refused to sign the funding documents on Durham Hosiery
13 Mill?

14 A Yes, I believe I said that Secretary Pierce told me
15 that she would not sign them.

16 Q Do you also recall testifying that Secretary Pierce
17 said make sure it's legal and then fund it?

18 A He wanted the site funded and he wanted to make
19 certain that it was legal before it could be funded.

20 Q Is it fair to say that Janet Hale also refused to
21 sign the funding documents for Durham Hosiery?

22 A Well, she didn't refuse to sign them. She did not
23 want to sign them.

24 Q You told us she was crying?

25 A We had a meeting in the office and she started to

2892

1 tear up and she got a blotch on her neck and I knew
2 Janet well enough to know that that was a sign of
3 extreme discomfort for her, and I felt very badly for
4 her.

5 Q Now, am I correct that the Secretary's signature
6 was autopenned to the rapid reply as you stated on
7 direct examination?

8 A Yes, it was.

9 Q Do you also recall testifying on direct examination

10 that you don't remember any consultants involved in
11 Durham Hosiery Mill?

12 A I never talked to any consultants involved in
13 Durham Hosiery Mill. After reading all of your
14 information I know that before I had any involvement
15 with them they had consultants and I think they paid
16 consultants when they closed the project. I since read
17 the complete file. I now know just about everything
18 there is to know about Durham Hosiery Mill, but at the
19 time that Mr. Allen, and I don't know who accompanied
20 him, I remember the fellow, a former Denver Bronco, and
21 he was from Denver and I don't know what his name was,
22 they came to see me. I spoke to Phil Abrams. Phil
23 Abrams had been dealing with it for a while. Al Moran
24 had been dealing with it for a while.

25 Secretary Pierce and I had many conversations

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1 about it but at no time did I ever speak to a consultant
2 or was I ever aware that a consultant was involved and I
3 mean I now know that Linda Murphy was one of their

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4 attorneys but I never knew that at the time, and I know
5 that Lou Kitchin was paid from the Durham Hosiery Mill.
6 I didn't know that at the time. And it was certainly
7 never mentioned to me until I met Mr. Kitchin, and when
8 I met Mr. Kitchin he told me that he had worked on
9 Durham Hosiery Mill. But at that point I had never met
10 him before, and it had already been funded.
11 Q Are you finished. Ma'am?
12 MR. WEHNER: Objection to the comment.
13 THE COURT: All right, let's go ahead.
14 MR. O'NEILL: Your Honor, I move to strike the
15 entire answer as unresponsive to the question.
16 THE COURT: All right. Overruled. It was
17 responsive to your question that was asked.
18 BY MR. O'NEILL:
19 Q Now, isn't it true that Linda Murphy was a
20 consultant on that project, Miss Dean?
2 A well, I believe that she worked on -I've
never
2 seen anything in the files that said that she was paid,
2 but I assume she was, and I do know that she had some
2 involvement with it, after reading your files.
2 Q Now, is it also true as you've stated, Lou Kitchin

2894

1 was a consultant on that project?

2 A Yes, I've seen checks written to Mr. Kitchin that
3 you provided during discovery.

4 Q You mentioned an individual by the name of Allen.

5 Mr. John Allen was the developer of that project, is
6 that true?

7 A He was either the developer or had an interest in
8 it. I think the company developing was Myerson-Allen

9 and so I'm going to assume that he was a developer. I'm
10 going to assume that he was the principal.

11 Q I'm not asking you to assume. Do you recall
12 testifying on direct examination that you met with
13 Mr. Allen on Durham Hosiery Mill?

14 A Yes, I met with Mr. Allen and another individual
15 from Denver on the Durham Hosiery Mill shortly after I
16 became Executive Assistant.

17 Q Is it fair to say that John Allen went to school
18 with your then boyfriend Richard Giegengack?

19 A I remember - I recall Mr. Giegengack being in my
20 office, waiting to pick me up and Mr. Allen coming for a
2 meeting and going back and saying oh, aren't you Richard

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2 Giegengack, and he went, yes, and it turned out that
2 Mr. Allen and Mr. Giegengack knew each other. It has
2 nothing to do with Durham Hosiery Mill.
2 MR. O'NEILL: Your Honor, I move to strike all

2895

1 unresponsive answers after the answer yes.
2 THE COURT: Overruled. It's
3 cross-examination. Go ahead.
4 BY MR. O'NEILL:
5 Q Am I correct, Miss Dean, that you and
6 Mr. Giegengack went out socially with Mr. Allen?
7 A I believe that day -I
know that day that
8 Mr. Giegengack was picking me up we gave Mr. Allen a
9 ride to the airport and we stopped off and had a
10 cocktail at the Guards and, on the way, and that was the
11 only time I ever saw Mr. Allen socially.
12 Q Is it also fair to say that Richard Giegengack that
13 we're talking about, your then boyfriend, was best
14 friends with Jon Boisclair, is that true?
15 A That is true and that is how I met Miss Murphy, his
16 wife.
17 Q And Jon Boisclair is married to Linda Murphy?
18 A That is correct.
19 Q Now, during the direct examination you did not
20 mention the fact of this John Allen, Richard Giegengack,
2 Jon Boisclair, Linda Murphy relation on Durham Hosiery
2 Mill, is that true?
2 A Well, that is such a bizarre characterization of
2 it. why would I mention that? Mr. Giegengack has
2 nothing to do with Durham Hosiery Mill. Mr. Boisclair

2896

1 has nothing to do with Durham Hosiery Mill. The fact
2 that Mr. Giegengack and Mr. Allen knew each other ten
3 years before at school has nothing to do with Durham
4 Hosiery Mill.
5 Q You mentioned that Mr. Giegengack and Mr. Boisclair
6 had nothing to do with Durham Hosiery Mill, but
7 Mr. Allen and Miss Murphy did, correct?
8 A Mr. Allen was the principal. Mr. Allen saw me in a
9 meeting with Mr. Myerson, I assume it was Mr. Myerson or
10 whoever was this person from Denver. And then one time
11 he was dropping off some papers. It was late. He was
12 there for a meeting with other HUD people. He came into
13 my office to say hello, ran into Mr. Giegengack, they
14 recognized each other, and we drove him to the airport,
15 but I don't understand what -
16 Q You don't understand that Mr. Allen, the developer,
17 was good friends with Richard Giegengack, your then
18 boyfriend, Linda Murphy is the consultant on this
19 project who is married to Jon Boisclair who you
20 socialized with, you don't see any problem with that?
2 A If - if - no, I don't. I - I don't. I walk
2 through this Courthouse and run into people I know. It
2 doesn't mean they're parties to this case.
2 Q You were the Executive Assistant to the Secretary
2 of HUD, were you not, Ma'am?

2897

1 A Yes, and Secretary Pierce made the decision to fund
2 Durham Hosiery Mill for reasons that had nothing to do
3 with Linda Murphy, Louis Kitchin, Richard Giegengack, my
4 mother, you, or anything else.

5 Q And that's your testimony, is it, Ma'am?

6 A Yes, that is the truth.

7 Q That's for the jury to decide, right, Ma'am?

8 MR. WEHNER: Objection, Your Honor.

9 THE COURT: All right, I'll sustain the remark
10 of the counsel again as being improper.

11 BY MR. O'NEILL:

12 Q Now, let's talk about Mr. Jay Stone. You mentioned
13 him during direct examination, is that correct?

14 A Yes, I did.

15 Q And do you recall testifying you couldn't remember
16 much about Mr. Stone?

17 A I remember that he worked for someone and I
18 remember having trouble deciding who it was that he
19 worked for.

20 Q And you said it might have been some Congressman in
2 Louisiana, does that refresh your recollection?

2 A It was either a Congressman, a Senator or a
2 Governor and I think I mentioned all three and couldn't
2 remember which one it was.

2 Q Isn't it true, Miss Dean, that at that time Mr.

2898

1 Jay Stone was working for his own business in
2 Washington, D. C. and he was associated with Lance
3 Wilson and Paine Webber?

4 A No, not that I know of.

5 Q Let me show you a document and see if that would
6 refresh your recollection as to whether he was
7 associated with Lance Wilson?

8 A Well, this is a document from Paine Webber to
9 Mr. Jay Stone and it doesn't mention my name, I've never
10 seen it before. And it has Lance Wilson's signature on
11 it. It doesn't have Mr. Stone's signature on it and,
12 no, I don't -I

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know that Jay Stone worked for a member
13 of Congress or a Governor in a campaign and I wouldn't
14 know Jay Stone if he was in this courtroom.
15 I do remember that that is how he came into my
16 office and I don't know any relationship Mr. Stone has
17 with Mr. Wilson.
18 Q Does that show you that he is not working for any
19 Congressmen, he is not working for any Senator, or any
20 Governor from the State of Louisiana?
2 MR. WEHNER: Your Honor, could we approach?
2 THE COURT: Sure.
2 (Bench conference)
2 THE COURT: Let me see the document.
2 MR. O'NEILL: Yes.

2899

1 MR. WEHNER: I object to the continued
2 questioning after the witness has answered the question
3 with regard to whether a document refreshes her
4 recollection.
5 THE COURT: I think the witness says this
6 doesn't refresh her recollection. That ends it. You
7 can't keep questioning her about that document.
8 MR. O'NEILL: Judge, can I just put something
9 on the record? I might be a little touchy from
10 yesterday, you did not think that was meant, that
11 comment where I said that's for the jury to decide -
12 did you take that as an improper comment?
13 THE COURT: I did. You can't keep making
14 remarks about -
15 MR. O'NEILL: I'm sorry, Judge.
16 THE COURT: Every time a witness answers a
17 question that you don't like you say, well, that's for
18 the jury to decide. That's a comment,, it's not a
19 question to a witness. It's not an objection made to
20 the Court. What is it otherwise? It's a comment to the
2 jury in general, which you don't do.
2 MR. O'NEILL: I apologize, Judge, but -
2 THE COURT: The thing is not to get into
2 repartee with the witness or -on
your own.
2 MR. O'NEILL: with all due respect, Your

2900

1 Honor, that's why I moved to strike her answer several
2 times and you felt and I don't disagree -
3 THE COURT: This is cross-examination. Do you
4 know so and so, and she gives a long explanation, but I
5 don't think comments to the jury -it's
not a question
6 of a remark to the Court as an objection to evidence.
7 It doesn't have any business in the courtroom. That's
8 all.
9 MR. O'NEILL: well, I apologize.
10 THE COURT: There's no evidentiary value. It
11 means nothing except to influence the jury about
12 something that's not appropriate, and that's my
13 concern.
14 I just wanted to make it clear yesterday and I
15 don't want to rehash this again because it's over, it's
16 water over the dam, but I'm not sure the record
17 reflected what my concern was adequately and I don't
Page 1611

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18 want to leave an unfair impression to Independent
19 Counsel. Miss Dean had been answering a question, had
20 raised her voice and spoken very loudly and repeated a
2 couple of times she never meant to do something. That's
2 the general context, that's not totally accurate, but
2 said never, never it very loud several times. The
2 remark of counsel for the prosecution was I'm sorry, I
2 didn't hear you, and holding your hand to your ear which

2901

1 caused the jury to laugh and snicker. I'm not sure that

2 would appear in the record.

3 The prosecutor did not use all its strikes in

4 choosing jury and I have no question that that's a

5 problem with choosing jury at all. My concern was that

6 there was an insensitivity at least and maybe something

7 much more. These remarks are to influence the jury.

8 We're here to give the defendant a fair trial and that's

9 what we're all here to do.

10 MS. SWEENEY: Your Honor, I haven't addressed
11 this. I've been very quiet but I guess I have to say
12 that I do feel that when we were questioning witnesses
13 and when we were making arguments to the Court
14 Mr. Wehner and Miss Dean were permitted to ridicule us,
15 to heckle us, to make faces at the jury.

16 THE COURT: I didn't notice that. I think
17 that's a twoedged sword and maybe it was raised too
18 long. I think there's a very strong obligation on the
19 prosecutors in terms of conduct. Unfortunately
20 sometimes that doesn't apply to defense lawyers.

21 MR. WEHNER: Your Honor, I quite frankly don't
22 know of anything in my conduct with one exception at
23 this trial that the Court called me on that could fall
24 into that category and I would like to know right now
25 specifics if we're going to get into that kind of

1 contest because I take -

2 THE COURT: We're not going to go into it
3 anymore. You do have facial expressions.

4 MR. WEHNER: True.

5 THE COURT: It's a little different than
6 making remarks to a jury in the middle of an
7 examination. All right. Let's go on.

8 (Bench conference concluded)

9 THE COURT: All right, I've sustained the
10 objection.

11 MR. O'NEILL: Thank you, Your Honor.

12 BY MR. O'NEILL:

13 Q Miss Dean, you mentioned an individual by the name
14 of Gary Horn during your direct examination. Do you
15 recall that?

16 A Yes.

17 Q Am I correct that Gary Horn was the developer
18 behind the funding request of the Housing Authority of
19 the County of Riverside, California?

20 A I believe so, yes.

2 Q And he communicated with you while you were at HUD
2 about that project?

2 A Yes, a meeting was set up for him. As I said, I
2 don't remember if it was his wife or his sister came in
2 and had a meeting with me and discussed their interest

2903

1 in doing more HUD work.

2 Q Isn't it a fact that the Horns are a father and
3 son?

4 A No, I met with a woman and a man, but I know
5 Mr. Horn, the father, because I worked for him after I
6 left HUD.

7 Q And, in fact, you received payments from him after
8 you worked at HUD, correct? You worked as a consultant
9 for Mr. Horn?

10 A Yes, it was a very small job that I did for him.

11 Q And he paid you approximately \$20,000?

12 A No, no, I don't think so. No, this is - no. He
13 did not. I believe it was around \$500, \$560, and it was
14 simply to write a letter to a Housing Authority about a
15 problem he was having with cost - certifiable costs on
16 a project that he worked for.

17 I know I met with the Housing Authority
18 official for him on a different kind of program than Mod
19 Rehab. He asked me to do some things for him, but I
20 never did do them, and I think 560 some dollars I
2 believe is the one check that I received plus he paid my
2 way out to, to where the Housing Authority was in
2 California. He did pay my airfare and whatever my time
2 was that I was there.

2 Q Miss Dean, I'm going to show you what's been marked

2904

1 as Government's Exhibit 524 for identification and I'd

2 ask you if this doesn't refresh your recollection that

3 Dean & Associates received \$20,000?

4 A No, we did not receive \$20,000.

5 Q So is it your testimony that Mr. Horn did not pay

6 you \$20,000 for you acting as a consultant?

7 A Absolutely not. I represented him with a Housing

8 Authority on a cost certification issue and he had asked

9 me to -- and I had to go out there to do that and he
10 asked me to meet with the Housing Authority because the
11 Housing Authority had some monies that they had not
12 expended and he wanted to see if he could get those, and
13 I went to the Housing Authority for him. I was
14 unsuccessful in doing that.

15 He also asked me if I would meet with
16 Mr. Demery on his behalf, and I was unsuccessful with

17 that as well.
18 So the only thing that I did for him, he would
19 have paid my -- my hourly rate to fly out to California,
20 he would have paid the airline ticket and the hotel, and
2 I think he also gave me additional money for the hours

2 that I spent writing the letter to the Housing Authority
2 on the cost certification issue, but I did not receive
2 \$20,000 from him.

2 Q Miss Dean, what was the name of your company when

1 you went out as a lobbyist-consultant?

2 A I said before I wasn't a consultant.

3 Q What was the name of your company?

4 A Dean & Associates.

5 Q Did you have an accountant at any time? Did you
6 utilize any Certified Public Accountants?

7 A Yes.

8 Q Would it be William Batdorf & Company?

9 A He was one of them, yes.

10 MR. WEHNER: Judge, could we approach?

11 THE COURT: Sure.

12 (Bench conference)

13 MR. WEHNER: Her activity after she left HUD
14 except as it relates to specific individuals is not
15 relevant in cross-examination. He's gotten into the
16 individuals she's discussed on direct. I don't think
17 it's relevant for him to go into a question about what
18 Dean & Associates did. The fact is that Dean &
19 Associates until Miss Dean went broke was a relatively
20 successful business and the sums of money Miss Dean
2 generated were significant. And I believe the evidence
2 is overly prejudicial especially given the fact that
2 there's no evidence of any wrongdoing in that period of
2 time. It's not alleged in the indictment anywhere.

2 THE COURT: we're finishing up with Mr. Horn?

1 MR. O'NEILL: Yes, Judge.
2 THE COURT: What's the basis of this \$20,000?
3 You must have some kind of a check.
4 MR. O'NEILL: Yes, sir, I do. I direct the
5 Court's attention to about the third page. There's a
6 notation at the bottom of that and there's a Certified
7 Public Accountant and there's a notation that she
8 received \$20,000.
9 MR. WEHNER: That's not what that says, that
10 says accounts received, 20,000.
11 THE COURT: DDH Trust, that's the Horn trust,
12 I take it.
13 MR. O'NEILL: Yes, sir. She's talking about
14 smaller amounts of checks that she did in fact receive.
15 They are here.
16 THE COURT: There's one here.
17 MR. O'NEILL: Right. There are several
18 smaller denominations.
19 MR. WEHNER: Judge, there's no evidence she
20 ever received \$20,000.
2 THE COURT: Well, maybe she was owed 20,000 if
2 the project completed, but that's what we're talking
2 about. Anyway, she's answered the question she didn't
2 get \$20,000. Unless you can call a witness to prove
2 that.

2907

1 MR. WEHNER: Are you through with Dean &
2 Associates?
3 MR. O'NEILL: No, the whole purpose to that,
4 Your Honor, is she had on direct make it sound like she
5 didn't know Mr. Horn at all.
6 MR. WEHNER: I don't object to that.
7 THE COURT: All right. Let's do a few more
8 minutes.
9 (Bench conference concluded)
10 THE COURT: All right, we're ready to go
11 forward.
12 MR. O'NEILL: Thank you, Your Honor.
13 BY MR. O'NEILL:
14 Q Now, Miss Dean, you stated that you wrote a check
15 to Lou Kitchin to repay the \$4000, is that correct?
16 A Yes.
17 Q And is it fair to say that you do not have a copy
18 of that check?
19 A I gave it to him.
20 Q Now, at the time you made that check or issued that
2 check, I'm sorry, to Mr. Kitchin, you did not have
2 sufficient funds in your account, did you?
2 A No, I did not.
2 Q On direct examination you testified that in a
2 couple of days you would have sufficient funds.

2908

1 A No, I said I told him to wait for a couple of days
2 and that I would call him and we would - I would tell
3 him when I had sufficient funds in the bank.
4 Q But there's no question on the date you issued that
5 check you did not have sufficient funds?
6 A That's absolutely correct because it came as a
7 shock to me that I was going to be writing him the

8 check.

9 Q Now -10

A But I wanted him to have a check. I know it may
11 sound funny to you, Mr. O'Neill, I was trying to do the
12 right thing.

13 Q Are you finished, Ma'am?

14 Do you admit that you gave Kitchin a check -
15 excuse me, I'm sorry. Do you admit that Mr. Kitchin
16 gave you a \$4000 check in the spring of 1987?

17 A He gave me a check for \$4000 in the spring of 1987.

18 Q Now, you took that check and deposited it in your
19 account, is that correct?

20 A Yes, I did.

2 Q Prior to depositing that in your account, is it
2 fair to say that your account was in the red, that you
2 had a negative cash flow?

2 A I don't think so because the check stub before it
2 had a balance, but I don't know.

2909

1 Q Miss Dean, let me show you what's previously been
2 placed in evidence as Government's Exhibit 203B and I'd
3 ask you to look, and is it not fair to say that when you
4 deposited that \$4000 check you had a negative cash flow
5 at that time?

6 A Yes, it is, and that I had a positive cash flow
7 when I requested the check.

8 Q Now, during this period of time were you paying the
9 bank charges for insufficient funds by - in other
10 words, bouncing checks?

11 A Well, I - yes.

12 Q And is it fair to say that happened on a number of
13 occasions during this period of time, the spring of
14 1987?

15 A It has happened on a number of occasions throughout
16 my entire banking career.

17 Q Now, after receiving that \$4000 check were you able
18 to write a number of checks because you now had a
19 positive cash flow in your account?

20 A well, I believe that there was a positive cash
2 flow - I mean, when I look at the check stubs it said
2 that there was \$1600 in the bank when I wrote the check
2 and I mean of course I kept writing checks.

2 Q Ma'am, are we talking about two different things?

2 A I mean his writing me the check did not enable me

2910

1 to write more checks or less checks. I mean there was
2 \$4000 in the bank. Yes, I wrote checks, and my salary
3 kept going in and other money kept going in and money
4 would go out.

5 Q Let me ask it this way, on May 6, 1987 when you
6 deposited the check for \$4000 and another sum into the
7 account, right prior to that you had a negative cash
8 flow in your account of \$260.57, do you remember that?

9 A I believe you, yes.

10 Q And then once you put in the money you had a -
11 with the deposit you had a positive cash flow and you
12 had \$4121.70 in your account, is that right?

13 A Yes.

14 Q And then you wrote a series of checks. Do you
15 recall that?

16 A I assume that - that I would write a series of
17 checks, yes. I'm not sure that they happened the next

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18 day. If you'll give that to me I'll be more than happy
19 to look at it and -
20 Q I'm just asking you, did you write a series of
2 checks after the \$4000 deposit?
2 A Well, I put a deposit in that day. I wrote three
2 checks that day and the same day that my Treasury check
2 came in from the Government.
2 Q You're talking about your payroll check?

2911

1 A Yes, my paycheck, yes.
2 Q That was actually the next day, Miss Dean?
3 A It was automatically deposited.
4 Q Now, is it fair to say that when in this period of
5 time, the spring of 1987, you were applying for and
6 seeking the confirmation as Assistant Secretary for CPD?
7 A Yes, I was going through my FBI clearance.
8 Q And you were having your background investigated by
9 the FBI, isn't that true?

10 A Yes, it is.
11 Q Would you agree that one of the areas that they
12 were investigating was your financial condition?
13 A No, I don't believe so. I believe that they
14 probably look into that as a routine but I don't think
15 it was anything special.
16 MR. O'NEILL: At this time, Your Honor, I
17 would go into some numbers so I don't know if --
18 THE COURT: It will take awhile.
19 MR. O'NEILL: Yes, it will take at least a
20 half hour.
21 THE COURT: why don't we settle up for the day
22 then and come back fresh tomorrow?
23 Ladies and gentlemen, we'll come back tomorrow
24 at our standard time. what we'll do is we'll be sitting
25 to around 3:15 or roughly around three, so no snack.

2912

1 I'm going to let you go, so you don't get your free
2 donuts or whatever you get, and soft drinks.
3 So tomorrow we'll be here at 9:30. we'll sit
4 through until approximately three or 3:15 and then we'll
5 recess for the weekend. I'm still hopeful we can finish
6 up the testimony tomorrow. If not, we'll definitely
7 finish it up Monday and be including the entire case

8 sometime early next week, Tuesday or Wednesday.

9 So remember the overnight admonition, I'm
10 getting tired, the little talk I give you every night.
11 The admonition. You don't talk about this case among
12 yourselves or with anyone else. You don't talk about
13 it, read about it, watch or listen to anything about it
14 in the media.
15 See you tomorrow morning at 9:30. I have
16 nothing else set, so we'll be ready to go.
17 (Jury dismissed)
18 THE COURT: Counsel, I've been looking at the

19 instructions that have been submitted and have worked on
20 a rough draft but they're not complete yet. I haven't
2 had the opportunity to go through them all a second
2 time. I didn't know if anyone had comments on what's
2 been submitted. Perhaps it would be easier rather than
2 to do that is that I will issue a draft for your
2 guidance and then maybe if we not get to them tomorrow,

2913

1 it may have to be on Monday, depending where we are in
2 the testimony in the case, you can still work on your
3 closing arguments without knowing precisely what the
4 instruction are because generally they would cover
5 conspiracy and the other counts. I don't think there's
6 anything particularly remarkable about the
7 instructions. Right now I've added some things from
8 what's been suggested and deleted some things, but I
9 think the elements are basically all there.
10 I take it you'll have some witnesses ready
11 tomorrow.
12 MR. WEHNER: I'm not sure, Judge. I'm not
13 sure timing-wise where Mr. O'Neill is. I'll check and
14 see if I can have my witness ready.
15 THE COURT: I think you'll be finished by
16 lunch.
17 MR. WEHNER: Do you think you'll be finished
18 by lunch?
19 MR. O'NEILL: I hope so. I'm not sure, Judge.
20 THE COURT: Well, have one witness.
2 MR. WEHNER: If I had a witness ready at 1:30,
2 would that be satisfactory to the Court?
2 THE COURT: That's fine.
2 MR. WEHNER: Then I could call him off if at
2 noon we're not sure.

1 THE COURT: Right
2 MR. WEHNER: All right. Thank you, Your
3 Honor.
4 THE COURT: All right. 9:30 tomorrow
5 morning
6 (Proceedings recessed at 4:25 p.m. to resume
7 October 15, 1993 at 9:30 a.m.)
8 Certificate of Official Reporters
9 It is certified by the undersigned Official

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1 the District of Columbia that the foregoing is the
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Criminal No. 92-181-01
vs. Washington, D.C.
October 15, 1993
DEBORAH GORE DEAN, 9:45 a.m.

Defendant.

FILED

OCT 15 1993

TRANSCRIPT OF JURY TRIAL

BEFORE THE HONORABLE THOMAS F. HOOPER, U.S. DISTRICT COURT
UNITED STATES DISTRICT JUDGE DISTRICT OF COLUMBIA

VOLUME XXIII

APPEARANCES:

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ALSO PRESENT: MARK BATTS

OFFICIAL COURT REPORTER: ANNELIESE J. THOMSON
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Washington, D.C. 20001
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(Pages 2915 - 3047)

COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

iii

1 now that are repeated, and I do think that it's, something that
2 the jury would be able to understand, that there wasn't more than
3 one telegram, for example, to the white House in support of
4 Ms. Dean and that sort of thing.
5 So I have prepared copies, Your Honor, of the
6 alternative versions for Mr. Wehner and for the Court. And I
7 have previously addressed the language that Mr. Wehner had raised
8 specific objections about.
9 THE COURT: All right. Well, I'll take a look at them
10 and then hear from counsel for the defendant about them at the
11 time we take a break.
12 MS. SWEENEY: Yes, Your Honor. If Your Honor is able
13 to look at them during the break, we would like to be able to use
14 them during the remainder of cross.
15 THE COURT: Let me ask you, in looking through these,
16 the theory that you want to use these in cross is that they're
17 evidence in the case at this point, not just a summary to go to
18 the jury?
19 MS. SWEENEY: Yes, Your Honor, that these charts,
20 within the Lemire case and the Williams case and the other
21 cases cited in our motion, could be admitted as exhibits under
22 Rule 1006 and the case law dealing with summary of already
23 existing evidence.
24 THE COURT: It says, "The contents of voluminous
25 writings . . . which cannot conveniently be examined in court may

2919

1 be presented in the form of a chart, summary, or calculation.
2 The originals or duplicates shall be made available for
3 examination"
4 "The admission of summaries of voluminous books,
5 records, or documents offers the only practicable means of making
6 their contents available to judge and jury." I'm reading the
7 comments.
8 would these be introduced through a summary witness or
9 just on their own strength? All of the exhibits are already in
10 evidence?
11 MS. SWEENEY: All of the exhibits are already in
12 evidence, Your Honor. We could put on a summary witness who
13 would testify as to how they were prepared.
14 THE COURT: I want to read Lend re. That's our case
15 in this circuit that you referred to.
16 MS. SWEENEY: Yes, Your Honor. And then there's also
17 the Williams case, which is from the Sixth Circuit, but the
18 facts in that particular case and the exhibits in that particular
19 case are quite close to the, to the use that we're proposing to
20 make of the charts here.
21 Then there are a number of other cases cited, but
22 Williams is a very recent Sixth Circuit case.
23 THE COURT: Okay. Let me see if I have a copy of your
24 original motion.
25 MS. SWEENEY: Your Honor, I have another copy here. It

2920

1 has a few markings on it.
2 THE COURT: I've got it. I'm missing the cite to the
3 Williams case when I read through it. This is your earlier
4 motion to admit these charts in opening statement.
5 MS. SWEENEY: Your Honor, it's cited at page 2, the
6 bottom of the page, United States v. Williams. 952 F.2d.
7 THE COURT: I must have an earlier edition here in
8 front of me. It's 952 F.2d?

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9 MS. SWEENEY: Yes, Your Honor, 1504.
10 THE COURT: Is this entitled Motion in Limine to Permit
11 the Use of Charts?
12 MS. SWEENEY: This one, Your Honor, Government's Motion
13 and Memorandum of Law in Support Thereof to Admit Charts
14 Summarizing Trial Exhibits. This was not our pretrial motion.
15 This was filed actually shortly after -- it's October 1, 1993.
16 THE COURT: All right. Let me look at that over the
17 recess.
18 MS. SWEENEY: Yes, Your Honor. Did Your Honor need a
19 copy?
20 THE COURT: well, I'll see if the clerk can find my
21 copy. Do you have an extra copy? I don't want to use your only
22 copy.
23 I don't see a copy of that one in front of me anyway.
24 I'll have my clerk make a copy of your copy perhaps.
25 MR. O'NEILL: Could we just have one quick moment to

look outside for a second?

THE COURT: Sure.
MR. WEHNER: Does Your Honor wish to hear from the
4 defense on that issue, or do you want to let that go until -
5 THE COURT: Let me look at the case so I can be more
6 informed about discussing it with counsel.
7 MR. WEHNER: Yes.
8 THE COURT: All right, one of the jurors was late this
9 morning, but I think we're here now.
10 THE DEPUTY MARSHAL: Yes, Your Honor.
11 THE COURT: As soon as Mr. O'Neill comes back, we can
12 bring them in.
13 MR. WEHNER: Your Honor, for the Court's scheduling
14 purposes, our witness is available at 1:30 if that occurs.
15 THE COURT: All right.
16 All right?
17 MR. O'NEILL: Yes, Your Honor. Thank you.
18 THE COURT: Okay. Bring the jury in, please.
19 (Jury in.)
20 THE COURT: All right, Ladies and Gentlemen, good
21 morning. We're ready to proceed. Thank you for waiting.
22 Everybody's here, right? All right. One's hiding from view.
23 All right, we're ready to go. We're going to continue
24 with the cross examination of Ms. Dean this morning.
25 Mr. O'Neill?

1 MR. O'NEILL: Thank you, Your Honor.
2 DEBORAH GORE DEAN, DEFENDANT'S WITNESS, RESUMED
3 CROSS EXAMINATION (Cont'd.)
4 BY MR. O'NEILL:
5 Q. Ms. Dean, I would direct your attention to the visual
6 presenter.
7 THE COURT: You're going to have to move that chart.
8 MR. O'NEILL: Yes.
9 Q. And I'd ask you, Ms. Dean, do you recognize that document,

10 which is Government's, for the record, 203B in evidence?

11 A. Yes.

12 Q. Is it fair to say that's a personal account statement of

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13 yours for the period of beginning April 10?

14 A. Yes. Yes, April 10.

15 Q. Now I would direct your attention halfway down that

16 document, and am I correct that you see an insufficient funds

17 charge on April 28?

18 A. I'm afraid I just can't see that.

19 Q. Could you move closer to the projector?

20 A. April 28, yes, \$17.50.

21 Q. Was that because you issued a check for which you had
22 insufficient funds?

23 A. Yes.

24 Q. Ms. Dean, is it fair to say that on April 30, you likewise
25 received an insufficient funds charge?

1 A. Yes, and one shortly after that as well, and

2 Q. Would that be on May 1, 1987?

3 A. Yes.

4 Q. How about May 4 of 1987?

5 A. Yes.

6 Q. Now does that statement reflect a deposit on
7 \$4,121.70?

8 A. Yes, it does.

9 Q. And does part of that deposit constitute the
10 from Mr. Lou Kitchin?

11 A. Yes, it does.

2923

another, yes.

May 6, 1987, of

\$4,000 check

12 Q. Directly preceding that deposit, does it note i that your
13 balance in your bank account is a negative amount of \$260.53?

14 A. I assume so. Yes, over to the right, 260.53, yes.

15 Q. Is it fair to say, Ms. Dean, that prior to receiving that
16 check from Mr. Kitchin, you had a negative balance in your
17 checking account?

18 A. Yes.

19 Q. Thank you. Now as of April 1987, did you own your own
20 apartment?

2 A. Yes.

2 Q. And did you have a mortgage at that time?

2 A. Yes.

2 Q. Is it fair to say that your mortgage payment was late for
2 the month of April 1987?

2924

A. I think it was late more than one month. I think it was late often.

3 Q. Let me show you a document which I'll mark as Government's
4 Exhibit 530 for identification purposes, and I'd ask you to look
5 at this, ma'am, Government's Exhibit 530 for identification.
6 Let me direct your attention, if it will help, to the back page,
7 and I'd ask you was your mortgage payment late for the month of
8 April 1987?

9 A. You'll just have to wait, bear with me for a moment while
10 I -

11 Q. Surely.

12 A. 152. It looks like it was late in January, February, April,
13 and May.

14 Q. And were you assessed late charges on each of those months?

15 A. \$49, \$42, \$42, and \$42.

16 Q. Now as of April 1987, Ms. Dean, did you have a government
17 Diners Club card?

18 A. I don't recall if I did in April. I assume I did.

19 Q. Let me show you a document which will be marked as
20 Government's Exhibit 531 for purposes of identification. I'd ask
21 you to look at Government's Exhibit 531 for identification.

22 A. Yes.

23 Q. And I'd ask you does that refresh your recollection as to
24 whether you had a Diners Club card as of April 1987?

25 A. Yes, it does.

2925

1 Q. And as of April 15, 1987, did you have a total due of
2 approximately \$4,882.87?

3 A. Yes, I did. It shows that I had not been making payments in
4 full, been making partial payments.

5 Q. Now I believe we established yesterday that in April of
6 1987, you bought a piano; is that correct?

7 A. Yes.

8 Q. And did you buy that piano on April 17, 1987?

9 A. I don't know.

10 Q. I would like to show you a document that has been marked for

11 identification as Government's Exhibit 532. I'd ask you to look

12 at that, please.

13 A. Yes. April 17, 1987, I ordered a piano, bought a piano.

14 Q. And do you recall paying \$4,664 for that piano?

15 A. I don't really know how much it was by the time all the

16 interest charges and things over time were added up.

17 Q. \$4,500 of that was bought on credit; is that correct?

18 A. Yes, \$4,500 was paid over time.

19 Q. Did you have any outstanding loans as of April 1987,

20 Ms. Dean?

2 A. Again, I don't remember. I might have had a loan from a
2 bank, but I don't remember.

2 Q. Ms. Dean, I would now draw your attention to June of 1987,

2 and is it fair to say that as we've established, that you spoke

2 with Mr. Kitchin on June 15, 1987?

2926

A. That's correct.

2 Q. And on that date, did you give him a check for \$4,250,
3 according to your testimony?

4 A. Yes, sir.

5 Q. Ms. Dean, I would show you what has previously been entered
6 into evidence as Defense Exhibit 575, and I'd ask you do you
7 recognize that, ma'am?

8 A. Yes. It's a check stub register from my checking account.

9 Q. Now I would like to go through those check stubs, if I
10 might, with you, and I'd like to begin with Check No. 151. Would
11 you go to that entry on your check stub?

12 A. All right.

13 Q. Have you found that?

14 A. Yes.

15 Q. Now is it fair to say that the amount of the check that you
16 wrote on Check No. 151 was for \$19.50?

17 A. Yes, but it's also dated April 4.

18 Q. Is it also fair to say that you do not reflect a balance at
19 that time on your check stub?

20 A. No, I hardly ever kept a balance, which, I suppose, is why I
21 bounced a few checks. I tried to at some points keep balances.
22 I mean, there are balances in some places in here.

23 Q. Now, Ms. Dean, directing your attention to Check No. 152, is
24 it fair to say that the amount on Check 152 was \$134.10?

25 A. Yes, to the grocery store.

2927

1 Q. Is it also to fair to say that there is no balance for that
2 date?

3 A. That's correct.

4 Q. I now direct your attention to Check No. 153. Is it fair to
5 say that that check was in the amount of \$23.09?

6 A. Yes.

7 Q. And once again, there is no balance reflected?

8 A. No.

9 Q. Is that true?

10 A. That's correct.

11 Q. I now direct your attention to Check No. 154, and is that
12 dated June 14?

13 A. Well, it says that --it looks as though that was the

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14 ballance of, it says June 14 on it, but it's not the date of the
15 check. It has a little line to the number on it.

16 Q. And is that check in the amount of \$20?

17 A. Yes, it is.

18 Q. And at this point, does it reflect a balance in your

19 checking account?

20 A. It says there's \$199.20.

2 Q. I direct your attention now to Check No
2 the amount of \$155.99?

2 A. Yes. It's a car payment.

2 Q. Does your balance now become, according

2 \$43 .21?

155, and is that in

to your check stub,

2928

A. Yes.

2 Q. I now direct your attention to Check No. 156, and is it fair
3 to say that that check is in the amount of \$32.95?

4 A. Yes.

5 Q. Is it fair to say that your balance now becomes \$10.26?

6 A. Um-hum.

7 Q. Now, Ms. Dean, do you know whether you received a deposit at
8 that time of approximately \$1,780 into your account?

9 A. It looks from my habits, there's a line drawn to June 18, it
10 looks as though that is my check that should clear my account on
11 June 18. See, sometimes I figure ahead.

12 Q. The next check would then be 157; is that fair to say?

13 A. No, it's \$22.

14 Q. Check No. 157?

15 A. Oh, I'm sorry, Check No. 157 to Sherrill Hawkins for \$22.

16 Q. And that brings your balance down, because you've made a
17 deposit, to \$1,768; is that fair to say?

18 A. Well, I don't know. You see, I think that the 1,780 that's
19 the deposit is actually a check that's going to go into the bank.

20 I'm not sure that the, I don't think that that was what the
21 deposit was.

22 Q. But is that what's reflected on the stub?

23 A. what's reflected on the stub is there's a check that's going
24 to go into the bank on June 18.

25 Q. I would read since it's in evidence what's on this stub.

2929

1 June 18, 10.26; 1,780; then a total of 1790; 22; then 1,768
2 balance forward; is that correct?

3 A. Mr. O'Neill, since you have my bank records, maybe if we
4 could look at that and see whether or not on June 18 there was
5 1,780? I know my own system, and my system was to go ahead and
6 add in what I knew was going to be put into the bank by my, my
7 paycheck being automatically deposited, and then I would go ahead
8 and write checks, and sometimes those checks went in before the
9 government check went in, and that's why there were some
10 insufficient funds charges.

11 Q. Let me ask the question again. According to your own notes,
12 there's a balance after Check 157 is written of \$1,768?

13 A. The actual, real-life balance in the bank, I don't know. I

14 know that my figuring is this is how much money I would have to
15 spend this month.

16 MR. O'NEILL: Judge, with the Court's permission, I'll
17 just put it on the visual presenter.

18 THE COURT: All right, sure.

19 BY MR. O'NEILL:

20 Q. Ms. Dean, I direct your attention to the line on the stub
2 that says Balance Forward. Please tell the jury, what does it
2 say?

2 A. It says that I will have \$1,768 that I can spend after that
2 check goes in on June 18.

2 Q. The balance, according to that check, is \$1,768 after you've

2930

1 written Check 157; is that fair to say, ma'am?

2 A. Maybe we can compromise and say that the bottom number on
3 here is 1,768 and I continued to write checks.

4 Q. Now on Check 158, you write it in the amount of \$200?

5 A. Yes.

Q. Is that correct?

A. To Very Special Arts.

8 Q. And does that bring your balance down to \$1,568?

9 A. Yes.

10 Q. I would now direct your attention to Check No. 159.

11 A. Right.

12 Q. Is that a check in the amount of \$155?

13 A. Yes, to the Auto Salon.

14 Q. And that brings your balance down to \$1,430?

15 A. \$1,413.

16 Q. 13, I'm sorry.

17 A. Yes.

18 Q. Now you mentioned the Auto Salon, and that check was written

19 on June 15, according to your check stubs; is that correct?

20 A. Yes, sir.

2 Q. And you've testified to this jury that you went to the Auto

2 Salon on June 15 with Mr. Cushing and Mr. Kitchin.

2 A. That's correct.

2 Q. Now the next check you write, according to that stub, is

2 Check No. 160.

2931

A. Correct.

2 Q. And that is to Lou Kitchin for \$4,250?

3 A. That's right.

4 Q. Now you do not have \$4,250 in your account at that time; is
5 that fair to say?

6 A. That's correct.

7 Q. You then write out Check 161, and that is for \$50; is that
8 correct?

9 A. That's correct.

10 Q. And that takes your balance down, according to your records,
11 to \$1,363.

12 A. That's correct.

13 Q. And that is \$50 less than the balance in Check 159?

14 A. I did not deduct the \$4,250 from what was in the bank.

15 Q. Now I believe you testified on direct examination that you
16 told Mr. Kitchin to hold that for a couple of days and you would
17 then have the money to pay him. Is that fair to say?

18 A. Yeah. I told him that I did not have that much money in the
19 bank and I would talk to him in the next week.

20 Q. Did you not tell this jury on direct examination that you
21 would pay him the money, because you'd have it in the next couple
22 of days?

23 A. I don't know exactly what I said. I know that I told him I
24 didn't have the money in the bank, I would talk to him in the
25 next couple of days, and I wanted him to hold the check until I

2932

1 could put \$4,250 in the bank.

2 Q. Is it fair to say, Ms. Dean, that Check No. 162, according
3 to your records, was written on June 18?

4 A. It doesn't have any record here.

5 Q. Okay. It was in the amount of \$100.89; is that correct?

6 A. That's correct.

7 Q. And that brought down your balance to \$1,262?

8 A. That's correct.

9 Q. You then wrote Check 163?

10 A. Yes, for \$80 to Jerry Roman.

11 Q. And what does that reflect your balance to be?

12 A. \$1,182.

13 Q. Check 164, what is the amount of that check?

14 A. \$92.22.

15 Q. And what does that make your balance?

16 A. \$1,090.

17 Q. How about Check 165?

18 A. \$50. That leaves \$1,040.

19 Q. Keep going just a little longer, please.

20 much is that made out for?

2 A. \$26, and it leaves a balance of \$1,014.

Check No. 166, how

Then there's a

2 check for \$25, leaves a balance for \$989. Then there's a check
2 for \$15 -

2 Q. Wait one second, Ms. Dean. I'm still on 167.

2 A. I was trying to help you.

Q. 167, is it fair to say, is for \$25?

A. Yes.

Q. Leaving a balance of \$989?

A. \$989.

Q. Check No. 168 is for \$15?

A. \$15, yes.

Q. Leaving a balance of \$974, is that correct?

8 A. That's correct.

9 Q. Check No. 169?

10 A. 169, \$50, Piano, so that must have been the piano payment

11 Q. Were you paying \$50 periodically?

12 A. It says Piano.

13 Q. How about Check 170, Ms. Dean? Is that for \$55?

14 A. Yes.

15 Q. Does that bring your --

16 A. \$869.

17 Q. Now is it fair to say that --

18 A. Don't you want to keep going until there's more money in

19 there to cover the check for Mr. Kitchin?

20 Q. Surely, let's keep going.

21 A. The next check is for --

22 Q. Hold on, Ms. Dean. I'll ask you the questions. Check

23 No. 171?

24 A. \$17.12 to the hardware store.

25 Q. And that goes to \$852?

2934

A. Yes.

2 Q. And Check 172?

3 A. .It's for \$155.40 to Bloomingdale's. It leaves a balance of
4 696.

5 Q. Now 173, is that a check for \$135.45?

6 A. Yes, and that's also to Bloomingdale's.

7 Q. Does that give you a balance of \$560?

8 A. Yes, it does.

9 Q. Now you void Check 174; is that correct?

10 A. Yes. That's actually the, the check where I ended up using

11 the Diners Club card by mistake, because -- or, I mean, I

12 didn't -- I used the Diners Club card, which was a mistake that

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13 was talked about in the hearings, because Bloomingdale's wouldn't
14 allow me to write three checks in one day.
15 Q. Now right after you void that check, you make a deposit of
16 \$1,780. Are you aware of that?
17 A. Yes. It shows a deposit will be going in on July 2.
18 Q. Would that bring your balance to \$2,340?
19 A. Yes, it does.
20 Q. How about Check 175, Ms. Dean?
21 A. Is a check for a party that was given, so it's \$683.24.
22 Q. And that brings your balance to \$1,656.75?
23 A. Correct.
24 Q. How about Check 176?
25 A. Yes, it's for flowers for that same party. It was \$86.80,

2935

1 and it left a balance of \$1,570.
2 Q. Now we go to Check No. 177.
3 A. Which was the food for the party, and that was \$704.96.
4 Q. That brings your balance down to \$865?
5 A. Yes. I think this was actually Sherrill's wedding
6 reception. Yes.

7
8 815
9 Q.
10 A.
11 Q.
12 A.
13 Q-
14 A.
15 Q.
16 A.

And the next one is \$50, and that brings it down to

Check No. 179?

Yes.
Is that a check for \$400?
For \$400 for cash.

And does that bring your balance down to \$415?

Yes, it does.

Now do we go to --

To the dry cleaner for \$28. And it looks like I took out

17 \$50 in cash as well, which brought it down to \$337.
18 Q. Check No. 181?
19 A. Is to Garfinckel's for \$144.90.
20 Q. 96 cents, just for the record?
2 A. Well, mine says 90 cents here.
2 Q-Okay.
2 A. 144.90, and it brings the balance down to 192. It's
2 actually what I'm wearing today.

2 Q. Check 182, Ms. Dean?

2936

1 A. 182 is to my doctor for \$85, and that brings the amount down
2 to \$107.

3 Q. And then there's a deposit of \$4,100?

4 A. \$4,100. So there's a balance of \$4,207.

5 Q. Now is that where you wanted to go to?

6 A. Well, no, you can go all the way through.

7 Q. You wanted to keep going. So is this where you wanted to go
8 to?

9 A. Well, no, I mean, they're in the month of June and July, I

10 received a very large check. It was either late June or early
11 July.

12 Q. Is this the check you're referring to?

13 A. No, it's not.

14 Q. Okay. I don't know if it's even referred to in this book.

15 I have never, I never went through it to see if it was.

16 Q. You did ask --

17 A. But I know I received my retirement money from HUD.

18 Q. Ms. Dean, did you ask me to keep going on these checks?

19 A. Well, yes. I know that at some point in here, there should
20 be a substantial amount of money. There's \$4,200, \$3,800,

2 \$4,265 --

2 Q. Are you talking about balances?

2 A. -- \$4,357.

2 THE COURT: Ms. Dean, let's get a question.

2 THE WITNESS: Yes, these are balances.

2937

BY MR. O'NEILL:

2 Q. I asked you, ma'am, is that good enough? Do you want me to
3 keep going?

4 A. Well, if you'll accept that there were large balances in
5 this account at some point, yes.

6 Q. Did you pay Mr. Kitchin back during that point?

7 A. I attempted to pay Mr. Kitchin back, yes. He could have
8 cashed the check is what I'm trying to say.

9 Q. Ms. Dean, let me show you what I've marked as Government's

10 Exhibit 533 for identification purposes. Ms. Dean, I direct your

11 attention to Government's Exhibit 533 for identification.

12 A. Yes.

13 Q. And is that a bank statement for your checking account for

14 the time frame June of 1987?

15 A. Yes.

16 Q. And does it encompass the period June 15, 1987, when you

17 gave Mr. Kitchin a check for \$4,250?

18 A. Yes, it does.

19 Q. Is it fair to say that the bank charged you an insufficient

20 funds charge on June 11 of that month?

21 A. June 11, June 12, June 16.

22 Q. Ma'am, the question was were you charged an insufficient

23 funds charge on June 11, 1987?

24 A. Yes, I was.

25 Q. And were you charged one on June 12, 1987?

2938

A. Yes.

Q. June 16, 1987?

A. There were two on that date.

Q. Were you charged one on June 29, 1987?

A. Yes.

Q. Were you charged four of them on June 30, 1987?

A. Yes.

8 Q. And were you charged five of them on July 1, 1987?

9 A. Yes.

10 Q. Now, Ms. Dean, do you recall applying for a loan shortly
11 after you allegedly gave Mr. Kitchin \$4,250 -- excuse me again, a
12 \$4,250 check?

13 A. A loan from where? I applied for several loans while I was
14 at HUD, and I don't remember -- I mean, I applied at banks, and I
15 applied at the HUD Federal Credit Union.

16 Q. Do you recall applying for a loan the day after you gave
17 Mr. Kitchin a check for \$4,250?

18 A. No, but --

19 Q. At this time, Ms. Dean, I'd show you what's previously been
20 marked as Government's Exhibit 534 for identification purposes,
21 and I'd ask you did you apply for a loan for \$10,000 the day
22 after you gave Mr. Kitchin allegedly the check for \$4,250?

23 A. Yes. Well, on 6-16-87, yes, you're right. I did.

24 Q. And did you list two other outstanding obligations at that
25 time, two other loans?

2939

1 A. Yes. I had a personal loan to National Security & Trust
2 Bank for \$3,000, and I had a \$4,500 loan left with the HUD
3 Federal Credit Union.
4 Q. Of the \$3,000 loan, did it have an unpaid balance of \$3,000?
5 A. Yes.
6 Q. And the one that you said had an unpaid balance of 4,500, is
7 it fair to say that one was for \$5,000 originally?
8 A. Yes, um-hum.
9 Q. I'd like to go back, Ms. Dean, for one second to your bank

10 statement, which is Government's Exhibit 533, and I'd ask you to
11 refer to that, tell this jury whether at any time during that
12 bank statement, which covers June 10 to the first day of July,
13 whether you ever had sufficient funds in that account for a
14 \$4,250 check?
15 A. No, I did not.
16 Q. We've established on June 16, to be precise, 1987, you
17 applied for a \$10,000 loan; is that correct?
18 A. Yes.
19 Q. And on that application, you listed a \$5,000 loan; is that
20 fair to say?
2 A. Yes.

2 Q. And a \$3,000 loan, is that fair to say?
2 A. Yes, with, that had an outstanding balance of 3,000 and an
2 outstanding balance of 4,500, yes.
2 Q. Now as to your Diners Club, do you have any recollection at

2940

1 this time what the balance, the outstanding balance was in June
2 of 1987?
3 A. No.
4 Q. Ms. Dean, I will show you what's previously been marked as
5 Government's Exhibit 535 for identification purposes, and I'd ask
6 you if this refreshes your recollection as to what the
7 outstanding balance for the Diners Club bill was in the June
8 statement of 1987?
9 A. \$5,313.90. But you have to remember there's a lot of HUD

10 charges that HUD pays back on these, also.
11 Q. You had a number of problems with your Diners Club at HUD,
12 didn't you, ma'am?
13 A. I don't think so, no.
14 Q. Did they threaten to take it away from you?
15 A. No.
16 Q. Is it your testimony they never threatened to cancel your
17 Diners Club while you were at HUD?
18 A. No, I don't ever recall anything like that.
19 Q. Is it you don't recall or it did not happen?
20 A. I don't recall anything like that.
2 Q. Now, Ms. Dean, in June of 1987, were you required to file a

2 statement for completion by presidential nominees in relation to
2 your confirmation hearing?
2 A. Yes.
2 Q. And do you recall filling out such a form?

2941

A. Yes.

2 Q. Ms. Dean, I will show you what's previously been marked as
3 Government's Exhibit 536 for purposes of identification, and is
4 this the form we were just referring to?

5 A. Yes.

6 Q. Ms. Dean, do you recall a section of that form where it asks
7 about potential conflicts of interest and whether any financial
8 arrangements or deferred compensation agreements or other
9 continuing deals with business associates, clients, or customers
10 will be affected by policies which you will influence in the
11 position to which you have been nominated? Do you recall that
12 question being asked on that form?

13 A. Could you let me look at it, please?

14 Q. Yes. I'd direct your attention to Question No. 1 and then
15 Question No. 2.

16 A. Okay. Would you like me to read it for the jury?

17 Q. Surely.

18 A. "Describe any financial arrangements or deferred
19 compensation agreements or other continuing dealings with
20 business associates, clients, or customers who will be affected
21 by policies which you will influence in the position to which you
22 have been nominated."

23 And I wrote, "No such financial arrangements or
24 deferred compensation agreements exist."

25 Q. Okay. As to No. 1, is it your testimony you didn't feel

2942

1 that Lou Kitchin and that \$4,250 payment fit into that?

2 A. No, I did not, or I would have put it down.

3 Q. Let's see No. 2. Could you read that to the jury, please?

4 A. "List any investments, obligations, liabilities, or other
5 relationships which might involve potential conflicts of interest
6 with the position to which you have been nominated."

7 "To my knowledge, no investments, obligations,
8 liabilities, or other relationships exist which might involve
9 potential conflicts of interest."

10 Q. And you did not believe that the \$4,250 payment to Lou
11 Kitchin fit into that?

12 A. No. Mr. Kitchin had assured me that he had no dealings with
13 the Office of Community Planning and Development and would have
14 no dealings with them, and so I didn't consider it to be a
15 conflict of interest.

16 Q. And this was dated, do you recall this was dated --do you
17 recall when you filled out this form?

18 A. It says June 26.

19 Q. June 26, 1987?

20 A. Yes.

2 Q. Now were you also required to complete a financial

2 disclosure form at this time, ma'am?

2 A. Yes, I was.

2 Q. And you, in fact, filled out a financial disclosure form?

2 A. I filled out more than one. I filled out one, and the

2943

1 Senate Banking Committee sent it back and said that I hadn't done
2 it correctly, and so they instructed me on how to do it a second
3 time.

4 Q. At this time, Ms. Dean, I would show you what's previously
5 been marked as Government's Exhibit 537 for purposes of
6 identification, and I'd ask you if you recognize that, ma'am?

7 A. No, I've never seen this before.

8 Q. Look through the form, ma'am.

9 A. I've never seen the front letter before, I'm sorry.

10 Attached to it is a financial disclosure report, and I
11 would have filled out part of it, and then somebody else who
12 reviewed it filled out the other part of it.

13 Q. I would direct your attention to the part that states
14 whether you had any sources of income during the, this period in
15 excess of \$100 in which you made income, and the answer is
16 "None."

17 Did you fill out that part, or did someone else fill
18 that out?

19 A. I don't see where it's filled out.

20 Q. Do you see a box?

2 A. Yes, and it has an X in it, but frankly, it looks as though,

2 it looks like that's part of the form. It doesn't look like
2 anything is filled out on here to me. I mean, that X looks like
2 it's printed in as an example.

2 Q. Let me show you, did you fill out Part 1, Transactions?

2944

1 A. See, that to me, it looks like part of the form.

2 Q. Well, let's look down here. Does this box have an X in it?

3 A. No, it doesn't.

4 Q. Is it fair to say that the Xs are in boxes when the answer
5 is None?

6 A. It could very well be. I did not actually fill out this
7 form. I didn't type it in, so I don't know.

8 Q. Well, then let me go back to my question. Did you complete
9 or did someone else complete Block A on that form?

10 A. I would assume that it was most likely typed in by either
11 the Administrative Office or by Mrs. Hawkins, but of course, they
12 would have gotten the information from me.

13 Q. Well, was that correct at the time it was filled out then?

14 A. I'm going to review it just to make certain.

15 Q. Go right ahead.

16 A. All right. Well, actually if Mr. Kitchin had given me the
17 money and I had completed the job, I would have put this down,
18 but since I gave him the money back, or hadn't --it says this
19 was filled out in March, doesn't it?

20 Q. I would direct your attention to the cover page, Ms. Dean,
2 and ask you if that refreshes your recollection, read through
2 it -

2 A. All right.

2 Q. -

as to whether you had any conversations with Mr. Michael
2 Dorsey of HUD's legal staff?

2945

1 A. Well, it says this form is dated March 5, 1987.
2 Q. And like I said, maybe I can ask the question again. I
3 would direct your attention to the front page of the letter and
4 ask you if that refreshes your recollection as to whether you had
5 a conversation with Michael Dorsey of HUD's legal staff?
6 A. It doesn't say that I did. It says that he has reviewed
7 this form, and he sends this on June 30, after Mr. Kitchin's
8 gotten the money back, and says that it was done in March, that
9 the form was filled out in March, which was before Mr. Kitchin
10 gave me the money.
11 Q. Does it also state that although the form was dated
12 March 15, 1987, Ms. Dean has informed us that there's been no
13 change in the information since then?
14 A. Well, between March and June, Mr. Kitchin had given me the
15 money, and I'd given him the money back, so I don't think I would
16 have changed the answer.
17 Q. Did we not establish a little while ago, Ms. Dean -
and
18 correct me if I'm wrong -- that as of June 30, 1987, you still
19 did not have sufficient funds in your account to, to pay for a
20 check of 4,000?
2 A. Well, that is correct, and, you know, perhaps, perhaps, you
2 know, if I had spoken to an attorney such as yourself, I would
2 have known better. I -- to me, it was, it was not something
2 outstanding, so I did not put it on the form.
2 Q. You owed him \$4,250, but it was not outstanding? Is that

2946

1 your testimony?
2 A. Well, frankly, I think you could argue that I didn't owe him
3 \$4,250, and we -
Mr. Kitchin insisted that I had made part of
4 that money as a fee, and I had expended money on his behalf,
5 so -
6 Q. The form asks for anything over \$100. Did you owe him in
7 excess of \$100?
8 A. Yes, I believe I owed him more than \$100.
9 MR. O'NEILL: Your Honor, at this time, I would go into
10 a subject area that we, we spoke about legally this morning.
11 THE COURT: All right, why don't you come up for a
12 minute.
13 MR. O'NEILL: Yes, sir.
14 (Bench conference on the record.)
15 THE COURT: Are you talking about the charts you're
16 talking about?
17 MR. O'NEILL: Yes. Sorry, Judge, I don't know how to
18 ever say that.
19 THE COURT: That's fine. You say it right.
20 what's your position on these?
2 MR. WEHNER: I object to the use of the charts for
2 cross examination, and I ask you to just in your mind compare
2 this chart to the charts that we used during our case.
2 THE COURT: That what?
2 MR. WEHNER: Compare these charts to the charts we used

2947

1 during our case in terms of the list of projects that were
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2 funded, with absolutely no characterization in terms of what the
3 evidence meant, things like scheduled meetings, putting words in
4 quotes, the graphics, the highlighting of the name Dean, the
5 highlighting of the co-conspirators.
6 I don't think that's a summary, Judge. It's an -- as I
7 said before when we discussed these charts, it's an argument
8 based on the evidence, and that's certainly one fair
9 interpretation --or one interpretation, but it's not the only
10 interpretation.
11 And summaries are used to summarize, not to argue. And
12 frankly, Judge, I don't think it's proper to use a chart like
13 that that is really argument for purposes of cross examination.
14 THE COURT: All right.
15 MS. SWEENEY: Your Honor, I disagree with Mr. Wehner's
16 characterization that it's argument, and I do believe that we
17 have made every attempt to use neutral language and to summarize
18 the documents in evidence the same way that the charts that were
19 permitted in Williams were prepared. The, the quotes were used
20 when Mr. Wehner objected to our characterization of the
2 documents, and so the quotes were used in an attempt to avoid the
2 need for characterization and to go back to the basic documents.
2 I know Your Honor has reviewed Lemire. and the
2 footnote 32 talks about the type of instruction that would be
2 given to the jury about this exhibit.

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1 THE COURT: I'm going to go back and take a break and
2 look at it a little bit and read some of the background of the
3 cases. I've used summary charts in many cases, and I've
4 introduced them in a couple of cases that have been affirmed that
5 discussed the effect of the charts. These charts I'm a little
6 concerned about. I want to look at a couple of things.
7 MR. WEHNER: Can I make one more comment, Judge?
8 THE COURT: Yes.
9 MR. WEHNER: I think it is clearly within your
10 discretion to admit those charts, there's no question about that,
11 and it's not reversible error if you do, but I don't think it's
12 fair to let the jury see those charts over and over and over and
13 over again.
14 THE COURT: I want to take a look at it, though, and
15 look at the case law again. I've just read Lemire over and am
16 familiar with it, but there's a couple other cases I recall I
17 wanted to look at. So I'll take our morning recess, 15 minutes.
18 MR. O'NEILL: Judge, the jury is still there.
19 THE COURT: I know.
20 MR. O'NEILL: I'm sorry.
2 THE COURT: I won't leave them here long.
2 MS. SWEENEY: He was afraid they weren't going to get
2 their coffee.
2 (End of bench conference.)
2 THE COURT: Ladies and Gentlemen, we're going to take

our morning recess. It's about 11:00, so we'll take our
15-minute recess this morning and then be back after that and
continue with the testimony. So take 15 minutes. Remember the
admonition again about not talking about the case.
(Jury out.)
All right.

THE COURT:

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1 (Recess, 10:55 a.m. to 11:25 a.m.)

2 THE COURT: All right, I've got before the

3 Court the application of the Government to introduce

4 summary charts. We didn't give them a number yet but

5 it's in relation to the Government's earlier memorandum

6 submitted to the Court under date of October 1,

7 summarizing the case law in this area, summary charts

8 may be admitted under Federal Rule 106, "where the

9 contents of voluminous writings, recordings or
10 photographs which cannot conveniently be examined in
11 Court may be presented in the form of a chart, summary

12 or calculation."

13 The ruling case law in this Circuit is United
14 States versus Lemire, it's the first case decided
15 basically in this circuit under the Federal Rule, 720
16 Fed. 2d 1327, a 1983 case, and the only subsequent case
17 really is a case called North American Reporting where
18 Judge June Green had denied the request to allow the
19 defendants summary charts, finding that it was not
20 accurate, et cetera, which was affirmed.

21 The Court's going to be guided by the Lemire
22 language and the analysis in there. The Government has
23 pointed the Court to the Williams case in the Sixth
24 Circuit, 752 Fed. 2d, 1504, where certain charts, three
25 charts, I think, were offered summarizing telephone

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1 conversations and wiretaps and surveillance tapes and

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2 things like that which were admitted.
3 The Court of Appeals did not analyze the rule
4 or discuss the background of other rules that may – the
5 Court should consider in their decision, the sixth
6 Circuit simply said it was a classic visual aid and
7 would aid the jury.
8 The Lemire language that this Court is
9 considering is as follows – and just for the record,
10 the defendant objected to the admission of these charts
11 as prejudicial basically, more prejudicial than
12 probative in their value and to the structure of the
13 charts, the way they're put together with the
14 highlighting of putting words in quotes, like
15 consultant's fees, other words that appear on these
16 charts.
17 The Court had asked the prosecution at an
18 earlier stage, because of its intent to introduce these
19 in their own case, to revise the charts to take out
20 certain language or structure of repetitive meetings et
21 cetera, used in the original charts and the Government
22 has spent some effort in revising the charts in their
23 present form.
24 The charts are, for the record, five in number
25 and are – at least the ones that are presented to the

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1 Court, there may be big ones that are blown up,
2 presented to the Court are normal sized paper charts
3 with dates in boxes on them, calendars and a computer
4 printout graphic with the dates reflecting actions that
5 the Government relies upon to prove its case reflecting
6 all exhibits that were admitted into evidence, as I
7 understand it. I don't think there are any exhibits
8 that have not been admitted into evidence that the
9 charts rely upon.
10 Judge Wald has a rather extensive review of
11 the case law in an analysis of the rule in the Lemire
12 case and since it was a case of first impression the
13 Court under rule 106 disavowed the idea that the
14 defendants advanced that they had to be writings not
15 feasible for direct admission into evidence that were so
16 voluminous and she said no, that's not true, and it can
17 be a summary of documents in evidence.
18 In the Lemire case Judge Johnson, the trial
19 Judge, noted that she wasn't able to permit in-Court
20 examination of the documents, each of the documents by
2 the jury and therefore held the chart – one of the
2 reasons why she allowed the chart in was because there
2 were too many documents to let the jury see them all.
2 It would take too much time, even though they were in
2 evidence.

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1 There's no question a summary of evidence put
2 to the jury with proper limiting instructions and
3 subjecting the summary witness to voir dire and

4 cross-examination as to the accuracy and the fairness of
5 the charts has been approved as was in Lemire.
6 Lemire involved a rather complex scheme to
7 defraud Raytheon, which took the Court several pages to
8 summarize the background facts of the case. Basically,
9 the Court of Appeals was to decide whether or not the
10 testimony of such a summary witness and the charts would
11 fairly prejudice the defendant, and she said, "It raised
12 more troubling concerns, heightened by the fact
13 acknowledged by Judge Johnson that the non-expert
14 summary evidence was cumulative," which it would be
15 here, "subject to challenge under Rule 403."
16 Some of the obvious dangers proposed by --
17 posed by the summarization of the evidence as set forth
18 by Judge Wald in balancing whether under 403 it's
19 admissible is the danger that the unfair prejudice the
20 evidence creates outweighs the probative value, would be
2 the jury would treat the additional -- these charts as
2 additional evidence or at least as corroborative of the
2 truth of the underlying testimony, that is, it's a
2 guarantee to whatever was testified to or the exhibits
2 as is accurate and did happen, and may give some more

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1 import to the evidence or testimony then would normally
2 be taken.
3 That's where the limiting instruction comes,
4 and actually reading Judge Johnson's limiting
5 instruction as reproduced in footnote 32, I found it a
6 little confusing because she stated, "That the testimony
7 in that case and the prepared summaries and charts have
8 been received for the sole purpose of explaining facts
9 disclosed by the books, records, other documents and
10 testimony; in other words, evidence in the case. They
11 are not, in and of themselves, proof of any facts." And
12 that she should disregard totally the charts because
13 they don't correctly reflect the facts and figures shown
14 by the evidence.
15 My understanding was under the Rule they come
16 in as evidence and are taken by the jury back to the
17 jury room and treated as a summary of the evidence in
18 the case before the jury. That is, they would
19 themselves be considered as a summary of the evidence.
20 The jury would look upon them as evidence.
2 There is a document that says Martinez
2 contacts Nunn at Mitchell's business address. I'm not
2 sure otherwise why we would admit them unless they can
2 look at them as a fair summary of the evidence and treat
2 them as such.

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1 The use of these charts at this time, not due
2 to the fault of the Government, is a little awkward
3 because they were never introduced originally with a
4 voir dire of the witness who summarized these, to see
5 that they're accurate. I'm not sure that's too much of
6 a problem in this case, but normally the witness who
7 prepared these would get on the stand and be subject to
8 cross-examination as to the accuracy of these
9 documents. The problem, I don't think, is the documents
10 aren't accurate as reflected in the Government's Exhibit
11 but that either the layout of the documents, how they're
12 prepared, these charts with their highlighting of the
13 names and quotes around certain words, putting together
14 these various dates of these lunches that were
15 scheduled, et cetera, with the activities, which is the
16 Government's theory of the case, that one followed the
17 other, is more prejudicial than probative of any value
18 of the jury to help them understand a complex case.
19 That's why we would introduce the charts, to help the
20 jury understand a complex case to follow the evidence.
2 There are three conspiracies in this case.
2 The charts reflect sometimes 30, 32, 38 different
2 actions, sometimes more, depending on which chart that
2 the Government says results in the activity at issue.
2 Judge Wald also focused whether or not besides

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1 the accuracy of the charts being important is whether
2 there's a danger imposed by summaries of evidence in
3 that they provide an extra summation for the Government
4 that comes from the witness stand rather than from
5 Counsel's lectern and "the distinction between valid
6 summary testimony and argument is not a bright line.
7 The task of organizing testimony can quickly turn into
8 the marshalling of facts to support a particular
9 position." But a summary involving only routine
10 computations and culling through documents, eliminating
11 confusing, extraneous evidence can be useful,
12 obviously.
13 The Court there approved the use of the charts
14 for a summary of the evidence provided by the agent and
15 found that it did not stray from the evidence already
16 presented and that the Court admitted the evidence based
17 upon the findings it made as to need for it and as to a
18 limiting instruction it gave, and after cross-
19 examination had eliminated some of the charts. We've

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20 had some bit of that here in the sense that the charts
2 have been redone. Counsel has had some opportunities to

2 object to where they felt they were inappropriate, et
2 cetera, but still is objecting to them on the grounds
2 basically of the more probative versus prejudicial
2 effect of the evidence balancing test.

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1 The Court is going to do as follows in these
2 matters. It's going to disallow the Government's
3 request to use those as summary evidence. It feels,
4 one, the case is not so complex and convoluted that it
5 cannot be within the jury's comprehension to follow it.
6 Two, that this is cumulative of everything that's in
7 evidence obviously, being a summary chart, but the
8 concern the Court has is the prejudicial effect in the
9 way the charts are drafted as is always a concern of the
10 Court.
11 It does not seem to the Court where the
12 Government has these documents, most, I think all, have
13 been reviewed by the jury as in contrast with the Lemire
14 case where Judge Johnson simply found from her statement
15 that the jury was unable to examine all the documents in
16 evidence, there were so many to have been shown to the
17 jury, that she felt obviously in her trial that it was
18 just impossible for the jury to put all these documents
19 together and follow the evidence in the case without the
20 summary offered by the agents in the case and the
2 charts.
2 In this case these documents have been
2 exhibited and seen by the jury in most part. They've
2 been all gone through, and the number of witnesses
2 testifying, while substantial, is not overly great. The

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1 principal witnesses really that you have as to these
2 areas were Mr. - as mentioned in these charts is
3 Mr. Nunn, Mr. Brennan, Mr. Shelby, Miss Dean, who is
4 testifying, and I've gone through two of the charts
5 already, and Mr. Sankin, and Mr. Kitchin. Mr. Demery is
6 mentioned in one area of the charts. And that's all.
7 So it's not as if there's 50 witnesses summarized in
8 these charts.
9 what's really summarized basically on the
10 charts is dates and times of meetings that the
11 Government has -their
evidence shows from calendars
12 and from notes and from recollections of individuals
13 occurred. I'm not challenging at all in my ruling the
14 accuracy of the Government's notes, what they have here
15 as to the exhibits that have been admitted, but my basic
16 decision is based upon the fact that, one, the
17 arrangements of the charts and how they're done and laid
18 out and, two, the lack of need of having this kind of
19 chart system visavis the possible prejudice to the
20 defendant, having it done this way.
2 The Court under Rule 106 and under 403 finds
2 that it would have more prejudicial than probative value
2 and it's not needed in this case. I don't see it's that
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2 complex a matter at all.
2 The charts can be used in closing argument and

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1 in any format, blown-up format, whatever format the
2 Government wishes to use in the closing of these charts
3 is appropriate. They certainly can be used as aids in
4 the closing arguments and posted on the board for the
5 jury to see, but as to use in either cross-examination
6 as evidence in the case, admitting them as summaries of
7 the evidence in the case, assuming the agent will
8 testify that they're accurate and reflect accurately the
9 documents that are referred to, the Court does not deem
10 it's necessary under 106 as being so voluminous the jury
11 would be unable to otherwise understand the case without
12 an aid and presentation in this case because the jury
13 couldn't review the underlying documents, and because of
14 the prejudicial effects, the way the chart is drafted, I
15 still think outweighs any probative value it may have.
16 All right. Will you bring the jury in?
17 MS. SWEENEY: Your Honor, may I be heard for
18 the record?
19 THE COURT: Sure, I thought you had. I'm
20 sorry.
2 MS. SWEENEY: With all due respect, the

2 Government would have a continuing objection to Your
2 Honor's ruling in this matter. We believe that the
2 charts are permissible to organize what's been a
2 voluminous amount of data in a chronological fashion and

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1 by count and by project and that is a use that has been
2 recognized in the case law. So, with all due respect,
3 Your Honor, we wish to note our continuing objection to
4 Your Honor's ruling.
5 THE COURT: All right.
6 (Jury present)
7 THE COURT: All right, ladies and gentlemen,
8 thank you for waiting. We took up some legal matters
9 and we're ready to proceed again with the
10 cross-examining of Miss Dean.

11 BY MR. O'NEILL:

12 Q Miss Dean, is it fair to say you were close to
13 John Mitchell?

14 A Yes.

15 Q Am I correct, that you testified on direct
16 examination that he was like a mentor to you and your
17 brother?

18 A Yes.

19 Q Now, where was he living just prior to his death,
20 Ma'am?

2 A My mother allowed him to use a home that she owned
2 in Georgetown on the corner of 30th and M.

2 Q And that's reflected in your official personnel
2 file that's in evidence?

2 A I believe so, yes, that was the address that was

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1 underneath -- yes, 1300 30th Street.

2 Q Just so it's clear, Ma'am, I would approach you
3 with Government's Exhibit 256 in evidence.

4 A Yes.

5 Q Now, is it fair to say that aside from your
6 personal relationship with Mr. Mitchell you also had a
7 business relationship with him?

8 A I worked for his company putting together that
9 reception for two or two and a half months.

10 Q Would you tell the ladies and gentlemen of the jury
11 again what you did when you worked for him at Global
12 Research?

13 A Well, there was a party that he and this man,
14 Mr. Spence, were going to have for the new Ambassador to
15 Saudi Arabia named Mr. Newman, and I put together the
16 guest list of people to invite and I called them and
17 told them about the party and followed up on RSVP's and
18 dealt with the hotel where the party was going to be,
19 and that was basically it. It wasn't a fulltime job. I
20 only went in for a couple of hours every day just to
21 work on this project.

22 Q So it was a parttime job, is that fair to say?

23 A Yes.

24 Q And that was just to arrange a party for
25 Mr. Mitchell?

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1 A That, and -I
2 can't remember ever doing anything
2 else besides that.

3 Q Do you recall putting in your resume that you were
4 director of public relations for Global Research,
5 International?

6 A Yes.

7 Q That wasn't exactly truthful, was it, Ma'am?

8 A Well, that was sort of a title that I decided was
9 appropriate for what I was doing, but I would say that
10 you could accuse me of a little puffery there, yes.

11 Q Well, more than a little puffery, is that correct?

12 A Well, there were four people in the office, and
13 director of public relations, if I was having a party
14 and doing that, doesn't seem all that off.

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15 Q Let me ask you, were you the director of public
16 relations?
17 A Well, that was the title that Mr. Mitchell said I
18 could use when I made phone calls for him to the hotel
19 and things like that.
20 Q In this parttime job.
2 A Yes.
2 Q Now, is it fair to say that you worked for both
2 John Mitchell and Jack Brennan at that period of time?
2 A Well, I worked for Global Research, but
2 Mr. Mitchell really didn't give me very much to do.

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1 Mr. Brennan was the person that sort of gave me the
2 guest list and told me who to call.

3 Q And in your background checks you listed

4 Mr. Brennan as a supervisor, is that correct?

5 A Yes.

6 Q Is it fair to say that there came a point in time
7 when you entered the Department of Energy?

8 A Yes.

9 Q And as you testified on direct examination, Robert
10 Odle was your supervisor?

11 A Yes, he was.

12 Q Now, am I correct that Mr. Odle and John Mitchell
13 were friends and former colleagues?

14 A I know that they were -- yes, I would say that's
15 true. It was a large age difference but they were
16 friends.

17 Q You stated on direct examination that John Mitchell
18 got you your job at the Department of Energy, is that
19 correct?

20 A Yes.

2 Q Now, is it fair to say there came a point in time

2 when you joined the United States Department of Housing
2 and Urban Development?

2 A Yes, that's correct also.

2 Q Isn't it a fact that John Mitchell assisted you in

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1 getting that job?

2 A Absolutely not.
3 Q When you started at HUD who was the Executive
4 Assistant to the Secretary?
5 A Lance Wilson.
6 Q And you're familiar with Mr. Wilson, are you not?
7 A Of course, yes.
8 Q Where did he work prior to joining HUD?
9 A I don't -I
know that -I
don't -he
worked for
10 a -- some sort of an association, I believe. I know he
11 had been at Mudge, Rose, Guthrie, Alexander and
12 Mitchell. I know that he knew Mr. Mitchell that way but
13 Mr. Mitchell did not talk to Mr. Wilson about my getting
14 a job there and I think that there was another position
15 that Lance held as general counsel to American Can or
16 something like that before. I think he left the law
17 firm before, but I could be mistaken. I don't really
18 recall.
19 Q Did he work for the law firm of which Mr. Mitchell
20 was a named partner?
2 A Yes, he did.
2 Q Now, is it fair to say that you began employment at
2 HUD in November of 1982?
2 A That's correct.
2 Q Now, prior to becoming Executive Assistant you were

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1 both director of the Executive Secretariat and Special
2 Assistant to the Secretary, is that correct?
3 A Yes, that's correct.
4 Q Now, how would you describe what you did as
5 director of the executive Secretariat?
6 A Well, we handled all the correspondence to the
7 Secretary, and to the Department for the Secretary and
8 anything to do with the President's signature, anything
9 to do with HUD. Plus we handled all of the
10 Congressional filings that had to be made, notices to
11 the Federal Register, regulations that had to be routed
12 through the Department. Anything that required more
13 than one office to sign off on it.
14 We -I'm
trying to think if there's anything
15 else. That seems about to cover it. I think we looked
16 at all the publications that went out of the Department
17 for review.
18 And I oversaw the -- other operations of the
19 other Executive Secretariats for the other Assistant
20 Secretaries. And the mailroom operation for the whole
2 Department was sort of supervised by my office and there
2 was some supervision to the correspondence activities in
2 the field in the Regional Offices in the field. Mostly
2 correspondence.
2 Q Miss Dean I show you Government's Exhibit 538 for

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1 identification and ask you just to review it. You
2 stated you don't remember everything. If that would
3 help you in refreshing your recollection as to generally
4 what your duties were?
5 A well, I think that was not a particularly good

6 answer. That's not a well formed answer.
7 Q Well, is it fair to say -
8 A It is my answer, but it was not a well formed
9 answer when I gave that answer.
10 Q Is it fair to say when you described your position
11 previously you described it in terms of other than as
12 head of the mailroom?
13 A Yes, I have described -- I mean it is - it was a
14 position that had some policy influence but it also
15 basically ran the mailroom.
16 Q And you were both Special Assistant and Director of
17 the Executive Secretariat, is that correct?
18 A Well, that was the way the title was set up. Yes.
19 It was sort of a silly title.
20 Q Now, while you were Executive Secretariat and
2 Special Assistant to the Secretary you testified that
2 John Mitchell once contacted you about HUD business, is
2 that correct?
2 A Be did contact me about that Marbilt situation.
2 Q Is it fair to say that he requested certain

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1 information concerning Marbilt from you?
2 A I don't know if he did or not. I know that he sent
3 me that memorandum that was attached to the letter from
4 Governor Nunn to himself and he -I
assume that - my
5 memory is that asked me to look into it to see if he had
6 gotten a fair hearing, and so I talked to the person who
7 was in charge of that, which is Mr. Hipps.
8 Q Now, Miss Dean, you previously testified that
9 John Mitchell knew a lot of people at HUD, is that
10 correct?
11 A Yes, I came to know that people had known him.
12 People that were older in the Department that had worked
13 in more than one Administration, a lot of them came up
14 and said to me, yes, I know John Mitchell.
15 Q But he asked you about information on Marbilt, is
16 that correct?
17 A Yes, he did.
18 Q Well, Miss Dean, let me show you what's been -
19 I'll put it on the visual presenter, and it's been
20 marked in evidence as Government's Exhibit 17. I'd ask
2 you to read that note to the jury, please, if you would?
2 A It's to the Honorable John Mitchell, and to his
2 home address. "Dear Dad, here are two memoranda to add
2 to the one supplied by your friend in Florida. I think
2 they explain the story rather well. You can see from

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1 the George Hipps memo that the Department tried as best
2 it could to be lenient. Stronger actions might have
3 seemed appropriate to others.
4 One piece of news that might be helpful to
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5 Mr. Martinez - apparently, the Regional Office was quite
6 upset by Headquarters' last response to them, saying
7 no. Mr. Martinez has someone fighting in his corner
8 down there. If he appeals again they might prove

9 useful.

10 As you know, I stand behind the decision of
11 the career people in Headquarters. Intervening in an
12 situation like this would be like jogging through
13 quicksand. I think it's time we say adios.
14 This information is now a matter of public
15 record and you may feel free to copy it and share it, if
16 you wish. Love, Deborah."

17 Q Is it fair to say you supplied him with certain
18 memoranda?

19 A Yes, I gave him two memoranda that Mr. Hipps had
20 given me.

2 Q Now, Miss Dean, I believe you testified on direct

2 examination that you had called George Hipps up to your
2 office to talk to him about this?

2 A I know I called Mr. Hipps and I think that he came
2 up later. I didn't - I don't recall asking him to come

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1 upstairs because Mr. Hipps -I
wouldn't have asked

2 someone to come up to my office in the position I was in
3 there. He would have come up on his own.

4 Q I'd like to show you Government's exhibit 16 which
5 is already in evidence. And I'd ask you, Miss Dean, if
6 you would, to read that to the jury?

7 A It says, "D. Dean, Re: Marbilt, Silvio," and
8 then, "JNM, FYI, love D."

9 Q Now, Miss Dean, do you recognize the handwriting,
10 D. Dean, Re: Marbilt, Silvio?

11 A Yes, I do.

12 Q And whose handwriting is that?

13 A Silvio's.

14 Q DeBartolomeis?

15 A Yes, sir.

16 Q How about JNM, FYI, love D?

17 A That's my handwriting.

18 Q Who are you writing that note to?

19 A Mr. Mitchell.

20 Q What did you request Silvio DeBartolomeis to give
21 you concerning Marbilt?

22 A I didn't request anything from Mr. DeBartolomeis.

23 Q To your knowledge, how was it that Silvio sent you
24 that letter?

25 A Well, I testified the other day that the letter

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1 that came back with Mr. Wilson's handwriting on it, that
2 was a memorandum from Mr. Abrams reversing that original
3 decision, was given to me by Mr. DeBartolomeis, and then
4 I passed it on to Mr. Mitchell.

5 Q At this time then I would show you Government's
6 Exhibit 18 and the attachment to Government Exhibit 18.
7 Is that the memorandum you're talking about?

8 A Yes, that would have been attached to the note that
9 you showed me earlier. That is my memo.

10 Q So the note on this one you claim is not the one
11 attached to this memo originally, is that correct?

12 A Yes, sir.

13 Q Now, what does this note say?

14 A It says, "Daddy, FYI."

15 Q And is it on your letterhead?

16 A It's on my notepaper, yes.

17 Q So this is a different communication to
18 John Mitchell?

19 A Yes, I often sent Mr. Mitchell articles that I had
20 written in newspapers, and so there were loads of those.

2 Q And it's your testimony that that's not connected
2 to the memorandum that's attached to it?

2 A No, sir, that is not attached to that. The one
2 that says from Silvio should be attached to that.

2 Q Now, is it fair to say that you sent the

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1 information concerning Marbilt to John Mitchell?

2 A Yes.

3 Q Is it also fair to say that he asked you to send
4 him that information?

5 A No, I don't recall that at all. I don't recall
6 having any conversation with Mr. Mitchell about Marbilt
7 after I sent him the original letter that said that I
8 didn't think there was anything that could be done.

9 Q Now, you mentioned in your letter to Mr. Mitchell
10 his client Art Martinez, is that fair to say?

11 A No, I did not. I mentioned Mr. Martinez. I never
12 thought Mr. Mitchell had Mr. Martinez as a client.

13 Q Let me direct your attention back to Government's
14 Exhibit 17. Did you mention Mr. Martinez in that?

15 A As I said, I mentioned Mr. Martinez. I did not
16 mention Mr. Martinez as being a client of Mr. Mitchell
17 because that was not my understanding.

18 Q Was it your understanding that he was a friend?

19 A My understanding was that Mr. Nunn had a client,
20 Mr. Martinez, and that Mr. Nunn was a friend of
21 Mr. Mitchell and that Mr. Mitchell was interceding for
22 Mr. Nunn.

23 Q Isn't it true he was interceding as a consultant?

24 A Mr. O'Neill, I said over and over again that I had
25 no information about that and I don't have any

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1 information about that. When Mr. Nunn says my client,
2 and Mr. Nunn is an attorney, I was very well aware of
3 the fact that Mr. Mitchell could not practice law, and I
4 would not have imagined they would have had any other
5 relationship. And that certainly isn't the way
6 Mr. Mitchell put it to me. Mr. Mitchell put it to me

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7 that he was interceding for a friend, Mr. Nunn.
8 Q Ma'am, do you recall stating that – on direct
9 examination that you didn't meet Mr. Nunn until after
10 you had left HUD?
11 A That is correct.
12 Q well, then, how did Mr. Nunn put it to you that
13 John Mitchell was interceding not in any consultant
14 capacity?
15 MR. WEHNER: Objection, Your Honor, that's a
16 complete misstatement.
17 THE COURT: I'll sustain the objection.
18 BY MR. O'NEILL:
19 Q when did you have this conversation with Mr. Nunn?
20 MR. WEHNER: Objection.
2 THE COURT: I take it that she talked to
2 Mr. Mitchell about that?
2 MR. O'NEILL: If we could have the answer read
2 back?
2 THE COURT: why don't you come up here to make

2973

1 sure we're looking at the right part?

2 (Bench conference)

3 THE COURT: I think you're both right.

4 would you read that, and start a little early

5 before that.

6 THE COURT REPORTER: "Question: Was it your

7 understanding that he was a friend?"

8 "Answer: My understanding was that Mr Nunn

9 had a client, Mr. Martinez, and that Mr. Nunn was a

10 friend of Mr. Mitchell and that Mr. Mitchell was
11 interceding for Mr. Nunn."

12 "Question: Isn't it true he was interceding
13 as a a consultant?"

14 "Answer: Mr. O'Neill, I said over and over
15 again that I had no information about that and I don't
16 have any information about that. When Mr. Nunn said my
17 client, and Mr. Nunn is an attorney, I was very well
18 aware of the fact that Mr. Mitchell could not practice
19 law and I would not have imagined they would have had
20 any other relationship, and that certainly isn't the way
2 Mr. Mitchell put it to me."

2 THE COURT: she did say when Mr. Nunn had a
2 client I think that's in fairness referring – you can

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2 ask her that, but she also said earlier before, Mitchell
2 told her.

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1 MR. WEHNER: Just so the record reflects it,
2 there's a Government's Exhibit in evidence in which
3 Mr. Nunn refers to Mr. Martinez as his client in
4 correspondence to Mr. Mitchell.
5 THE COURT: I think you can ask her that as
6 opposed to saying didn't you testify he told you, et
7 cetera.
8 MR. O'NEILL: All right.
9 (Bench conference concluded)
10 THE COURT: All right, I think we cleared up
11 the confusion. We can go ahead now.
12 MR. O'NEILL: Thank you, Your Honor.
13 BY MR. O'NEILL:
14 Q Miss Dean, did you say that Mr. Nunn told you that
15 Mr. Martinez was a client?
16 A No. If I could clear that up for you. The
17 letter -
18 Q You'll have plenty of time, Ma'am.
19 A Sorry.
20 Q We'll get to that.
2 Now, you were Executive Assistant to the
2 Secretary, is that true?
2 A Yes, I was Executive Assistant to the Secretary.
2 Q And when you became Executive Assistant to the
2 Secretary you became involved in the Moderate

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1 Rehabilitation program, is that correct?
2 A Yes, at the time of the Puerto Rico problem.
3 Q Now, John Mitchell was interested in the Mod Rehab
4 program, isn't that correct?
5 A Not to my knowledge.
6 Q Isn't it a fact, Ma'am, you had discussions with
7 John Mitchell concerning the Mod Rehab program when you
8 became Executive Assistant to the Secretary?
9 A No, I did not.
10 Q Is it fair to say that he asked you specific
11 questions about the Mod Rehab program?
12 A No, he did not.
13 Q Is it also fair to say that Mr. Mitchell asked you
14 for a specific number of units going to Miami?
15 A No, he did not.
16 Q And did he ask you about Arama?
17 A He asked me for Governor Nunn to check on when the
18 units for Arama would be going to Metro-Dade.
19 Q Miss Dean, let me show on the visual presenter
20 Government Exhibit 27. And can you read that out loud
2 to the jury, please?
2 A "Dear Governor Nunn: This will confirm my recent
2 telephone conversation with General Mitchell concerning
2 the Arama Partnership request to HUD for additional Mod
2 Rehab units. The Department is now in the process of

2976

1 completing the papers for the 293 units to the Public
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2 Housing Authority in Florida. Let me assure you that
3 all the necessary paperwork for the units will be
4 transmitted by the end of this week and that Arama
5 Partnership will definitely receive those units from
6 HUD. I hope that the additional units will make the
7 partnership a viable venture. Please keep in touch.
8 With best wishes. Very sincerely yours, Deborah Gore
9 Dean."
10 Q Do you know who is the SW, with two slashes on it?
11 A Yes, that would have been Mrs. Hawkins* way of
12 saying that I signed that letter.
13 Q And I now show you Government Exhibit 28. Is it
14 fair to say this is the same letter with your signature
15 on it?
16 A Yes, it is.
17 Q Now, Miss Dean, in this letter is it fair to say
18 that you reference a telephone conversation with
19 General Mitchell?
20 A Yes, Mr. Mitchell called me and asked me to please
2 check into finding out when the units would be going
2 down to the Housing Authority, and I did that.
2 Q Now, do you assure Mr. Mitchell - Mr. Nunn, excuse
2 me, in this letter that they will receive 293 units?
2 Excuse me, let me withdraw that. Do you assure him that

2977

1 all the necessary paperwork will be done and the units
2 will go down to the local Public Housing Authority?
3 A Yes, because that's what Mr. Barksdale told me.
4 Q And you also write that the Arama Partnership will
5 definitely receive those units from HUD?
6 A Yes, I did.
7 Q And is it your testimony that that's what
8 Mr. Barksdale did?
9 A Yes, it, is and he referred to it as Arama. I
10 referred to it as Arama and he referred to it as Arama,
11 and frankly I didn't know enough about the regulation of
12 the Mod Rehab program to know that that was not the
13 proper way to state what it was that Mr. Nunn wanted to
14 hear.
15 Q So this was not the proper way to state it, is that
16 correct?
17 A That's correct.
18 Q Now, when you talk about you'll definitely receive
19 these units from HUD you're saying that information came
20 from Maurice Barksdale.
2 A Yes, it did.
2 Q Now, is it fair to say the rapid reply documents,
2 the first funding documents, had not even been signed as
2 of July 5th, 1984?
2 A Yes, the rapid reply that you've had in this trial

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1 was signed later than this. But this was the
2 information Mr. Barksdale gave me and that's what I
3 wrote down and sent to Mr. Nunn.
4 Q This is the same Maurice Barksdale that's testified
5 at this trial, correct, Ma'am?
6 A Yes.
7 Q And is this the same Maurice Barksdale that
8 Secretary Pierce, you stated, had a lot of faith in?
9 A Yes, I think from everything that Secretary Pierce
10 ever told me that he liked Maurice Barksdale very much.
11 Q And he did not oversee Mr. Barksdale's awarding

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12 units, you testified, isn't that correct?
13 A Mr. Barksdale funded the Moderate Rehabilitation
14 program, to the best of my knowledge, without a lot of
15 interaction from Secretary Pierce. Secretary Pierce did
16 offer him, you know, projects to be considered, and we
17 saw several evidences of that, but for the most part
18 Mr. Barksdale was in charge because I think I told you
19 Secretary Pierce was quite surprised when Mr. Barksdale
20 sent most of the fiscal year '85 money out before he
2 left and so I know Secretary Pierce, if he had -- if he
2 was surprised by that, could not have had a lot of
2 interaction with Mr. Barksdale on the program.
2 Q In this letter do you reference anything that
2 Mr. Barksdale told you?

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1 A No, I didn't.
2 Q There's nothing in this letter to indicate that
3 Maurice Barksdale told you that information?
4 A No, there's nothing in the letter that indicates
5 that, no.
6 Q Now, I direct your attention to the next paragraph
7 after the reference to the 293 units. Is it fair to say
8 that you write there, "I hope that the additional units
9 will make the partnership a viable venture. Please keep
10 in touch?"
11 A Yes.
12 Q What partnership are you referring to, Ma'am?
13 A The Arama partnership, I suppose. The Arama
14 partnership.
15 Q Who are you referring to at that time?
16 A I don't know. It was a pleasantry. I didn't mean
17 anything by it.
18 Q Isn't it a fact you meant the association of
19 Governor Louie Nunn and John Mitchell?
20 A No, because I didn't know there was an association
2 between Mr. Mitchell and Mr. Nunn other than -2
Q Miss Dean, were you at a party held at Global
2 Research, a reception in which you invited Silvio
2 DeBartolomeis prior to this time?
2 A No, Global, Research, International never had a

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1 party and I never heard of a party that they ever had
2 other than the one I planned for Mr. Newman. That
3 wasn't at Global. And if you would have seen Global
4 Research, International you would realize that wasn't
5 the place to have a party. It was two or three little
6 offices and they never had parties and, no, I never took
7 Mr. DeBartolomeis to a party there.
8 Q Isn't it true that Global Research had a suite of
9 offices with an anteroom in the middle where a secretary
10 worked out of, that adjoined all the intervening
11 suites? Some of them were Global Research's?
12 A No, not at that time. When it was at 2828
13 Pennsylvania it was a hallway that came down, and
14 Mr. - the other man there, I can't remember, Tully's
15 office was here, Mr. Mitchell's office, Mr. Brennan's
16 office. There was a small little office over here where
17 there was a man named Mr. Thibeau. My desk was right
18 out in the middle. And I think there was a parttime
19 receptionist that worked over here that also answered

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20 their phones, but there was no place to have anything in
2 the center there. It was just the end of a hallway.
2 Q So, Miss Dean, was Silvio DeBartolomeis lying when
2 he said he went to a party with you at Global Research?
2 A Yes, he was.
2 Q Miss Dean, just so the record is clear, at the time

2981

1 you write this letter to Mr. Nunn, do you know that he's
2 the ex-Governor of Kentucky, is that correct?
3 A Yes, I believe Mr. Mitchell told he me that.
4 Q And you had not met him at that time?
5 A No.
6 Q In fact, you did not meet him until after you left
7 HUD?
8 A Well, he said that he might have met me at Lance
9 Wilson's goodbye party, and that might have happened,
10 but I don't recall meeting him there. I don't want to
11 say that -I
12 don't want you to ask me if he was lying.
13 I don't remember meeting Governor Nunn until much later.
13 Q By the way, Miss Dean, on Government's Exhibit 28,
14 that's addressed to Governor Louie Nunn, where do you
15 send that letter?
16 A I send it to Global Research, International.
17 Q And this was in July of 1984?
18 A Yes.
19 Q You had worked there approximately two years
20 previously, is that correct?
21 A Yes.
22 Q So there is no doubt at that time that you knew
23 Global Research was a business of John Mitchell's and
24 Jack Brennan's, is that fair to say?
25 A I knew it was business of Mr. Mitchell. I did not

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1 know what Mr. Brennan's exact relationship was to the
2 business.
3 Q Now, how did you send that letter to Mr. Mitchell,
4 Ma'am? Did you drop it off?
5 A No.
6 Q How did you send it, do you recall?
7 A I probably put it in the mail.
8 Q Now, I show you Government's Exhibit 29 which is
9 already in evidence and I believe you heard some
10 testimony about that, and that's a letter from Louie
11 Nunn to Art Martinez dated July 6, 1984, correct?
12 A Yes.
13 Q And in the first paragraph it says, "There has been
14 read to me from my Washington office a letter signed by
15 the Assistant Secretary of HUD. The letter confirms
16 approval of the above named project and the 293 units.
17 Final paperwork will be completed today or no later than
18 Monday." Do you see that?
19 A Yes.
20 Q Isn't it true, Miss Dean, that that July 5th letter
2 that you wrote to John Mitchell was hand delivered to
2 Mr. Mitchell?
2 A No, if you would allow everyone to read the second
2 paragraph of that letter you'd see that there's plenty
2 of information in that letter that did not come from the

2983

1 letter that I sent. I mean Mr. Nunn is assuring that it
2 was going to go down to the Atlanta office within the
3 next three days, that the Atlanta office assures me that
4 it will then be forwarded. That didn't come out of the
5 letter that I sent Mr. Mitchell -I
mean Mr. Nunn.

6 Q Miss Dean, let's go back to Exhibit 28 and let me
7 ask you, when you used the phrase let me assure you that
8 all the necessary paperwork for the units will be
9 transmitted by the end of the week, that the Arama
10 partnership will definitely receive these units from
11 HUD -

12 A Yes, and this was on a Thursday. So the end of the
13 week was the next day, which would have been Thursday or
14 Friday, and certainly I couldn't have known that unless
15 Mr. Barksdale had told me that.

16 Q Or unless you were involved in it, correct, Ma'am?

17 A Yes, that's right. If I was involved in it I might
18 have known.

19 Q Now, Miss Dean, in that letter you talk about your
20 assurance of 293 units going to the Arama partnership,
2 is that correct?

2 A Well, yes, yes, it unfortunately is phrased that
2 way.

2 Q And at that time you knew that Governor Louie Nunn
2 had a client, Mr. Martinez, correct?

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1 A Yes, I did.

2 Q And you knew that Governor Louie Nunn was an
3 attorney, correct?

4 A That is correct.

5 Q Did you think -- well, let me withdraw that.

6 A I did not know at this time that -- well, I don't
7 know anything about Mr. Louie Nunn's representations of
8 Mr. Martinez other than the Marbilt situation and I know
9 that Mr. Mitchell asked me to check into Arama.

10 Q Now -11

A And I don't know what Arama was or who owned Arama
12 or anything like that.

13 Q Is it fair to say, Ma'am, that you knew at this
14 time John Mitchell was a consultant-lobbyist?

15 A No, no, I never knew that.

16 Q Even though you had worked for Global Research as
17 director of public relations?

18 A When I worked for Global Research no one ever said
19 anything about HUD the whole time I was there. I never
20 heard the word HUD the entire time that I ever was at
2 Global Research.

2 Q Aside from the word HUD, Ma'am, did you know that
2 John Mitchell was a consultant working on projects,
2 selling certain influence for certain customers?

2 A I - no, I never knew anything like that. I knew

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1 that he worked on armored cars.

2 Q What was he doing in relation to the armored cars?

3 Wasn't he marketing it around the world to various

4 dignitaries?

5 A I believe so, yes.

6 Q And how was acting as a consultant on behalf of the

7 armored cars?

8 A I wouldn't know. I'm getting a little confused as

9 to what we call consultants these days. I know he had a
10 business arrangement with Hess & Eisenhardt Cars and if
11 he could sell a car he got a percentage of the car deal,
12 a percentage of the money. I don't know if you would
13 call that a consultant. I'd call it a broker.

14 Q While you were working at Global Research were you
15 aware of his other clients?

16 A No.

17 Q Were you aware of a military uniform deal that he
18 was putting together at that time?

19 A I think that came afterward and I know about that
20 only from Mr. Mitchell telling me about it many years
2 later. I don't know when it started or how it happened

2 or anything else.

2 Q Now, Miss Dean, I would show you, and I'll put on
2 the visual presenter, Government's Exhibit 30 and I'd
2 ask you if you recognize this to be the rapid reply

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1 document signed by Maurice Barksdale and Janet Hale for
2 293 units to Metro-Dade?

3 A Yes, sir.

4 Q And I would direct your attention to the request of
5 special service letter on the back, do you see that,
6 Ma'am?

7 A Yes, that would have been delivered by a courier.

8 Q And you had that courier deliver that rapid reply
9 document to the Arama partnership at Global Research, is
10 that correct?

11 A Yes, I did.

12 Q You had a HUD messenger deliver that?

13 A We don't have HUD messengers.

14 Q You had a courier then do it?

15 A Yes.

16 Q And did you pay for that out of your own pocket?

17 A No.

18 Q Isn't it true, Ma'am, you had this sent to
19 John Mitchell -- to Louie Nunn at Arama because they
20 requested that it be sent there? You didn't do this on
2 your own, did you?

2 A I know that Maurice Barksdale walked it up to my

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2 office and gave to it me and I had it sent over to the
2 office of Mr. Nunn.
2 Q You heard Mr. Barksdale deny any involvement in the

Arama project other than signing it?

2 A I heard him say he didn't remember.
3 Q Was he lying?
4 A That he didn't remember? How -
5 Q Yes, was he lying?
6 A That he doesn't remember? I don't - how could I
7 say such a thing?
8 Q You're sure you had no involvement in Arama other
9 than sending this to Global Research, is that correct?
10 A I'm absolutely positive.
11 Q And what was the date on that rapid reply, do you
12 recall?
13 A No, I don't.
14 Q Would it refresh your recollection if I told you -15
I'll wait for the visual presenter. Is it fair to say
16 that it was signed by Maurice Barksdale on July 16,
17 1984 ?
18 A Yes. And I'm also certain that if I had asked
19 Mr. Barksdale to sign a rapid reply for me several days
20 after I became Executive Assistant he would have
2 remembered that.
2 Q And is it also fair to say, Ma'am, that the request
2 for special services is dated July 18, the day before -
2 two days later?
2 A I said I had it sent as - when Mr. Barksdale gave

2988

1 it to me. That's all I know.
2 Q Did Mr. Barksdale tell you to send it to them by
3 special courier?
4 A No, I don't imagine he would have. I just remember
5 him coming up and giving to it me. I don't remember him
6 saying anything like that.
7 Q Why did he give you the rapid reply letter?
8 A Probably because I had asked him about it earlier.
9 Q Now, was Mr. Mitchell interested in this rapid rely
10 document?
11 A Not that I can recall. The only - I only remember
12 him calling me and asking me this information for
13 Governor Nunn and asking me would I write a letter.
14 Otherwise I just would have made the phone call and
15 called him back, but he asked me for a letter, and so I
16 typed something out and obviously I did not use the
17 correct terminology because I wasn't familiar enough
18 with the program to know the correct terminology.
19 Q You keep saying you weren't familiar with the
20 program. Is that based on the fact that you had only
2 been an Executive Assistant for a little under a month?
2 A Yes.
2 Q And prior to that time you had been a Special
2 Assistant to the Secretary, correct?
2 A I had been the Director of the Executive

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1 Secretariat and Special Assistant with the
2 specializations of Budget and Fair Housing and I didn't
3 have any knowledge of the Mod Rehab program.
4 Q Now, Miss Dean, it's your testimony that
5 John Mitchell never told you that he was being paid as a
6 consultant on the Arama project, is that correct?
7 A He never told me he was being paid by anybody
8 having anything to do with HUD.
9 Q And is it your testimony that you felt he was doing
10 that as a friend of Governor Nunn?
11 A Yes, I -- he put it to me that way. That is
12 exactly the way he put it to me. He said that Governor
13 Nunn was having a hard time getting any response out of
14 HUD and would I please look into it and make certain
15 that he got a fair shake.
16 Q You now know. Ma'am, that -- am I not correct, that
17 Mr. Mitchell was paid as a consultant on the Arama
18 project?
19 A Yes, I now know that.
20 Q You now know, am I not correct, that he was paid
2 \$75,000?
2 A Yes, I believe I -- yes, that was in the 1.6. Audit
2 report.
2 Q So is it your testimony that Mr. Mitchell lied to
2 you about his involvement in Arama, saying that he was

2990

1 just acting as a friend of Mr. Nunn?
2 A Yes, he lied.
3 MR. O'NEILL: Your Honor, that might be a good
4 point to break.
5 THE COURT: All right, fine. Thank you, sir.
6 All right. We're going to take our luncheon
7 recess. We'll be back at 1:30 and ready to go until
8 about three this afternoon and we have to break then for
9 the swearing of the U.S. Attorney. We'll be back at
10 that time. Remember the admonition, don't talk about
1 this case during the recess among yourselves or with
1 anybody else at all. See you back at 1:30.
1 (Lunch recess, 12:25 p.m. to 1:30 p.m.)

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AFTERNOON SESSION

2 (1:40 p.m.)
3 (Defendant present, Jury out.)
4 THE COURT: I took the liberty of advising counsel
5 through my deputy courtroom clerk of the defendant to release his
6 witness this afternoon. I assume that was not premature.
7 MR. O'NEILL: I don't think so, Your Honor. I believe
8 it will be all day.

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9 THE COURT: Yes, I would think so. All right, that's
10 fine. Ms. Dean was on the stand a long time on direct, so I'm
11 not rushing you.
12 MS. SWEENEY: Your Honor, before the jury is brought
13 in -
14 THE COURT: Yes, ma'am?
15 MS. SWEENEY: -
I was wondering if we might address
16 the topic of the jury instructions again. Yesterday the Court
17 indicated that it was conceivable that we'd have a draft.
18 THE COURT: I don't know yet. I just talked to my
19 clerk. I just sat at lunch and reviewed them again and made some
20 changes that when I get them back I'll have to look at and see
21 how they look. I will see.
22 MS. SWEENEY: Okay. At this point, Your Honor, we do
23 have some objections to the defendant's jury instructions -
24 THE COURT: All right.
25 MS. SWEENEY: -
that we'll hand up on a preliminary

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basis.

2 THE COURT: That's fine. I appreciate that. That's
3 fine, thank you. I'll keep these separate.
4 All right, you can bring the jury in.
5 (Jury in.)
6 THE COURT: All right, Ladies and Gentlemen, we're
7 getting ready to resume now. We'll sit, as I said before, to in
8 the 3:00 range, and I have to recess then for the day.
9 MR. O'NEILL: Thank you, Your Honor.

10 DEBORAH GORE DEAN, DEFENDANT'S WITNESS, RESUMED
11 CROSS EXAMINATION (Cont'd.)
12 BY MR. O'NEILL:
13 Q. Ms. Dean, do you recall testifying just before we broke
14 about not knowing whether Mr. Mitchell was a consultant?
15 A. Yes.
16 Q. Let me ask you, do you recall sending a resume and a
17 qualification statement to the White House in September of 1982?
18 And just for the record, it's Government's Exhibit 539 for
19 identification.
20 A. Well, this would have gone from -- this would have been from
21 the White House to Mr. Wilson concerning me.
22 Q. And I'd ask, did you fill out that statement there?
23 A. I believe so, yeah.
24 Q. And do you recall whether you said that Mr. Mitchell was an
25 international consultant?

1 A. An international consultant, yes.
2 Q. Now, Ms. Dean, you stated as of July 5, 1984, you didn't
3 know anything about the Mod Rehab Program; is that correct?
4 A. I didn't know the ins and outs of the program, no.
5 Q. Let me show you what's been entered into evidence as
6 Government's Exhibit 31A, and I'd ask you, if you could, to read
7 the body of this letter to the Ladies and Gentlemen of the Jury.
8 A. Okay. "Dear Mr. --"
9 Q. Well, we can go past the name.
10 A. "Thank you for the August 1, 1984 correspondence on behalf
11 of the Puerto Rico Housing Finance Corporation, Old San Juan
12 Rental Group Corporation and Santurce Rental Group Corporation,

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13 regarding previously approved units under the Section 8 Moderate
14 Rehabilitation Program.
15 "As you know, HUD does not allocate Section 8 moderate
16 rehabilitation funds on a project specific basis. HUD honored
17 the PRHFC's request for 610 units and 284 units of Section 8
18 moderate rehabilitation funds because of the demonstrated need
19 for additional safe and decent and affordable housing in Puerto
20 Rico. Letters from the Puerto Rico Housing Finance Corporation
2 dated September 16, 1983, and May 8, 1984, indicated their
2 endorsement and selection of the specific properties identified
2 therein. Because of the requests of September 16, 1983, and
2 May 8, 1984, HUD subsequently allocated 894 units to them.
2 "Funds were allocated to our Puerto Rico office based

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1 on the applications submitted. The Puerto Rico Housing Finance
2 Corporation has been asked to continue working with the HUD
3 Caribbean office regarding implementation of this funding.
4 "Very sincerely yours, Samuel R. Pierce, Jr."
5 Q. Ms. Dean, is that dated August 15, 1984?
6 A. Yes, it is.
7 Q. Ms. Dean, I'd direct your attention to the bottom left-hand
8 corner of that document.
9 A. Yeah. That is the document that I testified earlier that I

10 drafted with the help of Mr. Barksdale.
11 Q. And you authorized the use of the Autopen on this document?
12 A. The original one was signed by Secretary Pierce the day
13 before. We showed those, I believe, the last day of the direct.
14 One was Autopenned, and one was the next day.
15 Q. Ms. Dean, is it fair to say that as of August '84, you were
16 familiar with the ins and outs of the Mod Rehab Program?
17 A. Well, I was becoming -- certainly what I said when the
18 Puerto Rico thing happened is when I had my first experience with
19 the Mod Rehab Program, and the body of that letter is, as I'm
20 sure you recognize, is one that's in almost every HUD letter that
2 goes out about moderate rehabilitation, and the other parts were

2 in an effort to clean up the problems that arose out of the
2 threat of the lawsuit from Mr. Strauss, and Mr. Barksdale and I
2 sat and drafted that letter in my office.
2 Q. Is there any indication on that letter that Mr. Barksdale

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1 had anything to do with that letter?
2 A. There may be on the one that was previous to it. I mean, I
3 just, I just copied the one that had been done for the day
4 before.
5 Q. Ms. Dean, let's talk about Jack Brennan, or Colonel Jack
6 Brennan. Now we've established, I believe, that you knew him
7 before you began working at HUD; is that correct?
8 A. Yes.
9 Q. Now you've stated that you're not quite sure of the

10 relationship between Mr. Mitchell and Jack Brennan, but is it
11 fair to say that they were in business together?

12 A. Yes.

13 Q. And he was your supervisor while you were at Global; is that
14 correct?

15 A. Yes.

16 Q. And you used him as a reference at times?

17 A. I believe I, I used him as my supervisor for that position.

18 I don't think I ever said anyone should call him or anything like
19 that but --

20 Q. Now, Ms. Dean, you have testified, have you not, that Jack
2 Brennan came to see you concerning the South Florida I project?

2 A. Yes.

2 Q. Now at that time, is it fair to say that you knew he was not
2 representing the PHA?

2 A. I didn't think he was representing anybody.

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1 Q. Well, you had a conversation with him at that time, did you
2 not, ma'am?

3 A. Yes, I did.

4 Q. And did he ask for a particular number of units to go to a
5 particular location?

6 A. I don't remember a particular number of units. I do
7 remember he said that Governor Nunn had asked him to drop off
8 these documents and that he was working in Metro Dade, and then
9 he went into sort of a -- he went off the subject a little bit

10 and was talking about how he was having problems with another
11 consultant trying to get his client or something along those
12 lines, and I remember the name Russell Cartwright.
13 But then again, at that time, Russell Cartwright might
14 have still been working for Senator Hawkins, and my memory is
15 fuzzy on that, because I didn't consider the conversation to be
16 that important.

17 Mr. Brennan gave me the documents. There was nothing
18 to discuss with Secretary Pierce. I wrote "Send to Housing" and
19 put them in my "out" box.

20 Q. Now you've just testified that Mr. Brennan stated in his
2 conversation something about another consultant; is that correct?

2 A. He said something about some consultant was trying to get
2 the developer away or there was another consultant working with
2 the developer. I'm not certain.

2 Q. Did he mention to you that he was acting as a consultant?

2997

1 A. No, but he said that the person was a client of Mr. Nunn.

2 Q. Did he mention why it was he that was dropping this off to
3 you and not Mr. Nunn?

4 A. No, not -- he might have. I just don't, I don't recall.

5 Q. Did he mention why he came to see you as opposed to someone
6 else in HUD?

7 A. No. I assume it was because he knew me. But I also know
8 that on the letter, the Mr. Martinez letter, it says "October,
9 meet new guy," and I've always assumed that the new guy coming in

10 was Mr. Demery, who was coming in in October, so he might very
11 well have gone to see the new guy in October as well.
12 Q. We'll get to that, Ms. Dean.
13 Now did you ever tell Mr. Brennan that you could not
14 get involved in this because Jack Brennan had been your previous
15 supervisor at Global Research?
16 A. No. I just didn't do anything with it. I just sent it
17 through the system.
18 Q. Did you ever tell him that he needs to speak to Sam Pierce
19 if he wants units to be sent to a PHA?
20 A. He didn't ask me for units. He just dropped the stuff off.
2 And so I just sent it through the system, through the normal

2 system.
2 If it had come back up through the system and I had
2 associated that project with Mr. Nunn or anything else, I would
2 have discussed with the secretary something about it if I had

2998

known it.
2 Q. Ms. Dean, at this time, I'll put on the visual presenter a
3 letter dated May 21, 1986, and the second page, I direct your
4 attention to the cc: Colonel Jack Brennan, and then it's
5 misspelled, with enclosure.
6 A. Um-hum.
7 Q. Is that the document that Colonel Brennan brought with him
8 when he came to see you?
9 A. Yes, I assume it was, because I found it in my HUD files. I

10 did not send that down to Housing, though. That was just put
11 into my files. Anything anyone brought me was automatically put
12 into the files, even if it was unimportant.
13 Q. Is this letter from Art Martinez?
14 A. Yes.
15 Q. And is this the same Art Martinez that was mentioned on the
16 Arama project in the letters and correspondence between Mr. Nunn
17 and Mr. Mitchell?
18 A. No, the only time that I saw Mr. Martinez's name mentioned
19 was during Marbilt, and I'm not certain I would have associated
20 that several years later when Mr. Brennan was talking to me. I
21 did remember the name Louie Nunn. I don't remember him referring
22 to Mr. Martinez.
23 Q. Is it fair to say in this letter - and I'll direct your
24 attention to the third full paragraph, Is it fair to say that
25 they're requesting 219 units?

2999

1 A. Yes.
2 Q. And do they give the breakdown of the bedrooms, being --
3 A. Yes, they do, um-hum.
4 Q. Is it fair to say 24 efficiencies, 153 one bedrooms, 42 two

5 bedrooms?

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6 A. Yes, but I don't ever remember reading that letter.

7 Q. You did receive it, though, did you not, ma'am?

8 A. It was one of the things that Mr. Brennan brought by, and as

9 I said, I stuck it in my "out" box.

10 Q. Do you recall the other things that Mr. Brennan brought by?

11 A. It was a letter from the housing authority, and I sent that

12 down to Housing.

13 Q. Now I direct your attention to the final full paragraph.

14 I'd ask you to read that to the jury, if you would, ma'am.

15 A. "As soon as you know that the approval has left Washington,

16 please contact me, for as you know, we must then stay on top of

17 it to make sure it gets to Jacksonville so that Dade HUD may send

18 this application up there."

19 Q. Did Mr. Brennan ask you about giving him the notification as

20 to when the units would be funded?

21 A. No.

2 Q. Now, Ms. Dean, I would show you what's previously been

2 entered as Government's Exhibit 41, and I'd ask you is this the

2 letter from the local housing authority, is this the letter from

2 the local housing authority that Mr. Brennan brought to your

3000

office on that date?

A. Yes.

3 Q. I would direct your attention to the handwriting in the

4 upper right-hand corner.

5 A. It says "Sent to Housing," and that's my handwriting.

6 Q. And, Ms. Dean, is this signed by Melvin J. Adams, director

7 of HUD?

8 A. Yes.

9 Q. What do they mean, HUD?

10 A. They mean the housing authority in Metro Dade.

11 Q. And is this a routing slip that is now evident before the

12 jury on the visual presenter?

13 A. With the exception of the thing on the top. I don't --

14 that, it seems to me the one that I saw says "Paulette." Can you

15 bring it down a bit?

16 Q. There you go.

17 A. The part where it says "Betty" and that whatever, "SSI,"

18 whatever, I've not seen that before. But the one that's in my

19 files says "Paulette," and then "Deborah asked me to forward this

20 to Housing. Please send to the appropriate housing. Thanks,

21 Sherrill."

22 Q. And that's Sherrill Nettles?

23 A. Yes.

24 Q. And in this routing slip that was sent to Housing is this

25 letter from Louie -- from Art Martinez to Louie Nunn, dated

1 May 2, 1986, correct?

2 A. No.

3 Q. That was not connected with this routing slip?

4 A. No.

5 Q. Okay. Now is it your testimony this was all separately

6 sent?

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7 A. Yes. The -- well, I've never seen the upper attachment to
8 that, either.
9 Q. Now, Ms. Dean --

10 MR. WEHNER: Your Honor, I think there's a
11 mischaracterization of the testimony. I believe the testimony
12 was --

13 THE COURT: I don't think she's testified to anything.

14 I think you mean the government's question.

15 MR. WEHNER: The question mischaracterized prior
16 testimony.

17 THE COURT: Let me hear what you've got.

18 (Bench conference on the record.)

19 THE COURT: what's the problem?

20 MR. WEHNER: I think we're talking about these two

2 exhibits, Judge, and Ms. Dean's testimony was that this
2 exhibit --

2 MR. O'NEILL: That's part of the exhibit, yeah.

2 MR. WEHNER: -- was attached to the routing slip and

2 that this exhibit wasn't. That's my recollection --

3002

1 THE COURT: That's what she said.

2 MR. O'NEILL I think that's what she said, yeah.

3 MR. WEHNER: But your last question said they were both
4 sent

5 MR. O'NEILL I asked whether they were both sent, I
6 believe.

7 MR. WEHNER: Yeah.

8 THE COURT: He asked if they were both sent.

9 MR. O'NEILL And she said no.

10 1 THE COURT: She said no. She said she hadn't seen some
11 cover slip that the government has, but she's essentially saying
12 no.

13 MR. WEHNER: So you were just -14

MR. O'NEILL : I was asking whether wouldn't it be true
15 that both were sent, and she said no.

16 THE COURT: That's fine.

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17 (End of bench conference.)

18 THE COURT: All right, we can go ahead again.

19 MR. O'NEILL : Thank you, Your Honor.

20 Q. Now, Ms. Dean, you mentioned before, "October, meet new
21 guy, 1 on the 1 top of the piece of paper.

22 A. Urn-hum.

23 Q. Do you see that <3n this letter dated May 21, 1986, from
24 Mr. J^rt Martinez?

25 A. Yes.

1 Q. And do you know whose handwriting that is?

2 A. No, I don't.

3 Q. Now is it fair to say, Ms. Dean, that you knew at that time
4 that Jack Brennan likewise was a consultant?

5 A. No.

6 Q. You did not know that he was a consultant?

7 A. No, I did not.

8 Q. And did you know that Jack Brennan was being paid as a
9 consultant on that project?

10 A. No, I did not.

11 Q. Did he tell you that he was being paid as a consultant on

12 South Florida I?

13 A. No. And when I confronted him later about John's being

14 paid, he didn't tell me then, either.

15 Q. So he lied to you, ma'am?

16 A. He did not tell me.

17 Q. So he deliberately withheld that information from you,

18 ma' am?

19 A. He did not tell me.

20 Q. At this time, Ms. Dean, I'd show you what's in Government's

21 Exhibit 42A and 42A-1 already in evidence, and do you recall
22 seeing 42A, which is a typewritten statement with attached

23 numbers from Susan Zagame to Ross Kumagai dated September 12,

24 1986?

25 A. Yes.

3004

1 Q. And behind it is a computerized form of three pages listing
2 various public housing authorities that were given mod rehab
3 units; is that correct?
4 A. Yes, but I think that, didn't Ms. Zagame testify that the
5 twelfth letter should have been attached to her handwritten notes
6 and that the computer printout -- because the computer printout
7 is dated on September 15?
8 Q. Now, Ms. Dean, you note on Exhibit 42A-1, do you recall
9 seeing these as well?

10 A. Those are her notes. I've seen them, yes.
11 Q. Have you seen her note concerning Metro Dade Public Housing
12 Authority?
13 A. Yes.
14 Q. And can you make out what's written on the left-hand side of
15 the page next to "Metro Dade PHA"?
16 A. "Need letter. Metro Dade PHA. 96, 219."
17 Q. Would that be a total of 315 units?
18 A. Yes.
19 Q. Now the 219 units are the amount asked for by Jack Brennan
20 on South Florida; is that correct?
2 A. well, as I said, he didn't ask me for anything during that

2 meeting. And 219 would have ended up with the funding of South
2 Florida I, but I did not know that at the time that Ms. Zagame
2 and I and other people were, as I said, pulling applications from
2 books.

3005

1 Now those would have been the applications that were on
2 file downstairs and would have been funded that way. I had no
3 recollection of Mr. Brennan's project at that time.
4 Q. Didn't -- well, we just looked at Ms. Zagame's handwritten
5 notes. Did they not state next to the "Metro Dade" that they
6 needed a letter?
7 A. They may need a letter on the 219 or the 96, I don't know.
8 They maybe need a letter for 315. I have no idea.
9 Q. Now do you recall Ms. Zagame's testimony --

10 A. Yes.
11 Q. -- as to that funding round?
12 A. Yes.
13 Q. Do you recall who signed the 185s for South Florida?
14 A. No.
15 Q. I'll put on the visual presenter Government's Exhibit 42E.
16 Can you see that from where you are?
17 A. Yes. James Nistler, for Silvio DeBartolomeis.
18 Q. Did you direct that Mr. Nistler sign this 185?
19 A. I don't remember directing Mr. Nistler to sign anything.
20 Q. Now, Ms. Dean, that 185 was signed in 1986; is that correct?
2 A. Yes.

2 Q. Okay. And so by this period of time, you are aware that Joe
Page 1667

2 Strauss was charging approximately \$1,000 per unit as a
2 consulting fee; is that fair to say?
2 A. I think by late '86, I was aware that a lot of people were

3006

1 doing that.
2 Q. Did you ever ask Mr. Mitchell or Mr. Brennan whether they
3 were charging consulting fees?
4 A. No, I didn't. I really didn't feel that there was a reason
5 to ask them, because I never got the impression that they were
6 involved.
7 Q. Now while you were at Global Research, did you ever see
8 either Mr. Mitchell or Mr. Brennan do any housing consulting
9 work?
10 A. No, I did not.
11 Q. Is it fair to say neither one had any expertise in housing
12 consulting work?
13 A. Well, I wouldn't think that Mr. Brennan would know anything
14 about housing consulting. Mr. Mitchell, on the other hand, knew
15 a lot about public housing bonds, things like -- I mean, all of
16 the public housing that was built in the '70s and '60s were built
17 as a result of municipal bonds that Mr. Mitchell created, and so
18 he had a, a big knowledge of that, a vast knowledge.
19 But would I say he knew anything about the Mod Rehab
20 Program? No.
2 Q. I'd like to turn your attention to Richard Shelby. Now you
2 heard Mr. Shelby testify in this case; is that correct?
2 A. Yes.
2 Q. Did you hear him say that he first met you in or around June
2 of 1985?

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1 A. I don't recall him saying that, but . . .
2 Q. Do you also recall that he testified that he had told a
3 federal agent that he had met you in approximately 19-- --he had
4 known you since approximately 1982?
5 A. Well, I think I -- I don't know what Mr. Shelby said. I
6 don't recall his testimony that precisely, but I do know that I
7 did speak with him on the telephone when I was working at the
8 Department of Energy and I was planning a trip for Secretary
9 Edwards to Oklahoma, which is where he's from, and I spoke to him

10 then, and I then met Mr. Shelby at some point, I believe it was
11 either in Mr. DeBartolomeis' office or in the hallway outside Mr.
12 DeBartolomeis' office or -- but it was in some connection at HUD,
13 and I introduced myself as someone who had spoken to him years
14 before on the telephone.
15 Q. Do you recall telling federal investigators in 1987,
16 Ms. Dean, that you knew Shelby for five years?
17 A. Well, that would be going back to the phone conversation I
18 had with him at the Department of Energy.
19 Q. Well, I believe your testimony on direct examination was
20 that when you met him with Mr. DeBartolomeis, you said, "You
2 would not remember me"; is that correct?

2 A. Yes.
2 Q. So did you know him for five years, or had you just once

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2 spoken to him on the telephone in 1982?

2 A. I had once spoken to him on the telephone in 1982, had a

1 cordial conversation with him, and probably should not have said
2 that we had been friends. I knew of him. He was very nice to
3 me, but that was the only time I had spoken to him or seen him
4 until I met him at HUD.

5 Q. And you used him as a reference, stating that you had known
6 him for five years in 1987; is that correct?

7 A. Yes.

8 Q. Now, Ms. Dean, you knew that Rick Shelby was working as a
9 consultant on the Park Towers project, did you not?

10 A. I don't know if Mr. Shelby discussed Park Towers with me
11 specifically. I knew he was working as a consultant, and I knew
12 that he asked me a lot of questions about lots of things, which
13 included the Mod Rehab Program.

14 So did I know he was a consultant on mod rehab? Yes.

15 I don't recall a specific conversation about Park Towers.

16 Q. Ms. Dean, let me put your calendars in front of you in case
17 you need to refer to them.

18 A. Thanks. 1985?

19 Q. Yes. Do you recall having lunch with Mr. Shelby, Ms. Dean,
20 on August 1, 1985?

2 A. Yes, it said that I had lunch with him at 11:45.

2 Q. Do you recall whether Park Towers was discussed on that
2 occasion?

2 A. No, I don't.

2 Q. Ms. Dean, let me show you Government's Exhibit 51 in

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1 evidence and ask you if you recall having lunch with Mr. Shelby
2 on August 9, 1985?

3 A. It says lunch with Mr. Shelby on August 9, but if I might
4 just interject, many times if there is a lunch with Mr. Shelby
5 and it's within a week of each other, normally it was because I
6 couldn't make one and we rescheduled for a week later. That's
7 often the case in these blue books that aren't accurate. In the
8 '86 book, I could give you a more specific answer.

9 But usually I had lunch with Mr. Shelby once a month,
10 once every two months. So within a week would be unusual.

11 Q. Ms. Dean, I'd direct your attention to Government's Exhibit
12 5K and ask you if you had lunch with Mr. Shelby on that date?

13 A. The date of that? September 9? It says September 9,
14 "Shelby and Mitchell."

15 And I do remember having lunch with Mr. Shelby and

16 Mr. Mitchell once, but I don't know which time it was.

17 Q. Ms. Dean, I would just like to go back for one moment to the
18 August 9 luncheon.

19 A. All right.

20 Q. That's the one we just referred to about two moments ago.

2 A. Urn-hum.

2 Q. Do you recall that?

2 Now -- that was Government's Exhibit 51 in evidence.

2 A. Yes.

2 Q. And I show you Government's Exhibit 11B in evidence. Is it

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1 fair to say that's an American Express receipt in the name of
2 Richard Shelby for August 9, 1985, at the 209-1/2 Restaurant?

3 A. Yes, and it probably indicates he was there, and if he was
4 scheduled to be there with me, I'm sure he probably was there
5 with me. That would then make me doubt more the August 1 one.

6 Q. I'm sorry, Ms. Dean, August 1? Okay. So you do not believe
7 the August 1 one occurred?

8 A. Well, if you have a receipt, then I will be more than happy
9 to, to agree with you. The only thing is that it would not be
10 normal for me to have had lunch with Mr. Shelby that often, that
11 it just didn't usually happen that way.

12 I noticed a lot of my calendars, there'll be two in a
13 one-week period, and it usually means that one was canceled and
14 it was rescheduled for another time.

15 Q. Now you mentioned having lunch with Mr. Shelby and
16 Mr. Mitchell. Do you remember having lunch with them once?

17 A. I remember having lunch with them once. It was shortly
18 after I met Mr. Shelby face-to-face, and as I remember, it was my
19 idea to have the lunch.

20 Q. And your calendar reflects that that was on September 9,
2 1985?

2 A. I know that somewhere in these calendars it, there are two
2 separate lunches. I think you gave me yesterday a note from Inez
2 Sweetney that had a, to please set it up. That would be the one
2 that I would have the most confidence in.

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1 Q. Is it fair to say that one is undated, Ms. Dean?

2 A. I don't remember it being undated. I doubt we discussed it,
3 sorry.

4 Q. I will return to that. I'll get that later.

5 Do you recall Mr. Shelby sending you Government's
6 Exhibit 76, dated September 10, 1985?

7 A. Yes.

8 Q. And could you read that to the Ladies and Gentlemen of the
9 Jury, please?

10 A. It says, "Enclosed please find the information concerning
11 the Section 8 Moderate Rehabilitation Program in Miami and the
12 contract for cable television service for the Marathon housing
13 project in Marathon, Florida. In both cases, I believe the
14 information is self-explanatory, but obviously if you should have
15 any questions, please don't hesitate to call.

16 "As always, thank you for that time and effort which
17 you most --" I can't see what that said.

18 Q. That you must?

19 A. Oh, "that you must necessarily expend on my behalf."

20 Something "your friendship."

2 Q. Could it be, "I appreciate your friendship"?

2 A. "I appreciate your friendship. With kind regards, Rick."

2 Q. Did you make a notation at the bottom of this?

2 A. For Dave Turner to see me re this.

2 Q. Now when Mr. Shelby says, "Enclosed please find the

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1 information concerning the Section 8 Moderate Rehab Program in
2 Miami," to your knowledge, is he referring to the Park Towers
3 project?

4 A. No, I have no idea what he's referring to. If Mr. Turner,
5 if I gave it to Mr. Turner, it had to do with public housing. He
6 was the special assistant for public housing.

7 Q. Well, he also mentions here the Marathon housing project.

8 A. Yes.

9 Q. So one of those two was given to Dave Turner; is that

10 correct?

11 A. Yes, one or both. I don't have any recollection of what was
12 attached to that.

13 Q. Now do those documents refresh your memory as to whether you
14 discussed Park Towers with Richard Shelby?

15 A. No.

16 Q. Now at this time, you knew that Mr. Shelby was a political
17 consultant, did you not?

18 A. Yes, I did.

19 Q. Do you know whether he was being paid for any HUD consulting
20 work at this time?

2 A. I assume that he was. I don't know it. I never discussed

2 with him, "Are you being paid?" but I assumed that if he was in
2 the HUD building and having meetings with Mr. DeBartolomeis and
2 other people, that he was being paid for those services.

2 Q. And the meetings he was having with Mr. DeBartolomeis and

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1 other people included you, ma'am? Is that correct?

2 A. I do not recall having a meeting with Mr. Shelby about
3 anything except a coinsurance briefing that I did once, sending
4 him some things on tenant waiting list eligibility criteria and
5 his coming to see me about the Prince George's 88 units. Other
6 than that, the lunches were social, but he did ask me a lot of
7 questions, and I tried to answer them when I could.

8 Q. Now, Ms. Dean, when you had lunch with Mr. Shelby and
9 Mr. Mitchell, do you remember discussing the Park Towers project?

10 A. Oh, no. That would have, that would -- definitely I would
11 remember that.

12 Q. Is it fair to say that John Mitchell would help you out in
13 different ways over the course of time? You've mentioned
14 previously getting a job at the Department of Energy.

15 A. Yes.

16 Q. Would he also provide you with money from time to time, such
17 as gifts and like, Christmastime, things like that?

18 A. Yes, he gave me -- he'd always give me cash at Christmas, a
19 check at Christmas. I gave him a Christmas present, also.

20 Q. Ms. Dean, at this time, I'd show you Government's Exhibits
2 540 and 541 for identification, and I'd ask you whether they
2 reflect that Mr. Mitchell gave you checks in approximately, at
2 around Christmas of 1986 and Christmas of 1987?

2 A. Yes. The Christmas of 1986, this is my Christmas present,
2 and this one is also a Christmas present. He gave me the same

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1 amount. He gave me \$500 in -

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oh, I'm sorry, this one says

2 November 26 of '87. This wasn't a Christmas present.

3 December 25 of '86 was a Christmas present.

4 The money on November 26, if I may explain, was to buy

5 a Christmas present for other people for him. I bought his

6 Christmas presents for him.

7 Q. Now, Ms. Dean, to your knowledge, was Mr. Mitchell backing

8 you to be assistant secretary for Community Planning and

9 Development?

10 A. Well, "backing" really isn't a right word. When I ran into

11 trouble with my confirmation and with Senator Proxmire, I went to

12 John for help in how to work my way through the problems, and so

13 I asked his advice, but Mr. Mitchell at that time didn't have a

14 lot of political -- there was nothing that he personally could do

15 to help me.

16 He did, I believe, try to make one phone call to

17 Senator Gam, and Senator Gam had told him that he could not

18 discuss it with him. But he did try to help me and advise me on

19 who to talk to and what to do. It didn't work.

20 Q. Ms. Dean, I'd like to show you Government's Exhibit 542 for

2 purposes of identification. I'd ask you to look through that

2 and, if you would, tell the Ladies and Gentlemen of the Jury

2 whose handwriting that is.

2 A. Well, the first one is Mr. Mitchell's handwriting. The

2 second one is Mr. Mitchell's handwriting. The third one is

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1 Mr. Mitchell's handwriting. I believe this one might be

2 Mr. Mitchell's handwriting. That's a little shaky.

3 This one is not. I think you most likely know that.

4 It's written to John from Ann McGlaughlin, who was then the

5 undersecretary of Treasury, I believe.

6 Q. Now you mentioned the letter from an undersecretary. Isn't

7 it true that that's written to John Mitchell?

8 A. Yes.

9 Q. And it's talking about you being considered for the

10 assistant secretary for Community Planning and Development?

11 A. Can I look at it? I'm afraid I'm not very familiar -- thank

12 you.

13 Yes, apparently she made a phone call to Bob Tuttle and

14 said that he told her I would definitely be considered but there

15 were other candidates.

16 Q. Does that refresh your recollection as to whether John

17 Mitchell was trying to help you out in gaining the assistant

18 secretary position?

19 A. Well, I think that he asked Ms. McGlaughlin to make a

20 telephone call to Bob Tuttle, yes.

2 Q. And I'd ask you --

2 A. I don't want to appear to be saying that he didn't help me

2 in any way he could. I'm sure he did. I just don't know how he

2 could have helped me very much.

2 Q. Well, did he know a number of senators at this time?

1 A. No, the notes you're looking at, those are notes that he

2 took from a phone conversation with me where I told him what I

3 was doing and who had contacted different senators and things

4 like that. I think the only senator that he knew at that time

5 was Senator Gam.

6 Q. Do you recall him listing a number of people who were going
7 to be contacted in your effort to become assistant secretary for
8 Community Planning and Development?

9 A. Yes. As I said, I think these came from a phone
10 conversation with me, except that I see Mike Karem's name, and I
11 would never have talked to Mike Karem about helping me with
12 anything. So that may have been something that he got from
13 somebody else but not from me.

14 Q. Now, Ms. Dean, did there come a point in time when you were
15 required to submit to a background check in order to become the
16 assistant secretary for Community Planning and Development?

17 A. Yes.

18 Q. And isn't it true that you consented to that background
19 check in order to be nominated for the position?

20 A. You have to, yes.

21 Q. Now did you take umbrage or take offense to the way the
22 investigation went, went on?

23 A. I really did. I was, I was shocked by the actions of the
24 FBI.

25 Q. And you didn't like the way the FBI did the investigation;

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is that correct?

2 A. I was shocked by some of the things they did.

3 Q. Did you complain to John Mitchell about that?

4 A. Yes, I did.

5 Q. And did he go to the FBI in your behalf?

6 A. He made a telephone call to the director of the Federal
7 Bureau of Investigation, yes.

8 Q. And is it fair to say that John Mitchell was able to get the
9 FBI agents who were doing your background check, to get them

10 investigated?

11 A. No.

12 Q. Let me show you Government's Exhibit 544 for identification.

13 A. I wish he could have.

14 Q. Ms. Dean, let me show you Government's Exhibit No. 544 for
15 identification. And who did Mr. Mitchell contact at the FBI?

16 A. I've never seen this before, so I'm going to read it, with
17 your indulgence, just so that I --

18 Q. Go ahead.

19 A. Well, it doesn't say who he contacted. I mean, I understood
20 that he contacted the person who was the head of the FBI, who at
21 that time was Judd Clark? Is it Clark?

22 Q. Webster?

23 A. Webster.

24 And then he gave to them notes that I had made of
25 things that the FBI had repeated to Secretary Pierce, and there

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1 were other things. And then the FBI sent two people to see, to
2 come see me and asked me did I feel that the FBI agent who had
3 done it had done anything strange, and I said I thought that,
4 that they had, that the FBI agent himself was very strange.
5 Every time I saw him, he had a different color hair, which was
6 very odd.

7 And it turned out that he had been the driver for
8 Mr. Webster at one point, and Mr. Webster had gotten rid of him
9 and said, "You go do personnel stuff."

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10 And then I get him. And I'd meet with him one day, and
11 he'd tell me that he was auditioning for the SWAT team, and then
12 the next time he came in, he wanted something --he was a very
13 odd individual.

14 And there were a lot of allegations that were very
15 strange floating around, and this agent felt that it was in his
16 purview of his job to repeat every crazy thing someone said to
17 every person he interviewed, and I went from being a lesbian to
18 sleeping with everybody in the department, to being everybody's
19 girlfriend and mistress, to extorting money, and I thought this
20 was doing my career a great deal of damage.

2 Q. Is it fair to say, Ms. Dean, that when you didn't like the
2 way the investigation was being conducted, you went to John
2 Mitchell?

2 A. I went to Secretary Pierce. Secretary Pierce met with them.
2 He was shocked by what they said to him. I complained to a

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1 person who I considered to be my mentor/father-like person, who
2 had had some dealings as the attorney general with the FBI. He
3 wasn't surprised in the slightest that there are some strange FBI
4 agents out there.

5 And the next thing I know, he turned over the notes I
6 had given him of the meeting that they had had with Secretary
7 Pierce, and they came and interviewed me. But I don't think
8 Mr. Mitchell attempted to do anything to the FBI agent himself.
9 Q. Is it fair to say, Ms. Dean, when you didn't like the

10 investigation, you went to John Mitchell?

11 A. I answered your question, yes. Yes.

12 Q. Now speaking of John Mitchell, while you were employed at
13 HUD, would you meet him occasionally for lunch?

14 A. I believe I was still employed at HUD when I had lunch with
15 he and Mr. Wynn, and I know I had lunch with him with Mr. Shelby.
16 I don't believe I ever had lunch with Mr. Mitchell when it was
17 just the two of us and I was at HUD. I really didn't get to know
18 Mr. Mitchell very well until after I left HUD. Then we became
19 very close. We weren't actually that close when I was at HUD.

20 Q. Ms. Dean, when you would meet on those couple occasions that
21 you've stated you had lunch with Mr. Mitchell, when you'd meet
22 him for lunch, how would you get there?

23 A. I'd either drive there -- I might have taken a HUD car there
24 if I was meeting him with somebody else. I might have taken a
25 taxicab, I don't recall. I think that I only had those two

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lunches.

2 Q. Well, the two lunches would have been with Mr. Shelby and
3 Mr. Wynn?

4 A. Yes. And I have, I have no idea how I got to either one of

those.

6 Q. Now you know there's a stipulation in evidence as to the
7 testimony of Ronald Reynolds; is that correct, a HUD driver?

8 A. The HUD driver, yes.

9 Q. And do you recall what that stipulation is?
10 A. That he had driven me to several restaurants in town.
11 Q. Do you recall exactly what it said, by any chance?
12 A. Yes. It said that he would, if he testified, had driven a
13 car or I'd been dropped off at restaurants.
14 Q. Now it would not have been proper to use HUD, a HUD vehicle
15 to have lunch with John Mitchell, would it?
16 A. No, I don't think so. I think you'd be absolutely right.
17 Q. And it would not be proper to use it if you had lunch with
18 John Mitchell and Richard Shelby or Mr. Mitchell and Mr. Wynn; is
19 that correct?
20 A. Yes, I think you'd be correct.
21 Q. Those would be social functions?
22 A. Yes.
23 Q. And is it fair to say that a number of HUD employees --
24 well, let me withdraw that. Am I correct that it, is it fair to
25 say that a HUD employee was once disciplined --or admonished is

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1 a better word --by you for using the HUD motor pool for personal
2 reasons?
3 A. Yes. He had taken a -- he had gone on a date and taken a
4 HUD car, and I admonished him very seriously for that.
5 Q. Ms. Dean, you have never met Martin Fine, is that correct,
6 prior to the trial today?
7 A. I don't believe so, no. He didn't look familiar to me at
8 all.
9 Q. Do you recall through him a number of exhibits were

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10 introduced by the government?
11 A. No, but --
12 Q. Let me just, you might recall that he had a number of
13 memoranda?
14 A. Yes, I've read all of Mr. Fine's memos to himself, yes.
15 Q. Ms. Dean, I'd show you what's been marked as Government's
16 Exhibit 85 for purposes of identification --in evidence, excuse
17 me. Can you read that, please?
18 A. Yes. It says, "At about 4:30 today, Eli Feinberg called me
19 and said that he had a very good telephone conversation with Rick
20 Shelby. Rick said that he had lunch with his friend at HUD and
21 that she indicated that this matter could be dealt with in a
22 favorable manner. She requested certain information about the
23 length of ownership of the property, et cetera.
24 "Eli feels that this will not present a problem, and he
25 feels that it will be satisfactorily concluded."

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1 Q. Ms. Dean, to your knowledge, are you Mr. Shelby's friend at
2 HUD?

3 A. Well, I have no idea. I do know that, excuse me, I do know
4 that that memorandum is dated very closely to a lunch that I had
5 with Mr. Shelby, and so I've always assumed that I could very
6 well be that person, but I may very well not be that person,
7 since I don't know what it's referring to.

8 Q. And in fact, according to Government's Exhibit 7B in
9 evidence, did you have lunch with Mr. Shelby on February 3, 1986?

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10 A. Yes.

11 Q. And is that the same date as this memorandum?

12 A. Yes, it is. But as I said, I mean, I can make the
13 assumption as well as you can that that is me and that he
14 discussed something about some issue that he thought could be
15 resolved. I have no idea what the issue was.

16 And as I said before, he asked me a lot of questions,
17 excuse me, he asked me a lot of questions about things that he
18 was working on, and I tried to answer them the best I could.

19 Q. But he never mentioned he was a paid consultant on Park
20 Towers?

21 A. I assumed that he was being paid for whatever information he
22 was asking me about or that it was in some way going to help his
23 business, which I assumed he was being paid for, but I will tell
24 you for I think it is now around the fifth time I don't ever
25 recall talking to Mr. Shelby about a project called Park Towers.

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1 Q. Ms. Dean, I'd like to show you what's been previously
2 entered into evidence as Government's Exhibit 74. Do you recall
3 seeing this, ma'am?

4 A. Well, it's addressed to me and signed, I assume, by
5 Mr. Shelby. It's from the Keefe Company. I don't see the
6 signature. I assume that it's signed by Mr. Shelby.
7 And I am certain that I did receive it. I'm sure it
8 has a stamp on it and everything that says it was received.

9 Q. Can you read the body of the letter, please?

10 A. "Merely a note to thank you for taking the time from your
11 frenetic schedule to have lunch with me last week. It was
12 wonderful to have an opportunity to get to know you better, and I
13 especially appreciated your advice and counsel relative to
14 certain areas that we should focus our attention on over the
15 course of the next few months." That was in reference to
16 coinsurance; I remember that. "In fact, at your convenience --"

17 Q. Does it say that, ma'am, in the body of the letter?

18 A. No. I remember it -- I mean, I'm now remembering the
19 letter, so I thought I would share with you.

20 Q. Thank you.

2 A. "In fact, at your convenience, I would very much like to

2 take advantage of your kind offer to sit down with certain of
2 your technical people in order to learn more about the
2 coinsurance program. I will be out of town the first few days
2 next week but will give you a call when I return to determine

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1 what might be a convenient time.

2 "Again, many thanks for your thoughtful consideration.

3 I look forward to seeing you again in the near future.

4 "With best wishes and kindest regards. Sincerely,

5 Richard D. Shelby."

6 And I said, "Thank you. Hope to see you soon."

7 Q. Now you remember getting this letter from Mr. Shelby?

8 A. Yes. As I could read it, I do recall, yes.

9 Q. Ms. Dean, I'd now show you Government's Exhibit 92 already

10 in evidence, and I'd ask you if you recall getting this letter
11 from Mr. Shelby?

12 A. Isn't that the last thing? Isn't that the same one that we
13 looked at before?

14 Q. No, ma'am.

15 A. "All that time which you have necessarily expended on my
16 behalf"?

17 Q. Are you having trouble reading it? Let me read it to the
18 jury.

19 A. Okay.

20 Q. Dated 12-1. "Dear Debbie: Merely a note (long overdue) to
2 let you know how very much I appreciate all that time and effort

2 which you have necessarily had to expend on my behalf over the
2 course of the past few years. In a relative sense, a simple
2 thank-you seems terribly inconsequential and thus irrelevant, but
2 please accept it as such, with the assurance that I hope to be

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1 able to reciprocate in some small way at some future point in
2 time.

3 "I also wanted to thank you again for your

4 thoughtfulness in thinking to include me in your Thanksgiving

5 plans. Needless to say, I was greatly disappointed that a prior

6 commitment made it impossible for me to take advantage of your

7 kind invitation. I hope that you and your family had an eventful

8 holiday.

9 "Again, more thanks for all your help and, even more

10 importantly, for your friendship.

11 "Kind regards, Rick."

12 A. I do remember that letter, yes.

13 Q. Would that have been December of 1986?

14 A. Yes.

15 Q. When Mr. Shelby states, "I hope to be able to reciprocate in
16 some small way at some future point in time," do you recall any

17 conversations with him about that?

18 A. No. As I recall -- I mean, this is exactly what I was

19 trying to say, Mr. O'Neill. He did ask me a lot of questions,

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20 and I did try to answer them as much as I could and make him as
2 technically proficient as possible, and I invited him for
2 Thanksgiving because I thought that might be something
2 Mr. Mitchell would enjoy.
2 Q. Ms. Dean, I'd now show you Government's Exhibit 91. Do you
2 recall this, ma'am?

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A. Is this the telegram to the white House?

2 Q. Yes.

3 A. Yes, I recall it.

4 Q. Is this signed by Mr. Shelby along with a number of other
5 people?

6 A. Yeah. It's all of the regional political directors of the
7 Reagan-Bush campaign.

8 Q. Is this the way Mr. Shelby was going to reciprocate and help
9 you?

10 A. I would say that probably he was very helpful. I think he
11 was the person who drafted the telegram and got everyone else to
12 sign it.

13 Q. And he was a political heavyweight?

14 A. I would say he was a political mid-weight.

15 Q. Now, Ms. Dean, during your direct examination, you mentioned
16 an individual by the name of Clifford Brown.

17 A. Yes.

18 Q. Do you recall him?

19 A. Yes, I do remember Mr. Brown.

20 Q. And you stated that he was good friends with John Mitchell?

21 A. I didn't say he was a good friend. I said that I knew that
22 Mr. Brown, through a conversation with me, had said that he knew
23 Mr. Mitchell. I had a longer conversation with Mr. Harris, who
24 replaced him, about Mr. Mitchell.

25 Q. And do you recall that Clifford Brown knew John Mitchell for

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some time?

2 A. He didn't tell me how long he had known Mr. Mitchell. I
3 assume that Mr. Brown was a very political person himself, and I
4 assume that he knew Mr. Mitchell from the Nixon campaign.

5 Q. Well, didn't he tell you that -- well, didn't you testify
6 that they both knew both Mr. Harris and Mr. Brown knew John
7 Mitchell very well from the Nixon Administration?

8 A. I believe I may not have put it in those exact words, but I
9 know how Mr. Harris knew him, and, because we had a long talk

10 about that, but Mr. Brown, I believe, knew him from those days.

11 Q. Does this refresh your recollection as to whether it's those
12 exact words?

13 A. "How about the name Clifford Brown?"

14 "Yes, the regional administrator in Region IV, Clifford
15 Brown knew John and so did Ray Harris, who took his place as
16 regional administrator. They both knew John well from the Nixon
17 Administration."

18 Q. Do you know whether Clifford Brown and Louie Nunn were
19 friends?

20 A. Do I know it now or did I know it then?

- 21 Q. Did you know it at that time?
22 A. No, I did not.
23 Q. Were you and Cliff Brown friends at that time?
24 A. Mr. Brown was very elderly. I had a lot of respect for
25 Mr. Brown. I was very nice to him, but I wouldn't have

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considered him a friend.

- 2 Q. What was his position at HUD prior to his retirement?
3 A. I believe that he was the regional administrator for Region
4 IV.
5 Q. Did you go to his retirement party?
6 A. Yes, I did. I represented the secretary there.
7 Q. Do you recall that he wrote you a thank-you note?
8 A. Not particularly, no.
9 Q. Do you recall him saying in the note, "I would like for our

10 friendship to continue to ripen and would hope that some of us
11 with mutual interests such as Louie, John, you, and me will have
12 the opportunity to fraternize at some convenient location in the
13 beautiful sunny South"?

14 A. No, I don't remember that at all.

15 Q. Let me show you a document previously marked as Government's
16 Exhibit 543 for purposes of identification, and I'd ask you if
17 that refreshes your recollection as to what he said to you?

18 A. Well, he definitely said that, and he probably assumed that
19 I knew Louie Nunn, if that's Louie Nunn. It may be Louie
20 Kitchin. But I assume it's Louie Nunn, although doesn't he spell
21 his name differently? I think he does. I don't -- this is
22 L-o-u-i-e.

23 I'll go with you and say it's Louie Nunn, and he
24 probably assumed that I knew him. But I don't have many
25 conversations with Mr. Brown, so --

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1 Q. And is it your testimony that you did not know Louie Nunn at
2 that time?

3 A. What is the date of that? That's, only so that I can be
4 absolutely certain.

5 April 10 of 1986, unless this meeting at Mr. Wilson's
6 good-bye party was something that I should remember -- and I
7 don't -- I

did not meet Governor Nunn to look at his face and
8 know who he was until I had left HUD and had a meeting with him
9 about the Bush campaign.

10 Q. Ms. Dean, isn't it true you knew Governor Louie Nunn since
11 you were a child?

12 A. No, I, I remember once I said that to a reporter, and I
13 misspoke.

14 Q. Is that a reporter who's sitting in the courtroom today?

15 A. Well, I asked him the other day if he was the reporter that
16 I had given an interview to years ago. I knew who Louie Nunn was
17 since when I was a child. I did not know Louie Nunn since I was
18 a child.

19 Q. But did you make that statement to the reporter back then?

20 A. Well, I, I read it in his article, and I'm going to assume
21 that he probably takes good notes, although I certainly have read

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22 interviews that I've given to other people that weren't actually
23 as accurate as I would have liked them to be.
24 Q. The question is did you tell Mr. Brown of the Louisville
25 newspaper that you knew Mr. Nunn since you were a young child?

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1 A. Well, I don't actually remember. I know that I have heard
2 of Louie Nunn, because he was rather famous. There weren't that
3 many governors of the prominence of Mr. Nunn in Kentucky that
4 were Republican. But I had never met Louie Nunn that I can
5 remember until the time that I had lunch with him about the Bush
6 campaign.

7 Q. Do you recall telling Mr. Brown, the same reporter, that
8 Governor Nunn only spoke to you about one project while you were
9 at HUD and it never got approved?

10 A. No, I don't remember saying that, but the only thing I can
11 imagine that would have been would be the HODAG that we talked
12 about the other day.

13 Q. And do you also recall telling him that you and John
14 Mitchell never discussed any HUD business?

15 A. Yes.

16 Q. Was that true?

17 A. As far as Mr. Mitchell having any interest in a HUD project,
18 no, I don't ever remember discussing anything with John. I did
19 not discuss anything with John, and I don't consider John
20 interceding for Mr. Nunn as discussing HUD business with
21 Mr. Mitchell.

2 And also, there were a lot of other inaccuracies in
2 that article, too. I was very upset. I accused Governor Nunn of
2 lying about the whole thing, that he never paid John Mitchell,
2 because I didn't believe that John Mitchell ever had been paid,

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1 and I was in a state of shock about the whole thing, and I gave
2 an impromptu interview I probably shouldn't have done, and I've
3 come to learn a lot of things I didn't know then, and some of
4 them hurt a lot.

5 Q. Ms. Dean, do you recall telling a reporter from the
6 Washingtonian magazine that John Mitchell -7

MR. WEHNER: Judge, could we approach?

8 THE COURT: Sure.

(Bench conference on the record.)

10 THE COURT: Yes, sir?

11 MR. WEHNER: I don't know that a newspaper article
12 gives a good faith basis to ask a witness a question about what
13 she may have said to the press. If Your Honor is going to rule
14 that a newspaper article gives a good faith basis, then we'll let
15 it go.

16 THE COURT: Do you want to use the Washingtonian
17 magazine article?

18 MR. O'NEILL: Excuse me?

19 THE COURT: You want to use a Washingtonian magazine
20 article? Come on, there's got to be some better evidence than
21 that, a gossip magazine. I'll sustain the objection.

22 MR. O'NEILL: For the record, we'd object, Your Honor.

23 MS. SWEENEY: For the record, Your Honor, though, it's
24 an interview that Ms. Dean gave after, post-indictment, so it's

25 not a gossip -

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1 THE COURT: Oh, I thought it was an article of
2 Mr. Mitchell.
3 MS. SWEENEY: Oh, no, Your Honor. I thought perhaps
4 Your Honor had misunderstood. It's full of quotes by the
5 defendant.
6 THE COURT: It's an interview she gave?
7 MS. SWEENEY: Yes.
8 THE COURT: I see.
9 MS. SWEENEY: Post-indictment. And my understanding is
10 that she invited the reporter.
11 MR. WEHNER: She what?
12 MS. SWEENEY: Invited the reporter.
13 MR. WEHNER: So what?
14 THE COURT: Okay. Your objection is still you don't
15 think that's a good basis for reading statements of her in quotes
16 that she gave?
17 MR. WEHNER: My objection is that newspaper and
18 magazine articles in terms of quotations are notoriously
19 incorrect and that generally speaking, they are not a proper
20 subject for cross examination of a witness in terms of inferring
21 that somehow that is a prior inconsistent statement on the part
22 of the witness. Statements of FBI agents are one thing,
23 statements in a courtroom or a grand jury heard are something
24 else, but newspaper articles just don't bear the same instant
25 credibility.

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THE COURT: I misunderstood when I made the comment
2 earlier, because I thought it was an article by John Mitchell or
3 something that the prosecutor had found from 20 years ago, but if
4 it's an interview she gave recently, I will allow them to use it
5 for cross examination. I'll allow them to use it for cross
6 examination purposes. It's her own interview that she
7 voluntarily gave after she had notice of the charges.
8 MR. O'NEILL: Judge, just so the record is clear, we
9 did not find a case on point. There is a First Circuit case,
10 Pallotta v. United States.
11 THE COURT: Let me see.
12 MR. O'NEILL: The highlighted portions say while it
13 could not be admitted into evidence, it can be used for
14 impeachment. It could be used for impeachment. However, it's
15 not -the
16 facts are very different. It's not a similar
17 instance.
18 MR. WEHNER: It's going to be an interesting redirect.
19 THE COURT: Okay. Just for the record, that's
20 404 F.2d 1035, a 1968 case, I think it is, from the First
21 Circuit, saying certainly what I just ruled, that they could go
22 ahead and use the personal interview of the individual for cross
23 examination purposes.
24 MR. O'NEILL: Okay.
25 (End of bench conference.)
THE COURT: All right, I've overruled the objection.

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Go ahead.

BY MR. O'NEILL:

3 Q. Ms. Dean, do you recall telling a reporter for the
4 Washingtonian magazine last October that John Mitchell never
5 contacted you for anything?

6 A. Yes.

7 Q. Ms. Dean, I'd like to mention the individual by the name of
8 John Rosenthal.

9 A. All right.

10 Q. Do you recall stating during direct examination that you met
11 with Mr. Rosenthal on the Necho Allen project?

12 A. Yes.

13 Q. And is it fair to say that the meeting was set up by Andrew
14 Sankin?

15 A. Yes.

16 Q. As you stated on direct examination, is it correct that
17 Necho Allen received the exception rents?

18 A. Yes.

19 Q. I will refer you to Government's Exhibit 108 on the visual
20 presenter, and I'd ask you to read that to the jury, please.

21 A. "Andrew has informed me of the very good news. All of us
22 associated with this very exciting development are grateful for
23 the support you have provided in securing exception rents for
24 this project.

25 "After several attempts to close Necho Allen, the

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1 developers, the banks, the city, and the Pottsville Housing
2 Authority have agreed to fix a date for the closing on March 14,
3 1985. The attorneys are finalizing the documents and in
4 preparation for the closing, and Harry Staller at the HUD
5 regional office indicated a willingness to expedite HUD approvals
6 which may be required in order to permit the signing of an
7 agreement to enter into a housing assistant payment contract at
8 that time.

9 "I am leaving for a three-week trip to Indonesia and
10 will be back on March 7, 1985. I would very much appreciate
11 anything that you can do to provide evidence that exception
12 market rents have been granted to the HUD area office so that
13 they may complete the necessary work for the scheduled closing.

14 "I very much appreciate the cooperation that you
15 provided -

you need to put it up a little bit for me -
and

16 pledge that we will do everything possible to ensure that the
17 restoration of this landmark building will spark new life in the
18 redevelopment of the downtown business district.

19 "Sincerely, John B. Rosenthal."

20 Q. Now, Ms. Dean, I'd show you Government's Exhibit 110A, and
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2 is this the document that officially granted the exception rent
2 increase to the Necho Allen project?

2 A. Yes, it is.

2 Q. And that signature of Samuel R. Pierce, Jr. -

2 A. Is an Autopen.

1 Q. That means he did not write that; the machine did, correct?
2 A. That's correct.
3 Q. And is it fair to say that at that time, you authorized the
4 use of the Autopen?
5 A. I authorized the use -- that's my signature that says
6 "Autopen." And then it says "Per Deborah Dean" by my secretary
7 and the date and "Okay." And that should be Dave Turner. And
8 above it is the draft that Mr. Hammernick provided.
9 Q. Now, Ms. Dean, in Government's Exhibit 108, I neglected to

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10 ask you one question while it was on the visual presenter. In
11 the first paragraph, Mr. Rosenthal mentions that Andrew has
12 informed me of the very good news. Would that be Andrew Sankin?
13 A. I would assume so, yes.
14 Q. Did you contact Mr. Sankin about granting the exception
15 rents on Necho Allen?
16 A. I don't know if I did or not. There were so many people
17 working on it, he could have found it out from --he knew
18 Mr. Cushing. He knew Mr. Hammernick. Mr. Hammernick worked for
19 Mr. DeBartolomeis. He knew Mr. DeBartolomeis. He could have
20 found it out from any number of people.
21 He could have also found it out from me.
22 Q. Did you know at that time that Mr. Sankin was a paid
23 consultant?
24 A. I assumed that he was being paid for his work, yes.
25 Q. Is it fair to say you also met with Mr. Rosenthal on the

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1 Regent Street project?
2 A. Yes, it is.
3 Q. And as you testified on direct examination, you met with him
4 a couple times on that project; is that correct?
5 A. I remember having lunch with him. I don't believe we ever
6 met past that one time.
7 Q. I direct your attention to Government's Exhibit 116 in
8 evidence and ask you if you could read that, please?
9 A. "Dear Deborah: I very much enjoyed the conversation at
10 lunch on Friday. It was a very pleasant way to spend the
11 afternoon. I am looking forward to doing it again real soon.
12 "Thank you again for your assistance on the Necho
13 Allen.
14 "Sincerely, John Rosenthal."
15 Q. Do you recall receiving that letter from Mr. Rosenthal?
16 A. Yes, I do.
17 Q. And did Mr. Rosenthal also communicate with you about the
18 Regent Street project?
19 A. Yes.
20 Q. And I'd ask you to read Government's Exhibit 117?
21 A. "Deborah Gore Dean, Re: Regent Street.
22 "Dear Deborah: The City of Philadelphia has advised me
23 that they are willing to commit Section 8 existing certificates
24 to meet the need for 26 additional mod rehab units for the Regent

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25 Street project. I would be very interested in knowing whether or

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1 not these certificates can be assigned to the project so as to
2 assist in obtaining the necessary financing.

3 "As you know, certificates are usually given to the
4 individual tenants for their benefits and move with the tenant.
5 I have heard of examples, however, where the units have been
6 allocated to a specific project. If this is possible for Regent
7 Street, it may enable us to proceed with a single financing -

I
8 lost it -- for the complete job, as opposed to the necessity of
9 breaking the job into phases, as discussed at our luncheon.

10 "I would very much appreciate your advice in this
11 matter.

12 "Sincerely, Mr. Rosenthal."

13 Q. Is he asking you that -
well, when you received this

14 letter, what did you believe he was asking for?

15 A. He was asking for 26 existing housing certificates in lieu
16 of mod rehab, because during the lunch, I had told him I thought
17 that there wasn't a very good likelihood that there would be any
18 moderate rehabilitation funds available. And then I sent, as you
19 know, that to Hunter Cushing and asked him for his advice whether
20 or not that would be wise.

2 Q. When you say you sent it to Hunter Cushing, is that
2 Government's Exhibit 119 that's on the visual presenter at this
2 time?

2 A. Um-hum.

2 Q. And I direct your attention to the handwritten notes on the

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1 left. Is that your handwriting?

2 A. Yes. It says, "Please prepare a written response to John
3 using your points. D.," which is also turning him down for the
4 existing certificates.

5 Q. Now, Ms. Dean, I'd like to show you Government's Exhibit
6 120, already placed into evidence, and ask you if you recognize
7 this, ma'am?

8 A. Yes.

9 Q. And is that a letter from Mr. Rosenthal to you again

10 concerning Regent Street?

11 A. Yes, it is. This one really sticks out, because I remember
12 thinking it was very strange.

13 Q. Can you please read it?

14 A. "It has come to my attention from Mr. Ross Kumagai, fund
15 control -- this is what stuck out as being very odd, how he would
16 know Ross Kumagai -- located on the Seventh Floor of the HUD
17 central office, that there are 30 moderate rehab units which are
18 not committed to any state that may be available to Regent
19 Street. If these units are not committed by September, it is my
20 understanding that they will be recaptured and returned to the
21 Treasury.

22 "As you know, I am in the process of trying to put
23 together a bond issue to complete the rehabilitation of six
24 buildings for low- and moderate-income family occupancy on Regent
25 Street in Philadelphia. Recognizing the importance of this

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1 rehabilitation, the city has committed to fund --" I'm going to
2 step down, if that's all right with you.

3 Q. Sure.

4 A. "... has committed to fund \$2,900,000 of their community
5 block grant funds to accomplish this rehabilitation. The
6 additional 26 units that we have requested from you on a prior
7 occasion is necessary in order to facilitate the financing of
8 this property.

9 "I would appreciate your advising me as to whether or

10 not there is any possibility that we may procure these units for
11 Regent Street at this time. If we cannot obtain these units, our
12 project will have to be broken up into two phases, as we
13 discussed.

14 "The problem with this approach is that I am not sure
15 that the HUD area office will be responsive to providing
16 insurance under the 221D4 program without being assured that the
17 second phase of this development will, in fact, be accomplished.
18 Insurance under the 221D4 program is necessary in order to obtain
19 the interest rate on the financing that is required in order to
20 support the rehabilitation proposed.

2 "I would very much appreciate hearing from you.

2 "Sincerely, John Rosenthal."

2 Q. Is Mr. Rosenthal asking you about the Regent Street project?

2 A. Yes, he is.

2 Q. And does there come a point in time when you respond to him?

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1 A. I believe that there is a letter that goes back to him.

2 Q. I direct your attention to Government's Exhibit 122 and ask
3 you if you'd read that to the jury, please?

4 A. Okay. "Dear John: Please excuse the tardy reply. I was
5 under the impression that we had resolved your question when we
6 last met. I know that on several occasions Andy Sankin has
7 broached the subject of mod rehab units for Pennrose Properties
8 with the department.

9 "Unfortunately, all mod rehab units have been committed

10 for fiscal year 1985. The earliest that any funds could be
11 available would be October 1985. As we discussed earlier,
12 recaptured mod rehab funds must be used for similar same-year
13 applicants or rescinded.

14 "I will be more than happy to discuss your Regent
15 Street project near October 1 (beginning of fiscal year 1986) if
16 you have not already proceeded. Please remember that
17 applications for mod rehab funds far exceed the available monies,
18 and the competition for these units is very intense. I look
19 forward to seeing you again soon.

20 "With best wishes.

21 "Very sincerely yours, Deborah."

22 Q. Now, Ms. Dean, just direct your attention to Government's
23 Exhibit 122. You mention in that letter that, and I'll quote, "I
24 know that on several occasions Andy Sankin has broached the
25 subject of mod rehab units for Pennrose Properties with the

3042

1 department." Is that in the letter?

2 A. Yes.

3 Q. Did you have conversations with Andy Sankin about Pennrose
4 Properties and the Regent Street project?

5 A. No. Would you like me to explain why that's there?

6 Q. Since you've offered, why don't you.

7 A. Yeah. Mr. Rosenthal had called me, and there was a problem
8 with some sort of a consulting agreement between him and
9 Mr. Sankin, and he asked me was it necessary for him to hire

10 Andrew Sankin in order to get Regent Street done, and I said,

11 "Absolutely not."

12 And he said, "Well, he told me that he's been working
13 on it."

14 And I said, "Well, he has not spoken to me, and I don't
15 know if he's spoken to anyone else."

16 And he said -- and Mr. Rosenthal told me he had spoken
17 to someone else. So I did put in the letter that he had spoken
18 to someone in the department. I did not put in the letter that
19 he had spoken to me, because I did not want that impression out
20 there that he had spoken to me. Otherwise, I would have written
2 in the letter he had spoken to me.

2 Q. So at that time, you were aware through Mr. Rosenthal that
2 Mr. Sankin had a consulting agreement with them?

2 A. I was aware that Mr. Rosenthal did not want a consulting
2 agreement with Mr. Sankin, and Mr. Sankin apparently had used my

3043

1 name in some way, and Mr. Rosenthal was upset, and he called me
2 to ask if it was necessary to hire Andy Sankin, and I said, "Of
3 course not."

4 And as a result, Mr. Rosenthal and I always dealt
5 directly on Regent Street, and I never discussed it with
6 Mr. Sankin.

7 Q. Did Mr. Sankin mention to you -- excuse me, did
8 Mr. Rosenthal mention to you how much Mr. Sankin was going to
9 charge him on Regent Street?

10 A. No, he didn't. He just simply asked whether or not it was a
11 necessity to have Mr. Sankin as a consultant to deal with me, and
12 I told him that that was preposterous.

13 Q. And, Ms. Dean, we're talking about the time frame of July of
14 1985, do you recall?

15 A. I thought that might be -- I don't know if that's '85 or
16 '86.

17 Q. Just so the record is clear, Ms. Dean, it was Government's
18 Exhibit 122.

19 A. July 16 of '85.

20 Q. Does there come a point in time, Ms. Dean, that John
2 Rosenthal writes you back a letter in response to your letter,

2 Government's Exhibit 123 in evidence?

2 A. Well, if mine was dated July 16 and his is dated July 18, I
2 don't know whether he could have gotten my reply and written back

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2 to it, but if you'd like me to read it?

3044

1 Q. Go ahead.

2 A. All right. "Dear Deborah: I thank you very much for your
3 letter of -- okay, I'm sorry, he obviously did get it -
your

4 letter of July 16, 1985, and very much appreciate your confirming
5 your willingness to consider the very important request towards
6 the end of September of this year. I want to reemphasize the
7 necessity of obtaining these additional 26 units in order to
8 enable us to proceed with this development.

9 "I would appreciate it if you would advise me as to
10 anything that I could do at this time to provide you with
11 evidence of local support for this project so as to facilitate
12 the approval process for our request at the beginning of the next
13 HUD fiscal year.

14 "I do look forward to seeing you in the very near
15 future.

16 "Sincerely, Mr. Rosenthal -
John."

17 Q. Ms. Dean, am I correct that Regent Street did receive the
18 additional 26 units in funding?

19 A. Well, as I've said before, I now know that they did. I know
20 that twelve units and then -
went that fiscal year that I just

2 told him he couldn't, that they weren't going to go, and then
2 another thirteen went the next fiscal year, and they went to the
2 Philadelphia Housing Authority, and the Philadelphia Housing
2 Authority gave them to Regent Street.

2 Q. Ms. Dean, I direct your attention to Government's Exhibit

3045

1 124, and do you recognize this as the rapid reply document signed
2 by Janet Hale authorizing twelve units to the Philadelphia
3 Housing Department?

4 A. I'm not sure that is the rapid reply, only because it's not
5 really filled in correctly, but it certainly would be a draft of
6 the rapid reply if it's not the rapid reply.

7 Q. Ms. Dean, I'd show you Government's Exhibit 126 in evidence,
8 and I'd ask you if you could read that, please?

9 A. It says, "To: Deborah Gore Dean, Re: Regent Street.

10 "Dear Deborah: I want to take this opportunity to
11 thank you for your cooperation in assisting Regent Street
12 associates with a very much needed thirteen units under Section 8
13 mod rehab funding." So I guess I did receive a thank-you letter
14 for that. "We are working very diligently with our attorneys,
15 underwriters, and the City of Philadelphia to bring this project
16 to a construction start by the end of November.

17 "I very much hope that I can count upon you to provide
18 the balance of the thirteen units required in order to enable
19 this project to go to closing. I realize that these are
20 difficult times and that these units are not easy to come by, but
21 I promise you that they will be put to good use in servicing the
22 needs of the needy in Philadelphia.

23 "Sincerely, John."

24 Q. And does Government's Exhibit 126 have a number of cc's, or
25 carbon copies?

3046

1 A. Yes, Nolan Atkinson, Kernel Dawkins, Mary Ann Holloway,
 2 Andrew Sankin, and Robert C. Totaro.
 3 Q. Do you recall discussing this matter with Andrew Sankin?
 4 A. No.
 5 Q. Based on the documents submitted by the government at this
 6 trial, is it fair to say that Mr. Rosenthal did receive his units
 7 on Regent Street?
 8 A. Yes.
 9 Q. Now let's turn our attention to Philip Wynn.

10 THE COURT: I think if we're going to a new area, I may
 11 call it a day.
 12 MR. O'NEILL: Okay, Judge. That's a good time.
 13 THE COURT: All right. I wanted to finish up the one

14 area.
 15 All right, Ladies and Gentlemen, we're going to do, as
 16 I said before, about 3:00, 3:15, we're going to have to call it a
 17 day. We have the swearing in of the U.S. Attorney, so we have to
 18 go upstairs.
 19 You're going to have the weekend. Again, remember the
 20 overnight/weekend recess admonition. Please don't talk about the
 2 case among yourselves, with anyone else, or let anyone talk to
 2 you. You don't read, watch, or listen to it on television,
 2 radio, or the newspaper if it's carried.
 2 We're going to be back Monday morning at 9:30, and
 2 we'll finish up, I think, the testimony in the early part of next

3047

1 week and complete the case next week. So have a good, pleasant
 2 weekend. we'll be back at 9:30 on Monday morning, all right?
 3 Thank you.
 4 (Jury out.)
 5 THE COURT: All right.
 6 (Recess from 3:12 p.m. to 9:30 a.m., October 18, 1993.)
 7

8 CERTIFICATE OF THE REPORTERS
 9 We certify that the foregoing is a correct transcript of the
 10 record of proceedings in the above-entitled matter.

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

3 UNITED STATES OF AMERICA,

- VERSUS- DOCKET NO.
CRIMINAL NO. 92-181
5 DEBORAH GORE DEAN,
WASHINGTON, D.C.
DEFENDANT OCTOBER 18, 1993

9:45 A.M.
VOLUME XXIV

FILED

TRANSCRIPT OF TRIAL BEFORE

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1 PROCEEDING S
2 THE DEPUTY CLERK: Criminal number 92-181.
3 United States of America versus Deborah Gore Dean. We
4 have Robert O'Neill and Paula Sweeney for the
5 Government. Stephen Wehner for Miss Dean.
6 THE COURT: Do you want to round them up for
7 me?
8 THE DEPUTY CLERK: Yes, someone went to get
9 them, Your Honor.
10 THE COURT: All right. Good morning,
11 counsel. I came out because I had my clerk inquire if
12 there were some preliminary matters. We're waiting for
13 a juror, alternate number four, I guess it's alternate
14 number two now, who is not here.
15 MR. O'NEILL: Judge, may we approach fora
16 moment?
17 THE COURT: Sure.
18 MR. WEHNER: May Miss Dean be excused to go to
19 the ladies room?
20 THE COURT: Sure.
2 (Bench conference)
2 MR. O'NEILL: Good morning, Judge. Probably
2 it's not a big deal, but in talking with Judge Adams
2 over the weekend he thought it should be on the record.
2 After cross-examining Miss Dean on Durham Hosiery Mill

3051

1 there was a break, and there's been a lot of colloquy
2 amongst us, and it's not like amongst everybody, there's
3 nothing in terms of statements to be used, you know,
4 when a defendant makes an utterance, but after the
5 Durham Hosiery Mills she mentioned -I
was sitting with
6 Miss Sweeney and Special Agent Batts at counsel table
7 and she said there's two people you forgot to
8 cross-examine about that and I said, well, who is that,
9 and she said Dave Barrett and the Judge.
10 Frankly, I didn't think anything of it and I
11 still don't, Judge, but in going over -Judge
Adams
12 comes down from Philadelphia on Sundays and we go over
13 the case and we all talk about the case, and that came
14 up and he thought you should be apprised of that. So
15 we're letting you know and -
16 MS. SWEENEY: Actually, Your Honor, she
17 repeated it two or three times. It was a little bit odd
18 and we didn't know what to make of it.
19 THE COURT: Yes, it is. I don't know what
20 she's talking about.
21 MR. WEHNER: I've got to plead ignorance,
22 Judge, and I don't think that means - I think that's
23 meaningless, both from my client's mouth and in terms of
24 the issues in this trial. I just don't know.
25 THE COURT: I don't know what she's talking

3052

1 about except Mr. Barrett is a close friend of mine. If
2 he was intimately involved in the case -
3 MR. WEHNER: His name was mentioned in
4 passing, not as a subsequent player.
5 THE COURT: At least not in this case. All
6 right, thank you for alerting me, whatever it was worth.
7 MR. O'NEILL: That's it, Judge. That was the
8 whole preliminary matter.
9 (Bench conference concluded)
10 THE COURT: We'll make an inquiry as to where
11 this juror is and see how long we're going to wait for
12 her.
13 She got here?
14 THE DEPUTY MARSHAL: Yes.
15 THE COURT: All right.
16 Is everybody ready?
17 MR. O'NEILL: Yes, Your Honor.
18 THE COURT: Okay.
19 MR. WEHNER: Yes, sir.
20 (Jury present)
2 THE COURT: All right, ladies and gentlemen,
2 we're ready to go. Good morning.
2 THE JURORS: Good morning.
2 THE COURT: All right. We'll continue at this
2 time with the cross-examination of Miss Dean.

1 As you recall, she was testifying on Friday

2 when we recessed.

3 All right. Mr. O'Neill?

4 MR. O'NEILL: Thank you, Your Honor.

5 (DEBORAH GORE DEAN, THE DEFENDANT, RESUMED THE STAND)

6 DIRECT EXAMINATION

7 BY MR. O'NEILL:

8 Q Miss Dean, I believe on Friday when you were

9 testifying I asked you about a stipulation from Ronald

10 Reynolds, a HUD driver, and I wasn't able to locate it
11 at that time.

12 A Yes.

13 Q Do you recall testifying on Friday about going to
14 lunch with John Mitchell while employed at HUD?

15 A I said I recalled having lunch with him one time.

16 You have on the calendars that there are two lunches.

17 There may have very well be. I can only recall one.

18 Q Miss Dean, do you recall testifying Friday and

19 being asked the following question and giving the

20 following answer? "Question: Now, speaking of John

2 Mitchell, while you were employed at HUD would you meet

2 him occasionally for lunch? Answer: I believe I was
2 still employed at HUD when I had lunch with him and
2 Mr. Winn, and I know I had lunch with him with
2 Mr. Shelby. I don't believe I ever had lunch with

3054

1 Mr. Mitchell when it was the just two of us. And I was
2 at HUD."
3 A I thought you were talking about Mr. Shelby.
4 A I did have lunch with him and one lunch with
5 Mr. Shelby although the calendar says two lunches with
6 Mr. Shelby. That may be correct. I just remember one.
7 Q Is it fair to say on those occasions you used a HUD
8 driver and a HUD car to take you to lunch with
9 Mr. Mitchell?

10 A I have absolutely no memory at all.
11 Q Do you recall a stipulation entered into if
12 Mr. Reynolds were called to testify he would have stated
13 that he was a driver for the HUD motor pool from 1980 to
14 1989 and during that period of time he drove Deborah
15 Gore Dean to lunch on several occasions when she said
16 she was meeting John Mitchell for lunch?
17 A If I signed that stipulation it should not have
18 been where I told Mr. Reynolds I was having lunch with
19 Mr. Mitchell or with anybody else. I normally would not
20 discuss that with a driver. I know he signed a
2 stipulation where he said he had driven me to
2 restaurants. That's all I recall.
2 Q Miss Dean, let me show you Government's Exhibit 545
2 for identification purposes and I ask if this
2 stipulation does in fact bear your signature?

3055

1 A It -- well, yes, it does, but I don't ever recall
2 having Mr. Reynolds drive me any place where
3 Mr. Mitchell was. I should have been more careful with
4 what I signed Mr. O'Neill. I'm sorry.
5 Q Does it bear Mr. Wehner's signature as well?
6 A Yes, it does.
7 Q And does it bear my signature?
8 A I -- sorry. Yes, and Miss Sweeney as well.

9 Q And Miss Sweeney's signature as well?

10 A Yes.

11 MR. O'NEILL: At this time, Your Honor, I'd
12 like to read this stipulation to the jury.

13 THE COURT: Sure.

14 MR. O'NEILL: "It is hereby stipulated and
15 agreed by and between the United States and the
16 defendant that, one, if Ronald L. Reynolds was called to
17 testify he would testify that from 1980 to 1989 he was a
18 driver for the HUD motor pool. Two, during that period
19 of time he drove Deborah Gore Dean to lunch on several
20 occasions when she said that she was meeting John
2 Mitchell for lunch."

2 Is that what the stipulation says, Miss Dean?

2 A That's what the stipulation says, and that man's
2 testimony also says that he said he was driving me to
2 lunch with Mr. Mitchell and my mother and I never had

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1 lunch with Mr. Mitchell and my mother, and it says all
2 sorts of things in there, and you and my lawyer both
3 agreed that that man wasn't quite normal and instead of
4 having him on the stand we agreed to sign a stipulation.

5 Q Ma'am, I'd ask you to look at this stipulation
6 again and tell me what it says.

7 A It says that if Mr. Reynolds would testify he would
8 testify that he had driven me to lunch on several
9 occasions when I said to him I was meeting Mr. Mitchell

10 for lunch, and I don't believe I would have ever had
11 that conversation with this man, nor can I remember any
12 time of how I got to lunch with Mr. Mitchell, and I only
13 recall having lunch with him twice.

14 Q When you signed this, you agreed that that would be
15 his testimony correct, ma'am?

16 A That that would be his testimony, not the truth,
17 just his testimony.

18 Q He's lying?

19 MR. WEHNER: Objection.

20 THE COURT: Just the way it's asked, I'll
2 sustain the objection.

2 BY MR. O'NEILL:

2 Q Was he lying?

2 MR. WEHNER: Objection.

2 THE COURT: I'll sustain the objection.

3057

1 A Mr. O'Neill, I read -

2 MR. O'NEILL: Judge, is there a question?

3 THE COURT: There's no question pending.

4 BY MR. O'NEILL:

5 Q Did Mr. Reynolds drive you to lunch with

6 John Mitchell?

7 A Not that I can recall. I don't recall any place

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8 Mr. Reynolds drove me.

9 Q You don't recall any place Mr. Reynolds drove you?

10 A Not in specifics. I can - I can recall that

11 Mr. Reynolds was a driver and -

12 Q Let me show you Government's Exhibit 212 already in

13 evidence, Miss Dean, and ask you to look through that

14 and see if that refreshes your recollection as to

15 whether Mr. Reynolds drove you anywhere?

16 A Well, I didn't say that I don't recall that he was

17 a HUD driver, but we had ten HUD drivers and all of them

18 drove me different places. I just don't remember a

19 specific of Mr. Reynolds driving me anywhere, but I will

20 look through it, just as you asked me to, and see if I

2 can find something.

2 Is Ron Mr. Reynolds? I don't see anything

2 here that says Reynolds. It says Ron. Is his name Ron

2 Reynolds?

2 Q Do you know any other driver at the time,

3058

1 Miss Dean, named Ron?

2 A As I said, there were ten drivers and I didn't know

3 all of their names.

4 Q You knew Mr. Reynolds well, didn't you?

5 A I did not know Mr. Reynolds well at all.

6 Q Did you use him a lot as a HUD driver?

7 A No, I didn't. As a matter of fact, I'll look at

8 this and I'll tell you who I did use often.

9 Q Ma'am, I didn't ask you that.

10 A All right.

11 Q Did that refresh your recollection as to using

12 Mr. Reynolds as a driver was the question.

13 A I said before Mr. Reynolds was a driver. All of

14 the drivers drove me different places. Mr. Reynolds was

15 not some special driver and he did not specifically

16 drive me places, nor was he requested in - to be a

17 specific driver for me. I didn't have that sort of

18 authority to have a special driver. I used whoever was

19 available.

20 Q When we recessed on Friday, Miss Dean, I was asking

2 you questions about Philip Winn. Do you recall that?

2 A Well, you were just about - you said Mr. Winn, and

2 then we recessed.

2 Q Is it fair to say you had lunch and dinner with

2 Mr. Winn a number of times?

3059

1 A Yes.

2 Q Do you recall the date -- Miss Dean, do you recall

3 the date December 10th, 1985, meeting with Mr. Winn at

4 Dulles National Airport or International Airport?

5 A I don't recall a specific date. I do remember I

6 did pick him up once at the airport.

7 Q with the Court's permission I would show you

8 Government's Exhibit 5P already in evidence.

9 A It says here to pick him up at Dulles Airport and

10 if that's the day that he came out to our house, I
11 picked him up there and drove him out to our house.

12 Q And did you take him out to Marwood?

13 A Yes, I did.

14 Q what was the purpose of taking him out to your
15 family property?

16 A I asked him as a favor to please come and advise my
17 family of the best way to sell the property.

18 Q Now, you picked him up at Dulles Airport?

19 A I picked him up the day that he went out to
20 Marwood. I don't remember if that's the day, but it says
2 on the calendar that I picked him up, so -

2 Q well, do you recall picking him up at any other
2 time at Dulles Airport?

2 A No, I think I might have picked him up one time at
2 National Airport when he was coming in for an interview

3060

1 at the white House for a position that he wanted.

2 Q That calendar said Dulles, did it not, ma'am?

3 A The one you just showed me?

4 Q Yes.

5 A Yes, it does.

6 Q Is that the day you took him out to Marwood?

7 A I don't remember the day. I remember it was

8 winter, and that says December.

9 Q So is it fair to say that your family was
10 interested in developing their property?

11 A Yes. They still are.

12 Q Now, when you went to your mother's house, how long
13 did Mr. Winn stay there?

14 A Oh, I'd say about two hours, two or three hours.

15 Q Is it fair to say the majority of the afternoon?

16 MR. WEHNER: Objection.

17 THE COURT: It's overruled.

18 A You know, I really don't remember. I'm not even
19 sure if I stayed there the entire time with them. I
20 just don't recall.

2 Q Did you just leave him there, and then return?

2 A Someone else would have taken him back.

2 Q And did you take off the entire afternoon from
2 work?

2 A As I say, I don't remember. I don't recall.

3061

1 Q Do you recall if you took any leave time for that
2 afternoon?
3 A If I was out of the office and I was on personal
4 business, then Mrs. Nettles would have taken care of my
5 leave, yes.
6 Q Mrs. Nettles.
7 A Yes. She did all of my leave and sick leave and
8 annual leave.
9 Q Let me show you a document I've marked as
10 Government's Exhibit 546 for identification and I'd ask
11 you if you took leave on December 10th, 1985 when you
12 went out to Dulles International Airport to meet
13 Mr. Winn and take him to your family property in
14 Maryland.
15 A I have no idea. Can you explain - I can't - I
16 don't even know how to read this.
17 Q The date was December 10th and it was a Tuesday of
18 1985.
19 A How do you make out that that's December 10th
20 besides you're marking on the piece of paper?
21 Q Do you see at the top reflecting when the pay
22 period ends?
23 A Yes, 12-21-85. But, of course, that's for the
24 previous two weeks.
25 Q And would December 10th be in the previous two

3062

1 weeks, Ma'am?
2 A Yes, yes. So if you went 21, 20, 19, 18, 17, 14,
3 13, 12, 11 -- do you have it as a Monday?
4 Q Tuesday.
5 A A Tuesday. Well, this could very well be what this
6 is. I really -I've
7 never seen this form before and it
8 says that I worked eight hours that day.
9 Q So the question is did you take leave on that day?
10 A No, I must -I
11 don't really know. It could very
12 well have been reflected at another time, but I also
13 probably worked eight hours.
14 Q Is it your testimony that you drove out to Dulles
15 Airport, met Mr. Winn at approximately noon, drove to
16 Maryland, and then returned to work and then worked
17 through the evening?
18 A I don't have any specific memory of it at all, I'm
19 sorry. It wouldn't have been uncommon.
20 Q When you went out to dinner with these various
21 people that we've seen in the calendar entries, did you
22 go back to work afterwards, Ma'am?
23 A Not usually, but there were times when I did. I
24 also had an office at home.
25 Q Now, is it fair to say that Philip Winn was dealing
26 directly with you on HUD related matters?
27 A Mr. Winn on three or four occasions sent me notes

3063

1 or information or referred letters to me that were then
2 taken to Secretary Pierce. He never asked me to
3 expedite anything or - that I can recall. He never
4 called me with anything except requests for Mod Rehab
5 and -

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6 Q Now, he wrote you so you would give it to Secretary

7 Pierce, is that correct?

8 A Yes.

9 Q He knew Secretary Pierce because he worked for him,

10 isn't that true?

11 A That's correct.

12 Q Miss Dean, I'd show you Government's Exhibit 228

13 already in evidence. Can you see that, Ma'am?

14 A Yes, it says -- do you want me to read it?

15 Q Sure.

16 A "Dear Debbie, I'm aware of several projects that

17 require Mod Rehab in some western communities that

18 desperately need low income housing assistance. I hope

19 you will look favorably on their projects consisting of

20 250 to 300" -

2 Q Apartments?

2 A It could be apartments. "When you make your

2 funding decisions. I will" - I'm sorry, "I will" -

2 Q Send you?

2 A "I will send you more details shortly." And I guess

3064

1 that must have been - it looks like fax but it must be

2 thanks with an X. "Phil."

3 Q And did he send you that letter?

4 A I don't actually recall that one but I know that it

5 came out of my files, so I assume he did.

6 Q And he sent that to you so that you could give the

7 information to Sam Pierce, is that correct?

8 A Yes, I don't ever recall any other information

9 coming though.

10 Q Miss Dean I now show you Government's Exhibit 229

11 already in evidence and ask you if this is a letter sent

12 to you by Philip Winn?

13 A Yes, "Please find attached application for Clark

14 County Nevada. This community is in dire need of low

15 income housing. I would be most appreciative if you

16 would accommodate Mr. Cottrell," who was the Executive

17 Director of the Housing Authority, "However, 200 units

18 would be adequate. Sincerely, Phil."

19 Q And did Mr. Winn write that letter to you, Ma'am?

20 A Yes, he did, and I do remember that. I do recall

2 it.

2 Q I'm going to show you Government's exhibit 231 in

2 evidence and ask you did Mr. Winn write you this letter?

2 A "Dear Debbie, there is a tremendous need for Mod

2 Rehab Section Eight in Aurora, Colorado. As you can see

3065

1 from the attached letter, the waiting list for low

2 income families is large and growing. I would

3 appreciate it if you could accommodate this need for 150

4 Mod Rehab units per this April 17th, 1986 letter. Thank

5 for your consideration. Phil Winn."

6 Q By the way, Miss Dean, is there an attachment to

7 this letter?

8 A Yes, it's a letter to Mr. DeBartolomeis dated April

9 17th and it's signed by Edward Biga, Executive Director,

10 I guess, of Aurora Housing Authority.

11 Q And is it on Aurora Housing Authority letterhead?
12 A Yes.
13 Q Miss Dean, I show you Government's Exhibit 235
14 already in evidence and ask you if this is a letter sent
15 to you by Mr. Philip Winn?
16 A "Dear Debbie, enclosed please find the request
17 letters for the housing authority that I recently
18 discussed with you. Unemployment is high. The economy
19 poor. Any assistance that you can provide will be most
20 appreciated. Sincerely, Phil." Wait, can I ask you,
2 what is the date on that? 3-26-87?
2 Q Was that right before the April funding round,
2 Ma'am?
2 A Yes.
2 Q Now, Mr. Winn was a developer from Colorado, is

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1 that correct?
2 A Yes.
3 Q Now, is it fair to say that Phil Winn when he
4 testified here said it was common knowledge that you
5 were the person to see if you wanted Mod Rehab units?
6 A I think that a lot of people approached me because
7 they knew that Secretary Pierce wanted people to
8 approach me as opposed to approaching him.
9 Q Now, do you recall your testimony before the Senate
10 in terms of your confirmation hearing stating, "I've
11 never given or approved or pushed or coerced anyone to
12 help any developer. Those funds go directly to the
13 Public Housing Authority.
14 As a matter of fact, I have regular meetings
15 with public housing authorities where I tell them that
16 they should be dealing directly with developers. A lot
17 of times, public housing authorities send developers to
18 HUD. And they meet with people all over the building.
19 It's a tremendous waste of time, and I let them know
20 that, because those funds go to the public housing
2 authorities." Is that your testimony before the Senate?
2 A Yes.
2 Q Was it a waste of time for Philip Winn to meet with
2 you and write letters to you?
2 A Actually I think that's a perfect example of

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1 housing authorities sending developers to HUD and the
2 fact is that Mr. Winn as you can obviously see not only
3 contacted me but he contacted Mr. Demery and he
4 contacted Mr. DeBartolomeis, and you saw Mr. Rosenthal's
5 letter where he was talking to Ross Kumagai, a career

6 federal servant in the funding control division.

7 There were people running all over HUD

8 contacting everybody that they could and we were trying

9 to encourage the housing authorities to take back the
10 responsibility for their programs, but they didn't want
11 to do it and they couldn't do it because there were so
12 few units that for the Housing Authority to get on an
13 airplane, come all the way to HUD and lobby for those
14 units was more money than they thought they could make
15 back for the fees they were getting for the small
16 amounts of units that were going out.

17 So a lot of times, instead of coming
18 themselves they would send the developers, and when I
19 did talk to the Housing Authority officials I told them,
20 look, these things are coming to you and you're placing
2 the onus of these developers on us and it would be

2 better if you would work as Mr. Ballou had done in South
2 Carolina with Senator Thurmond's office, make an
2 appointment, come in, try to get the political and the
2 Housing Authority things together as opposed to

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1 subjecting all of us to all of these developers running

2 around.

3 Q Of course you told Mr. Winn it was a tremendous

4 waste of time, correct, Ma'am?

5 A I asked Mr. Winn on many occasions to make certain

6 that all of his requests came to the Housing

7 Authorities.

8 Q And of course you told Mr. Rosenthal at your

9 meetings with him on Necho Allen-Regent Street that it

10 was a tremendous waste of time to meet with him?

11 A Well, Necho Allen had been funded years before and
12 it was a completely different thing. That is not
13 something that the Housing Authority, except giving its

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14 recommendation to the Regional Administrator, would have
15 done, and you know they did.
16 Q How about on Regent Street, did you tell him it was
17 a tremendous waste of time on that project?
18 A It was not a waste of time for him to come in and
19 lobby, no. On that project it was not because it was
20 eventually rather an exception. He did make a very good
2 case for his project. However, I would prefer to hear

2 the case from the Housing Authority, yes, and had he
2 gone to the Bousing Authority, yes, but for 13 units or
2 12 units the Housing Authority was not going to spend
2 three or \$400 coming into HUD for a meeting. You saw

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1 that they tried to. They were supposed to come in that
2 day and they were snowed in at National Airport. I went
3 ahead with the meeting.

4 Q They were scheduled to come in, they made that
5 effort?

6 A Yes, it was airfare. They could have driven also.

7 Q Are you familiar with an individual by the name of
8 Philip Abrams?

9 A Yes.

10 Q Is it fair to say when he left BUD he became a
11 developer out West?

12 A I think he was with Mr. Winn. My understanding was
13 that the two of them were partners.

14 Q And do you recall mentioning Mr. Abrams on your
15 direct examination?

16 A No, I don't, but I -

17 Q Well, do you recall testifying that while
18 Mr. Abrams was at HUD he funded a project in which his
19 ex-partner was the developer, Mr. Green?

20 A Well, I believe that my testimony was regarding
2 Secretary Pierce's actions when he found that out. Yes.

2 Q And that was because it was a project specific
2 award, is that not true?

2 A No, it was because there was an indication I
2 believe in the Washington Post that Mr. Abrams and

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1 Mr. Green still had some business dealings together and
2 that looked very bad and Secretary Pierce then at that
3 particular point, you know, decided to bring the units
4 back.

5 Q Be had them recaptured, is that not true?

6 A He had them recaptured and they were eventually
7 given back as a result of a lawsuit, yes.

8 Q And did Mr. Pierce consider that that made him look
9 bad, that Mr. Abrams was having business dealings with a

10 person --

11 A Well, I think it turned out that Mr. Abrams was no
12 longer in business with the man, but did it look bad and
13 I thought it was the right thing to do, to bring them
14 back.

15 Q Secretary Pierce, to your knowledge, did he harbor
16 any ill will towards Mr. Abrams as a result of that
17 event?

18 A I don't know.

19 Q In fact, quite the opposite, he harbored absolutely
20 no ill will towards him at all, isn't that true?

21 A I can't say that.

22 Q Well, do you remember writing a letter to
23 Mr. Abrams after he left HUD and was in private
24 business, sending him the Secretary's award for
25 excellence?

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1 A Yes.

2 Q And do you recall writing him in that letter how
3 both yourself and Secretary Pierce send their love to
4 him?

5 A Well, yes, I know I wrote that letter.

6 Q So it's fair to say that he harbored no ill will
7 towards Mr. Abrams, is that true?

8 A Mr. O'Neill, I really don't want to discuss
9 anything that Secretary Pierce might or might not feel
10 about anybody.

11 MR. O'NEILL: Judge, I ask that that remark be
12 stricken, based on extensive direct examination.

13 THE COURT: Based on her direct examination?

14 MR. O'NEILL: Yes, Your Honor.

15 THE COURT: All right, I'll sustain the
16 objection, and I'll strike the comment about
17 Mr. Pierce's feelings about anybody.

18 BY MR. O'NEILL:

19 Q In that letter, Miss Dean, do you recall informing
20 Mr. Abrams about a number of things that you've done
21 since he's left HUD?

22 A Yes, there were several things that he had asked me
23 to -- he left suddenly and -- because of some problems
24 that had occurred while he was there that directly
25 impacted on him and it was the -- the decision was made

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1 that it was better for Mr. Abrams to resign than to go
2 through the investigations that would occur, and he was

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3 the Undersecretary of the Department and he met with me
4 and asked me if I would fulfill several commitments that
5 he had made and I agreed to do that.
6 Q And is it fair to say that in that letter that you
7 never mentioned that Secretary Pierce was behind these
8 decisions or authorized these decisions?
9 A Well, I would give his staff time to find another

10 job and I would make certain that a project that he was
11 doing with the Hasidic Jewish community in New York was
12 seen through. Those decisions had already been made.
13 There wasn't anything to discuss with Secretary Pierce
14 about the staff. However, I did discuss with Secretary
15 Pierce about the Hasidic Jewish community because it
16 required eventually sending another kind of program
17 funds up to New York to replace ones that had lapsed.
18 Q The question is does your letter state anything
19 about Secretary Pierce authorizing these decisions?
20 A Well, Mr. Abrams was the Undersecretary. He knew
2 who authorized decisions in the Department.
2 Q I'll ask you a third time, Ma'am, does your
2 letter -
2 A I don't recall if it did or not, but Mr. Abrams
2 certainly understood -

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1 Q Let me show you Government's Exhibit 547 for
2 identification and I would ask you a question, does your
3 letter state anything about Secretary Pierce authorizing
4 the decisions you're making or talking about in that
5 letter?

6 A No, it doesn't.

7 Q Now, do you recall testifying on your direct
8 examination, Miss Dean, about a funding round in

9 September of 1986 and stating that the Oklahoma project
10 that was ultimately funded was not on the original list?
11 A I know that when I went through your documents and
12 the documents that I found, I could not find anything
13 that came from the Secretary's office that had the
14 Oklahoma funding on it. Miss Zagame's list going
15 downstairs, Mr. Kumagai's list coming back upstairs, the
16 Secretary's changes going back downstairs, I could not
17 find the Oklahoma list -- project on those lists
18 anywhere.

19 Q To your recollection, was it funded or not funded?
20 A Well, there is a 185 for it that was signed, but it

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2 certainly – it's just not on any of the lists that went

2 downstairs, upstairs and back downstairs. So I don't
2 know how it was funded.
2 Q Is it true that Mr. Abrams wrote you on that
2 project and requested funding?

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1 A He might very well have, but I can assure you I
2 didn't prepare the 185. I prepared the list going
3 downstairs, Miss Zagame told you that, and I sent down
4 the changes to the list and I had them approved by
5 Secretary Pierce, and it wasn't on the list.
6 Q Miss Dean, I show you Government's Exhibit 548 for
7 identification. Did Philip Abrams write you on the
8 Oklahoma project in September of 1986?
9 A Yes, he did.

10 Q Now, Miss Dean, you testified earlier both Mr. Winn
11 and Mr. Abrams were part of something called the Winn
12 Group, is that correct?
13 A Yes, that's what I understood.
14 Q And did Lance Wilson join them at some period of
15 time?
16 A According to the I.G. report he did, but I never
17 knew he did until after I read that.
18 Q And did Silvio DeBartolomeis join them after he
19 left HUD?
20 A You know, I really don't know. I know he went to
2 work for them. I don't know if he was ever a partner in
2 their deals or not. The I.G. audit was very vague on
2 that.
2 Q But he did in fact go to work for them?
2 A Yes.

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1 Q Am I correct that this is the same Silvio
2 DeBartolomeis who, according to you, Sam Pierce did not
3 have a lot of respect for?
4 A That is correct.
5 Q Is it fair to say you testified on direct
6 examination that Samuel Pierce was keeping an eye on
7 Silvio DeBartolomeis?

8 A Secretary Pierce kept a very close eye on

9 Mr. DeBartolomeis.

10 Q Is it also fair to say you testified on direct
11 examination that Mr. DeBartolomeis was trying to get the
12 Assistant Secretary position but Mr. Pierce did not want
13 him to have it?

14 A He didn't even want to meet with him about it.

15 Q Is it fair to say that Secretary Pierce wanted
16 Mr. DeBartolomeis out of the Department of Housing and
17 Urban Development, according to your testimony?

18 A There was a certain incident that occurred, as I
19 told you, about two projects in Puerto Rico and a
20 project in Trenton, New Jersey, and I believe that the
2 Secretary had gotten other information on Trenton and

2 was okay to let that one go. He did not want to do the
2 ones for Puerto Rico and eventually said, well, Silvio
2 is not going to be here very long. And that was before
2 Mr. DeBartolomeis had issued his resignation. So from

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1 that I gathered that it was not his desire to have
2 Mr. DeBartolomeis there much longer after this incident,
3 and there were others.

4 Q Miss Dean, do you recall writing a letter to Silvio
5 DeBartolomeis's mother saying that Secretary Pierce wants
6 Silvio for the job, and that you know that personally?

7 A Yes, I - you sent me that letter, and that letter
8 was written about four months after I came to the
9 Department and that was back when I think I had met
10 Secretary Pierce all of twice at that point and maybe
11 three times and every bit of information that was in
12 that letter which I think you could fairly characterize
13 as a love letter -

14 Q To his mother?

15 A Well, it was obvious - I
mean if you read the

16 letter, I said I thought Silvio could be President, for
17 heaven's sakes. I was an idiot then and, you know, I
18 didn't know Silvio, what Silvio was about. I thought he
19 was terrific. And I didn't know Secretary Pierce and I
20 wrote a dumb letter to his mother telling his mother
2 that he was the greatest thing since Hadacol. That
2 doesn't mean that I was right. And when I said that he
2 wanted him for the job I meant - that was at the time
2 he was going to be Deputy Assistant Secretary for
2 Multi-family Housing and you know that because you can

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1 look at the address on the letter and see what my
2 address was then.

3 Q Now, Miss Dean, when you say you didn't know
4 Secretary Pierce very well at that time, is that why you

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5 wrote at that time that he lacks a backbone?
6 A Yes, I did, and I did not know Secretary Pierce as
7 well, and that man has the strongest backbone to stand
8 up to you people of anyone I've ever known.
9 Q Us people?
10 A Us people, the Independent Counsel, yes.
11 Q Now, Miss Dean, let me ask you about Silvio
12 DeBartolomeis. You said that - what you're talking
13 about during your direct examination about how you
14 characterized Silvio DeBartolomeis is different from
15 that letter in 1980 whatever -- what is the date of the
16 letter?
17 A 1980 - early 1983.
18 Q Late '83, September of 1983?
19 A I think it's early '83.
20 Q Let me show you Government's Exhibit 549 for
2 identification purposes. Can you make out the -2
A I said Memorial weekend. Labor Day weekend, so it
2 would have been September of '80 - at that point I
2 would have met Secretary Pierce more times than that
2 then. Maybe seven or eight times. But all that stuff

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1 in that letter came from Silvio. I didn't write a
2 conversation with Secretary Pierce when I was in the
3 Exec Sec about who he wanted for a job or anything else.
4 I was getting all that from Silvio.

5 Q Is it fair to say, Miss Dean, that in July of 1987
6 you were still quite friendly with Mr. DeBartolomeis
7 even though he left HUD?

8 A I tried to be polite with everyone, including
9 Mr. Abrams. Mr. Abrams and I hadn't gotten along all
10 that well but I respected him, and Silvio, when he was
11 in some trouble and not knowing what to do, got very
12 angry with me, then he wasn't angry, then he was angry.
13 But we tried to stay friends, as anybody does who works
14 together, and I spoke to him on occasion maybe once
15 every two or three months from Colorado. He would call
16 to ask how I was doing.
17 Q well, Miss Dean, did there come a point in time
18 where you stayed at his home in Colorado when you went
19 out visiting in July of 1987?
20 A Yes, I went to a wedding that was in Vail, Colorado
2 and I had to stay over the night. I guess I got in late

2 that night or something, and I slept on the couch in his
2 rec room.

2 Q So you were pretty friendly then with
2 Mr. DeBartolomeis, and that's after he's left HUD?

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1 A Yes, I dated him and I knew his family well and I
2 stayed with them and they stayed with me. I didn't
3 think staying on his rec room couch was -- was anything
4 odd.

5 Q Now, when you returned from Colorado, Miss Dean, do
6 you recall receiving information from Mr. DeBartolomeis
7 by Airborne Express concerning a Mod Rehab project
8 called Windsor Court?

9 A No.

10 Q Miss Dean, let me show you what has been marked as
11 Government's Exhibit 550 for identification purposes and
12 I'd ask you if this refreshes your recollection of
13 receiving a package from Mr. DeBartolomeis on Windsor
14 Court when you returned from Colorado?

15 A No, I've seen this before. It says he sent me a
16 package and billed the Federal Express bill to Windsor
17 Court. I've never heard of Windsor Court that I know
18 of. I don't know what Windsor Court is. It says he
19 billed it to them.

20 Q So he's lying about that?

2 MR. WEHNER: Objection, Your Honor.

2 THE COURT: I'll sustain the objection the way
2 it's asked.

2 BY MR. O'NEILL:

2 Q Was it untrue that he was sending you information

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1 on Windsor Court?

2 A I don't know what Windsor Court is. If you have
3 something that you'd like me to look at that refreshes
4 my memory that I ever heard of a Windsor Court I would
5 love to do it.

6 Q Do you recall the testimony of Philip Winn?

7 A Yes.

8 Q Did you recall him saying that you told him you
9 were funding Windsor Court for him?

10 A No, I most certainly don't. Did he say that?

11 Q Now, Miss Dean -

12 THE COURT: Go ahead.

13 BY MR. O'NEILL:

14 Q Is it fair to say that you continued to have
15 involvement with Mod Rehab even though you were no
16 longer the Assistant - excuse me. Let me get back a
17 minute. Is it fair to say that even after you left as
18 Executive Assistant at HUD you still had involvement
19 with Mod Rehab, contrary to your testimony on direct
20 examination?

2 A I can't recall anything, no.

2 Q Miss Dean, I show you what's previously marked as
2 Government's Exhibit 551 for identification purposes and
2 I'd ask you if this refreshes your recollection as to
2 whether you were involved in a Mod Rehab meeting in

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1 September of 1987?
2 A No, this is a meeting about the Minority Youth
3 Training Initiative, MYTI. It has nothing to do with
4 Mod Rehab.
5 Rehab. HUD does lots of rehab.
6 Q And was that meeting with Covitz, Demery,
7 Schoenberger, Stokvis, Baugh and Koch, I guess?
8 A Yes, Dr. Cook was the head of Policy Development
9 and Research. Mr. Schoenberger was Mr. Demery's deputy.

10 Mr. Stokvis was the head of Community Planning and
11 Development, and it required all of those offices to get
12 together to do the Minority Youth Training Initiative.
13 Q Now, Miss Dean, you had a personal relationship, as
14 you testified, with Mr. DeBartolomeis while you were at
15 HUD, yes? Correct?
16 A Yes, very early on.
17 Q You also had a business relationship while you were
18 also at HUD? Not outside business. You dealt together
19 on HUD related business?
20 A I don't understand.
21 Q Well, you were employed at HUD the same time he
22 was?
23 A Yes.
24 Q And some funding decisions were made, he'd have to
25 communicate with you, you'd have to communicate with

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1 him, is that correct?
2 A On -for
Mod Rehab, or are you talking about -3
what are you referring to exactly?
4 Q Various issues, Mod Rehab, other matters, other
5 housing related matters?
6 A You mean other things that were in housing?
7 Q Yes.
8 A Yes.
9 Q Are you aware that one of the counts that Mr.
10 DeBartolomeis has pled guilty to was conspiring with you
11 to mislead the public and Congress?
12 MR. WEHNER: Objection.
13 THE COURT: Come to the bench, please?
14 (Bench conference)
15 THE COURT: What's the objection?
16 MR. WEHNER: Judge, it's improper to bring
17 out - it's very improper to try to bring out that
18 another individual pled guilty to conspiracy with the
19 defendant that is on trial. That is absolutely
20 improper.
21 MR. O'NEILL: I have never heard of that in my
22 life.
23 THE COURT: Let me see the foundation of
24 this. You're asking whether or not she knows that he
25 pled guilty to a -

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1 MR. O'NEILL: Conspiring with her, to mislead
Page 1708

2 Congress and the American people.
3 THE COURT: And it's relevant in her cross
4 saying she didn't or she did business with him or
5 whatever, didn't do business with him?
6 MR. O'NEILL: She denied - during
7 cross-examination he talked about her involvement with
8 that act of changing the memo. She's saying she didn't
9 do anything wrong. It goes right to that.
10 THE COURT: What did he say? I'm sorry.
11 MR. O'NEILL: He testified -remember,
there
12 was a memo, Judge, I believe it's Government's Exhibit
13 220, and it was a memo that he went up to the Hill to
14 give some -- there were some changes made. He said it
15 went to Deborah Dean. She made some changes as well. I
16 think it goes right to the heart as to whether she knew
17 there was something wrong with the way the Mod Rehab
18 program was working, that she had an involvement in it,
19 and she took steps to cover up what actually transpired.
20 MR. WEHNER: Judge, if I could respond briefly
2 to that. I think that's a fair hearing of
2 cross-examination. It's the conclusion that because
2 this other individual pled guilty to conspiring with my
2 client that she somehow must be involved in the
2 conspiracy though. I don't have any problem with him

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1 going into the area about the changes in the letters,
2 but the fact that one party being involved in a
3 conspiracy with another is not inculpatory against the
4 person standing trial.
5 THE COURT: The only thing I'm concerned about
6 is there's some kind of improper use of the fact that he
7 pled guilty to conspiracy, meaning she's therefore
8 guilty.
9 MR. O'NEILL: Because she's charged with
10 conspiracy.
11 THE COURT: In a different conspiracy?
12 MR. O'NEILL: I'm trying to think how that
13 concern could be ameliorated.
14 MR. WEHNER: Judge, there is - I don't have a
15 case but I know there is law that holds that that is
16 improper in terms of attempting to get the jury to draw
17 that conclusion. Now, you cannot accept the fact that
18 one person pled guilty to conspiracy with another as
19 inculpatory to the defendant that is on trial.
20 MR. O'NEILL: The question goes, Judge, from
2 the Government's view, as to her basis and knowledge
2 that she's aware of what he did. She has a right, as
2 she's taken every opportunity during cross-examination,
2 to dispute and go on at length as to -2
THE COURT: I just don't want to - an

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1 inference made from the fact that he pled guilty to the
2 conspiracy and he named her, and therefore, she's guilty
3 of other conspiracies here. I think it's fair cross
4 where she denies knowledge of the memo and she says she
5 didn't change it, where he says she changed it.
6 what I'll do is this, why don't you go into
7 the memo, whatever you want to go into, I just wouldn't
8 go into the details of this conspiracy. As I understand
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9 it, it's a different conspiracy than before us.

10 MS. SWEENEY: It is, however, very closely
11 related, Your Honor, to her direct testimony. She has
12 claimed that Congress knew how the program was being
13 run, and here in this particular case she and
14 Mr. DeBartolomeis are getting together to mislead
15 Congress when there's a specific inquiry about an award
16 of a particular case.

17 THE COURT: He can ask her. He can't lay it
18 out -

19 MS. SWEENEY: I didn't want Your Honor to
20 think we were being unfair.

21 THE COURT: No, I think it's very hard to cure
22 even with instructions that someone pled to a different
23 conspiracy where he alleges that she was a part of it.
24 We've got three other conspiracies here. I think you
25 should go into what she did to Congress and leave it at

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1 that. He's already admitted on the stand that he pled

2 guilty to conspiracy.

3 MR. O'NEILL: Yes, Judge, three different

4 charges.

5 THE COURT: You can say that he admitted to a

6 conspiracy count and leave it at that. That's before

7 the jury.

8 MR. WEHNER: Well, Judge, if he asks that
9 question in conjunction with the bell ringing that's
10 already been done that just increases the prejudice.

11 THE COURT: Didn't he admit that he pled to

12 conspiracy before the jury?

13 MR. WEHNER: Yes, but he didn't plead guilty
14 to a conspiracy with Miss Dean. That's the difference.

15 THE COURT: We'll just go ahead with it and

16 you can question him about the note and the memo to
17 Congress and I think you can ask her didn't
18 Mr. DeBartolomeis admit he pled guilty to fraud in
19 Congress. As to him saying it was her who was a
20 co-conspirator, I'll allow the question.

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2 (Bench conference concluded)

2 THE COURT: All right, we're going to rephrase
2 the question.

2 MR. O'NEILL: Thank you, Your Honor.

2 BY MR. O'NEILL:

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1 Q Miss Dean, are you aware that Mr. DeBartolomeis

2 admitted trying to mislead Congress and the American

3 people?

4 A I didn't actually read his agreement but I believe

5 that's one of the things he pled guilty to.

6 Q And did you assist him in that endeavor?

7 A No.

8 Q Did you make any changes to that memorandum that he

9 spoke about during his examination that went to

10 Congressmen LaFalce and Nowack?

11 A You know, I remember seeing the complete file on
12 those letters when I was going through the discovery
13 process and that was before Mr. DeBartolomeis had pled
14 guilty or indicted or whatever and so I didn't know the
15 significance of it. So I didn't copy it at that time to
16 have it to refresh my memory. And the only thing that I
17 remember was a note on it from me to Mr. Cushing that
18 said please give me a complete briefing on this because
19 I was unaware of it. Now, that is just from going
20 through your files and I did not -- as I say, at that
2 time I did not know the significance of it or I would

2 have copied it and I could give you a very complete
2 answer. I have absolutely no memory of Mr. La Falce's
2 and Mr. Nowack's problems outside of when they had a
2 bunch of representatives that came down from New York

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1 and they had a press conference outside the Secretary's

2 office and we couldn't get in and out of our office

3 because they were sort of having a sit-in or something.

4 These General Assembly politicians from New York. And I

5 remember there being a lot of correspondence back and

6 forth from Janet Hale up there. But I certainly would

7 never have told Mr. DeBartolomeis or anybody else to

8 intentionally go lie to Congress. That makes no sense.

9 Q Do you know if anybody else associated with him
10 assisted him in lying to Congress?

11 A If I have no memory of it, how would I know of
12 anyone else?

13 Q Now, Miss Dean, Stanley Arms, where was it located?

14 A It's on 12th Street.

15 Q What's the address?

16 A I don't know.

17 Q Did you ever know the address?

18 A I know how to get there.

19 Q Let me show you, Miss Dean, what's previously been
20 marked as Government's Exhibit 552 for identification
2 purposes and ask you, is this a photo of the Stanley

2 Arms Apartments?

2 A Yes.

2 Q And does that refresh your recollection in any way
2 as to the address of that building?

1 A Well

2 there.

3

4 what the

5

6

7 is

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10

11

12 stipulate

13

14 BY MR. 01

15 Q Now,

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, I can't make it out except for a two in

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MR. WEHNER: Judge, we can stipulate as to
address is.

THE COURT: All right, let's do that.

MR. WEHNER:

MR. O'NEILL:

MR. WEHNER:

THE WITNESS:

MR. WEHNER:

•

If Mr. O'Neill would say what it

If I could read it.
1128?
I really – I don't know.
That's the address. We so

THE COURT: All right.

NEILL:
is it fair to say that you met Andrew Sankin

16 at HUD on several occasions concerning Stanley Arms?
17 A I would say at least twice.
18 Q And you are aware that Bill Morgan was an employee
19 of Andrew Sankin's, is that correct?
20 A Yes.
2 Q And he was working on Stanley Arms as well?
2 A I remember that there was a meeting with Mr. Sankin
2 and Mr. Morgan.
2 Q And did that occur at HUD?
2 A Yes, it did.

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1 Q Miss Dean, let me ask you, and I'll give you your
2 calendars in case you need to refresh your recollection,
3 is it fair to say that your calendars reflect a number
4 of meetings with Andrew Sankin?
5 A Yes, they do, but the only calendar that I can rely

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6 on is 1986, but Andrew Sankin is throughout my calendars

7 and -- yes.

8 Q Let me direct your attention to Government Exhibit

9 Five, specifically to an entry for December 22nd, 1984.

10 And do you recall whether that meeting with Andrew

11 Sankin concerned Stanley Arms?

12 A Are you saying -- you said Exhibit number Five

13 which is a 1985 calendar?

14 Q Yes.

15 A I don't have a meeting on December 22nd.

16 Q '84, at the beginning of the calendar.

17 A No, it says here lunch, Andy Sankin, Rehoboth

18 Beach, and I didn't go, I never attended that.

19 Q How about the meeting on January 29, 1985, would

20 that refer to Stanley Arms?

2 A It says lunch one o'clock, Andy Sankin. And -- it

2 could very well have, I don't recall.

2 Q How about January 31st, 1985, does that refer to

2 Stanley Arms?

2 A Yes, it says Andrew Sankin, Stanley Arms.

3091

1 Q And how long was that meeting for?

2 A Well, it says one o'clock on, and it would have

3 depended on how long the meeting was.

4 Q Is there an arrow covering the rest of the day?

5 A Well, yes, but that's not what that means.

6 Q How about March 15, 1985, would that meeting affect

7 or concern Stanley Arms?

8 A It says lunch with Andy Sankin. You know, as I

9 told you before, I don't recall having lunch with Andy

10 Sankin more than once or twice ever over the whole

11 period of time. So I don't know if I went to this or

12 didn't go. I said before these calendars just aren't

13 worth anything. If it was in 1986 and it said something

14 with Andy Sankin I would tell you it happened, but with

15 these calendars it could happen, it couldn't happen, and

16 I just don't know.

17 Q How about April 22nd, 1985?

18 A It says two o'clock, Andrew Sankin. It just says

19 two o'clock, Andrew Sankin. It doesn't say what it's

20 about.

21 Q How about April 22nd, 1985, would that involve

22 Stanley Arms?

23 A It doesn't say what it's about either. It more

24 than likely as it is Monday, April 22nd and Friday,

25 April 26th, I canceled one and did the other.

3092

1 Q How about August 29, 1985, does that say whether it

2 involves Stanley Arms?

3 A It says 7:30, Andy Sankin. I would guess not. I

4 would assume that was some social thing.

5 Q How about March 12, 1986, that would be

6 Government's Exhibit Seven, was that the book that you

7 say is accurate?

8 A Yes, yes, if it's in this book you have my full

9 endorsement of it. March 12th?

10 Q Of 1986.

11 A It says three o'clock, Andrew Sankin. And it
12 doesn't say what it's about. It could very well have
13 been Stanley Arms.

14 Q How about July 10th, 1986?

15 A July 10th?

16 Q Yes, the same book.

17 A It doesn't have a meeting with Andrew Sankin.

18 Q July 10th doesn't have a meeting?

19 A July 10th says lunch with Liz Pickens, FHA study
20 Group, Undersecretary's conference room, and that's it
2 for the whole day.

2 Q I'll get back to that one, Miss Dean.

2 A All right.

2 Q How about July 23rd, '86 in Government's Exhibit

2 Six as opposed to the other '86 book?

3093

1 A Well, if it's not in this one, I mean -I
just -2

you know, as I said before, these books, I used them
3 because they had been gifts from the Special
4 Assistants. They're not correct. This one is correct,
5 and so anything that's in this book I'd be more than
6 happy to say existed.

7 Q Why don't you do me a favor and look at the one
8 that's not correct, plaintiff's exhibit Six, and I
9 direct your attention to July 23rd, 1986?

10 A Okay. It says dinner with Don De Franceaux, and
11 then in red in my handwriting it says Andy Sankin.

12 Q Do you recall whether you had dinner with Andy
13 Sankin on that date?

14 A No, it says I had dinner with Don De Franceaux, but

15 I have penciled in Andy Sankin. I don't know what it
16 means.

17 Q Let me show you Government's Exhibit UK in
18 Evidence. Does that refresh your recollection you had
19 dinner with Andy Sankin on that night and he paid for
20 dinner in the amount of \$130?

2 A No, it most certainly does not. As I said before,
2 it says dinner with Don De Franceaux. Do you want me to
2 check on this calendar? Dinner with Don De Franceaux.

2 Q So do you recall on which dates you discussed
2 Stanley Arms and which ones you did not at this time?

3094

1 A I would imagine that if he had an appointment -

2 now, I will say that Mr. Sankin was one of my most

3 canceled appointments. If I was doing something, he'd

4 be the first person that I would cancel. If he made an

5 appointment to come see me it was either about he wanted

6 advice as to where to go to school or he was having some

7 sort of personal problem or he wanted to talk about the

8 Stanley Arms.

9 He did talk to me about the Necho Allen
10 Hotel. So during the Necho Allen Hotel times there may
11 very well be an appointment where he came in with

12 Mr. Rosenthal. I know that he did show Mr. Altman the
13 Stanley Arms, and that's in here. I know that says
14 Stanley Arms. But I did not have meetings with
15 Mr. Sankin regarding Regent Street or anything else that
16 Mr. Sankin worked on with HUD because I was unaware that
17 he had worked on Foxglenn or Eastern Avenue until I read
18 it in the newspaper or the I.G. report.

19 Q Miss Dean, as I asked, do those dates refresh your
20 recollection as to whether you discussed Stanley Arms on
2 those dates?

2 A I thought I answered you.

2 THE COURT: well, let's try it again.

2 A No, it doesn't.

2 Q Thank you. Now, as to Alameda Towers, is it fair

3095

1 to say that you knew Thomas Broussard was a consultant

2 on Alameda Towers?

3 A Yes, I did.

4 Q And did you know he was working with Andrew Sankin?

5 A Yes, I did.

6 Q Is it fair to say that Mr. Broussard testified in
7 this Court that he called you to check on Sankin to find
8 out about him after Sankin had called him?

9 A Yes, but I don't remember that.

10 Q You don't remember it, or it didn't happen?

11 A I don't remember it. I'm certain it did happen.

12 well, not certain. I assume it did happen. It makes
13 sense that it would have happened.

14 Q Now, is it fair to say that you told Mr. Sankin and
15 Mr. Broussard of the units in Puerto Rico?

16 A I don't believe I told Mr. Broussard - no, I did
17 tell Mr. Broussard separately and I did have a
18 discussion with Mr. Sankin but I never had a discussion
19 with the two of them together.

20 Q Now, the units in Puerto Rico were the same ones
2 that were recaptured because Joseph Strauss had made
2 Secretary Pierce look bad, is that correct?

2 A They were recaptured because Secretary Pierce
2 wanted them recaptured.

2 Q Because Joseph Strauss made him look bad by getting

3096

1 600 in Puerto Rico where he would stand to make a lot of

2 money, isn't that correct?

3 A I don't think Secretary Pierce brought them back

4 because it made him look bad. I think he brought them

5 back because it was the right thing to do.

6 Q You don't remember testifying on direct examination

7 that those actions made Secretary Pierce look bad?

8 A It was my understanding that it made him look bad.

9 I told Secretary Pierce that it looked bad. But
10 Secretary Pierce in my estimation brought the units back
11 because it was the right thing to do.

12 Q And Joe Strauss was to have gotten paid \$1000 per
13 unit and that was prior to the recapture, correct?

14 A As I told you the other day, and you asked me the
15 same question, I don't know what he was being paid on
16 Puerto Rico. All I know is what Mr. Richards told me he
17 was bragging about, and that was between a thousand and
18 \$1500 per unit is what he said he could get.

19 Q Now, is it fair to say that you knew both
20 Mr. Sankin and Mr. Broussard were going to be paid on
2 Alameda Towers as consultants?

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2 A I assumed that they were going to make some money,
2 yes.
2 Q Well, they're acting as consultants, were they not?
2 A I frankly don't know how they were going to go

3097

1 about doing what they were going to do or how much they

2 would have made.

3 Q Now, both Mr. Broussard and Mr. Sankin kept you up

4 to date on what they were doing on Alameda Towers, is

5 that fair to say?

6 A No, that isn't fair to say. I know that

7 Mr. Broussard attempted to keep me up to date and I kept

8 telling Mr. Broussard not to contact me but to contact

9 Mr. Monticciolo, and Mr. Broussard called me many many
10 times but I didn't return his phone calls. And he did
11 send me this one letter but I did not have in-depth
12 conversations with Mr. Broussard.

13 Q Miss Dean, let me show you Government's Exhibit 137
14 and I ask you if this is a letter from Tom Broussard to
15 Dear Debbie?

16 A Yes, "Dear Debbie, enclosed is a check for a
17 thousand dollars from Andy Gurley at Morgan Stanley for
18 the Fair Housing Committee for Los Angeles. I may be
19 slow but I'm persistent, and then I spoke to Joe
20 Monticciolo regarding Puerto Rico and he is putting you
2 in contact" - or "putting me in contact with a group in

2 old San Juan that is working on units through Joe and
2 D'Amato. I think Andy S. and I would be better with
2 them than Andy's first contact. I'll speak to you when
2 I return from Europe on January 24. Sincerely, Tom."

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1 Q And Mr. Broussard wrote that letter to you?

2 A As I said, he kept attempting to keep me up to date

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3 but I did not want to deal directly with Mr. Broussard

4 and I would have him deal with Joe Monticciolo, just

5 what he says in the letter, that he's been speaking with

6 Joe Monticciolo, who put him in contact with the group

7 in Puerto Rico, which is exactly the way it was supposed

8 to work.

9 Q Let me ask you this, Miss Dean, in that letter does
10 he refer to an Andy S.?

11 A Yes, and I'm sure he's referring to Andy Sankin.

12 Q And does he talk about Andy S's first contact?

13 A Yes.

14 Q Do you know who that was?

15 A I have no idea.

16 Q Now, isn't it true that you were helping both
17 Mr. Broussard and Mr. Sankin to insure that they would
18 receive 150 units for a client, whoever that client
19 might happen to be?

20 A That's absolutely not true.

2 Q Let me show you - let me show you a document

2 that's been marked for - Miss Dean, I would show you

2 Government's exhibit 138 for identification purposes.

2 Is it fair to say that Mr. Broussard and Mr. Sankin went
2 to you and wanted you to tell Mr. Monticciolo that

3099

1 Mr. Rubi would only get 300 units if he worked with
2 Broussard and Sankin?

3 A I'm sure -

4 MR. WEHNER: Judge, could you give Miss Dean a
5 chance to read the entire pages before he asks questions
6 about it?

7 THE COURT: Sure, read the rest.

8 MR. WEHNER: Thank you.

9 A Okay. Would you like me to read it to the jury?

10 THE COURT: No, the question he asked you was
11 about your intercession to Mr. Monticciolo to inform
12 Mr. Rubi about the units.

13 A It doesn't say Mr. Rubi at all. It says that they
14 would have to tell Mr. Monticciolo all sorts of things,
15 they would get General Counsel's approval. That doesn't
16 mean I did it. It's just what they would like me to do
17 and I didn't do it and I didn't fund Mr. Winn's Oklahoma
18 project either.

19 Q Mr. Winn had no Oklahoma project, did he, Ma'am?

20 A You just showed me a letter and said -2

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1 Q You're talking about Philip Abrams.
2 A Okay, I didn't fund Mr. Abrams' Oklahoma project
2 either.
2 Q Now, they did ask you for your intercession, did
2 they not?

3100

1 A Mr. O'Neill, I don't know anyone who doesn't ask me
2 for my intercession. It doesn't mean it happened.
3 Q I'm asking about Mr. Broussard and Mr. Sankin.
4 A I don't know who this belongs to. It look likes
5 Mr. Broussard's handwriting. I've looked at a lot of
6 documents. I don't even know what it is that you are
7 trying to get me to say. I did not tell Joe Monticciolo
8 to do anything except get those units out, find a
9 developer and don't let those funds be recaptured. That

10 was it.
11 Mr. Broussard and Mr. Sankin were not the only
12 developers that we were talking to. They're not the
13 only people Mr. Monticciolo was talking to. It just
14 didn't happen the way you want it to look.
15 Q Miss Dean, let me ask you a question about these
16 150 units. Isn't it true that Mr. Rubi had Alphonse
17 D'Amato's, the Senator from New York, support for 150
18 units?
19 A How in the world would I know that?
20 Q I'm asking you, Ma'am.
2 A No, as a matter of fact, there were 300 units in
2 Puerto Rico. How this 150 - 150 thing came up I have
2 no knowledge. Anybody who had a 300-unit project could
2 have gotten 300 units. There was no necessity to split
2 into one 150 or no reason not to split it into six units

3101

1 of 50 each. Anybody who came in with a project that
2 could have used those 300 units, whether it was one
3 developer or 15 developers, we were more than happy to
4 work with them as long as those 300 units didn't get
5 recaptured.
6 Q Didn't Andy Sankin and Tom Broussard ask you to
7 guarantee them 150 units and tell Joe Monticciolo that?
8 A Well, I'm certain the note that Mr. Broussard said
9 was his way of trying to get me to do that, but I

10 didn't. It would not have been the right way to do it,
11 and I didn't do it that way.
12 Q Let's talk about Foxglenn, Ma'am.
13 A All right.
14 Q The next project. Did you suggest that Mr. Sankin
15 work with Richard Shelby on that project?
16 A No, I did not.
17 Q Did you suggest that Mr. Sankin work with
18 Rick Shelby as a consultant?
19 A Yes, I told Mr. Sankin that I felt he ought to get
20 a job with somebody that knew what they were doing so
21 that he could learn something about the housing business

22 that he seemed to want to go into.
23 Q And you knew that Mr. Shelby was a consultant and
24 you suggested his name?
25 A I suggested several people's names and, yes, I told

3102

1 you on Friday, I knew Mr. Shelby was being paid for work
2 he did with HUD. I didn't know how much he was being
3 paid, but I knew he was being paid.
4 Q Now, did you know Mr. Sankin and Mr. Shelby were
5 working on the Foxglenn projects?
6 A No, I did not.
7 Q And is it your testimony that neither one of them
8 ever broached the subject of Foxglenn with you?
9 A Now, you know that that is not my testimony. I

10 told you before that Mr. Shelby may very well have
11 discussed Foxglenn with me or he may very well have
12 discussed his interest in a project in Maryland. I just
13 don't ever recall the name Foxglenn. I don't recall the
14 name Park Towers. If Mr. Shelby was working on
15 something, I had lunch with him every two to three
16 weeks, I'm sure he told me he was working on something
17 but he didn't ask for my help. He did ask me a lot of
18 questions. He had never mentioned anything about
19 Foxglenn to me that I can recall.
20 Q When you were having lunch during this period then
2 he wasn't referring – he wasn't asking any questions
2 about Foxglenn that you can recall?
2 A I cannot ever remember Mr. Shelby saying the words
2 Foxglenn or Park Towers. He might have said I'm working
2 on a Mod Rehab project in Maryland. He might have said

3103

1 I'm working on a Mod Rehab project in – or he might
2 have said I'm working on a project or a proposal. He
3 might have asked me questions, but he never asked me for
4 my help to do anything on Mod Rehab until he came to me
5 on the 88 units in Prince Georges County.
6 Q Do you recall Mr. Shelby's testimony that he did
7 ask for your help on the Foxglenn project?
8 A I believe he said he spoke to Mr. DeBartolomeis and
9 he might have spoken to me. That is what I remember him

10 saying. In both instances. Park Towers and Foxglenn.
11 Q As to Foxglenn, do you recall him saying you were
12 his primary contact at HUD on the Foxglenn project?
13 A Mr. O'Neill, I've looked at the papers for Foxglenn
14 and I've been through them and there is no question in
15 my mind who did Foxglenn Apartments and Silvio
16 DeBartolomeis is all over it, and it was a very special
17 deal. You know it was a special deal. You know how it
18 worked and you know that I did not have anything to do
19 with it.
20 Q Miss Dean, I'll ask again, do you recall
2 Rick Shelby testifying on direct examination that you

2 were his primary contact on Foxglenn?
2 A No, I don't recall him saying that. I remember him
2 saying that he thinks he probably spoke to me about it
2 and that he was talking to Mr. DeBartolomeis. That is

3104

1 what I recall.
2 Q And the first time that you recall Rick Shelby ever
3 asking for your assistance on a Mod Rehab project is the
4 Eastern Avenue project, is that your testimony?
5 A Yes, it is, because I remember it very
6 specifically.
7 Q And that was funded in April of 1987?
8 A That's correct.
9 Q And is it also your testimony you did not vote on
10 that because Mr. Shelby had asked for your assistance?
11 A No, that's not what I said. I said that I spoke to
12 Secretary Pierce about it and I told him that I felt -13
13 first of all, I felt very uncomfortable when Mr. Shelby
14 came to me because I felt that that was - that he had
15 stepped over the line of our friendship. I didn't think
16 it was the right thing to do. That he should have done
17 it the way he did all his other projects, let him come
18 up through the pipeline, not start up with the Committee
19 and work down.
20 I just thought that was the wrong thing for
2 him to do and I talked to Secretary Pierce about it then
2 and he just said, well, see if it comes up from Demery,
2 and when it did come up from Demery, I talked to
2 Secretary Pierce about it again.
2 Two things in mind, one was that it was in my

3105

1 own home state of Maryland and Demery had one in
2 Michigan. I thought the Secretary ought to look at both
3 of those before they went out and, two, it was once
4 again I reminded Secretary Fierce that I had a personal
5 friendship with Mr. Shelby and that I was uncomfortable
6 about it and he turned to me and he said two things.
7 One is you can't ever not fund Maryland just because you
8 come from there. That's not fair either. Let it go.
9 And second of all, is if the project's checked out and

10 if it's legal and Mr. Shelby is in this business, just
11 because you know him is no reason that you can't vote on
12 this project.
13 As it out, I didn't have to, but I would have
14 and I could have, according to my boss, who was the
15 highest authority in the Department and the most ethical
16 person I know.
17 Q He was no longer spineless by this time, is that
18 correct, Ma'am?
19 A Mr. O'Neill, that is so unfair. Now, if you want
20 to talk about Secretary Pierce, we'll be here all day.
2 THE COURT: Let's just listen to the questions
2 and answer the questions.
2 BY MR. O'NEILL:
2 Q Now, let's talk about Sam Pierce for a second, Miss

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2 Dean. Is it fair to say that you have testified

3106

1 essentially that you were just a messenger for
2 Sam Pierce, he made all the decisions on Mod Rehab
3 funding?
4 A I'm going to be very clear about this. Secretary
5 Pierce did not sit down with every single project and go
6 over every project. Let me see the letter, let me see
7 the numbers, let's me see everything you've got on it.
8 He did not do that. He accepted in 1987 the Committee's
9 votes on it for the most part with any input that I knew

10 of or that I had. He asked me to check out what I
11 could.
12 Before that there were things that he had some
13 interest in and he asked that we check them out and fund
14 them, if possible.
15 And there were other ones that he accepted
16 from the Housing Commissioners or the Acting Housing
17 Commissioners when they came up.
18 You are not going to get me to say that he
19 made every single decision based on all of the knowledge
20 that was out there to be known, because he didn't do
2 that. But, on the other hand, I wasn't running HUD or
2 running the Mod Rehab program either.
2 Now, the truth lies in between where you want
2 it to be and where it is. Okay? I mean the truth is
2 there. You just don't want to hear it.

3107

1 THE COURT: Just answer the questions, all
2 right, please?
3 THE WITNESS: I'm sorry.
4 BY MR. O'NEILL:
5 Q Now, Miss Dean, the jury -- you've mentioned
6 Mr. Pierce on a number of occasions. They've heard
7 nothing about his background. What is Mr. Pierce's
8 background? Let's begin with was he a prominent New
9 York lawyer for a number of years?
10 A Yes, he was a tax attorney.
11 Q And what else do you know about his background
12 before he came to HUD?
13 A Well, I know that he was in the Judge Advocate
14 Corps in the Army. That he went to Cornell University.
15 He was Ail-American. Then he was in New York and he ran
16 for -- he
was part of the -- I don't know if it was the
17 Harlem Republicans or the -- but -- he was up there at
18 the same time that I remember as Adam Clayton Powell and
19 he was in the U.S. Attorney's Office up there, and there
20 came a time when Mr. Powell was being investigated and
2 Secretary Pierce didn't want to be a part of that
2 investigation, so he asked to come down and work in
2 Washington instead and he came down to work for a Senate
2 Committee. Or maybe it was house Committee. I don't
2 remember which one. And then he went to the Department

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1 of Treasury and he was at the Department of Labor and he
2 ran for Judge in New York and was elected Judge and
3 became Secretary of Housing and Urban Development.
4 Q So he was a very prominent individual before
5 becoming Secretary at HUD?
6 A With many years of Government service, yes.
7 Q And he was nominated by, I guess, President Reagan
8 to become the Secretary of HUD?
9 A Yes.

10 Q And, in fact, he became the Secretary very early on
11 and was Secretary of HUD throughout both terms of
12 President Reagan's presidency?

13 A Yes.

14 Q Now, he was in charge of all HUD employees, is that
15 correct, Miss Dean?

16 A Yes.

17 Q How many employees nationwide did HUD have while
18 you were there?

19 A About 4500 is my recollection. It went up and
20 down.

2 Q Did he also have a very heavy travel schedule?

2 A Yes, he did.

2

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3109

Q. Now is it fair to say that as of late 1986, Mr. Pierce was not even familiar with the Mod Rehab Program?

A. No, that's not correct.

Q. Do you recall Susan Zagame testifying that in late 1986, after Tom Demery had already become assistant secretary for Housing, there was a meeting in which Mr. Pierce asked what the Mod Rehab Program is all about? Do you recall that testimony?

8 A. Yes.

9 Q. Okay. Were you present at that meeting?

10 A. Yes.

11 Q. Did that conversation happen?

12 A. Well, it doesn't --it didn't happen the way you're saying it happened. We were having a very technical --

14 MR. O'NEILL: Excuse me. Your Honor, again, I'm not saying anything.

16 MR. WEHNER: Judge --

17 THE COURT: No, I'll sustain the Independent Counsel's objection. He just asked whether the conversation happened. You can say, "Not that way," and then if you want to go into redirect, you can.

21 MR. WEHNER: Very well, Your Honor.

22 THE WITNESS: Excuse me, would it be possible to take a short break?

24 THE COURT: Sure.

25 THE WITNESS: Thank you.

3110

1 THE COURT: It's 11:00. It's time for a break.

2 All right, Ladies and Gentlemen, we'll take a break

3 now. Actually, it's been a little past eleven already. So we'll

4 take our break for 15 minutes and be back.

5 Remember my admonitions again. You don't talk about

6 this case among yourselves or with anyone else during the break.

7 We'll see you back in 15 minutes, please.

8 (Jury out.)

9 THE COURT: Ms. Dean, you can step down.

10 THE WITNESS : Thank you.

11 THE COURT: Do you think you're going to be all morning?

13 MR. O'NEILL : All morning probably, Judge.

14 THE COURT: But not all afternoon?

15 MR. O'NEILL : No.

16 THE COURT: So you can get your witness here then.

17 MR. WEHNER: Yeah. Your Honor, I've got him scheduled to be here, to start < at 1:30.

19 THE COURT: That's fine, all right. All right, we'll take a break then.

21 MR. WEHNER: I think that will work, yeah.

22 (Recess from 11:07 a.m. to 11:35 a.m.)

23 THE COURT: All right, bring the jury out then.

24 THE DEPUTY MARSHAL: Yes, Your Honor.

25 (Jury in.)

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1 THE COURT: All right, Ladies and Gentlemen, we're

2 ready to resume at this time for the last part of the morning
3 session.

MR. O'NEILL: Thank you, Your Honor.

Q. Ms. Dean, when we broke, I believe I had asked you questions
about a meeting in late 1986 in which Susan Zagame testified that
Sam Pierce asked a question as to what the Mod Rehab Program was.

8 A. Yes.

9 Q. Is it fair to say that your recollection of what occurred on
10 that date is different than Ms. Zagame's?

11 A. No. May I explain?

12 Q. Why don't you.

13 THE COURT: well -- all right.

14 THE WITNESS: He asked a technical question. It was a
15 budget meeting; it was not a generic meeting, and we were
16 discussing, in essence, fair market rents and how they're
17 established and everything else, and he had a specific question
18 about mod rehab.

19 Q. Do you recall that Ms. Zagame's testimony was that it was a
20 question as to what the Mod Rehab Program was?

21 A. Actually, I remember exactly what he said. He said, "what
22 is this Mod Rehab Program anyway?" It doesn't mean he didn't
23 know what the Mod Rehab Program was. It meant he was asking how
24 the fair market rents were calculated for the Moderate
25 Rehabilitation Program. It's just the way he characterized it.

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MR. O'NEILL: Judge, move to strike as unresponsive to
the question.

3 MR. WEHNER: Objection.

4 THE COURT: Overruled.

5 BY MR. O'NEILL:

Q. Ms. Dean, I'll ask the question a second time.

A. All right.

Q. Do you recall Ms. Zagame's testimony that Mr. Pierce asked
what is the Mod Rehab Program about?

10 A. I don't remember her using those words, no.

11 Q. Thank you. Now is it fair to say that you had a very
12 important position at HUD as executive assistant to the
13 secretary?

14 A. I would say it was important to some people and unimportant
15 to other people.

16 Q. And is it true you were not only executive assistant but
17 also chief of staff and white House liaison?

18 A. Yes. Those were titles that went with it, just like
19 executive secretariat and special assistant.

20 Q. But those were important titles?

21 A. well, chief of staff was the chief of staff to Cabinet
22 Affairs, and white House liaison was white House liaison to the
23 Personnel Office at the white House. You could read more into
24 those titles than what they were. But chief of staff was Cabinet
25 Affairs, white House liaison was personnel affairs, and executive

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assistant to the secretary was, I think, considered by some to be
sort of a chief of staff, but it was -- I mean, it was a good
job. I'm not saying it wasn't a good job. It was a great job.

Q. And when did you become chief of staff?

5 jA. When Donald Regan became chief of staff at the White House.

Q. Now, Ms. Dean, isn't it fair to say that Secretary Pierce

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relied on you to make decisions on mod rehab funding?

A. He relied on me in the September 1986 funding round to go ahead and get as many units out of the department as possible.

10 In that realm, yes, he did.

11 Q. Now, Ms. Dean, isn't it true by your own testimony in
12 previous proceedings, Mr. Pierce couldn't be making all the
13 individual decisions on discretionary programs, because it would
14 take him 40 hours a day?

15 A. Yes. I mean, he relied on those committees that he had in
16 his discretionary programs so that he could get other people's
17 judgment, and he also thought that the people on the committees
18 would watch over, so he wouldn't have a situation where one
19 particular housing commissioner or one particular assistant
20 secretary was giving out money that he wasn't aware of.

21 Q. Do you remember telling the jury that Mr. Pierce basically
22 operated on an honor system?

23 A. Yes.

24 Q. And that if everything wasn't disclosed to Mr. Pierce, that
25 things could be funded without him knowing?

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A. That's correct.

Q. Now --

A. Not in every case. In the Mod Rehab Program.

Q. Based on what you've stated during your examination here
5 before this Court, is it fair to say that Lance Wilson, Philip
Abrams, Maurice Barksdale, Silvio DeBartolomeis, Thomas Demery
all at one time or another violated this honor system of Sam

8 Pierce?

9 A. No, I wouldn't say that was fair.

10 Q. Okay. Let's

11 A. I don't know anything about Lance Wilson's tenure as
12 executive assistant. I don't know anything about the decisions
13 that he made.

14 Q. Well, you testified on direct examination, did you not, that
15 Mr. Wilson sent those 610 units to Puerto Rico for Joe Strauss?

16 A. No, you testified to that. You kept asking me that, and I
17 kept telling you I didn't know.

18 Q. How about Philip Abrams? Did you testify again on direct
19 examination that he sent units to his ex-business partner, Larry

20 Green?

21 A. Yes, he did that, but that was before Secretary Pierce knew
22 that there was a reason to have anyone watching the federal
23 housing commissioners. That happened back in 1983.

24 Q. How about Maurice Barksdale? Did you testify that he gave
25 out all the remaining fiscal year 1985 mod rehab funds without

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Secretary Pierce's knowledge?

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A. Not all of them, but a large part of it, and that is why Secretary Pierce had me send the memo down to Shirley Wiseman

saying, "From now on, please make certain that the office of the
i
5 | secretary concurs in funding decisions in the Mod Rehab Program."
i

6 Q. So most of them were given out without Secretary Pierce's knowledge by Maurice Barksdale?

A. Well, let's just say that when Secretary Pierce told me that he had called Ms. Wiseman and Ms. Wiseman had said that there
10 were no units to do something that Secretary Pierce wanted to do,
11 he showed me great surprise. I do not know what happened between
12 Mr. Barksdale and Secretary Pierce. I do know that Mr. Pierce
13 told me that that should not have happened, and he wanted to make
14 certain that that didn't happen again.

15 Q. So based on your conversation with Sam Pierce, is it not
16 correct that he was surprised that all the units had gone out
17 without his knowledge?

18 A. That's correct.

19 Q. Now you also claim that Mr. DeBartolomeis gave units without
20 Secretary Pierce's knowledge, is that correct, when he was acting
21 assistant secretary for Housing?

22 A. I don't, I don't recall ever saying that -- with the
23 exception of I can't find that Oklahoma project, and I'm going to
24 assume that Mr. DeBartolomeis was the person that had an interest
25 in funding that, I couldn't find that on the list that Secretary

Pierce approved, yes, but all the other things Mr. DeBartolomeis brought up. He just wasn't completely -- if he knew that Mr. Queenan was involved and that Mr. Queenan was involved with the Winn Group, he did not share that with me, and I was

5 | therefore unable to share it with Secretary Pierce.

!

6 Q. Were you going to say he was not completely honest with Secretary Pierce?

A. No, I wasn't. I said exactly what I said. He didn't share it with me, and therefore, I could not share it with Secretary Pierce.

11 Q. And how about Thomas Demery?

12 A. What about it?

13 Q. Were there times when he was less than totally candid with
14 Secretary Pierce?

15 A. I don't know if Mr. Demery was ever candid with Secretary

16 Pierce.

17 Q. Now do you recall testifying to this jury that the job
18 description of the executive assistant to the secretary entails a
19 wide scope of responsibility, because it is impossible for the
20 secretary to give individual attention and time to all matters
21 which deserve his personal attention?

22 A. That's why he had an executive assistant and an
23 undersecretary and a host of other special assistants, yes.

24 Q. Now, Ms. Dean, as to Lou Kitchin, the jury has heard

25 evidence of a number of meetings that you had with Mr. Kitchin.

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A. Yes.

2 Q. I would direct your attention to one on June 23 of 1986, and
3 I believe you testified on direct examination as to meeting with
4 Mr. Kitchin at the Four Seasons Hotel.

5 A. Yes. I thought that was the 25th.

6 Q. Let me show you Government's Exhibit 7, I believe it's H.

7 A. The 25th.

8 Q. 25th? I'm sorry.

9 And did you, in fact, have a meeting with Lou Kitchin
10 at the Four Seasons on that date?

11 A. Yes, I did.

12 Q. And as you testified on direct examination, he was talking
13 about Shirley Wiseman; is that correct?

14 A. That's correct.

15 Q. Now just so it's clear --

16 A. He was talking about Lance Wilson was the primary focus, and
17 then it got into Ms. Wiseman.

18 Q. Now this is a year after Ms. Wiseman has left HUD, isn't
19 that true?

20 A. No, I think she was still there.

21 Q. In June of 1986?

22 A. I believe she was still there, because I remember that we
23 were talking in such a way that I was saying, "well, I like
24 Shirley, and Shirley likes me, and I don't see any problem." I
25 don't know why I would have had that conversation if she had been

3118

1 gone. I may be incorrect, but I remember the conversation.

2 Q. Who was the acting assistant secretary for Housing in June
3 of 86? Do you recall whether it was Silvio DeBartolomeis?

4 A. In '86? Yes.

5 Q. And he replaced Janet Hale?

6 A. Yes.

7 Q. And she replaced Shirley Wiseman?

8 A. Yes, but Ms. Wiseman may have been head of the Home

9 Builders. I just remember that the conversation was about

10 Mr. Wilson and Ms. Wiseman.

11 Q. Isn't it true that the purpose of the conversation was to

12 establish a relationship with Lou Kitchin since he was a

13 political heavyweight?

14 A. For me to establish?

15 Q. Yes.

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16 A. No. He requested the meeting about the fact that he had
17 supported I Shirley wiseman and that he thought that I somehow
18 disliked him for that, and I had to tell him I didn't know who he
19 was

20 Q. Now did there come a point in time when he asked you to
21 intercede » on his behalf on certain clients of his?

22 A. There were times that he sent me things and asked me to give
23 them to the right people and have them done, yes.

24 Q-Did he ask you to do that on Plateau Insurance Company?

25 A. Yes.

Q. And how about Woodcrest Retirement Center?

2 A. Yes. And both times I sent them to the appropriate staff,
3 and the appropriate staff responded.

4 Q. Am I correct that there came a point in time when he
5 approached you about sending 200 mod rehab units to Atlanta?

6 A. No.

7 Q. Do you recall his testimony that he did, in fact, ask you
8 for that?

9 A. No, I think that he said he couldn't remember.

10 Q. Ms. Dean, let me show you Government's Exhibit 181 already
11 in evidence. Let me put it on the visual presenter so the jury
12 can see it since it is in evidence.

13 And I'd ask you, Ms. Dean, does this appear to be a
14 handwritten list concerning mod rehab units?

15 A. Yes. This is -- it was written on a yellow pad, and it was
16 in the folder that I believe I testified that I kept behind my
17 desk on the credenza that said "Mod Rehab" on it, and these were
18 projects that had already been approved in September, and as the
19 letters would come in or as they would be, you know, they were
20 ready to go downstairs, I would add them. That's why they're in
21 all different handwritings. It's all my handwriting; it's just
22 that they're, it all came in at different times.

23 Q. The question was, Ms. Dean, is this a list concerning mod
24 rehab units?

25 A. Yes, it is.

3120

1 Q. Now, Ms. Dean, that is your handwriting, correct?

2 A. Yes.

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Q. Now I'd ask you to read the first entry to the Ladies and Gentlemen of the Jury.

A. "City of Atlanta, Georgia, 200 two bedrooms,"and then it originally was going to the Atlanta Public Housing Authority, and I crossed that out and put "Department of Community Development."

Q. And you've stipulated that that is, in fact, your handwriting?

10 A. Yes. And I also testified that those units went down as a
11 result of Senator Mack Mattingly's campaign in Georgia. And I am
12 not saying that it is not possible that Mr. Kitchin and I did not
13 have a conversation about that, because that is possible, just
14 that he did not come to me and say, "I want 200 units for
15 Atlanta, Georgia." That did not happen.

16 However, I might have told him that we had 200 units
17 going down there. That is a definite possibility.

18 MR. O'NEILL: Judge, once again, I move to strike the
19 answer.

20 THE COURT: All right, I'll strike the answer. The
2 question just simply asked about what the document said on its

2 face.

2 BY MR. O'NEILL:

2 Q. Now, Ms. Dean, I show you the document once more,
2 Government's Exhibit 181 --

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A. Yes.

Q. -- and ask you do you have a message at the bottom to T.D?

A. Yes, Tom Demery.

Q. Is that Tom Demery?

A. Yes, it is.

Q. And would you read your message to Tom Demery to the jury,
please?

8 A. "Let me know when in action so I can call the Office of
9 Management and Budget. Very important! D."

10 Q. And is that at the very beginning of Mr. Demery's tenure at
11 HUD as assistant secretary?

12 A. Yes, and it was before the apportionment and before
13 the -- which is why I was calling OMB, to let them know that we
14 were going to spend money before the apportionment, which was
15 also right before the election.

16 MR. O'NEILL: Again, Your Honor, I'd move to strike the
17 parts that were not responsive to the question.

18 THE COURT: All right, I'll grant the motion to strike.

19 Just answer the question. Answer others in redirect if you need
20 to explain.

21 THE WITNESS: Sorry.

22 BY MR. O'NEILL:

23 Q. Ms. Dean, I would show you Government's Exhibit 179 in
24 evidence. Directing your attention to Government's Exhibit 179,
25 is this a letter from Robert Sutnbry of the City of Atlanta to the

3122

1 regional HUD office requesting units?

2 A. Yes.

Q. Did you ever see this letter prior to the --

A. Can you put it back on the screen?

Q. Yes.

A. Can you put it toward the bottom and over to the right? I mean, can I see the other side of it?

Q. What would you like to see?

A. I'd like to see whether or not it came from my files, because if it did, it would be Bates stamped.

11 Q. Why don't I ask the question again, Ms. Dean.

12 MR. WEHNER: Judge --

13 THE COURT: wait, why don't you just show her the whole document and let her look at it so she can recall. There are a lot of documents in this case.

16 BY MR. O'NEILL:

17 Q. Ms. Dean, I'll show you Government's Exhibit 179, and I'll ask did you see that, have you ever seen that document?

19 A. It did not come from my files, and so the only time I would have seen it is when you gave it to us.

2 Q. Do you recall whether Lou Kitchin ever gave you this document?

2 A. No, he did not.

2 Q. Now at this time, I'd show you Government's Exhibit 183. Do you recognize this document, Ms. Dean?

3123

1 A. Well, it's a rapid reply, and I don't see where it's going, so I -- I can't make it out.

Q. Is it fair to say the date on the rapid reply is October 30, 1986?

5 >A. Yes. Well, Mr. Cushing's signature, if you can go down further, it will tell you when it was -- Mr. Demery signed it on the 31st.

8 Q. Of October 1986?

9 A. Yes. Well -- yeah.

10 Q. And Ms. Zagame signs it on October 30 of 1986?

11 A. I can't make that out.

12 Q. Is it fair to say that that document is for 1,227 units? Can you see that?

14 A. Yes.

15 Q. I'd direct your attention to the backup documentation for the rapid reply, and does that indicate that 200 units went to the City of Atlanta, Region IV?

18 A. Yes.

19 Q. Now, Ms. Dean, that rapid reply was signed on October 30, 1986. Do you recall Lou Kitchin signing his name to a telegram in support of your becoming assistant secretary for Community

2 Planning and Development on November 4, 1986?

2 A. I know that Mr. Shelby put that telegram together, and I believe he called each of the regional directors and had -- and got their okay to put it on there. I don't think anyone was

3124

1 required to sign it. Mr. Shelby just put it together and had it
2 sent.

3 Q. Ms. Dean, do you recall whether Lou Kitchin's name was on
4 that telegram?

5 A. Yes, it was. He was the southern regional political
6 director.

7 Q. Now did there come a time when Mr. Kitchin requested that
8 you send 203 units to Miami?

9 A. Never.

10 Q. Now did you hear Mr. Kitchin testify at this trial that he
11 approached you about the 203 units to Miami?

12 A. He said that he didn't have any independent recollection of
13 it, that he probably talked to anybody he could.

14 Q. Ms. Dean, I'll show you Government's Exhibit 202. Again, I
15 would direct your attention to the visual monitor, and I'd ask
16 you does this exhibit, Government's Exhibit 202, contain a list
17 of mod rehab funding in your handwriting?

18 A. Yes. That's the list that I prepared before the meeting to
19 go over with Secretary Pierce.

20 Q. And is it your handwriting on this document?

2 A. And it's all my handwriting.

2 Q. And did you stipulate that it was, in fact, your
2 handwriting?

2 A. It is my handwriting.

2 Q. Now I direct your attention to the center of the page, where

1 it says "Metro Dade, 203," and then on the side, it says "153 one

2 bedroom, 48 two bedroom, 2 zero bedroom, letter."

3 reading of what's contained in that document?

4 A. Yes.

Q. And is that your handwriting?

A. Yes, it is.

Q. Two boxes below is "P.G. County"?

8 A. Yes.

9 Q. And "88 two-bedroom units."

10 And was that for Eastern Avenue?

11 A. I'm sorry?

12 Q. Was that for Eastern Avenue?

Is that a fair

13 A. It was the project Mr. Shelby talked to me about. I don't
14 ever recall him saying Eastern Avenue.

15 Q. Now the 203 units went to Miami from the April 7, 1987
16 funding round; is that correct?

17 A. That's correct.

18 Q. Now is it fair to say that during this period of time that
19 you were executive assistant to the secretary at HUD, a large
20 number of units proportionately went to Miami?

2 A. Yes. Miami and Puerto Rico especially and Colorado.

2 Q. Now do you recall meeting with Mr. Kitchin on April 8, 1987,
2 a day after the funding round?

2 A. Yes.

2 Q. We covered a lot on that \$4,000 check that you received from

3126

1 Mr. Kitchin. Did you ever put that into a separate business
2 account?

A. No.

4 Q. Did you use that check to pay any personal matters?

5 A. Yes. Once I had the \$4,000, I just basically stuck it in
6 the bank and used it and sort of reimbursed myself for the 520 or
7 \$540 that he owed me, and then part of it I considered to be part
8 of my fee. So I would just put all the money in there and use it
9 when I needed to, as long as I kept a running record of what I
10 needed to use for him.

11 Q. Ms. Dean, is it fair to say that you did not have sufficient
12 funds in your checking account until approximately September 30
13 of that year, when you would have had funds in excess of \$4,000?

14 A. I don't know the exact date, but that would -- I mean, I
15 know that I got a check in July or I had money coming to me in
16 July when I left the government payroll, either my retirement or
17 my annual leave, something like that, which was a large check,
18 and I got some, some other monies in from different places.
19 My mother gave me money on occasions, and --if you say
20 September, I know that, whatever that one little checkbook says,
21 I know it has it in there.

22 Q. Let me --

23 A. If that ran through September.

24 Q. It's Government's Exhibit 533 for identification. This is
25 your June statement. Does your June statement reflect any

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1 balance in excess of \$4,000?

2 A. No. No, very far short of it, actually.

3 Q. How about your July statement up until August 10?

4 A. I don't even see August 10 on here -- oh, up to the last
5 day. No, it says I have \$1,800.

6 Q. And how about August 10 through September 9?

7 A. No, now I only have \$62.

8 Q. How about September 10 through September 28?

9 A. \$1,100.

10 Q. Okay. And how about September 28 to October 9? Does the

11 balance reflect on September 30 a balance in excess of \$4,000?

12 A. Yes, 5,560.

13 Q. And this big check that you're referring to, could that have

14 been in October of 1986 you received a credit for \$6,000?

15 A. It seems, it seems funny that I'd get exactly \$6,000. It

16 doesn't seem normal. That was probably \$6,000 that my mother

17 gave me.

18 Q. And that was in October of 1986?

19 A. Yes.

20 Q. Now is it your testimony that you did not discuss mod rehab
2 with Lou Kitchin?

2 A. No.

2 Q. You did discuss mod rehab with Lou Kitchin?

2 A. No, I'm sorry. No, I did not discuss mod rehab with Lou
2 Kitchin.

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1 Q. Okay. Did you hear the testimony of Sherrill
2 Nettles-Hawkins that Lou Kitchin would call you about mod rehab?
3 A. Yes, I did.

4 Q. And she communicated an answer from you to Mr. Kitchin?

5 A. Yes. She said that Mr. Kitchin called and said, "Where are
6 my units?"

7 Q. Was she mistaken about that?

8 A. Well, first of all, Sherrill Nettles-Hawkins would never lie
9 about anything. She could never do that. Either Mr. Kitchin was

10 calling about some Republican thing, in other words, "Are units
11 coming down to Florida for the campaign?" or units going here? I
12 can't imagine that anybody that was a consultant or developer
13 would ever call and say, "Where are my units?" That just doesn't
14 make any sense.

15 I think that either it was something that -- I mean,
16 she didn't, Ms. Hawkins would not lie, but it doesn't mean that
17 Mr. Lou Kitchin called and said, "Where are my units for Atlanta"
18 or Florida? I never discussed it with him, so he wouldn't have
19 made that phone call.

20 He may have called for political units. For instance,
21 if the President was going to be someplace and he knew money was
22 coming down, he could call and say, "Where are the units? We
23 want to announce them." That could be possible.

24 MR. O'NEILL: Judge, move to strike after "he may have
25 called" as speculation.

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1 MR. WEHNER: Judge, I think that was responsive.

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2 THE COURT: All right, I'll strike it after the, what
3 may have happened. The answer was that she explained it before
4 she got to that he may have called at the end of the answer
5 there.
6 BY MR. O'NEILL:
7 Q. Ms. Dean, I'd like to direct your attention to the project
8 Baltimore Uplift. Are you familiar with an individual by the
9 name of Lynn Nofziger who used to work
10 A. Yes, I am.
11 Q. At the time, did you know that he
12 Baltimore Uplift project?
13 A. No.
14 Q. How about Robert Tuttle, a lawyer
15 Mr. Nofziger?
16 A. No.

at the white House?

was a developer on the

associated with

17 Q. Now let me direct your attention to Government's Exhibit 533
18 for identification.
19 Q. And I'd ask you did you have both Mr. Nofziger and
20 Mr. Tuttle's numbers on your Rolodex?
21 A. Yes, I did.
22 Q. Did you ever have any discussions with them in any way about
23 Baltimore uplift?
24 A. No. I would give you a broader answer, but you don't want
25 to] hear -

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1 THE COURT: Just answer the question.
2 THE WITNESS: All right. I never had a discussion with
3 Mr. Nofziger or Mr. Tuttle about Baltimore Uplift One.
4 BY MR. O'NEILL:
5 Q. Now, Ms. Dean, do you recall testifying on cross examination
6 that I don't approve of special assistants of the secretary of
7 HUD leaving HUD and cashing in on their former positions?
8 A. Yes, and I believe that.
9 Q. Do you recall testifying on cross examination that you did
10 not become a consultant after leaving HUD?
11 A. I became a lobbyist, not a consultant, and I never called
12 Secretary Pierce for anything, and I never did anything that was
13 influence peddling.
14 Q. Ms. Dean, let me show you what has been marked Government's
15 Exhibit 556 for identification.
16 MR. WEHNER: Judge, could we approach?
17 (Bench conference on the record.)
18 THE COURT: Okay. What's the objection to this?
19 MR. WEHNER: The objection is, Judge, he's now getting
20 into areas that we discussed previously at side bar regarding
2 Dean & Associates and her work subsequent to HUD, and the
2 argument is it's irrelevant, and it's also inadmissible pursuant
2 to Rule 403, because she did make considerable sums in the
2 consultant business after she left HUD, but it is not relevant to
2 the charges in the indictment.

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THE COURT: I'll overrule it as relevant to her
2 impeachment, but he doesn't need to go into fees she was getting
3 paid.
4 MR. O'NEILL: Judge, as long as we're up here -
5 THE COURT: I'm sorry.
6 MR. O'NEILL: -- I wanted to correct that she was, in
7 fact, a consultant, but there are a number of other matters where
8 she said, you know, consulting, and it would tie back into the
9 Horns.
10 Going back over the transcript, the government feels
11 she was less than candid with her role as a consultant. There
12 were indications that she was made \$1,000 per unit on a deal with
13 Lance Wilson regarding the Gentle Pines in South Carolina.
14 MR. WEHNER: Judge, that didn't happen, and if we're
15 going to hear that testimony, I ask that we take it outside the
16 presence of the jury first and then you make a determination of
17 its admissibility in front of the jury, because I do not believe
18 that she ever got paid \$1,000 a unit for anything. She didn't do
19 mod rehab after she left.
20 MR. O'NEILL: Section 8 certificates, Your Honor, which
21 became the project after mod rehab went out.
22 MR. WEHNER: See, that's the problem, Judge. If you
23 get into the general area of what she did in consulting, the
24 amounts of money that are going to be thrown around make it
25 appear as if she had benefited greatly from the consulting

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1 business, and that's being used by Bob as an inference that
2 somehow she was corrupt in her actions when she was at HUD, and
3 they haven't charged that in the indictment.
4 THE COURT: Okay. I don't want to spend a lot of time
5 and get into all sorts of collateral matters of impeachment.
6 This is really basically for impeachment purposes, and I think
7 that unless it really isn't, you know, mod rehab but something
8 different, I think he should be allowed to ask questions, because
9 she's testified she wasn't a consultant. I don't know why she's
10 making that distinction, but she did.
11 And she's also left the impression she didn't do HUD
12 involved-work. So I think he has a right to inquire into the
13 nature of the work and consulting agreements.
14 Before you get into the money, we can either take it
15 out of presence of the jury, or I can review the documents or
16 whatever. For instance, the \$20,000 fee to Horns was listed as
17 accounts receivable, and I don't know if you have any evidence
18 she really did get the money. She said no about five times.
19 MR. O'NEILL: We have no check for 20,000; that's
20 right, Judge.
21 THE COURT: Yes. And she said the project didn't get
22 funded, so she didn't get her money.
23 MR. O'NEILL: Let me just do this, Judge, if I may: I
24 just noted it was 10 after twelve; I thought it was 10 to twelve.
25 If you want to, truly you've heard this from Mr. Wehner and

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1 myself, I know, Judge, but at most it's about 20 more minutes, so
2 if you want, I could reassess those questions in light of your

3 ruling, and if you want to break now, we'll finished very
4 quickly.

5 THE COURT: All right. I'm not going to stop you from
6 asking if she was a consultant, but if we get more involved in
7 the money, if she said, "No, I never got that," and you left the
8 impression that she did when there is no basis for that, that's a
9 problem.

10 MS. SWEENEY: Your Honor, my recollection of the
11 testimony is that she specifically said she was never a
12 \$1,000-a-unit consultant, and the certificate program, as
13 Mr. O'Neill indicated, was the successor to the Mod Rehab
14 Program. It was within section 8. It's a closely related
15 program.

16 So just that Your Honor is not left with the impression
17 that it's somehow unrelated to Mod Rehab.

18 THE COURT: All right. Well, we won't go into it right
19 now. We'll just go ahead.

20 You want to break now?

2 MR. O'NEILL: I think that may be easier, Judge.

2 THE COURT: All right. We'll come back at 1:30 then.

2 (End of bench conference.)

2 THE COURT: All right, Ladies and Gentlemen, we may be
2 able to speed this along, so we're going to take our luncheon

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1 recess and let you all out of here, and then we can see where
2 we're going to go. I expect we'll finish Ms. Dean's examination
3 this afternoon in the early part, and then we'll move ahead.

4 I'm going to give you a luncheon recess now, so

5 remember the admonitions over lunch. It's a lovely day. I hope
6 you take a break and get outside for a while and take a good
7 walk. We'll see you back here at 1:30, please. Remember the
8 admonitions about not talking about the case with anyone or among
9 yourselves, please. See you back at 1:30.

10 (Jury out.)

11 THE COURT: You can step down, Ms. Dean.

12 Counsel, just let me ask you about something else. My
13 courtroom deputy gave me a note that -- and this case is so old,
14 this is not on the computer apparently -- that Judge Gesell had
15 made a ruling that the indictment would not be submitted to the
16 jury. You all may not historically have a memory of that. I
17 don't know if there's anyone in the office that does.

18 THE DEFENDANT: I do.

19 MR. O'NEILL: Steve remembers.

20 MR. WEHNER: I do, Judge.

2 THE COURT: It's a note on what they call the control
2 card or his docket entries in his office. I don't know if that's
2 been preserved anywhere or not, and I don't know what the
2 rationale was.

2 Mr. Wehner, do you remember anything about that?

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1 MR. WEHNER: It was during a discussion regarding some
2 of the more political aspects of the charges in the indictment,
3 and Judge Gesell had stated that the indictment without
4 redactions would not be submitted to the jury, but he'd not said
5 that the indictment would not be submitted. My recollection is
6 that, as is unusual in a case when you have 72 pages, there would
7 be some discussion as to what went, what redactions were made and
8 which ones weren't.

9 THE COURT: All right.

10 MR. WEHNER: That's my recollection.

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11 THE COURT: All right. Well, I wanted to raise that.
12 I can find the date that that was stated in case there was a
13 record made of it. I don't know if there was or not.
14 MR. O'NEILL: That would be helpful, Your Honor,
15 because I believe records were made.
16 THE COURT: Was there a date on that card?
17 MR. WEHNER: We have some transcripts from that time,
18 too, Judge.
19 THE COURT: Well, that's what I meant. If you can go
20 back and find the transcript, you know approximately when that
2 was put on the card in the context with other things on the card.
2 All right, Ms. Whyte will look at it and try to get you all a
2 date and see what his ruling was.
2 All right, we'll be back then at 1:30, please.
2 (Recess from 12:10 p.m. to 1:30 p.m.)

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AFTERNOON SESSION

2 (1:35 p.m.)
3 (Defendant present, Jury out.)
4 MR. WEHNER: Judge, one small matter before we get
5 started.
6 THE COURT: All right.
7 MR. WEHNER: Our next witness and last witness, I took
8 the liberty of letting him go back to his office.
9 THE COURT: Fine.
10 MR. WEHNER: He's about 15 minutes away, and he's on
11 call for us.
12 THE COURT: That's fine.
13 All right, bring the jury in, please.
14 THE DEPUTY MARSHAL: Yes, Your Honor.
15 MS. SWEENEY: Your Honor, I thought before we brought
16 the jury in, we were going to address the issue of the
17 -permissible evidence on cross examination.
18 THE COURT: I thought you resolved that. Where are you

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19 now on those documents and materials?

20 MS. SWEENEY: Your Honor, we've taken the liberty of

21 just drafting up a short memo that describes the documents and

22 the extent of the cross examination that, that we wish to pursue.

23 we haven't had time to copy the exhibits, so I'll just have to

24 hand them up to Your Honor.

25 THE COURT: That's fine.

1 MR. WEHNER: Where are the attachments?

2 MS. SWEENEY: We have to share those.

3 Your Honor?

4 THE COURT: Yes.

5 MS. SWEENEY: We would object to Ms. Dean reading the
6 memo, since it concerns the cross examination and the purpose of
7 it.

8 MR. WEHNER: You know, Judge, they can't do that.

9 THE COURT: All right, overruled. I think if it's a
10 memo you filed in open court, the client has got a right to read
11 it.

12 where is the, Ms. Sweeney, the information on the
13 retainer on Murphy's situation and the per unit fee agreement in
14 the exhibits at least I've been given? I see the letter from
15 Mr. Leeper about collecting money for Gentle Pines. I don't see
16 a fee set forth. I see the consulting agreement of \$1,000 per
17 month.

18 MS. SWEENEY: Your Honor, let me just put some exhibit
19 numbers on these documents, and I'll pass up some additional
20 documents marked as exhibits for ID purposes.

21 THE COURT: And the per unit charge?

22 MS. SWEENEY: Your Honor, would it be -- may we
23 approach?

24 THE COURT: Sure.

25 MS. SWEENEY: We only have the one set of the

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documents.

2 (Bench conference on the record.)

3 MS. SWEENEY: May I see the exhibits, Your Honor, just
4 for a moment?

5 THE COURT: Sure.

6 MS. SWEENEY: Your Honor, the agreements are structured
7 for consulting services. We have been informed by the clients
8 that the fees were structured on a per unit basis.

9 THE COURT: Do you have anything in that exhibit or
10 anything?

11 MS. SWEENEY: No, Your Honor.

12 THE COURT: Okay. What about the defendant's position
13 on motion for reconsideration to allow them to go into the,
14 besides the documentation that she worked as a consultant for

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15 various people and to actual monies paid to Ms. Dean for her
16 work, including her work as a consultant here?
17 MR. WEHNER: Can I have a second to look at these
18 exhibits, Judge, please?
19 THE COURT: Sure.
20 MR. WEHNER: Where is the per unit reference?
21 MS. SWEENEY: As I just said to the Court, the
22 reference is to a certain fee.
23 MR. WEHNER: Right.
24 MS. SWEENEY: We have been informed by Ms. Dean's
25 client in this particular matter, Michael Levitt, that it was a

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1 per unit arrangement.
2 MR. WEHNER: Judge, my objection remains the same, but
3 in reviewing the exhibits, I don't think that the, that the
4 exhibits support what's stated in the memo. I'm looking at DBH
5 Trust Document, which is Exhibit 560.
6 MS. SWEENEY: Um-hum.
7 MR. WEHNER: That's when she was still assistant to the
8 secretary. That doesn't have anything to do with post-consulting
9 efforts.
10 The Benton Mortgage exhibit, it's 557, does not have
11 any reflection of any project-based \$1,000 per unit consulting
12 whatsoever. It shows hours worked at a hourly rate. A letter to
13 Mr. Levitt does not reflect any \$1,000 per unit reference
14 whatsoever. The Dean & Associates project-based Section 8
15 exhibit doesn't say anything about fee structure. The consultant
16 agreement, which is 556, provides for a thousand dollars per
17 month, which is hardly a project-based matter.
18 The checks, I suppose, are consistent to that. I
19 haven't looked at any of them. Are there any checks in here on a
20 project-based fee?
2 THE COURT: The checks are a \$2,500 retainer per month
2 to Lynda Murphy in her office.
2 MS. SWEENEY: Right, Your Honor. The checks go more to
2 the amount of money involved and the suggestion that Ms. Dean has
2 left with the jury that she was paid only a small amount of

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1 money.
2 MR. WEHNER: I don't think that's a fair recollection
3 of the testimony, either. She testified these were in relation
4 to DBH, which there was a \$20,000 accounts receivable, and there
5 was no evidence she ever received \$20,000.
6 THE COURT: We're going to do this to move this along:
7 I want Ms. Dean to take the stand out of the presence of the
8 jury, and I want her to answer a couple of questions on this. It
9 seems to me we've spent an awful lot of time on somewhat

10 collateral matters, but I'll ask her a couple questions to be
11 sure what we're doing here.
12 DEBORAH GORE DEAN, DEFENDANT'S WITNESS, RESUMED
13 VOIR DIRE EXAMINATION
14 BY THE COURT:
15 Q. Ms. Dean, there have been questions asked to you earlier
16 about the payment of funds after you left the office, and they
17 had asked you earlier, the Independent Counsel, wasn't it true
18 you had gotten paid \$20,000, and you said, "No, I had only gotten
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19 small amounts of money from them."
20 A. Right.
2 Q. The government has an accounts receivable list listing DBH

2 Trust as owing you \$20,000.
2 A. Those weren't really accounts receivable. That was a list
2 of figures that were put together when there was a law firm that
2 was looking into buying my company and merging, as taking part of

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1 it and merging it into a law firm, and they asked, you know,
2 basically over a year or two years, how much money could we
3 expect to bring in from different sources, and -- but I didn't
4 have -- I never got 20,000 from them.
5 Q. From the DBH Trust as well as from the Horns, you never got
6 20,000?

A. No.

Q. What was that list of receivables for? Was that work that
you were doing but did not come to fruition for them?
10 A. Well, it was work that I could have, could have done if the
11 law firm wanted to get into those things, but it wasn't work
12 that -- it's sort of an odd thing. We had certainly been
13 i approached many times about doing different things, and I didn't
14 jwant to do all that stuff by myself, and that was what, that was
15 money that that entity of the law firm could expect to bring in
16 if we entered into those agreements.

17 Q. All right. You did get onto a retainer relationship with
18 Lynda Murphy?

19 A. Yes, for six months.

20 Q. For six months.

21 And that involved HUD-related-type work?

22 A. Yes.

23 Q. All right. And the Benton Mortgage relationship that you
24 had, you had a consulting-type agreement with them, including
25 financing of rental housing rehabilitation?

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A. No.

Q. Was there an arrangement with them besides a retainer to get
more money, depending on what you did?

A. No. Originally, I'd worked for one of the owners of Benton
Mortgage Company, and I had a specific -- I worked on specific
things for that owner. Then the entire Benton Mortgage Company
paid me -- or hired me and retained me -- I think that was
\$10,000 a month -- to work on their audit that had been done by
the inspector general. And I prepared their original response
10 back to the department on the audit, and they wanted to pay it
11 iover time, so they paid it 10,000 a month.

12 I think there were some expenses that were added onto

13 I that as well.

14 jQ. When was that audit? When was that work done, do you know?

15 Do you recall at all?

16 A. No, I'm afraid I don't.

17 Q. Well, there's an invoice of 11-88 that says "Project-Based
18 Section 8 Mod Rehab Program" on it.

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19 A. Well, on one of the -- one of the owners of the, of the
20 company would ask me when it was possible, he would give me a
21 list of all the mod rehab units that were going out, and he would
22 ask me if I knew any of the recipients of those, because they
23 wanted to do the coinsurance work, so they were asking me to help
24 them broker their services to any of the recipients of those
25 units.

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1 And in -- I mean, in essence, it basically said does
2 anyone know where these are going, and anybody who unfortunately
3 knew Tom Demery basically could tell you where they were going,
4 and I would just pass that information along.
5 Q. But the \$10,000 a month was for another kind of work?
6 A. Yes.

Q. That was not part of the original retainer?
8 A. No. One was I worked for one owner of Benton Mortgage
Company. The other one was work on their audit.
10 THE COURT: All right. Thank you.
11 i END OF VOIR DIRE EXAMINATION

i

I
12 j THE COURT: All right, the government has filed a
13 j motion to reconsider my limiting the government in questioning of
14 j the witness/defendant on cross examination beyond her documents
15 that reflect her consultant status, which I said the government
16 could do. I asked the government not to go into the financial
17 arrangements. I was of the opinion at that time it was not so
18 relevant that it would add anything to the case as to her
19 credibility or not and get into perhaps prejudicial areas with
20 which she was not charged.
21 Defendant had testified she did not make a lot of money
22 from the Horns references that she had and that she did not go
23 out and become a \$1,000-a-unit consultant. The government has
24 alleged it has information that she did, although no
25 documentation, and that she attempted to collect money owed her

for work done on this one, I believe, General Pines project as
well as her Benton Mortgage Company, the government alleged, must
have been for units, for being paid per unit work. I don't see
any evidence of either of those two, hard evidence.

The Court is going to deny the request of the special

6 Independent Counsel to go into per unit payments without any
other indications than supposition the government has and a
statement from a client that's not before us. I haven't seen it
in writing, any hard evidence that that was the situation. Based

10 upon the balancing of the probative value versus the prejudicial
11 impact of this type of evidence, I don't think the government

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12 really has it.

13 I I will allow the government to go into the consulting,

1 . . . * . " . *

i

14 quote, arrangements she had with Benton, as I said earlier, with
15 Benton Mortgage, with the documents relating to that. With the
16 documents relating to Lynda Murphy, working with that, since she
17 had been mentioned earlier here as an expert in mod rehab and
18 that's the work she had been in, I think it is relevant to her
19 involvement or not and as it goes to her credibility from her
20 prior testimony getting involved in this type of work after she
21 left HUD, and I think that that is fair cross examination on
22 those areas, and the government has evidence as to those in their
23 possession.

24 The \$20,000 for the Horns has been explained. She
25 explained it several times in cross already. I don't think there

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is any evidence that there is, other than her statement that's
already been gone into by the government, that she was owed
20,000, and there's been plenty of testimony about that. I don't
see where it gets, making any further inquiries into that.

5 So I'll allow the Benton and Murphy examinations to go
6 forward, all right?

7 All right, you can go back up.

8 (Jury in.)

9 THE COURT: All right, Ladies and Gentlemen, we're

10 ready to go forward now with this afternoon's session.

H i MR. O'NEILL: Thank you, Your Honor.

12 THE COURT: Mr. O'Neill.

13 CROSS EXAMINATION (Cont'd.)

14 | BY MR. O'NEILL:

15 Q. Ms. Dean, right before the break, I was going to show you

16 Government's Exhibit 556 for purposes of identification. I'd

17 show it to you at this time and ask you if that refreshes your

18 recollection that you did, in fact, become a consultant after

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19 leaving HUD?

20 A. Well, this is a consulting agreement, but all of my

21 contracts said "Consulting Agreement." I'm going by your

22 definition of this trial as to what a consultant is.

23 MR. O'NEILL: Again, Your Honor, I'd move to strike any

24 reference to what my definition might be as to this trial.

25 THE COURT: All right, I'll sustain it. Strike out

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1 reference to what you say consulting is.

2 BY MR. O'NEILL:

Q. And did they hire you, you being Dean & Associates, to obtain the consulting services of you in connection with HUD programmatic policy, land development, and financing of rental housing rehabilitation?

7 A. Can I see that again?

Q. Sure.

A. I think it's probably a standard one. I just want to make

10 certain it's -- yes, this was our standard contract.

11 !Q. NOW, MS. Dean, after leaving the Department of Housing and

12 Urban Development, did you also enter into a consulting

13 I arrangement with Lynda Murphy?

14 1A. Yes, I did.

15 Q. And were you on a monthly retainer by Ms. Murphy?

16 A. Yes. She was having her baby then, and she asked me if I

17 would take on some of her work for her.

18 Q. Ms. Dean, when you did leave HUD and became a, set up your

19 company called Dean & Associates, did you set it up in the same

20 office space as John Mitchell had Global Research?

2 A. Yes. I set it up down the hall. I testified earlier that I

2 was a little concerned about him and I wanted to stay near him.

2 Q. Now, Ms. Dean, directing your attention to your confirmation

2 hearing, is it fair to say that prior to your confirmation

2 hearing on August 6, 1987, that you had a practice session to

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1 prepare yourself for the questions that might be asked?

2 A. Yes.

Q. And was Lynda Murphy one of the people that were present for this practice session?

5 A. I don't recall, but she might well have been.

6 ;Q. And did the people who were helping you ask you questions
about the Moderate Rehabilitation Program?

A. All I recall is it really didn't go off the way it was
supposed to. You know, we had done things like that at the
10 Department of Energy, where people asked very, very specific,
11 Shard questions, and each person represented a different senator
12 and their interests, and this just sort of dissolved into
13 everyone just asking me all sorts of weird questions, and I don't
14 ;really recall anything except that it wasn't helpful, and I
15 disbanded it after about 30 minutes.

16 Q. You were aware at that time, Ms. Dean, that the Senate was
17 investigating allegations as to whether you had used your
18 influence to give units to people you knew?

19 A. No, I wasn't. I was totally unaware that I'd be asked any
20 questions like that.

21 Q. If I may, Ms. Dean, let me show you Government's Exhibit 559
22 for purposes of identification.

23 Ms. Dean, let me show you Government's Exhibit 559 for
24 identification. Since it's not in evidence, don't read it.

25 First, I'd like to ask you are those your notes?

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A. Yes.

2 Q. Were they taken before or after your confirmation hearing?

3 A. Before.

Q. Let me direct your attention to the second page, if I may,
paragraph 5, and I'd ask you if that refreshes your recollection
as to whether you were aware that they were looking into
allegations that you were giving mod rehab units to friends?

A. No, this doesn't have anything to do with the Senate
confirmation hearings.

10 Q. Prior to testifying at the Senate confirmation hearings,
11 were you aware that the FBI was looking into those allegations?

12 A. I, I know that they had spoken to Secretary Pierce, which is
13 what those notes were, were his, their conversation with him, and
14 jthey asked him whether -- what my role was in the Mod Rehab
15 Program and the UDAG program, and he described it for them, and
16 they cleared me, and I went on to my Senate confirmation.

17 Q. And were those questions asked by FBI agents in reference to
18 the background check for the assistant secretary position?

19 A. Yes. And as I said, I was cleared of all of those
20 allegations, and my nomination was sent forward.

21 Q. Now, Ms. Dean, after you testified before the Senate on
22 August 6, 1987, did you have an opportunity to review your
23 testimony?

24 A. Yes, I did.

25 Q. And make whatever corrections you wanted?

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1 A. Yes, I did.

2 Q. Ms. Dean, finally I'd like to ask you do you ever recall
3 telling The Washinaton Post that I don't have a single friend
4 who ever got something from HUD?

5 A. No, I can't -

I don't recall ever giving an interview to

6 The Washinaton Post. Well, I remember giving one interview to
7 The Washinaton Post, but only one.

8 Q. Let me show you a document which I would mark as -

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9 MR. WEHNER: May we approach?
10 THE WITNESS: I don't mind answering the question.
11 THE COURT: wait a minute.
12 (Bench conference on the record.)
13 THE COURT: Yes?
14 MR. WEHNER: I had understood you were only allowing
15 cross examination with regard to newspaper articles relating to
16 any statements made by the defendant after the indictment.
17 THE COURT: That was the one example I was shown.
18 MR. WEHNER: Oh, okay.
19 MR. O'NEILL: That's the computerized version, Your
20 Honor.
2 THE COURT: Sure.
2 MR. O'NEILL: Here's the copy.
2 THE COURT: Is this the article here?
2 MR. O'NEILL: Yes, Judge.
2 THE COURT: Let me see how it comes out in the article.

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1 That's a direct quote from her to apparently a
2 reporter, reading the whole article, who was present at the scene
3 and heard her make those comments. I think that's fair
4 impeachment.
5 MR. WEHNER: All right, Your Honor.
6 (End of bench conference.)

THE COURT: All right, go ahead, sir.
BY MR. O'NEILL:

Q. Ms. Dean, let me show you a document that's been marked as
10 Government's Exhibit 567 as identification.
11 1A. Urn-hum.
12 Q. And I ask you, does that refresh your recollection as to
13 whether you ever told The Washington Post reporter, "I don't
14 have a single personal friend who ever got something from HUD"?
15 A. Yes, and I would stand by that today. And I certainly don't
16 mean people I became friendly with once I was at HUD; that would
17 have been absurd, but I'm talking about no one, friend of mine
18 came running in to get into the HUD business because I went to
19 work at HUD. That's what I meant.
20 Q. And would that include John Mitchell, Louie Nunn, Jack
2 Brennan, Rick Shelby, Tom Broussard, Andy Sankin, Lou Kitchin,

2 Phil Winn, and Lance Wilson?
2 A. Okay, let's just go person by person.
2 Q. John Mitchell.
2 A. All right. When that article came out, even I did not know

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1 that John Mitchell had ever made any money from HUD.
2 Next person?
3 Q. Louie Nunn.
4 A. I did not know that Mr. Nunn was making consulting fees out
5 of HUD that way, and Mr. Nunn isn't a personal friend.
6 Go ahead.
7 Q. Jack Brennan?
8 A. Jack Brennan isn't a personal friend. I didn't know he was
9 making that kind of money and still don't know why he did.

10 Q. So so far, Mitchell did not tell you he was making any money
11 on this?

12 A. That's right.

13 Q. Brennan did not tell you he was making any money on this?

14 A. That's right.

15 Q. Louie Nunn did not tell you he was making that kind of money
16 on this?

17 A. And also Mr. Nunn and Mr. Brennan aren't personal friends.

18 Keep going.

19 Q. Richard Shelby.

20 A. Richard Shelby was a personal friend after I went to HUD.

2 He became a friend. He did not rush into HUD because I had

2 gotten a job there.

2 Q. And he did not tell you he was making money on the other
2 projects?

2 A. I assumed he was making a decent, normal amount of money. I

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did not think he was making some horrible amounts of money, huge,
gross amounts of money. No, I never knew that.

Q. Thomas Broussard?

A. Thomas Broussard is not a friend of mine today and wasn't a
5 I friend of mine. I met him at HUD because Mr. Wilson asked me to
have a meeting with him.
Go ahead.

8 Q. So he is not a friend?

9 A. Mr. Broussard, no, I think I've met Tom Broussard twice in

10 my life.

11 Q. Andrew Sankin?

12 A. Andrew Sankin was not a friend of mine before I went to HUD.

13 Q. Louis Kitchin?

14 A. Louis Kitchin I met at HUD and was not a personal friend of
15 mine before I went to HUD.

16 Q. Philip Winn?

17 A. I did not know Mr. Winn before I went to HUD.

18 Q. Lance Wilson?

19 A. I did not know Lance Wilson -- well, I met Lance Wilson once
20 before I went to HUD and the few times that I interviewed with
21 him for a job. He certainly wasn't a personal friend of mine
22 before I went to HUD.

23 Q. Those individuals became personal friends of yours once you
24 began at HUD?

25 A. Not all of them. Several of them became friends. Lance

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1 Wilson is my friend today.

2 MR. O'NEILL: No further questions. Thank you, Your
3 Honor.

4 THE COURT: Thank you.

5 Are you ready to go?

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6 MR. WEHNER: Yes, sir.

7 THE COURT: All right. We'll have redirect examination
8 at this point, Ladies and Gentlemen, of Ms. Dean.

REDIRECT EXAMINATION

10 BY MR. WEHNER:

11 Q. Ms. Dean, I'm going to show on the video presenter

12 Government's Exhibit 198, which has already been introduced into

13 evidence. It's an exhibit that Mr. O'Neill showed you. Would

14 you look at the upper right-hand corner of that letter?

15 A. Yes.

16 Q. Can you read the upper right-hand corner?

17 A. It says -- this is the one on the project in Florida for

18 Mr. Kitchin, right?

19 Q. I'll show you the whole letter and then go back to the right

20 hand.

2 A. All right. It's addressed to Secretary Pierce, and does it
2 have any courtesy copies? I don't think it does, no. So it's
2 addressed to Secretary Pierce, which meant it would have gone
2 through the normal system, and it says on the top "mod rehab
2 file," "Lou," and "file," and "funded."

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1 Q. Now is any of that in your handwriting?

2 A. None.

Q. Do you recognize any of the handwriting?

A. It did not come from my files.

5 j Q- Do you recognize any of the handwriting?

6 A. I recognize Mr. Demery's handwriting.

Q. Where?

A. Where it says "funded," and I recognize the handwriting on
the very top where it says "mod rehab."

10 Q. Whose handwriting is that?

11 A. Well, it's on all of Mr. Demery's correspondence that's
12 about mod rehab.

13 Q. Now directing your attention to October 29 of 1986 --or

14 late October 1986, I should say, do you have any recollection of

15 President Ronald Reagan being in Florida on a campaign swing

16 during that time?

17 A. No.

18 Q. I'm going to show you what I've marked for identification as
19 Dean Exhibit 319 and ask you if that refreshes your recollection
20 as to whether President Reagan was, in fact, there at that time?

21 A. Well, it doesn't, doesn't remind me that Mr. Reagan was in
22 Florida, but it reminds me that he was campaigning for Senator
23 Mattingly in Atlanta, Georgia.

24 Q. I'm sorry, I thought I said Georgia. Did I say Florida?

25 A. Yeah.

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1 Q. Pardon me, I meant Georgia.

2 Does it refresh your recollection that he was
3 campaigning in Georgia?

4 A. Yes. It says that he was in Georgia with Senator Mattingly
5 campaigning.

6 Q. Do you recall what units were funded to Atlanta, Georgia, at
7 or about that time?

8 A. Yes, the 200 units to Atlanta, Georgia, and I remember that
9 they were for Senator Mattingly.

10 Q. Ms. Dean, Mr. O'Neill showed you a, an exhibit on his cross
11 examination in which certain attachments were missing.

12 A. Yes.

13 Q. I'm going to show you what I've marked for identification as
14 Dean Exhibit 635. I'm going to show you what I've marked as Dean
15 Exhibit 635 and ask if you can identify that as attachments to a
16 specific document you were shown on cross?

17 A. Yes. When Mr. O'Neill showed me the letter from Lynda
18 Murphy that said, "Thank you for your help on the Churchill
19 project," and Sherrill Nettles-Hawkins said "spoken to Lynda" and
20 "20 units," and Mr. O'Neill and I had a discourse back and forth
21 about that I remembered it was a wage rate dispute, and he asked
22 me, "wasn't it mod rehab?" and I said, "No. It had been funded,"
23 and I said that there were attachments that were attached to it,
24 and these are the attachments attached to it, and it is, in fact,
25 a letter regarding that project, and it is a wage rate dispute,

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1 and it does talk about the fact that, that amendment funds need
2 to be sent.

3 And I do believe that I did attempt to tell Mr. O'Neill
4 that I believed that loan management set aside or flexible
5 subsidy was what those units would have been and not mod rehab,
6 and this is the attachment.

MR. WEHNER: I move the admission of Dean Exhibit 635.

8 MR. O'NEILL: Your Honor, just mainly objection on it
9 doesn't say anything -

10 MR. WEHNER: It was produced to you pursuant to
11 subpoena, because those are the Bates stamp numbers.

12 MR. O'NEILL: That's true.

13 MR. WEHNER: The witness testified it was the
14 attachment.

15 THE COURT: All right, I'll admit it. She's testified
16 to it and identified it as her document.

17 MR. WEHNER: Thank you, Your Honor.

18 (Defendant's Exhibit No. 635 was
19 received in evidence.)

20 BY MR. WEHNER:

21 Q. Ms. Dean, there was a significant amount of testimony on
22 cross examination regarding lunches and dinners -

23 A. Yes.

24 Q. '-- and individuals picking up lunches and dinners for you.

25 A. Yes.

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Q. I'm going to show you a series of credit card receipts that have previously been furnished to the government, and the first one I'll show you has been marked for identification as Dean Exhibit 645. Do you have a recollection as to what the purpose of that credit card receipt was -- I'm sorry, what the purpose of that purchase was?

A. Well, I know I made notes on it this morning for you, so as far as I can remember, I know this one was, it was a brunch that I took the special assistants to the secretary on. It was

10 Mr. Casey's birthday, and I picked up the check.

11 Q. Okay. How many special assistants were there?

12 A. I think there were four, five, six of them.

13 Q. Okay. What's the amount of the check, and what's the date?

14 A. Well, it's \$348.46 and \$26.33.

15 Q. Now that's charged on your HUD credit card, is it not?

16 A. Yes.

17 Q. Now who paid the bill for that?

18 A. I did, of course.

19 Q. Out of your pocket?

20 A. Yes, out of my salary check.

21 Q. Not out of government funds?

22 A. No.

23 Q. You were not reimbursed for that?

24 A. No.

25 Q. I'm going to show you the remainder of these, Ms. Dean, and

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1 ask you just quickly would you give the amounts, the dates, and
2 the individuals?

3 A. All right. I don't think these make me look very

4 intelligent. This one is for \$229.60. It was Janice Golec's

5 birthday. She was a special assistant to the secretary. She

6 might have been a deputy assistant secretary at that time.

7 There were HUD consultants there. I believe Mr. Sankin

8 was there and Loury Gay and a few other people, and I didn't want

9 one of them to pick up the tab, so I picked it up instead.

10 Here is a lunch that I had with Lance Wilson at \$33.42.

11 Here is a dinner that I paid for Mr. Kitchin, and I

12 believe that the man I was dating, Mr. Giegengack, was also

13 present, and I paid for dinner so that Mr. Giegengack would not

14 have to. That is \$148.85.

15 Here is a lunch with Mr. Shelby that's for \$16 and some

16 cents.

17 Here is another dinner for Mr. Kitchin -- actually, it

18 wasn't dinner; it was a, it was a Republican event, and there

19 were some other HUD employees there, and Mr. Kitchin had ordered

20 a bottle of champagne, and I did not want them to be in the

2 position of having to accept something from Mr. Kitchin, so I

2 paid for the champagne instead.

2 And so it was \$108.56, and then I believe I had a

2 cocktail, and so did he, and that was \$19.04.

2 Q. Now on each of these occurrences, where did the money, the

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1 dollars come from to pay for these?

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2 A. Either my HUD salary or from my mother and on occasion when
3 I was short of cash, I borrowed money from the man that I was
4 dating, who was making a very good salary.

5 Q. Directing your attention to the funds that you received on
6 occasion from your mother, did you on occasion receive
7 significant funds from your mother?

8 A. Yes. I know that at a certain point, I wanted to buy my own
9 condominium, and she helped me with that, and she helped me with
10 some of the expenses that were incurred there.

11 I know that my mother made it possible for me to go to
12 Oxford University in England when I was asked to make a
13 presentation there on American civil rights legislation, and it
14 was real important for me to go, and we didn't want the
15 government to have to pay that expense, so my mother gave me the
16 money to enable me to go there.

17 And whenever I would do things like pick up the check
18 on something that I couldn't afford, my mother would very often
19 give me the money for it and be very generous. We did not have a
20 lot of money when I was young, and later on in life, because my
2 mother had very stubbornly refused to sell some stock from a
2 company my father had started, she held onto it for 20-some
2 years, never made a penny, then all of a sudden it just went
2 through the roof, and all of a sudden we went from having no
2 money to having a lot of money, and my mother was very generous

1 with me and has been to this day.

2 Q. Directing your attention to several references on cross
3 examination to various newspaper interviews, did you have
4 occasion to be interviewed by the Wall Street Journal on or
5 about May 25 of 1989?

6 A. Yes. When the, when the HUD I.G. audit first came out, the
7 Wall Street Journal. I believe, was the first newspaper to
8 cover -- to carry a story on it, and I think it was the second
9 story they carried, and Mr. Pound got me on the telephone, and I
10 gave him a short interview.

11 Q. Did you have occasion to tell the Wall Street Journal
12 that -

13 MR. O'NEILL: Objection, Your Honor.

14 THE COURT: All right. Why you come up.

15 (Bench conference on the record.)

16 THE COURT: What theory do you use this one under?

17 MR. WEHNER: Rehabilitation, Judge. The second two
18 sentences and then the first sentence on the next page.

19 MR. O'NEILL: My objection wouldn't be to the content,
20 Your Honor. It wouldn't be to the content. It's just whether
2 it's legally admissible or not. That's what Steve and I were
2 joking about.

2 MR. WEHNER: I think it's a prior consistent statement

2 THE COURT: It only can be offered as something to
2 rebut a fabrication. She was crossed earlier about her program.

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1 I don't know, what does it come in with? What is it consistent
2 with? Is it a past consistent statement?

3 MR. WEHNER: It's consistent with her testimony on
4 direct that it was run as a political program. I simply want the
5 record to be clear that she's been stating that from the
6 beginning, and that's inconsistent with the, the position the
7 government's taking, which is that she concealed the political
8 nature of the program from the American public and from Congress.
9 MS. SWEENEY: It's --

10 THE COURT: I'll sustain the objection.
11 (End of bench conference.)
12 BY MR. WEHNER:
13 Q. Ms. Dean, I'm going to show you what I've marked for
14 identification as Dean Exhibit 650 just to refresh your
15 recollection, and after you've had a chance to look at it, I'll
16 ask you did you have a conversation or ever tell Mr. Demery that
17 he should be careful in certain respects --
18 A. Yes.
19 Q. --in relationship to the Moderate Rehabilitation Program?
20 A. Yes.
2 Q. what did you say to him?

2 A. I said, "Be careful."
2 Q. And why did you tell him to be careful?
2 A. well, can I have --
2 Q. Sure. I don't want you to testify from it, because it's not

in evidence.

2 A. All right.
3 Q. You can testify as to what you said to him.
4 A. well, I told him to be careful regarding a memorandum that
5 he had received from someone else that was telling him that he
6 had done some things that were not appropriate.
7 Q. And what were those things?
8 A. He was funding mod rehab projects without even having an
9 applicatxon in house, and that was wrong.
10 Q. Now, Ms. Dean, there's been certain testimony on your cross
11 examination regarding political plans you may have had.
12 A. Yes.
13 Q. Running for Congress -
14 A. Yes.
15 Q. -
et cetera.
16 Did you ever express a desire to run for Congress to
17 any person?
18 A. Never, never. There are certain things that you must do in
19 order to run for Congress, and I could -- I don't have the
20 ability to do them. I don't have the desire to do them. It
21 takes years to set up a base to do things like that and attend
22 meetings and raise money, and it requires having to be in the
23 public eye, where people, you know, can say anything about you
24 they want to, and I just, that's just not the kind of life I
25 would want to lead.

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1 And I don't know who came up with this idea that I had
2 all these great political plans, but they --it just is not the
3 case. It never was the case.
4 Q. Directing your attention to testimony regarding Mr. Andrew
5 Sankin on cross examination, did he attend a real estate closing
6 for you?
7 A. He -
yes.
8 Q. what was his, what was his role there?
9 A. He didn't have a role there. The real estate closing was on
10 New Year's Eve, I remember, the last day of the year, and he had
11 dropped by, and I said, "I can't talk to you now. I'm running
12 off to do a closing. I'm going to buy my apartment today."
13 And he goes, "Oh, let me come along. I'll go with you,
14 and then we'll all go out and celebrate afterward."

15 I said, "Okay."

16 I don't even believe that he came into the room.

17 Q. Directing your attention to cross examination regarding a
18 condominium fee dispute -19

A. Yes.

20 Q. -- did Mr. Sankin handle that for you at no charge?

2 A. Oh, I don't know if it was for no charge or not. I asked
2 him to look into a condominium fee dispute I was having, because
2 he was already on the payroll of my family taking care of real
2 estate matters, so I just added that as to one of the things I
2 thought he ought to do.

3164

1 Q. Ms. Dean, there was significant cross examination on you
2 regarding benefits that your family -- and for purposes of this
3 question, we'll consider John Mitchell family just for purposes
4 of this question -- that benefits went from your family to
5 Mr. Mitchell. What benefits went from HUD to your family and
6 Mr. Mitchell while you were employed at HUD?

7 A. Well, I mean -- I don't understand. I mean, no, no benefits
8 went to Mr. Mitchell. I mean, if Mr. Mitchell was paid for
9 something that he did to do with HUD, I didn't know about it, and
10 nobody in my family knew about it.

11 Q. What benefits was your family providing to Mr. Mitchell?

12 A. Well, he lived in my mother's house, and my mother paid a
13 lot of the bills and the taxes and everything according to the
14 house, because my mother and I and everybody else in our family
15 was under the impression that Mr. Mitchell had absolutely no
16 income to speak of, and we provided him with a family, people
17 around him, and tried to make his last years good years.

18 Q. Directing your attention to Mr. Sankin, what benefits were
19 flowing from your family to Mr. Sankin during the appropriate
20 time period?

2 A. Well, he was being paid to manage Stanley Arms. That's it
2 that I know of.

2 Q. Okay. Directing your attention to cross examination, cross
2 examination concerning your relationship with your secretary -

2 A. Yes.

3165

1 Q. -

Sherrill Nettles-Hawkins, would you describe your
2 relationship with her, please? Just in general terms.

3 A. Well, we were very good friends, and Sherrill and I were the
4 same age, and we had the same attitudes about a lot of things,
5 and we spent a lot of time together, and I don't think that
6 there's anything about me or my family or my life that she
7 doesn't know, and I think there's very little about her life and
8 her family that I don't know, and I know her family and she knows
9 my family, and she's one of the nicest people I have ever known,
10 and she was, she's a terrific person to work with.

11 we got along. We were really good friends. And we had
12 lunch together, and we did stuff for each other, and we liked
13 each other. We were -

14 Q. Did, did you do things for her of a personal nature?

15 A. Oh, I picked her up lunch if I was going down to the
16 cafeteria. She did the same for me.

17 I remember one time, I went off on a trip, and when I
18 came back, I had let her have my car in case she needed it while
19 I was gone, and when I came back, she had, you know, taken it

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20 down and got it inspected, you know, a D.C. inspection and
21 everything. I thought that was really sweet, because she had the
22 time to do it and she did it one day.
23 She just was a really decent person. I didn't ask her
24 to do it. She just did things all the time that were really nice
25 and very thoughtful.

3166

1 Q. And did you do things for her that were, as you say, nice
2 and thoughtful on occasion?
3 A. Yeah. She had her wedding reception at my house, and I took
4 her to a lot of events that I had been invited to, she and her
5 husband. If -- you know, the realtors convention or whatever, if
6 it was in town or they had a banquet or whatever and they asked
7 me if I wanted tickets, I always tried to get tickets for
8 Sherrill and her husband so that she would share in what it was
9 that I was doing, and she would, you know, understand, you know,

10 the people and see them and get to hear the secretary speak and
11 things like that. I enjoyed her company.

12 Q. Directing your attention to April, the April 8, I believe it
13 was 1986, it might have been 1987 meeting with Mr. Kitchin --

14 A. Yes.

15 Q. -- did you know why Mr. Kitchin was in town on that date?

16 A. Yes.

17 Q. How do you know that?

18 A. Well, I've seen the Independent Counsel documents and
19 Mr. Demery's calendars and Mr. Demery's correspondence, and he
20 wasn't in town on April 8 to meet with me. He just dropped by my
2 office. He was in town to attend a dinner that Lynda Murphy was

2 giving for her clients at the Georgetown Club for which -- and
2 they were honoring Mr. Demery. And as good a friend as I am of
2 Lynda Murphy's, I wasn't invited, but Mr. Kitchin was.

2 Q. Okay. Ms. Dean, you testified regarding the hearing for

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1 your confirmation in front of Senator William Proxmire.

2 A. Yes.

3 Q. I'll show you what I've marked for identification as Dean
4 Exhibit 797 and ask you if you can identify that?

5 A. Yes. It's a letter -

6 Q. What is it?

7 A. It's a letter to Senator Proxmire from the other members of
8 the committee saying that, that they want to take action on the
9 Deborah Dean nomination, vote it up or down, and it was signed by
10 Senator D'Amato, Senator Dodd, Senator Sasser, Senator Heinz,
11 Senator Carnes, Senator Chaffee, Senator Dixon, Senator
12 Armstrong, Senator Cranston, Senator Hecht, Senator Shelby, and
13 Senator Worth.

14 Q. Okay. And I'll direct your attention to Dean Exhibit 632
15 and ask you if Dean Exhibit 632 was kept in the regular course of
16 business of HUD and was it in the regular course of business of
17 HUD to keep that document?

18 A. Yes, it was. And I also saw the original signed version of
19 this that Secretary Pierce showed me.

20 Q. And was it prepared, to your knowledge, on or about the date
2 reflected on the document?

2 A. Yes.

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2 Q. And would that same answer be true for what I've marked for
2 identification as Dean Exhibit 404, the same three answers be
2 true?

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1 A. Hold on a second, let me see.
2 This was kept in the normal course -- I'm sorry, ask me
3 the question.
4 Q. Is it in the normal course of business of HUD to keep that
5 document?

A. Yes.

7 Q. And it was kept in the normal course of business?

8 A. Yes.

9 Q. And prepared on or about the date on the face of the
10 document?

11 A. I would think so, yes.

12 Q. Now, Ms. Dean, what was HUD's mission while you were special
13 assistant, executive assistant, and head of the executive
14 secretariat?

15 A. Well, it was three-fold: to provide whatever assistance we
16 could in the urban development area, which is infrastructure,
17 sewers, sidewalks, jobs, new housing and new construction, UDAGs.
18 Then there were the housing programs, which were the
19 Section 8 housing, and it was whether or not subsidies went to
20 landlords, subsidies went to tenants, or subsidies were a mix of
21 those. Lots of different programs: insurance programs for
22 mortgages, FHA.

23 Then there was a third prong of, of the department,
24 which was legislation on things that affected all aspects of
25 urban development and housing, whether that was overseeing Fannie

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1 Mae, whether that was Title VIII of the Civil Rights Act, whether
2 it was the, arguing with the White House or the Justice
3 Department on the way they put interpretations on the regulations
4 that went out for HUD programs, which is a lot more important
5 than most people might think.

6 what you can and cannot do with federal monies is
7 probably the most important policy that, policy job that you can
8 have at HUD. whether or not you can use community development
9 block grants to change the way cities and mayors and governors

10 react to certain situations in this country is important, and
11 they do that by regulation, and those regulations have to go
12 through the White House and through the Justice Department, and
13 they take on different slants, depending on the kind of people
14 who look at those things. So it's important to fight those

15 areas.

16 So you've got policy, you've got housing, and then you
17 have the urban development areas.

18 Q. Now in connection with these three missions of HUD during
19 the entire time period you were at HUD from 1982 through the end
20 of 1987, did you answer -- how many questions did you answer
2 concerning all of these areas?

2 A. When?
2 Q. For the entire time period.
2 A. The whole time I was at HUD?
2 Q. Yes.

A. A million.
2 Q. And they were questions from the inspector general?
3 A. Yes.
Q. From the Federal Bureau of Investigation?
A. Oh, you mean investigative questions?
Q. No, questions.
A. Yes. I've been asked questions by everybody, yes.
Q. People --
A. Senators, congressmen, interest groups, mayors, governors,
10 people that just would come in the office and have a question,
11 citizens groups.
12 Q. Consultants?
13 A. Consultants, lawyers, lawyer/consultants -- I can't even
14 tell the difference anymore -- consultants who actually know
15 something to consult about and consultants who don't know
16 anything. Yes. I mean, just lots and lots and lots and lots of
17 questions all the time.
18 Q. You've given testimony under oath about certain programs at
19 HUD, correct?
20 A. Yes.
21 Q To the Senate?
22 A Yes.
23 Q To the House?
24 A Yes -- no, not to the House
25 Q I'm sorry. To the Senate?

3171

1 A. Yes. To the press. To -
2 Q. And when you've been asked those questions, as well as the
3 questions here, have you tried to answer the questions as
4 honestly as you can?
5 A. Yes. I, the one thing that is the saddest part and the
6 worst part of this whole mess is that people from the very
7 beginning just didn't tell the truth. If people had just gotten
8 up and said what they did and take responsibility for it and tell
9 the truth of exactly what was going on and exactly who was in
10 charge of what and who was making the decisions and how
11 everything was being run, none of this stuff would have happened.
12 So when people started getting up and lying in front of
13 Congress and lying to the press and trying to blame everything on
14 everybody else is when all of this happened.
15 And that's why I wanted to come here today. I've
16 waited all these years to get someplace where you can tell the
17 whole story and let normal people decide, not congressmen and
18 journalists and independent counsels.
19 MR. WEHNER: I have nothing further, Your Honor.
20 THE COURT: All right.
2 MR. O'NEILL: Nothing, Judge.
2 THE COURT: Thank you.
2 All right, you can step down, Ms. Dean.
2 (Witness excused.)
2 THE COURT: Do you need a break to get your next

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1 witness here?

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2 MR. WEHNER: Yes, sir.
3 THE COURT: Okay. All right, Ladies and Gentlemen,
4 we're going to take an early recess. We have a witness coming,
5 he should be here in about 15 or 20 minutes. Hopefully, your
6 snack will get up here so you can get that, too.
7 All right, remember the admonition of the Court now.
8 You don't talk about this case or anything about it during the
9 break. We'll take about a 15- to 20-minute recess, all right?
10 (Jury out.)
11 THE COURT: Is that the only witness you're going to be
§ 12 calling?
13 MR. WEHNER: Yes, sir, that's the last witness I have,
14 and we have the documents to go through.
15 THE COURT: Okay, we have to go through those. We have
16 a lot of those marked.
17 MR. O'NEILL: For the record, Your Honor, I was dying
18 to say something about being normal, and the record will reflect
19 that I didn't say anything, Judge.
20 THE COURT: Thank you. What -2
MR. O'NEILL: It was tough.
2 THE COURT: What do you have on rebuttal?
2 MR. O'NEILL: A couple short witnesses, Judge. It will
2 be, I expect we can put them on today if, depending on what
2 happens with, how long the documents take. It would be special

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1 Agent Al Cain of HUD, I expect his direct would be five minutes;
2 Specific Agent David Bowie, B-o-w-i-e, of FBI, who likewise
3 interviewed Ms. Dean, I expect his would be five minutes.
4 I've asked Mr. Wehner, and we just haven't gotten a
5 chance to talk yet, if Susan Withington would be a witness we
6 would call, depending on the contract. Steve just intimated we
7 would have to put her on. I assume the direct of her would be
8 very quick.
9 MR. WEHNER: So would cross, Judge.
10 THE COURT: All right.
11 MR. WEHNER: If we need it.
12 THE COURT: Have you all had a chance to look at all
13 these documents the defendant marked but didn't go through?
14 MR. O'NEILL: Not yet, Judge.
15 THE COURT: He just marked about 50 of these things.
16 You might want to take a chance now during the break. All right,
17 we'll stand in recess.
18 Anything else?
19 MS. SWEENEY: We have a few other rebuttal witnesses,
20 Your Honor. Mr. O'Neill wasn't finished with our short list.
2 THE COURT: All right.
2 MR. O'NEILL: Ronald Reynolds, who was the HUD driver.
2 THE COURT: All right.
2 MR. O'NEILL: And Joann Harris, from the Independent
2 Counsel, who spoke with Ms. Dean when she told the Independent

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1 Counsel the story about the \$4,000. She's now with the
2 Department of Justice. We expect she will testify as well.
3 MR. WEHNER: Judge, that's, that's inadmissible
4 pursuant to the Federal Rules of Evidence.
5 THE COURT: Well, I'll have to hear who it is, more
6 about it.
7 MR. WEHNER: We can argue it today if you want to.
8 THE COURT: All right, we'll take a break then. We'll
9 be back when the witness is here.

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1 (Recess, 2:40 p.m. to 3:12 p.m.)

2 THE COURT: Ready?

3 MR. WEHNER: Yes, sir.

4 THE COURT: All right.

5 (Jury present)

6 THE COURT: Ladies and gentlemen, we're ready

7 to proceed with the next witness on behalf of the

8 defendant.

9 MR. WEHNER: Thank you, Your Honor.

10 Your Honor, Miss Dean calls J. Michael Dorsey

11 THE COURT: All right.

12 (J. MICHAEL DORSEY, WITNESS FOR DEFENDANT, SWORN)

13 DIRECT EXAMINATION

14 BY MR. WEHNER:

15 Q Mr. Dorsey, you're an attorney?

16 A Yes.

17 Q And directing your attention to the time period
18 1987 to 1989, you were the Assistant Secretary for
19 Public and Indian Housing at the Department of Housing
20 and Urban Development?

2 A Actually from '87 to '89 I was General Counsel of

2 the U.S. Department of Housing.

2 Q Prior to that were you the Assistant Secretary for
2 Public and Indian Housing?

2 A Yes, from August of '86 to March of 1987 I was

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1 Assistant secretary for Public and Indian Housing.

2 Q Directing your attention to the date of the early

3 spring, or spring of 1987, do you recall being involved

4 in the selection process for Moderate Rehabilitation

5 units?

6 A Yes.

7 Q Do you recall sitting in a discussion with Mr.

8 Tom Demery and Miss Deborah Gore Dean regarding Moderate

9 Rehabilitation funding?

10 A Yes.

11 Q Directing your attention to that meeting, do you

12 recall any discussion regarding a funding of 200 units

13 to Metro-Dade Florida?

14 A I recall that there was an allocation of units to
15 Metro-Dade and I asked Mr. Demery why we were funding

16 Metro-Dade because as Assistant Secretary for Public
17 Housing I was aware that there was a grand jury
18 investigation of Metro-Dade Housing Authority and also
19 that the Executive Director of this Housing Authority
20 had been fired. Mr. Demery's response was that he had
2 looked into this. He was aware of the problems that

2 Metro-Dade had had, but he was also aware that they had
2 an ability to do development or do development units and
2 also that they had a great need because of refugees
2 coming from Cuba and other parts of Latin America.

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1 Q Do you recall Miss Dean saying anything about that

2 allocation of units?

3 A I don't have any recollection of her saying

4 anything, no.

5 Q Now, Mr. Dorsey, directing your attention to your

6 personal tenure at HUD, when you became General Counsel,

7 would you describe, please, your understanding of what

8 the rules and regulations were when you became General

9 Counsel, concerning the allocation process for Moderate
10 Rehabilitation units?

11 A When I became General Counsel I really didn't have
12 much of an understanding of the program. I didn't have
13 an occasion to do any legal work on the program at that
14 time. My sole involvement was as a member of this
15 Committee that reviewed the selection process. I was
16 told in preparation for serving on these committees that
17 there was a selection process and there were
18 applications. It was actually a discussion specifically
19 about the 202 program which is a different program, but
20 my understanding was that there was an application
2 submitted to the field and then that there was a review

2 and that there was a headquarters' reserve and that the
2 Mod Rehab program differed from the 202 in that the
2 applications came directly to Headquarters but that they
2 were treated the same as the Headquarters' reserve in

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1 the 202 program.

2 After I had been there for awhile I was asked

3 later to look into legal issues regarding the selection

4 process and had Bob Kenison, who was an Associate

5 General Counsel at HUD, look at that. He made a

6 determination that the selection process that was being

7 followed did not comply with the requirements of the Mod

8 Rehab, regulation and we changed that process. That

9 would have been sometime in the fall or early winter of
10 '87, the spring of '88.
11 Q Okay. who was the in-charge official at the time
12 you made the study?
13 A Tom Demery.
14 Q You said that the Mod Rehab program had been
15 handled prior to that time as reserve units for the 202
16 program had been handled?
17 A My understanding was that it was handled as a
18 Headquarters1 reserve program.
19 Q How or what is a Headquarters' reserve program?
20 A The programs during the Reagan Administration, the
2 number of units were substantially reduced in the

2 Section Eight programs. There were three Section Eight
2 project based programs, Section Eight New Construction,
2 Section Eight Substantial Rehabilitation, and Section
2 Eight Moderate Rehabilitation, and those programs had

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1 around 100,000 units each in allocation each year. And
2 under the Reagan Administration, the New Construction
3 and the Substantial Rehab were zeroed out. There was
4 no, no more funding for those two programs. And the Mod
5 Rehab program was reduced to about 5000 units per year.
6 Under the previous Administration and in the
7 early years of the Reagan Administration they had a
8 reserve of 15 percent of the total number of units and
9 the rest of the units were what is called fair share to

10 each of the field offices on a formula basis. And that
11 15 percent was then the Headquarters1 reserve and was
12 allocated on a special set of criteria. They had to
13 qualify under the regular criteria but then there was a
14 separate set of criteria for Headquarters' reserve
15 units.

16 Q What was that separate criteria?

17 A It's in the regulation. I don't know.

18 Q With respect to Mod Rehab?

19 A Again, I don't really -- I have no specific
20 recollection of what they are. I know that they're in
21 the regulation for the Mod Rehab program.

22 Q Directing your attention to the time period when
23 you finally became involved in the Moderate
24 Rehabilitation process, and that was in early 1987.

25 A Yes.

3180

1 Q How did the process selection work at that point or
2 when you first became involved?

3 A I don't know how it worked when I first became
4 involved.

5 Q When you first attended a meeting, how did the
6 meeting work?

7 A How did the meeting work? Tom Demery came with a
8 list of -- as I recall, a list of cities with a number
9 of units and we went through that list. Deborah Dean
10 had comments about some of them. Basically who had

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11 called her or somebody who was interested in those
12 specific projects. And we just went down the list.
13 Q That was while you were going down the list you had
14 a specific question about 200 units to Metro-Dade?
15 A Yes, about the allocation to Metro-Dade.
16 MR. WEHNER: I have nothing further.
17 THE COURT: All right. Cross, Miss Sweeney?
18 MS. SWEENEY: Thank you, Your Honor.
19 CROSS-EXAMINATION
20 BY MS. SWEENEY:
2 Q Good afternoon, Mr. Dorsey.
2 Now, Mr. Dorsey, you and I have met before,
2 haven't we?
2 A Yes, we have.
2 Q As a matter of fact, we've met on two or three

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1 occasions and we talked about some of the topics that
2 you've testified about here this afternoon?
3 A Correct.
4 Q Is that right?
5 A Yes.
6 Q As a matter of fact, we also talked quite recently,
7 about a month ago, about some of these same topics?
8 A That's correct.
9 Q I'd like to talk about your -- ask you some

10 questions about your role in the Mod Rehab selection
11 process in the spring of 1987. During that time when
12 you first became involved in the Mod Rehab selection
13 process, isn't it true that the defendant complained to
14 you about receiving a lot of telephone calls about
15 getting Mod Rehab?
16 A She told me -- I don't recall that she complained
17 about it. She did say that she received a number of
18 phone calls.
19 Q While you were on the Mod Rehab Committee you never
20 got phone calls from developers, did you?
21 A No, I never got any phone calls from anybody.
22 Q And you never got -- you said you never got any
23 phone calls from anybody, that would include
24 consultants?
25 A Yes.

3182

1 Q Did you regard your role on the Mod Rehab Committee
2 as a minor one?
3 A Yes.
4 Q And who had the major roles on that Committee?
5 A I perceived that Tom Demery had the major role. It
Page 1763

6 was his program. He was the Assistant Secretary.

7 Q Is it fair to say that during the Mod Rehab meeting

8 the defendant identified people behind the Mod Rehab

9 projects?

10 A No, I think what she did was identify people who
11 had contacted her about specific projects.

12 Q So as the list was read she identified a number of
13 individuals associated with particular projects, is that
14 right?

15 A Yes.

16 Q During the meetings she did not tell you that
17 Secretary Pierce had conveyed an interest in any
18 specific projects, is that right?

19 A I don't recall any instance of this.

20 Q The names that Miss Dean mentioned included names
2 that you did not recognize, is that right?

2 A Yes.

2 Q You don't recall at the present time which
2 particular projects she identified names for, is that
2 right?

3183

1 A No, I don't.

2 Q You worked with Secretary Pierce for a number of

3 years, from what, the summer of 1986 through --

4 A February -- well, January of '89 when he left.

5 Q January of '89. Isn't it true that the Secretary

6 was a very hands-off manager?

7 A Yes, in the sense that -- that he didn't -- he

8 didn't manage the Department in the way that you would

9 think of a major corporation being managed. He was more

10 like a senior partner in a law firm, from my
11 experience. He expected the Assistant Secretaries to
12 do -- perform their tasks, but didn't have any kind of a

13 process for a reporting system from the Assistant
14 Secretaries to the Secretary's office other than a
15 principal staff meeting once a week where he would go

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16 around the room and ask people if they had any – if
17 they had any comments or questions or anything that they
18 wanted to report.
19 Q while you worked with Secretary Pierce you never
20 saw any evidence that Secretary Pierce was involved in
2 funding decisions on individual projects, isn't that

2 true?
2 A We're talking specifically about the Mod Rehab
2 program?
2 Q well, let's start with the Mod Rehab program.

3184

1 A No, I never saw him involved in the Mod Rehab
2 program.

3 Q During your three years at HUD, would it be fair to
4 say that Secretary Pierce was not involved in making
5 individual funding decisions?

6 A well, he was involved in some of the programs
7 because he didn't have – he hadn't delegated. For
8 example, the Secretary's discretionary fund, the UDAG

9 funding program, those programs were directly involved
10 with the Secretary because he hadn't delegated the
11 responsibility to anybody else.

12 Q But in the Mod Rehab program you saw no evidence
13 that he was involved in making individual funding
14 decisions on individual projects?

15 A That's correct.

16 Q while Miss Dean served as Executive Assistant, you
17 had quite frequent contact with her in the performance
18 of your duties, is that right?

19 A Yes.

20 Q Did you see her as often as two or three times a
2 day?

2 A Yes.

2 Q Isn't it fair to say that you thought that as
2 Executive Assistant that she was very jealous of her
2 power?

3185

1 A I'm not sure what you mean by jealous.

2 Q Do you recall telling me when we last met that Dean

3 was very jealous of her power?

4 A Maybe in the context that she was aware of her

5 responsibilities as Executive Assistant and she guarded

6 those powers, yes.

7 Q She controlled access to Secretary Pierce, isn't

8 that right?

9 A That's correct.

10 Q While she was Executive Assistant you had somewhat

11 limited contact with him, isn't that correct?

12 A Yes.

13 Q And after she left as Executive Assistant you then

14 had greater access to Secretary Pierce, isn't that true?

15 A I had contact with him more often, yes.

16 Q Now, in your dealings with the defendant, would it

17 be fair to say that you found her attitude to be one of

18 let's get around these legal requirements?

19 MR. WEHNER: Your Honor, I don't know that

20 attitudes are the proper role to play in a criminal case

21 in forming the questions. I object.

2 THE COURT: All right, I'll overrule the

2 objection.

2 You go ahead and answer it.

2 MS. SWEENEY: You may answer.

3186

1 A I'm sorry. No, I wouldn't say that she tried to

2 get around legal requirements. She pushed for a legal

3 analysis, but given a legal response she didn't try to

4 get around it.

5 Q would you say that she pushed the legal response to

6 the limit?

7 A She pushed for a legal response and asked for
8 clarification and tried to get an answer, but she
9 didn't -- she didn't try to get around the requirements.
10 Q Would it be fair to say that she pushed for the
11 projects that she was interested in?
12 A In what context?
13 Q Did she push for the things that she wanted?
14 A Yes.
15 Q Now, on direct examination you testified that at a
16 certain point in time there came a point in time when
17 you did take a look at the legal requirements
18 surrounding the Mod Rehab program, is that right?
19 A Well, I had somebody on my staff do it, yes.
20 Q You had one of your deputies and that would have
2 been Mr. Robert Kenison, you asked him to take a look at

2 it?
2 A That's correct.
2 Q And he came back and reported to you that in his
2 view HUD regulations require that PHA applications be

3187

1 rated and ranked, do you recall that?
2 A I don't recall that but I think that's probably
3 right.
4 Q Do you recall that at the time that Mr. Kenison
5 came back after taking a look at the program that you
6 became aware that the Mod Rehab program had been
7 operated for years contrary to HUD regulations?

8 A Yes.
9 Q You indicated during your direct examination that
10 changes were made in the Mod Rehab program once you
11 became more significantly involved, is that right?
12 A Changes were made after the legal analysis was done
13 that determined that they were not -- that it was not
14 being operated -- that the regulations weren't being
15 followed, and changes were made to conform to the
16 regulations.
17 Q And those changes were made after Miss Dean was no

18 longer Executive Assistant, isn't that correct?
19 A That's correct.
20 Q Are you aware of what the defendant did for a job
2 after she left HUD?

2 A She had a consulting firm.
2 Q Do you know if John Mitchell was working with her
2 in the consulting firm?
2 A Not that I'm aware of.

3188

1 Q Do you recall an occasion after Miss Dean left HUD
2 when Mr. Mitchell came to talk to you about a matter
3 that Miss Dean was working on?

4 A Yes.

5 Q Based on that meeting, do you have a recollection
6 as to whether John Mitchell was working with Miss Dean
7 in her consulting firm?

8 A Well, I know that he came to meet with me because
9 she was prohibited from meeting with HUD officials. It
10 was during the period of time when she was precluded
11 from meeting with HUD officials.

12 Q But this was a matter on which she was working as
13 well, isn't that right?

14 A That's right.

15 MS. SWEENEY: No further questions at this
16 time, Your Honor.

17 THE COURT: All right. Thank you,
18 Miss Sweeney.

19 REDIRECT EXAMINATION

20 BY MR. WEHNER:

2 Q Mr. Dorsey, you were the General Counsel during the
2 time that this meeting took place? April 7, 1987?

2 A I was General Counsel in April, yes.

2 Q And so during that selection process you were the
2 chief legal advisor for the Department of Housing and

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1 Urban Development, isn't that right?
2 A Yes, sir.
3 MR. WEHNER: Nothing further.
4 MS. SWEENEY: No further questions, Your
5 Honor.
6 THE COURT: Thank you, Mr. Dorsey. You may
7 step down.
8 Why don't you come up a second so I can
9 schedule our witnesses •
10 (Bench conference)
11 THE COURT: That's all your witnesses?
12 MR. WEHNER: We have documents to introduce.
13 THE COURT: Have you got some witnesses here?
14 MR. O'NEILL: Yes, Judge, we have two that we
15 can put on today.
16 THE COURT: Do you want to do those and do the
17 documents afterwards?
18 MR. WEHNER: I don't mind. I don't need to
19 show them to the jury.
20 THE COURT: I'll let you reopen.
2 MR. WEHNER: Yes.
2 MR. O'NEILL: I guess the agreement
2 previously, Judge, was that he could always put
2 Miss Dean back on the stand if there were predicate
2 questions.

1 THE COURT: Yes, if he needed more
2 information.
3 MR. WEHNER: I would intend to just let
4 Mr. O'Neill take custody of the stack of exhibits this
5 evening, if he will, or we can look at them in the
6 courtroom before the Court today.
7 THE COURT: If he's got two witnesses I might
8 take them this afternoon so we get them done and that
9 won't preclude you from making a motion at the end of
10 case.
11 MR. WEHNER: Yes.
12 (Bench conference concluded)
13 THE COURT: All right, ladies and gentlemen,
14 the defendant has certain documents that have been
15 marked but need to be reviewed before we consider them
16 further. There's a series of documents that we need to
17 review with counsel before they get admitted into
18 evidence. That will take some time. So rather than do
19 that now, we're going to go ahead with some other
20 witnesses.
2 The Government has some witnesses here. Let
2 me explain to you what that means. That means that the
2 defendant would normally be resting her case now after
2 putting in the documents and the Government has a brief
2 opportunity for rebuttal evidence to put in because the

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1 Government has the burden, as I instructed you at the
2 beginning of the case, to prove the defendant guilty of
3 each and every element of the offense that's charged

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4 beyond a reasonable doubt, and to do that they're
5 allowed to have certain rebuttal evidence if they wish.
6 They have a couple of witnesses now and I'm
7 going to break into the rest of the defendant's case,
8 the document phase, and get these witnesses on for the
9 Government's behalf right now.
10 We'll probably have a couple of them tomorrow
11 morning but I think we can finish up the testimony
12 tomorrow. So we're going to switch right now into the
13 Government's rebuttal phase of this case. The witness
14 will be called by the Government, not by the defendant.
15 MR. O'NEILL: Your Honor, the Government will

16 call David Bowie.
17 (DAVID BOWIE, WITNESS FOR GOVERNMENT, SWORN)
18 MR. O'NEILL: May I inquire, Your Honor?
19 THE COURT: Yes, sir, go right ahead.
20 DIRECT EXAMINATION
21 BY MR. O'NEILL:
22 Q Agent Bowie, can you please state your name for the
23 record, spelling your last name for the Court reporter?
24 A My first name is David, the last name is Bowie,
25 spelled B-o-w-i-e.

3192

1 Q Agent Bowie, I'm going to ask you a series of
2 questions and I'd ask you to speak in a loud voice so
3 the jury can hear you.
4 sir, by whom are you currently employed?
5 A I'm currently employed by the Federal Bureau of
6 Investigation.
7 Q In what capacity are you so employed?
8 A For the past 13 years, Supervisory Special Agent,

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9 for the last 21 years a Special Agent.

10 Q when you say you're a supervisory Special Agent,
11 what does that entail? where are you currently assigned?
12 A I'm currently assigned to the Northern Virginia
13 R.A. which handles all white collar investigations for
14 the Metropolitan area.
15 Q what was your experience before becoming an FBI
16 Agent?
17 A Immediately prior to the FBI I spent six years as a
18 public school teacher. Prior to that, 30 years in the
19 U.S. Army, left as a Captain, more years that I care to
20 remember, but a Vietnam veteran, et cetera.
2 Q Agent Bowie, I would direct your attention to the

2 date March 10, 1987 and ask you if you had an
2 opportunity to conduct an interview of a person on this
2 date?
2 A Yes, I did.

3193

1 Q who did you interview?

2 A I did have the occasion to interview Mrs. Debbie
3 Dean.

4 Q Do you see her in the courtroom?

5 A Yes, she is.

6 Q would you just point her out, for the record?

7 A She's sitting at the table there.

8 MR. O'NEILL: Indicating the defendant, Your

9 Honor.

10 THE COURT: Yes.

11 BY MR. O'NEILL:

12 Q During that interview, Agent Bowie, did Miss Dean
13 have an occasion to mention an allotment of 600 Mod
14 Rehab units going to Puerto Rico?

15 A Yes, she did. To the best of my recollection, she
16 cited an instance I think wherein, according to her, I
17 think Mr. Lance Wilson had made an allocation of 600 Mod
18 Rehab units to the Municipality of Puerto Rico and this
19 was done by I think she said Mr. Lance Wilson who was
20 formerly the Executive Secretary of HUD.

2 Q And what did Miss Dean say about Mr. Wilson's

2 decision to send 600 units to Puerto Rico?
2 A Well, she pointed out during the course of that
2 interview, to the best of my recollection, I think only
2 like 6000 or 7000 units were actually available for that

3194

1 entire year for the entire United States, and she noted
2 that the allocation, I think made to Mr. Joe Strauss,
3 was actually a tidbit more than a tenth of that entire
4 allocation for the nation.
5 She definitely disagreed with that decision
6 and in fact told me that she had, I think, taken that
7 matter up with the Secretary and, in fact, had the units
8 recalled.

9 Q Now, during that interview did Miss Dean mention
10 anything about consultants in the Mod Rehab unit
11 process?
12 A Well, we talked in -- well, in several veins about
13 the issue of consultants. In fact, the purpose of my
14 going to her dealt with Mr. Strauss himself and in his
15 capacity as a consultant. She at that point in time did
16 tell me of course that she had heard a lot of rumors to
17 the extent that he had used his contacts at HUD in order
18 to set up a business that was known as the Phoenix
19 Associates. She didn't have any -- if memory served me,
20 she did tell me that she did not have any direct
2 knowledge of consultants coming into HUD, using their

2 influence to gets units awarded but she did tell me that
2 she had heard a number of rumors for that extent.
2 Q Agent Bowie, you stated that the primary focus of
2 this interview was about Mr. Joseph Strauss?

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1 A That is correct.
2 Q At that time, just so it is clear, Miss Dean was

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3 not under investigation by the FBI, is that correct?

4 A Not at that time.

5 MR. O'NEILL: Nothing further, thank you.

6 THE COURT: All right, thank you.

7 MR. WEHNER: I have no questions, Your Honor.

8 THE COURT: All right. Thank you, Agent

9 Bowie. You may step down, sir.

10 MR. O'NEILL: Your Honor, the Government would

11 call Special Agent Alvin Cain.

12 THE COURT: All right.

13 (SPECIAL AGENT ALVIN CAIN, WITNESS FOR GOVERNMENT,
14 SWORN)

15 DIRECT EXAMINATION

16 BY MR. O'NEILL:

17 Q Agent Cain, I would ask you to speak in a loud and
18 clear voice so that everyone can hear you, and so that
19 there's no misunderstanding. Sir, would you please

20 state your name for the record, spelling your last name?

2 A My name is Alvin R. Cain, Jr. The last name is

2 spelled C-a-i-n.

2 Q Agent Cain, by whom are you employed?

2 A I'm currently employed with the Office of the
2 Inspector General at the U.S. Department of Housing and

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1 Urban Development here in Washington.

2 Q And in what capacity are you so employed?

3 A I serve as a Supervisory Special Agent.

4 Q What exactly does a Supervisory Special Agent do?

5 A I supervise a variety of investigative efforts that
6 are focused toward protecting the integrity of the HUD
7 programs. Our primary mission is -- we're concerned
8 with fraud, waste, abuse and mismanagement within those
9 programs of HUD.

10 Q Where are you currently assigned, sir?

11 A At -- I'm currently working at the Office of the
12 Independent Counsel.

13 Q And how long have you been assigned there?

14 A Since June of 1990.

15 Q Agent Cain, did you have any other previous law
16 enforcement experience prior to joining HUD as a Special
17 Agent?

18 A Yes, prior to HUD I was on active duty with the
19 United States Air Force for 22 years, 20 of which was
20 spent with the Air Force Office of Special
2 Investigations.

2 Q Agent Cain, did there come a point in time when you

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2 were involved in a HUD I.G. Report?
2 A Yes.
2 Q And did there come a point in time, as you recall,

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1 that it was published?
2 A Yes.
3 Q And do you recall when approximately that was?
4 A The Section Eight Mod Rehab investigative report
5 was published April 17, 1989.
6 Q At or about the time that was published, do you
7 recall having a conversation with the defendant Deborah
8 Gore Dean?
9 A A telephone conversation.
10 Q And can you recount for the ladies and gentlemen of
11 the jury what if anything was said during that telephone
12 conversation?
13 A As I recall, Miss Dean telephoned me with an
14 inquiry relative to how she could obtain a copy of the
15 investigative report. I related to her that the report
16 was available under the provisions of the Freedom of
17 Information Act. I also explained to her the cost that
18 was associated with obtaining a copy of the report.
19 Basically we had two versions that were being
20 sold under FOIA. The report itself totalled 50 some
2 dollars and the report plus the audit report was 60 some
2 dollars.
2 Q Did she express an interest in either report?
2 A Yes, she did. Miss Dean indicated that she would
2 like to have a copy. I explained to her that she could

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1 send in a written request which we would honor and
2 process or she could come to my office, pay for the
3 report and sign a receipt for the same, and that would
4 be the quickest way to obtain it.
5 Q And, Agent Cain, what if anything did she say to
6 you?
7 A What if anything did -
8 Q Did she say to you.
9 A She told me that she would send Marty over with a
10 check.
11 Q Did you know who Marty was at that time?
12 A I was not entirely clear. I assume Marty was a
13 reference to Marty Mitchell.
14 Q Did there come a point in time when Marty Mitchell
15 came to pay you for the copy of the report?
16 A As I recall, it was the same day.
17 Q What if anything happened?
18 A Marty came into the office. I had placed a copy of
19 the report with a receipt to be signed with my secretary
20 just in case if I was away from the office.
2 Ms. Mitchell came in, gave the check, signed the
2 receipt, took the report and left.
2 Q At or about that date, do you recall any
2 conversation with the defendant Deborah Gore Dean in
2 which she was quite upset with you about the contents of

3199

1 the report?
2 A No, I do not.
3 Q Do you recall her mentioning John Mitchell to you

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4 and the fact that he made money as a consultant being
5 information within the report?
6 A No, I do not.
7 Q Do you recall her telling you that she was going to
8 hold a press conference to denounce what was in the
9 report?
10 A Absolutely not.
11 MR. O'NEILL: No further questions.
12 Thank you, sir.
13 THE COURT: All right. Go ahead and cross.
14 MR. WEHNER: Yes, sir.
15 CROSS-EXAMINATION
16 BY MR. WEHNER:
17 Q Agent Cain, do you recall the name of a project
18 known as Castle Square?
19 A Castle Square?
20 Q Yes.
2 MR. O'NEILL: Just for the record, Your Honor,
2 I would object to the scope of this question.
2 THE COURT: All right, we'll see where it
2 goes.
2 BY MR. WEHNER:

3200

1 Q Do you recall that Miss Dean came to see you with a
2 complaint on that particular project?

3 A Not at this point. Maybe if you give me some more
4 detail.

5 Q After she had left HUD do you recall that she came
6 to see you and said that certain subsidies were being
7 misused in a certain project?

8 A Castle Square. Is that a project in Boston?

9 Q It's in Pennsylvania.

10 A In Pennsylvania?

11 MR. O'NEILL: Judge, again, for the record, I
12 would object to this.

13 THE COURT: All right. Where are we going in
14 this, in relation to the direct?

15 MR. WEHNER: Very briefly, Your Honor, I'm
16 going to cover some items that may bear on his
17 credibility regarding his last statement.

18 THE COURT: All right.

19 BY MR. WEHNER:

20 Q It's in Boston.

2 A It's in Boston. I'll say project sponsored, and

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2 when I say project sponsored, my reference is that this
2 is the individual who brings the project before the
2 Department. Oftentimes it's synonymous with ownership
2 and development. We refer to them as project

3201

1 sponsored. Now -

2 Q Do you recall Miss Dean coming to see you with

3 regard to something by that name?

4 A I'll still trying to identify the project. Is the

5 project sponsored a gentleman by the name of Winn?

6 Q Yes.

7 A Arthur Winn. I remember -- what I remember about

8 that project is we had an investigation into some

9 matters surrounding the funding of that project and if I
10 recall correctly I may have interviewed Miss Dean in

11 connection with that.

12 Q Did she come to see you? Did she come to your
13 office to see you?

14 A As far as a particular interview?

15 Q No, as far as the investigation, sir.

16 A Well, when I interviewed her I don't recall if it
17 was in my office or at her office.

18 Q Have you ever been in the Beverly Wilshire Hotel?

19 MR. O'NEILL: Again beyond the scope of the
20 inquiry, Your Honor.

21 MR. WEHNER: Credibility, Your Honor.

22 BY MR. WEHNER:

23 Q Have you ever been in the Beverly Wilshire?

24 A Where is the Beverly Wilshire?

25 Q In Los Angeles, California.

1 A I believe so.

2 Q And have you been there in the company of
3 Miss Dean?

4 A That's very possible. I think I can recall going
5 to - is that Los Angeles?

6 Q Yes.

7 A I can recall at least one, possibly two trips with
8 Secretary Pierce to Los Angeles and I think that's the

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9 hotel we utilized.

10 Q And do you recall a party you attended in a place
11 called Fernando's Hideaway?

12 A No.

13 Q Do you recall receiving a Secretary's award from
14 the Secretary at the Beverly Wilshire Hotel for you and
15 your partner -for
you and your partner?

16 A No. I can recall that Secretary Pierce awarded
17 myself and Special Agent Day the Secretary's award for
18 excellence I think is the title, but as I recall,
19 Mr. Day may have received those awards for both of us.

20 Q Do you recall attending a party at that hotel paid
2 for by Miss Dean in celebration of those awards?

2 A No.

2 MR. WEHNER: Nothing further, Your Honor.

2 MR. O'NEILL: Just briefly, Your Honor.

2 THE COURT: Sure.

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1 REDIRECT EXAMINATION

2 BY MR. O'NEILL:

3 Q Mr. Cain, as a part of your duties and

4 responsibilities would you be on the traveling

5 protection detail for Secretary Pierce?

6 A That was one of the responsibilities that I

7 supervised at HUD.

8 MR. O'NEILL: No further questions.

9 THE COURT: Thank you, Agent. You may step

10 down.

11 That's all you have now.

12 MR. O'NEILL: Yes, Your Honor.

13 THE COURT: Okay.

14 Ladies and gentlemen, I'm going to release you
15 for this evening. We've got some things to do here on
16 legal matters. I expect tomorrow's program will
17 probably not take the entire day in testimony. I don't
18 know that. I suspect tomorrow we'll get finished by
19 lunch? I don't know how long cross will be. If that
20 happens then what we'll do, ladies and gentlemen, I've
2 talked to counsel, I expect we'll give you the afternoon

2 off while we take up various legal matters and maybe
2 Wednesday -- I'm not sure, I've got to talk to counsel
2 on how much work we have to do to get ready for the

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2 closing arguments and instructions to you in the final

3204

1 phase of this case which we're approaching.

2 we'll have a regular day tomorrow in the

3 morning and then we'll see where we're going in the

4 afternoon, but you may have the afternoon off, and then

5 we'll see about wednesday after I talk with counsel

6 tonight. But we will finish the case this week, the

7 evidentiary phase of the case, and it will be to you for

8 deliberation sometime later this week.

9 All right, this overnight recess again,
10 remember the admonitions, please, about not talking
11 about the case, reading, watching or listening to the
12 case that's carried in the media in any fashion.
13 I'd like you at 9:45 tomorrow, 9:30 is a
14 little early, 9:45 to get you here. I've got a couple
15 of other hearings in the morning on other matters. So,

16 9:45 so you don't have to wait. Okay? So, 9:45
17 tomorrow morning. Thank you.

18 (Jury dismissed)

19 THE COURT: All right, let me look at some
20 timing with counsel for a minute. We've got these
2 documents which counsel can look at this evening, the
2 instructions which I thought I had them ready but I
2 think they'll be ready in the morning, and then the few
2 witnesses tomorrow.

2 What's your feelings on timing? We can either

3205

1 meet tomorrow to try to work out instructions or if you
2 don't have enough time to review them, wednesday
3 morning. I'd rather get all the arguments in on one
4 day. I assume we can do that. I'm not sure also we can
5 get the instructions in on the same day. I don't know
6 how long counsel is looking at for closing.

7 MR. O'NEILL: The Government -if

it's up to

8 the Government, Judge, we ask an hour -- we do prefer to
9 close on wednesday and we just never know with a long

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10 trial how much longer with jurors and the like, and so
11 that would be our concern, and in terms of closing I
12 would imagine the Government would take between an hour,
13 hour and a half on direct closing and then reserve a
14 half hour of time for rebuttal.
15 THE COURT: You'd like at least two hours. I
16 would say two, two and a half hours.
17 MR. O'NEILL: That would be about right. I
18 hadn't thought in terms of an exact timeframe.
19 THE COURT: Yes, but somewhere in that
20 period.
2 Do you want -
2 MR. WEHNER: If Mr. O'Neill is going to be two
2 to two and a half I probably won't be more than an hour
2 and 15 minutes.
2 THE COURT: So we may be able to instruct them

3206

1 the same day as hearing arguments. I thought you would
2 be longer. That's fine.
3 All right. we'll be ready for wednesday. I
4 wish I had the instructions in hand now. I've got a
5 draft copy but I haven't gone through them since they've
6 been redone. I don't think there's going to be lots of
7 major problems. There will be a couple of minor ones
8 and then they'll be some issues on some of the -- I
9 added a couple of things in the perjury, standardized
10 instructions, and I winnowed out a little bit on to try
11 to make it a little more concise.
12 MS. SWEENEY: Your Honor, we may have one or
13 two just additional instructions that we're going to
14 request on a supplemental basis, but we'll have those
15 ready tomorrow.
16 THE COURT: All right. One thing I can take
17 out here. We have a certain numbers of stipulations.
18 Generally in a simple case I recite the stipulations. I
19 think here I'll probably just state that there were
20 stipulations and counsel can tell the jury in closing
2 about whatever stipulations they need to rely upon they
2 can take them back to the jury room, in any event,
2 rather than go through the stipulation in detail.
2 All right. Tomorrow morning I think we'll
2 start the hearing at 9:45. I'll be in a little bit

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1 phase of this case which we're approaching.
2 we'll have a regular day tomorrow in the
3 morning and then we'll see where we're going in the
4 afternoon, but you may have the afternoon off, and then
5 we'll see about wednesday after I talk with counsel
6 tonight. But we will finish the case tlxis week, the
7 evidentiary phase of the case, and it will be to you for
3 deliberation sometime later this week*
9 All right, this overnight recess again,
10 remember the admonitions, please, about not talking
11 about the case, reading, watching or listening to the
12 case that's carried in the media in any fashion.
13 I'd like you at 9:45 tomorrow, 9:30 is a
14 little early, 9:45 to get you here. I've got a couple
15 of other hearings in the morning on other matters. So,
16 9:45 so you don't have to wait. Okay? So, 9:45
17 tomorrow morning. Thank you.
18 (Jury dismissed)
19 THE COURT: All right, let me look at some
20 timing with counsel for a minute. We've got these
2 documents which counsel can look at this evening, the
2 instructions which I thought I had them ready but I
2 think they'll be ready in the morning, and then the few
2 witnesses tomorrow.
2 what's your feelings on timing? We can either

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INOV 24 '93 12:09 STEPHEN V WEHNER

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1 meet tomorrow to try to work out instructions or if you
2 don't have enough time to review them, wednesday
3 morning. I'd rather get all the arguments in on one
4 day. I assume we can do that. I'm not sure also we can
5 get the instructions in on the same day. I don't know
/6 how long counsel is looking at for closing.
7 MR. O'NEILL: The Government -- if it's up to
8 the Government, Judge, we ask an hour -- we do prefer to
9 close on wednesday and we just never know with a long
10 trial how much longer with jurors and the like, and so
11 that would be our concern, and in terms of closing I
12 would imagine the Government would take between an hour,
13 hour and a half on direct closing and then reserve a
14 half hour of time for rebuttal.
15 THE COURT: You'd like at least two hours. I
16 would say two, two and a half hours.
17 MR. O'NEILL: That would be about right. I
18 hadn't thought in terms of an exact timeframe.
19 THE COURT: Yes, but somewhere in that
20 period.
2 Do you want -2
MR. WEHNER: If Mr. O'Neill is going to be two
2 to two and a half I probably won't be more than an hour
2 and 15 minutes.

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2 THE COURT: So we may be able to instruct them

NOV 24 '93 12:09 STEPHEN V WEHNER

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1 the same day as hearing arguments. I thought you would
2 be longer. That's fine.
3 All right. We'll be ready for Wednesday. I
4 wish I had the instructions in hand now. I've got a
5 draft copy but I haven't gone through them since they've
6 been redone. I don't think there's going to be lots of
7 major problems. There will be a couple of minor ones
8 and then they'll be some issues on some of the --I
9 added a couple of things in the perjury, standardized
10 instructions, and I winnowed out a little bit on to try
11 to make it a little more concise.
12 MS. SWEENEY: Your Honor, we may have one or
13 two just additional instructions that we're going to
14 request on a supplemental basis, but we'll have those
15 ready tomorrow.
16 THE COURT: All right. One thing I can take
17 out here. We have a certain number of stipulations.
18 Generally in a simple case I recite the stipulations. I
19 think here I'll probably just state that there were
20 stipulations and counsel can tell the jury in closing
2 about whatever stipulations they need to rely upon they
2 can take them back to the jury room, in any event,
2 rather than go through the stipulation in detail.
2 All right. Tomorrow morning I think we'll
2 start the hearing at 9:45. I'll be in a little bit

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1 earlier. I have a plea, I believe, at nine o'clock. I
2 have a status call at nine and I think one other short
3 matter. So it will be about 9:45.
4 I should have these ready for you in the
5 morning. I'll give you copies tomorrow. All right.
6 MR. O'NEILL: Thank you.
7 THE COURT: So on scheduling, we'll try to
8 look at these tomorrow and make some decisions as to
9 closing argument and then have closings on Wednesday if
10 we finish the testimony tomorrow.
11 Look at the documents, the defendant listed a
12 large set of documents, and see what concerns you have

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13 and we'll try to take care of those when we're finished
14 with the testimony.
15 (Proceedings recesaed at 3~T~55 pvnri terresiM
16 October 19, 1993 at 9:45 a.m.)
17 Certificate of Official Reporters
18 It is certified by the undersigned Official Court
19 Reporters of the United States district Court for the
20 District of Columbia that the foregoing is the official
2 record of the proceedings indicated.

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3208

1 UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

2
UNITED STATES OF AMERICA, Criminal No. 92-181-01

3
vs . Washington, D.C.

4 October 19, 1993

DEBORAH GORE DEAN, 10:15 a.m.

5

Defendant.

6

7

TRANSCRIPT OF JURY TRIAL

8 BEFORE THE HONORABLE THOMAS F. HOGAN

UNITED STATES DISTRICT JUDGE

9

VOLUME XXV

10

APPEARANCES

11

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Pamela Hughes Patenaude 3246 3250 3257 3261

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7 Susan Withington 3264 3266

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PROCEEDING S

2 (In chambers, Defendant and counsel present.)

3 THE COURT: Okay, what's your concern?

4 MR. WEHNER: Your Honor, we requested the conference to
discuss the Independent Counsel's case on rebuttal. Mr. O'Neill
kindly told us yesterday the witnesses that he intended to call
on rebuttal in addition to the ones that were called yesterday,
and one of those was Ms. Withington. I do not object to her
being recalled or being called on the case in rebuttal by the
10 Independent Counsel.

11 The second one was an individual by the name of Joann

12 Harris. Ms. Harris was the, at one point the lead counsel for

13 the Independent Prosecutor's case, and we had several discussions

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14 with her, including plea negotiations with Ms. Harris.
15 If Your Honor recalls, Ms. Harris was also the
16 prosecutor who made the representation to Judge Gesell with
17 regard to the Brady information that Your Honor subsequently
18 found was Brady. although it had been denied, Ms. Harris had
19 denied knowledge of that Brady two years prior.
20 I understand that the purpose of the introduction of
21 that testimony is to rebut a statement made by Ms. Dean during
22 her cross, I think -
23 MR. O'NEILL: Right.
24 MR. WEHNER: --in which the Independent Counsel -
and
25 I don't have, I don't recall specifically, but I'll do the best I

3213

can to accurately describe it -- in which Ms. Dean stated that
she had made an effort to tell her story regarding the \$4,000 Lou
Kitchin check to the Independent Counsel previously and that they
had turned down her, her offer to do that. My understanding is
that the Independent Counsel wishes to call
Ms. Harris to rebut that statement.
I think in terms of Rule 11 dealing with the
inadmissibility of plea negotiations, that that statement is not
properly admissible under Rule 11, because to the extent that
10 Ms. Harris testifies, her testimony will have to include
11 statements made during plea negotiations. No. 2, I think it's
12 collateral at best and in that regard is not proper rebuttal to
13 Ms. Dean's testimony on cross examination.
14 The other two witnesses I'm aware of that the
15 Independent Counsel wishes to call are, one was the driver who,
16 if Your Honor recalls -
17 THE COURT: Right.
18 MR. WEHNER: --we stipulated to certain testimony
19 regarding him.
20 I don't know, I don't see a necessity to call the
21 driver, because, A, we stipulated to it, the testimony. We
22 didn't stipulate to the fact that it occurred. We stipulated to
23 his testimony, and I think there's a distinction to be made in
24 terms of the cross examination of Ms. Dean, No. 1. No. 2, it
25 could have been offered in the case in chief of the government if

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1 they would have chosen not to stipulate, and I think it's not
2 fair rebuttal testimony.
3 In terms of the fourth --or fifth, I guess, witness
4 they intend to call, Ms. Pamela Patenaude, and Ms. Patenaude was
5 a coworker at HUD during the same time period that Ms. Dean was
6 at HUD, and she in terms of her Jencks material and her Brady
7 material has testimony regarding Ms. Dean's relationship with the
8 Baltimore project, which Your Honor has heard testimony about
9 Baltimore Uplift One.
10 She has testimony with regards to Ms. Dean's
11 relationship to Secretary Pierce. She has testimony with regard
12 to her own activities vis-a-vis the Mod Rehab Program and her
13 knowledge of what, the way Mr. Barksdale ran it, the way
14 Mr. Demery ran it, and her testimony, as I understand it, as I
15 see in the Jencks, is the testimony that also could have been
16 introduced in the government's case in chief in terms of her
17 testimony concerning the involvement of Ms. Dean in mod rehab
18 funding decisions.
19 My concern with regard to Ms. Patenaude is that if she
20 testifies, our --we then --it throws into play a surrebuttal on
2 her specific statements about Ms. Dean's involvement, and there
2 are two witnesses that we would intend to call if Ms. Patenaude

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2 testifies. One would be Hunter Cushing, who was at HUD at the
2 same time that Ms. Dean and Ms. Patenaude were there, and
2 Mr. Cushing would testify directly contradictory to some of the

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1 statements made by Ms. Patenaude regarding the involvement of
2 others in the Mod Rehab Program, and the other witness -- if he
3 testifies at all, because I can't represent to the Court that he
4 would voluntarily appear. There may be a fifth amendment issue
5 with Mr. Cushing; I don't know that.
6 And the second individual we would call would be Abbie
7 Wiest, who was also an employee at the same time at HUD, and I do
8 know that she would testify contradictory to what Ms. Patenaude
9 said.
10 And my concern is, Judge, I think we've gotten to the
11 point in this case where the government's had their shot and
12 we've had our shot, and we're starting to drift into collateral
13 issues or issues that have already been tried in the case, and I
14 do not see the necessity, with the exception of Ms. Withington,
15 which I think is, is clearly appropriate rebuttal, of throwing
16 this into who-has-the-last-witness syndrome, which some trials
17 disintegrate into, and I wanted to place on the record my
18 objections to the calling of those additional witnesses as being
19 witnesses that should have been called in the case in chief,
20 could have been called in the case in chief, and are not proper
2 rebuttal because they are collateral, they go to collateral
2 matters and are irrelevant.
2 THE COURT: Okay. Well, withington is not a problem.
2 The first one I want to talk about, it seems to the Court, before
2 we get to this general objection is the Harris objection. What

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are you going to call Harris for?
MR. O'NEILL: First, Judge, for Ms. Withington, we were
only going to offer the contract and the settlement.
4 THE COURT: To show on April 20 it settled?
5 MS. SWEENEY: April 10.
6 THE COURT: The sale signed that day?
7 MR. O'NEILL: I asked Mr. Wehner if he would stipulate
to that, and for reasons, he wouldn't. So we would have a need
to call her.
10 As to Joann Harris, we weren't intending to call Joann
11 Harris until it came out on the stand Ms. Dean said she tried to
12 explain the \$4,000 to the Independent Counsel and they wouldn't
13 listen.
14 THE COURT: wouldn't listen to her.
15 MR. O'NEILL: The problem -- and I agree with
16 Mr. Wehner about Rule 11, of course. It's been waived in that
17 the defendant has affirmatively made a statement that Ms. Harris
18 would say is untrue on the record.
19 The government was thinking about it overnight since I
20 talked to Mr. Wehner briefly about that yesterday, and the
21 government would not be adverse to working out some sort of
22 arrangement if we could, but our concern would be that if that
23 stays on the record, it appears, in fact, that Ms. Dean did try
24 to explain to the Independent Counsel about those \$4,000, and
25 Ms. Harris is going to say that did not occur, there was no

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1 conversation -- I wasn't present, Judge. I wasn't in the office
2 at that time.
3 MS. SWEENEY: I'm the only other witness, Your Honor,

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4 and obviously I can't be a witness in the case, but I can tell,
5 tell Your Honor what happened and why we feel that it would be
6 appropriate to call Ms. Harris.
7 Ms. Dean attended a meeting with us on one occasion,
8 and Ms. Harris and I were the two individuals who were present.
9 THE COURT: You had no agents around?
10 MS. SWEENEY: There were no agents, Your Honor.
11 THE COURT: Counsel was there?
12 MS. SWEENEY: Yes. Oh, yes, Mr. Wehner and
13 Mr. Santarelli.
14 THE COURT: Okay.
15 MR. WEHNER: That's correct.
16 THE COURT: So it was in the context of a meeting to
17 talk about a plea, or is it in a context to answer questions?
18 MS. SWEENEY: It was to talk about the charges. And we
19 went over at that point in time with Ms. Dean, we basically laid
20 out the Mitchell evidence. The meeting was held really in
2 response to a request from Ms. Dean's counsel that wouldn't we
2 lay out some of our evidence and try to show her a little more
2 about our case, and it was between the original indictment and
2 the superseding indictment, and basically out of professional
2 courtesy and because we felt it was the fair thing to do, we

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1 agreed to do that, and we showed documents that have been
2 exhibits in the case, laid out our theory.
3 Ms. Dean tried to speak at the meeting, and her counsel
4 instructed her not to speak and, in fact, took her out in the
5 hallway and apparently repeated that instruction out there.
6 Prior to beginning the meeting, we did ask Ms. Dean and
7 her counsel to execute an agreement, and the agreement does
8 specify that if she, that the meeting was to be treated in a
9 confidential fashion, that if she were to breach that
10 confidentiality, that the agreement would then be off, and that
11 in that case -- I have a copy of the agreement in the courtroom,
12 and I can certainly give that to Your Honor if that's necessary,
13 but perhaps Mr. Wehner will remember it as well.
14 That in that case, that -
15 MR. WEHNER: I agree there was an agreement signed. I
16 don't recall the particulars of it. It was probably a typical
17 off-the-record type of agreement that we can't talk about what
18 you said and you can't talk about what she said.
19 MS. SWEENEY: Unless she talks about it, in which case
20 it could be used as evidence.
2 And I guess I should say one other thing. There were a
2 couple of occasions, one or more occasion when Mr. Wehner said to
2 me that he felt that they had very good defenses on the \$4,000,
2 and I said back to him, "Tell us. We're open to listen. We're
2 willing to listen."

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1 And he basically said, "why should I help you out? I'm
2 not going to help you where I figure we have the best defenses
3 and help you tailor your indictment and get my client, so I don't
4 feel it's in our interests to let you know our defenses on the
5 \$4,000."
6 Given that background, Your Honor, we feel the
7 defendant's testimony is extremely, just unfair as well as
8 inaccurate.
9 MR. O'NEILL: Judge, I guess the real concern,
10 obviously, and Mr. Wehner has voiced some of this, is, you
11 know -- and I can see the Court's problem calling the prosecutor
12 as a witness, but our concern would be that -- and obviously, I
13 don't know what Mr. Wehner is going to argue in closing, nor he

14 I.

15 THE COURT: Sure.

16 MR. O'NEILL: Our concern would be that that state
17 ment -- and probably it's lost on the jury amongst, you know,
18 they get the big picture, a particular statement. The government
19 would agree not to call Ms. Harris if we could work out something
20 where it's either stricken from the record, because according to
2 Ms. Harris, and I don't know if that's in dispute, it factually
2 did not happen, and if Mr. Wehner would not refer to it in
2 closing, I think we can bypass that.
2 But we're just concerned that something that factually
2 didn't happen was stated on the stand and then might be used and

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1 we don't have a chance to do anything about it.

2 THE DEFENDANT: Excuse me. I know I'm probably not
3 supposed to say anything.

4 THE COURT: You can ask your counsel.

5 THE DEFENDANT: Can I talk to Mr. Wehner for a moment?

6 Because my understanding of what was said -7

MR. WEHNER: Excuse me.

8 THE COURT: That's the best thing to do.

9 (Discussion off the record.)

10 THE DEFENDANT: Mr. Wehner says the lights are on

11 so . . .

12 MR. WEHNER: Judge, I believe that during the cross
13 examination of Ms. Harris, she would testify as to additional
14 conversations that she and I had regarding the plea negotiations
15 in which the subject of the \$4,000 was raised and in which the
16 discussion involved whether we could trade information about that
17 charge in such a way that would not be harmful either to the
18 Independent Counsel or to our client.

19 Now I recall those conversations, and they are typical
20 lawyer-government conversations, where I had many --or several
2 telephone conversations with Ms. Harris. I believe she's going
2 to recall those, because Ms. Harris generally and specifically is
2 an honorable lawyer. She's a very good lawyer, as Your Honor
2 probably is aware of her and her reputation.
2 So our -- let me put it this way: The meeting that

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1 Ms. Sweeney refers to I believe she characterized accurately, and
2 I personally -

3 MS. SWEENEY: That's a first, Steve. Thank you.

4 MR. WEHNER: There's a reason for that, Paula. I, in
5 fact, took Ms. Dean out in the hallway and told her not to talk,
6 and I thought it was in her best interests not to talk for a
7 variety of reasons.

8 But that is not the meeting in which we're referring to
9 in terms of our efforts to reach some kind of arrangement whereby
10 Ms. Dean could give an explanation for the \$4,000 check under
11 circumstances that were appropriate for her protection and for
12 the protection of the Independent Counsel.

13 Now I can state -

14 THE COURT: It seems to me we should have some kind of
15 stipulation or an agreement that it remains or it is a, I don't
16 mean strike it officially from the record, but that it's not
17 going to be referred to in closing arguments if there was not
18 actually a meeting where Ms. Dean, with her counsel, volunteered
19 to say, "Here is the rationale why we're doing this," and
20 Independent Counsel says, "I don't want to talk about it."

2 I can understand where there was a dance going on, how
2 you properly worked out the situation.

2 MR. WEHNER: That's a better word for it.

2 THE COURT: But it never came to fruition. And I think
2 that maybe Ms. Dean's feelings may be very justified that she

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1 felt that she wanted to tell people and they wouldn't let her
2 talk.

3 MR. WEHNER: Yeah, that's probably a very accurate
4 characterization.

5 THE COURT: But it seems to me you could work out some
6 way to resolve it without calling Ms. Harris, because my concern
7 with calling Harris is not so much that she's a prosecutor, which
8 is unfortunate to put her in the position, because then you've
9 got the credibility of cross examination going on about her
10 doings in the case, but if she was going to have to be crossed
11 about what was said to you on the telephone about this \$4,000 or
12 not and then if she says something different from your
13 recollection, then we end up with a quagmire, and there's no way
14 to get out of it.

15 MR. WEHNER: I agree.

16 MS. SWEENEY: I can proffer to Your Honor that her
17 recollection is more in line with my recollection, that we
18 invited Steve to tell us and he didn't. On the other hand,
19 Ms. Dean's testimony at the trial was about what she did, not
20 about what Mr. wehner did.

2 THE COURT: Yes, okay.

2 MR. WEHNER: That's fair, too.

2 THE COURT: All right. well, I think that it should be
2 looked at to see if we can't resolve it through some type of a
2 stipulation.

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1 MR. WEHNER: Could I have a second with my client, Your
2 Honor?

3 THE COURT: All right.

4 (Discussion off the record.)

5 MR. WEHNER: Your Honor, we will stipulate that I will
6 not raise that statement in closing.

7 THE COURT: All right. And what I'll do is for the
8 record I'll strike it, and if for some reason the jury can see a
9 transcript or something -

10 MR. WEHNER: It may have already been stricken,
11 actually.

12 MR. O'NEILL: It actually wasn't.

13 MS. SWEENEY: It's at pages 2762, 2719. That will make
14 it easier.

15 THE COURT: 2762.

16 MS. SWEENEY: There are discussions of it in two
17 places.

18 THE COURT: All right, let me go to the next one then.

19 The driver, the gentleman who, that the stipulation was if he
20 testified, he would have testified that he had taken Ms. Dean
2 several times to lunch that she told him were with Mr. Mitchell,
2 as I recall the content, you want to call him back to say that
2 again basically?

2 MR. O'NEILL: Yes, Judge.

2 THE COURT: Since Ms. Dean said on the stand she

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1 stipulated to the testimony but not that it was true is what she
2 said.

3 MR. O'NEILL: And that both Mr. wehner and I agree that
4 he was a weird guy and couldn't be believed.

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5 THE COURT: That's right. Everybody believed that no
6 one would believe him.
7 MR. WEHNER: Yes, sir.
8 THE COURT: And that's because of memory problems or
9 something? Is that the reference?
10 MR. WEHNER: It was because some statements in his
11 Jencks material are so obviously untrue that he appears to be an
12 unreliable person generally, and I don't mean to characterize him
13 in such a way that Mr. O'Neill would disagree, but, for example,
14 he testifies as to Ms. Dean's use of car phones, and there
15 weren't any car phones in the cars at the time.
16 I mean, he was clearly recalling information that he
17 had heard from other sources or read in the newspaper and
18 suggesting he had personal knowledge of it, and it was certainly
19 not in my interest to have that testimony in front of the jury.
20 THE COURT: So if he's called on the stand and
21 testifies he recalls her telling him that she was going to have
22 lunch with Mr. Mitchell sometimes, that then he's going to be
23 subject to these Jencks materials on cross, I guess.
24 well, I think it's fair rebuttal. I'm going to allow
25 him to be called. I think Ms. Dean could have said she didn't

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stipulate to the truth of that, that this is what he would have
said, but whether it's true for the jury to decide, her
recollection is she did not talk to him about it. She also said
that everybody agreed he was unbelievable.
MS. SWEENEY: Your Honor, for the record, it seems to
me that the point of a stipulation and consistent with the
instruction that Your Honor has given to the jury about the
8 purpose of stipulations is that it will not be disputed, so I'm
9 at a loss -
10 THE COURT: No, there are two different stipulations.
11 One is a stipulation of facts. If you stipulate to facts, I
12 think you establish those as true, and I don't think you can
13 defeat that, but if you stipulate to testimony, that's just
14 saying so-and-so would have testified to such. It's up to them
15 to say whether that fits into that he would have testified that
16 the sun wouldn't rise. You can stipulate to that. That's their
17 position.
18 MS. SWEENEY: Okay.
19 THE COURT: If they said a stipulation as to fact, I
20 think that's different, and they couldn't back out of it.
21 Patenaude, did we get into a lot of other matters? Is
22 she necessary? I don't know.
23 MS. SWEENEY: Your Honor, I will tell you that when we
24 originally scheduled Ms. Patenaude as a rebuttal witness, we
25 regarded her simply as a rebuttal character witness.

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1 THE COURT: That's right.
2 MS. SWEENEY: As you will recall, Ms. Dean called two
3 character witnesses: Mr. Holmes and Mr. Baugh.
4 THE COURT: The real estate fellow.
5 MS. SWEENEY: Oh, Mr. Clinton, Mr. Clinton and
6 Mr. Baugh. Your Honor's right.
7 THE DEFENDANT: Mr. Clinton and Mr. Holmes.
8 MS. SWEENEY: Mr. Clinton and Mr. Holmes, okay. Two
9 out of those three were character witnesses.
10 In the interim, we have considered putting on
11 Ms. Patenaude on three very, very, very narrow, limited matters
12 that we believe were raised by Ms. Dean during cross examination,
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13 although that was not our, our, as I say, our original intent
14 when we scheduled her, and that is, on Ms. Dean's, a conversation
15 she had with Ms. Dean about Mr. Shelby, the fact that the driver,
16 Ron Reynolds, drove both Ms. Dean and Ms. Patenaude when they
17 were together on numerous occasions.
18 Ms. Dean on cross examination testified that
19 Ms. Dean -- she couldn't even recall if Mr. Reynolds had driven
20 her. I believe that was what she said.
2 THE DEFENDANT: I didn't say that. I said he wasn't a
2 special driver for me.
2 MS. SWEENEY: I think that's, those are the -
2 THE COURT: Is there anything about Baltimore Uplift?
2 MS. SWEENEY: I was not intending to ask questions

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1 about Baltimore Uplift, Your Honor.
2 THE COURT: So about the driver and about Shelby?
3 MS. SWEENEY: About Shelby and -
4 THE COURT: You had three, I thought you said.
5 MS. SWEENEY: And about the mod rehab meeting, the
6 September meeting that Ms. Zagame testified about.
7 THE COURT: well, does Hunter Cushing get into this
8 then if it goes into these limited areas?
9 MR. WEHNER: It's into Shelby and Zagame, because they
10 were all colleagues. Judge, in terms of Shelby and Zagame, I
11 don't think that's rebuttal. She could have testified to those,
12 to those matters in the case in chief.
13 THE COURT: well, I don't know what it's going to mean
14 about Shelby. what is it -
15 MS. SWEENEY: As I recall Ms. Dean's testimony about
16 Shelby, it is that she was unaware that he was a consultant on
17 particular projects and that he only asked for her help on one.
18 Ms. Patenaude would say that Ms. Dean on many occasions mentioned
19 Richard Shelby and said she was taking care of him or asked
20 Ms. Patenaude to help him out. That's the nature of the
2 testimony.
2 I did recall the third thing, Your Honor: The third
2 thing that she would rebut, would be Ms. Dean's testimony that she
2 was not interested in electoral office in Maryland and had no
2 such political ambitions. Again, that's a matter of one question

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and one answer.
2 THE COURT: But the only concern I have is you're just
3 reopening the whole case again for further witnesses.
4 MS. SWEENEY: well, as I say, Your Honor, that was
5 definitely not our intent.
6 THE COURT: I think the driver is logical and the
7 office in Maryland is logical. That's sort of new, not raised
8 before. To go back through the meetings in the Mod Rehab
9 Program, I'm kind of leery to hear any more about that, having
10 heard a lot.
11 I think a reference to Shelby, if it goes to she didn't
12 say, "I want Mr. Shelby --" or whatever, "I want to help him out
13 in this particular project," would be appropriate. I'll allow
14 it, but I want you to try to limit it so we do not reopen the
15 whole case again, and then I'll hear if the defendant thinks he's
16 got to call someone else because of the testimony.
17 MS. SWEENEY: Yes, sir.
18 THE COURT: So I'll overrule the defendant's objections

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19 as we discussed. The plea negotiation issue in Harris will be
20 stipulated out. The driver can testify, subject to cross,
21 because I think there was a stipulation as to what his testimony
22 would have been, not that it was true or not.
23 And then as to Patenaude, I've limited areas. I think
24 the government has got to try to limit her so she doesn't reopen
25 the case again. If she does reopen the case in her testimony,

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1 we'll see where we go on the defense side with additional
2 witnesses.
3 MR. WEHNER: With Patenaude, Your Honor, the driver is,
4 the, the testimony regarding the driver is admissible?
5 THE COURT: Yes.
6 MR. WEHNER: I just want to be sure I understand.
7 THE COURT: Yes, it's admissible, the driver; the
8 election-to-office-in-Maryland desires by Ms. Dean -9
MR. WEHNER: Right.
10 THE COURT: -- and the Shelby area.
11 MR. WEHNER: Okay.
12 THE COURT: Shelby about, you know, projects or
13 something that he was working on there, and I'm going to let the
14 government see how much further they want to go. If they want to
15 go somewhere else, they can try it, and then if it's a problem,
16 you may be able to call other witnesses.
17 MS. SWEENEY: Your Honor, we're going to make every
18 effort to limit ourselves.
19 THE COURT: I was just trying to wrap it up this
20 morning.
21 MR. WEHNER: Is there anything else?
22 MR. O'NEILL: No. The only thing, Judge, Susan
23 Withington we expected to be here this morning. She was not here
24 yet when we got here and they called her office, the case agent,
25 and apparently she's at a house closing. She's supposed to call

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1 in at 11:00 for messages, so I have a message saying the Judge
2 wants to see her at 11:05.
3 THE COURT: All right. Try to get her in here as soon
4 as possible.
5 MS. SWEENEY: Your Honor, before we leave the rebuttal
6 case, perhaps I should mention that the government is intending
7 to offer perhaps another two documents on our rebuttal case.
8 THE COURT: Did you review the documents offered by the
9 defendant?
10 MR. O'NEILL: Yes, we did, Judge.
11 THE COURT: Are you ready to take a position on those?
12 I'll go back in open court and discuss those.
13 MR. O'NEILL: Sure.
14 THE COURT: Are there some stipulated to or some not?
15 MR. WEHNER: The vast majority have been stipulated as
16 to admissibility, Judge. I'd say there are 25, 30, that are
17 subject to dispute.
18 MR. O'NEILL: And a lot of those are in areas, general
19 areas that you'll make a decision that will cover the great
20 majority of them, Judge.
21 THE COURT: Okay. Well, I can hear those when we take
22 a break. I've got the jury in now.
23 In the instructions, let me tell you what I did. I
24 asked my clerks after we had reviewed them all and they typed
25 them up a bunch of times to try to give you highlighting where I

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1 changed the government's instructions and where I added
2 defendant's instructions, and they said I'd made so many changes,
3 that wasn't possible. I didn't think I had done that.
4 what I've done is essentially this: We have
5 standardized instructions. I adopted the format of the
6 government's approach to the conspiracy and other counts in the
7 indictment just on how they laid it out. I reduced greatly the
8 recitation of the charges and, in the conspiracy area and
9 summarized them much more succinctly, without a lot of
10 description that had been done.
11 I added in the areas you may want to be concerned
12 about, as to substantive areas more than anything else, there's a
13 couple of questions asked for by the defendant, in reading the
14 government's objections to defendant's instructions, I used what
15 I assume was an agreement by the government as to what was
16 appropriate as to evidently concerns at the end of the general
17 introduction conspiracy statement as to what the government
18 alleges or not.
19 The government -- I did put in the program was
20 discretionary, that is, by Congress moving to fair share, but it
2 was controlled still by HUD regulations and ethical standards of
2 conduct.
2 The rest falls within the formats that would generally
2 follow. I don't want to mislead you. I did make changes here
2 and there. I changed certain style of language that was used

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1 which I just didn't write that way, the way I write, and some of
2 the esoteric language, like, "Indeed, you don't even have to find
3 this to find Ms. Dean guilty." I took out "indeed" and other
4 expressions just used automatically in writing to make it a
5 neutral language, I believe, throughout the thing.
6 I researched rather carefully in the legal gratuity,
7 because I thought there might have been a conflict between the
8 way the statute and the elements were defined and the instruction
9 as to Item 3 in the elements. That's page 27. That says that a
10 gratuity was received by the defendant for or because of an
11 official act or acts already performed or to be performed by her
12 in the future, in discussing that element, which is back on 33 -
13 I'm sorry, no, it's back on -
wait a second, I think we skipped
14 something. Off the record.
15 (Discussion off the record.)
16 THE COURT: All right, it's 28, intent defined. There
17 it says that the government need not prove the defendant actually
18 did something specifically in exchange for the gratuity, not that
19 the gratuity was received by the defendant in any way that caused
20 her to perform some act, need not demonstrate she received it,
2 that she altered it in any way to do her normal business.
2 But there's recent case law, I have it printed out
2 here, a brand new case that says that. Even though the element
2 says that she had to take it for some act, the decision law says
2 it doesn't have to be for any specific act; it can be for

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1 anything, like a tip or such is what it can be, a tip for doing a
2 good job. So I think it's appropriate the way it's expressed.
3 Perjury I changed somewhat. You'll have to look at the
4 changes from your original versions submitted by the government.
5 And I used ones from Clair George's case that was tried here
6 recently, from some other cases in our circuit that they've
7 looked at.
8 One thing in perjury I have not put in any further

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9 discussion of is the state of mind of proof of the defendant.
10 That's the fourth element on page 33. There's a long instruction
11 that can be given as to the state of mind evidence as to,
12 specifically as to perjury. It's in Modern Federal Jury
13 Instructions; that's Sand and Siffert. I think I've appended a
14 copy of it that you can all look at to see if you think it's
15 appropriate.
16 We have a brief discussion of what "to willfully and
17 contrary" testify means. The Siffert and Sand instruction is
18 much longer and more involved. It goes into general
19 considerations about proof and intent, and we have that covered
20 somewhat in the beginning instructions.
2 I have added -- I put in on the exhibits, and I don't
2 know how counsel are going to handle this, that they should ask
2 for the exhibits. I wasn't sending them all back, because there
2 are so many. I'm not opposed to packing them all up, but I don't
2 know how that will affect the jury if they walk back to four or

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1 five boxes in the jury room when they start to deliberate. Or if
2 you want to have lists of exhibits sent down as I've done in
3 other cases, the clerk will send in a list, and then they can
4 check off the list what they want to see.
5 I'm not opposed to sending them all back and just
6 boxing them all up, but you have to think what would be best for
7 the jury's consideration.
8 I've also added an instruction as to partial verdict,
9 that they can return a verdict at any time.
10 THE DEFENDANT: Is it possible to ask the jury if they
11 would like to have them?
12 THE COURT: well, that's what the instruction I have
13 now says, that if you want the exhibits, ask for them, but I'm
14 not sending them all back originally. They can have all the
15 exhibits they want.
16 All right, you'll have to look through those and let me
17 know how you feel about those later.
18 We'll go in and take up the ones that are here, and
19 then we'll find out where Ms. Withington is.
20 THE CLERK: Judge, do you want to ask about Judge
2 Gesell's ruling?
2 THE COURT: Yes, thank you.
2 MR. O'NEILL: We found the transcript, Judge. It's
2 better just to give it to you. We have it in the courtroom. He
2 says it in passing, but it's difficult to divine whether he's

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1 saying whether it's an order. I guess it was never reflected in
2 a written order.
3 THE COURT: No, it's not. I've looked.
4 MR. O'NEILL: You can look at it.
5 THE COURT: All right, I'll just look at it and see.
6 MR. O'NEILL: He talks about the political nature of
7 the indictment of certain matters that he doesn't want to go to
8 the jury, but he doesn't define what he's referring to.
9 THE COURT: Okay. All right, I'll look at that.
10 MR. O'NEILL: Okay.
11 THE COURT: Because generally I send the indictment
12 back for the jury. So I'll take a look at it and see what it
13 looks like.
14 All right. well, let's go out and take up the people
15 we've got there and see where we can go.
16 MS. SWEENEY: The Judge Gesell comment was made during
17 colloquy on the severance motion, and then he, of course, did
18 deny the motion, so I guess we just never thought further about
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19 the colloquy.

20 THE COURT: All right. The only reason I knew about it
2 was on some docket card somewhere saying the indictment is to not
2 go back to the jury but didn't explain it.

2 MS. SWEENEY: It's during his colloquy.

2 THE COURT: Thank you.

2 (Recess from 10:45 a.m. to 10:58 a.m.)

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1 (Open court, Defendant present, Jury out.)

2 THE CLERK: Criminal No. 92-181, United States of
3 America v. Deborah Gore Dean. We have Robert O'Neill and Paula
4 Sweeney for the government, Stephen Wehner for Ms. Dean.

5 THE COURT: All right, just for the record, we had some
6 preliminary discussions on evidentiary issues in chambers which
7 are recorded as part of the transcript in this case, and based
8 upon those rulings, we're ready to proceed with some additional
9 witnesses for the government.

10 You can bring the jury in.

11 (Jury in.)

12 THE COURT: All right, Ladies and Gentlemen, good
13 morning.

14 THE JURORS: Good morning.

15 THE COURT: We're ready to proceed. We took care of
16 some evidentiary matters and legal matters with counsel this
17 morning, and I think we're ready to move along with the testimony
18 at this time.

19 As you'll recall from yesterday's session when we
20 ended, we're in the rebuttal phase of the government's case.

2 They have this brief opportunity to call witnesses, and we're
2 going to continue with those witnesses and hopefully finish with
2 them soon. There's one witness we're still waiting to get here,
2 but we'll see as time goes on when that witness can be here.

2 All right, Mr. O'Neill, are you ready for the next one,

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1 or Ms. Sweeney?

2 MR. O'NEILL: Yes, Your Honor. The government will
3 call Ronald Reynolds.

4 THE COURT: All right.

5 RONALD LEE REYNOLDS, GOVERNMENT'S WITNESS, SWORN
6 DIRECT EXAMINATION

7 BY MR. O'NEILL:

8 Q. Mr. Reynolds, I will be asking you a series of questions.

9 I'd ask you to speak loudly so everyone can hear you. Will you
10 please state your name for the record, spelling your last name
11 for the court reporter?

12 A. Ronald Lee Reynolds, R-e-y-n-o-l-d-s.

13 Q. Mr. Reynolds, how are you employed, sir?

14 A. I work for Housing and Urban Development.

15 Q. In what capacity?

16 A. I'm the branch chief of the HUD motor pool.

17 Q. And what does that mean?

18 A. I'm in charge of a department that has a group of
19 automobiles that service political appointees. We take them from
20 Point A to Point B. And there's roughly 50, 60 passengers that
2 we service.

2 Q. And how long have you been employed at HUD?

2 A. Going on 14 years.

2 Q. Mr. Reynolds, I would direct your attention to the years
2 1984 through 1987. What was your position at HUD at that time?

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A. I was a driver and acting occasionally as the dispatcher.

Q. Do you know the defendant, Deborah Gore Dean?

A. Yes, I do.

Q. Do you see her in the courtroom today, sir?

A. No. You're in the way.

Q. Okay, sorry.

A. Yes, I do.

MR. O'NEILL: He indicated the defendant for the record.

10 THE COURT: All right, so noted.

11 BY MR. O'NEILL:

12 Q. Now, Mr. Reynolds, did there ever come a point in time or an
13 occasion where you would drive Ms. Dean in the car while she was

14 employed at HUD?

15 A. Yes.

16 Q. And how often did that occur?

17 A. On a guesstimate, it would be, like, two out of three trips,
18 and the reason why I always wound up with her was because Debbie

19 was notoriously late on her pickups, and the other drivers didn't

20 want to sit around for 45 minutes waiting for her to come out.

21 So it didn't matter to me if I get paid sitting or driving, so I

22 would just go.

23 MR. WEHNER: Objection. Move to strike.

24 THE COURT: All right.

25 MR. WEHNER: Nonre spons ive.

1 THE COURT: I'll sustain the objection as given now.

2 You can ask another question.

3 BY MR. O'NEILL:

4 Q. Okay. Mr. Reynolds, you said a guesstimate. How often did
5 you drive her?

6 A. Oh, I'd say two out of every three -- two out of five,

7 sorry.

8 Q. When you say two out of five, what are you referring to?

9 A. Trips from Point A to Point B. I would drive her to the

10 Hill or somewhere else, wherever she was assigned to go.

11 Q. Okay. Let's use it in our normal terminology. On a weekly
12 basis, how often would you drive her?

13 A. On a weekly basis, I'd say about ten times.

14 Q. Now, Mr. Reynolds, did there come a point in time when you
15 would drive her to, to luncheon meetings that she would have?

16 A. Yes.

17 Q. And how often did that happen?

18 A. Oh, two, three times a week.

19 Q. Do you recall any particular restaurants?

20 A. 209-1/2 Pennsylvania Avenue was one that she went to.

2 Hay-Adams was another one she went to. Occasionally at the Palm

2 Restaurant. Fairfax Hotel, that was one.

2 Q. Do you know if she ever met John Mitchell for lunch?

2 A. Yes.

2 Q. Okay. And how do you know that, sir?

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1 A. She told me that she was meeting him.

2 Q. How often did she tell you she met John Mitchell for lunch?

3 A. To my memory, at least about two or three occasions, at

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4 least, a minimum of two.

5 Q. What, if anything, did she say to you about those luncheon
6 meetings with John Mitchell?

7 A. Just that she had met with her stepdad, or her dad, they had
8 had lunch.

9 MR. O'NEILL: Thank you, sir.

10 THE COURT: All right. Cross exam?

11 CROSS EXAMINATION

12 BY MR. WEHNER:

13 Q. Mr. Reynolds, you testified that you drove Ms. Dean
14 approximately ten times a week?

15 A. About that.

16 Q. And that was two out of five trips?

17 A. Yes.

18 Q. Okay. So two out of five trips, and it is ten, what would
19 that be, that she took 50 trips a week?

20 A. It's quite possible.

21 Q. And she took 50 trips a week, that's ten a day?

22 A. It's possible.

23 Q. Okay. So she traveled ten times a day for three years?

24 A. I wouldn't say on a weekly, weekly basis.

25 Q. Whew. Okay.

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1 THE COURT: Let's not comment.

2 BY MR. WEHNER:

3 Q. I would like you to point out Ms. Dean's mother.

4 A. I can't point her out.

5 Q. Didn't you tell the Independent Counsel that you knew that
6 John Mitchell, Ms. Dean, and her mother had had lunch together?

7 A. Yes, sir.

8 MR. WEHNER: May the record reflect that Ms. Dean's
9 mother is present in the courtroom, Your Honor?

10 THE COURT: All right.

11 BY MR. WEHNER:

12 Q. Your testimony today is that Ms. Dean had lunch with
13 Attorney -

with John Mitchell maybe twice throughout the entire
14 time you drove her?

15 A. It was probably more than twice, but I remember twice
16 distinctly.

17 Q. Okay. You remember twice distinctly.

18 How many months did you work at HUD during the time
19 that Ms. Dean worked at HUD and you had occasion to drive her?

20 A. How many months?

21 Q. Or years.

22 A. I would say six, seven.

23 Q. Years or months?

24 A. Years.

25 Q. Okay. Didn't you previously tell the Independent Counsel

1 that you'd driven Ms. Dean to lunch with John Mitchell once a

2 month?

3 A. Probably, yes, on an average.

4 Q. So that's 12 months in a year times 6 years is 72. So you

5 previously told them that you drove Ms. Dean to lunch with John
6 Mitchell 72 times.

7 Did you also testify and tell the Independent Counsel

8 that you occasionally drove or went to see Lynda Murphy at her
9 horse farm in Manassas, Virginia?

10 MR. O'NEILL: Objection, Your Honor. He never said
11 that.
12 THE COURT: He didn't testify to that.
13 MR. WEHNER: Yes, he did.

14 . THE COURT: Oh, wait, wait, wait.
15 MR. O'NEILL: He did not say that, Your Honor.
16 THE COURT: Rephrase the question then. He didn't
17 testify to that.
18 MR. WEHNER: Oh, no, sir.
19 THE COURT: You can ask him if he made a prior
20 statement.
2 BY MR. WEHNER:
2 Q. Didn't you say previously that you were often invited out to
2 Lynda Murphy's horse farm in Manassas, Virginia?
2 A. I was invited out there, yes.
2 Q. And isn't it true that Lynda Murphy doesn't have a horse

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1 farm in Manassas, Virginia?
2 A. Well, at the time, she told me she had some horses in
3 Manassas, I should go out riding.
4 Q. Isn't it true that she doesn't have a horse farm in
5 Manassas, Virginia?
6 A. That I don't know.
7 Q. Now you kept a record of every trip that you took while at
8 HUD; is that correct?
9 A. Yes, sir.

10 Q. Do you have the records with you showing where you took
11 Ms. Dean?
12 A. No, sir.
13 MR. WEHNER: Nothing further.
14 REDIRECT EXAMINATION
15 BY MR. O'NEILL:
16 Q. Mr. Reynolds, how do you know that the defendant, Deborah
17 Gore Dean, met Mr. Mitchell and her mother for lunch?
18 A. I had taken her to the Fairfax Hotel, and when she came out,
19 I had been outside waiting, and since she had said that she had
20 met with her dad, her stepdad and her mother.
2 Q. Had you ever personally met John Mitchell?

2 A. No, never.
2 Q. Had you ever personally met the defendant's mother?
2 A. Never.
2 Q. Mr. Wehner ask you about records. How long are the records

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1 kept at the HUD motor pool?
2 A. We only keep them three years, sir.
3 Q. Are there any records in existence now for the period 1984
4 to 1987?

5 A. No.

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6 MR. O'NEILL: No further questions.
7 THE COURT: Thank you, sir. You can step down.
8 MS. SWEENEY: Your Honor, the government calls
9 Ms.]Pamela Patenaude -- Mrs. Pamela Patenaude.

10 THE COURT: All right.

11 MR. WEHNER: Your Honor, we have one more question for
12 this gentleman.
13 THE COURT: Pardon me?
14 MR. WEHNER: One more question for this gentleman on

15 recross examination.
16 THE COURT: Ask him to stay a second. Come up here and
17 tell me what it is. Why don't you come up here a second. Let me
18 hear it.
19 (Bench conference on the record.)
20 MR. WEHNER: I believe he testified that he had driven
2 her, Ms. Dean with --or driven Ms. Dean to lunch with

2 Mr. Mitchell at the Fairfax Hotel.

2 MR. O'NEILL : He said -- I don't remember what hotel.
2 THE COURT: Pardon me?
2 MR. O'NEILL : I don't remember what hotel.

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MR. WEHNER: Fairfax Hotel.
2 THE COURT: I had notes he said he took her to various
3 places, 209-1/2, Hay-Adams, Palm, and Fairfax. I don't know if
4 he said John Mitchell was at the Fairfax specifically. I think
5 he said at Hay-Adams he was there.
6 MR. WEHNER: The question is the Fairfax Hotel hasn't
7 been called Fairfax Hotel for 15 years.
8 THE COURT: Pardon me?
9 MR. WEHNER: The question is is he aware that the
10 Fairfax Hotel has not been called the Fairfax Hotel for 15 years.
11 THE COURT: You mean it was not known as the Fairfax
12 Hotel in '84, '85, '86, '87?
13 MR. WEHNER: Yes, sir.
14 THE COURT: It was called the Ritz-Carlton, or whatever
15 it's called?
16 MR. WEHNER: Yep.
17 MR. O'NEILL: I just don't see how it's relevant to
18 anything, Judge. Beyond the scope. Then, of course, I would
19 re-redirect to say, "Are you from the area? Do you know it as
20 the Fairfax Hotel?"
21 THE COURT: Okay, I'll sustain the objection. I just
22 think it's collateral areas. It's not necessary. All right, he
23 can go. He can go.
24 (Witness excused.)
25 THE COURT: All right, we'll call Ms. Patenaude,

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1 please.

2 THE DEPUTY MARSHAL: Yes, Your Honor.

3 PAMELA HUGHES PATENAUDE, GOVERNMENT'S WITNESS, SWORN

4 DIRECT EXAMINATION

5 BY MS. SWEENEY:

6 Q. Mrs. Patenaude, I'm going to be asking you a series of
7 questions, and I'd ask you to keep your voice up so the members
8 of the jury can hear your answers. Would you state your complete
9 name for the record, spelling your last name for the court

10 reporter?

11 A. My name is Pamela Hughes Patenaude, P-a-t-e-n-a-u-d-e.

12 Q. Ms. Patenaude, are you presently employed?

13 A. Yes, I am. I'm the mother of three young children, and I'm
14 a licensed real estate broker.

15 Q. Are you working part time?

16 A. Yes, I am.

17 Q. Was there an occasion when you worked at HUD, the Department
18 of Housing and Urban Development?

19 A. I was an intern in the fall of 1982, and I returned in the
20 spring of 1984 and worked until the summer of 1988.

2 Q. . While you were at HUD, did you ever meet the defendant,

2 Deborah Gore Dean?

2 A. Yes, I did.

2 Q. When did you meet the defendant?

2 A. In April of 1984.

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1 Q. What was the nature of your relationship with her, if you
2 could describe that for the members of the jury?

3 A. In the spring of 1984, we became friends. I worked in the
4 Office of Multi-Family Housing. The following year, I went to
5 work for Secretary Pierce and reported to Deborah Dean and had a
6 working relationship with her.

7 THE COURT: Can you speak up a little bit? I can't
8 hear you. Lean into the mike a little bit, and speak up a little
9 bit. Thank you. Try again.

10 THE WITNESS: In the spring of 1984, we were personal
11 friends when I was working in the Office of Multi-Family. In the
12 summer of the following year, I went to work in the office of the
13 secretary and reported to Deborah and worked for her for about a
14 year and a half.

15 BY MS. SWEENEY:

16 Q. When you say friends, could you elaborate a little bit? Did
17 you socialize together? What types of activities were you
18 engaged in with her?

19 A. Oh, we socialized after work. We went to the beach on
20 weekends. The summer of '84, I was single. She came to my
2 wedding in the fall of 1984, and we stayed friendly until
2 sometime in 1986, when I left her office.

2 Q. When you left her office, did you continue to work at HUD?

2 A. Yes, I did.

2 Q. And what did you do when you left the office of the

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1 secretary and Ms. Dean's office? Where did you work after that
2 point in time?

3 A. I went to work for the deputy assistant secretary in Multi-

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4 Family, who was Hunter Cushing, for about a year and a half, and
5 then I went to work for Tim Coyle, who was the deputy
6 undersecretary, for the last year and a half.
7 Q. During the course of -- having known Ms. Dean since 1984,
8 are you familiar with her reputation for truthfulness and
9 veracity?

10 A. Yes, I was.

11 Q. And can you tell the members of the jury what that
12 reputation is?

13 A. She was not known as a truthful person at HUD.

14 Q. Did Ms. Dean ever have any conversations with you about her
15 interest, her future interests in the State of Maryland?

16 A. She was interested in running for future office in Maryland.

17 Q. And did she tell you that, Ms. Patenaude?

18 A. Yes, she did.

19 Q. Is that how you know that?

20 Are you familiar with an individual named Richard

2 Shelby?

2 A. Yes, I am.

2 Q. And do you know what Mr. Shelby, what type of work

2 Mr. Shelby was doing in the period 1985 through 1987?

2 A. He was a consultant that was involved with HUD business.

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1 Q. Did you ever have any conversations with the defendant or
2 did she ever mention to you the name Richard Shelby?

3 A. When I first went to work for her, she introduced me to Rick
4 Shelby. She brought him into my office and told me to take good
5 care of him. And then in 1986, during a funding round, his name
6 came up, and it was made clear that he was to be taken care of.

7 Q. Are you familiar with the HUD motor pool, Mrs. Patenaude?

8 A. Yes.

9 Q. Were you an employee who was permitted to use the motor
10 pool?

11 A. I don't believe I was on the list that was allowed to. I
12 may have been when I was a staff assistant to the secretary, but
13 I only used the motor pool with a senior HUD official.

14 Q. Did you ever have occasion to use the motor pool with the
15 defendant in this case?

16 A. Yes, I did.

17 Q. Do you recall any of the drivers who drove you when you and
18 she used the motor pool together?

19 A. Most of the time, Ron was the driver.

20 Q. And when you say Ron -

2 A. Ron Reynolds.

2 Q. Did you happen to see him earlier this morning as he was
2 leaving the courtroom?

2 A. Yes, I did.

2 Q. And did you recognize him as the individual who had driven

3250

1 you?

2 A. Yes.

3 MS. SWEENEY: No further questions at this time, Your

4 Honor.

5 CROSS EXAMINATION

6 BY MR. WEHNER:

7 Q. Ms. Patenaude, did Ms. Dean use the motor pool 50 times per
8 week?

9 A. No, I don't believe so.

10 Q. Did she travel -11

A. I'm sorry, did you say 50 times?

12 Q. Five-zero.

13 A. I don't believe so.

14 Q. Did Ms. Dean direct you to work on the Alameda Towers
15 project for Mr. Richard Shelby?

16 A. I'm sorry, could you repeat the name of the project?

17 Q-Alameda Towers.

18 A. I'm not familiar with that project.

19 Q. Okay. And you have no information regarding that project?

20 A. Not that project with that name.

21 Q. Directing your attention to the fall of 1984, is that
22 approximately when you, when you got married?

23 A. Yes.

24 Q. And at that time, Ms. Dean sponsored a shower for you, did
25 she not?

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1 A. She had a luncheon at the Jockey Club.

2 Q. For you?

3 A. Um-hum, yes.

4 Q. Okay. And other HUD members were there?

5 A. Only HUD employees, with the exception of maybe one person.

6 Q. And she paid for that reception out of her own pocket, did
7 she not?

8 A. I believe she did.

9 Q. Pardon me?

10 A. Yes, to my knowledge. I was gone when the bill was paid.

11 Q. Your understanding is that she paid for that out of her own
12 pocket?

13 A. Yes.

14 Q. When you went to work at HUD as an intern, where did you
15 work?

16 A. I worked for John Kennedy in the Office of General Counsel.

17 Q-Okay.

18 A. And for Chris Greer in the Inspector General's Office.

19 Q. Okay. Was that in the Inspector General's Office, the
20 General Counsel's Office, or where was that?

21 A. I'm sorry, can you repeat the question?

22 Q. What office did you work in?

23 A. Where did I physically sit?

24 Q. No, who was your supervisor?

25 A. John Kennedy and Chris Greer.

Q. And what was his title?

#

A. John Kennedy was the assistant general counsel.

Q. Okay. So it was in the General Counsel's Office, correct?

A. Yes.

5 Q. Okay. When you went back -- what did you do from the time
6 you left as an intern and then went back to HUD? What did you do
7 during that intervening period?

8 A. I went back to college for second semester, graduated in
9 May.

10 Q. Okay.

11 A. Went to work in New Hampshire.

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- 12 Q. what did you do in New Hampshire?
13 A. Worked for the New Hampshire Housing Finance Authority.
14 Q. Then you came back to HUD?
15 A. Yes.
16 Q. what position did you take at that point?
17 A. Executive assistant to Silvio DeBartolomeis.
18 Q. And what was his title?
19 A. Deputy assistant secretary for Multi-Family Housing.
20 Q. Okay. And how long did you work there?
21 A. Approximately a year and a half.
22 Q. And then where did you go?
23 A. I became a staff assistant to Secretary Pierce.
24 Q. Okay.
25 A. And was the white House liaison for a year and a half.

1 Q. And as white House liaison, were you in charge of personnel

2 matters in terms of political appointments in HUD and things of

3 that nature?

4 A. Yes, I was.

5 Q. Okay. what year was that, approximately?

6 A. '86 -- fall of '85 into '86.

7 Q. Okay. And then where did you go from there?

8 A. I went back to Multi-Family as executive assistant to Hunter Cushing, who was the deputy assistant secretary for Multi-Family.

10 Q. Okay. And where did you go from - what time period was

11 that, approximately?

12 A. End of 1986 into '87.

13 Q. Okay. And then after that, where did you go?

14 A. I went to work for Timothy Coyle, who was the deputy undersecretary for Field Coordination, for approximately a year and a half.

17 Q. And what time period was that?

18 A. Summer of '87 until the summer of '88.

19 Q. Okay. And did you leave HUD after that?

20 A. Yes, I did.

21 Q. Where did you go, back to New Hampshire?

22 A. I went to New Orleans to work on the convention.

23 Q-On the political convention?

24 A. Yes.

25 Q-when Bush was - when President Bush was nominated?

A. Yes.

2 Q. And then you went back to New Hampshire?

3 A. Yes.

4 Q. When you worked as staff assistant to the secretary, was that when you worked for Ms. Dean?

6 A. Yes.

Q. That was from '86 to '88?

A. No. That was --

Q. Tell me, please.

10 A. When I worked for Deborah, I was staff assistant to the secretary.

12 Q. Right.

13 A. And that was in '86-'87.

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14 Q. '86 and '87.
15 And then you were demoted and worked in Mr. Cushing's
16 office; is that correct?
17 A. No, I was not demoted.
18 Q. You were not demoted?
19 A. I resigned from my position.
20 Q. You resigned?
21 A. Yes. I resigned from my position as staff assistant to the
22 secretary, went back to Multi-Family in the executive assistant
23 capacity.
24 Q. To Mr. Cushing?
25 A. Yes, at the same pay level, the same GS schedule.

3255

1 Q. Working for Mr. Cushing and working for the secretary are
2 two different positions, are they not?
3 A. They are two different positions.
4 Q. And the secretary is clearly a superior authority to
5 Mr. Cushing; isn't that correct?
6 A. That's correct.
7 Q. And a staff assistant to the secretary has much more
8 authority than a staff assistant to Mr. Cushing?
9 A. No. I did not have program responsibility with the
10 secretary, and I did in Multi-Family.
11 Q. Okay. So when you were an assistant to the secretary, you
12 had no line authority, no program authority?
13 A. None. I was a staff assistant to the secretary.
14 Q. All right. You couldn't order that certain programs be
15 funded; is that right?
16 A. Right.
17 Q. It was up to the secretary, correct?
18 A. No, it was up to the assistant secretary for that.
19 Q. Okay. What office did you work for in, for Mr. Cushing?
20 A. I worked in his front office.
21 Q. And what were your responsibilities?
22 A. I had oversight of all correspondence that came through his
23 Office for Multi-Family Housing, and I specialized in the housing
24 voucher program.
25 Q. Okay. At some points, you moved to the housing voucher

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1 program; isn't that correct?
2 A. Yes, I did.
3 Q. Okay. And the housing voucher program, was that different
4 than being a staff assistant to Mr. Cushing?
5 A. On paper my title was the same, but -6
6 Q. In terms of responsibilities.
7 A. Oh, my responsibility was much more specialized in housing
8 vouchers.
9 Q. Okay. And how long were you there?
10 A. Six months.
11 Q. '87 to '88, in that time frame?
12 A. No, '87 to '88, I was with Tim Coyle as executive assistant.
13 Q. Okay, I'm sorry. '86 to '87?
14 A. Maybe half of that time was with, in a --
15 Q. In vouchers?
16 A. In housing vouchers.
17 Q. Okay. Do you know an individual by the name of Thomas
18 Demery?
19 A. Yes, I do.
20 Q. And did you have occasion to give reports to Mr. Demery
21 about Mr. Cushing's performance while you were working for
22 Mr. Cushing?

23 A. Yes, I did.
24 MR. WEHNER: Nothing further.
25

3257

REDIRECT EXAMINATION

BY MS. SWEENEY:

3 Q. Ms. Patenaude, the jury is familiar with the term "Schedule
4 C." was there a time when you were a Schedule C employee at HUD?
5 A. From 1984 until 1988, I was a Schedule C.
6 Q. Now on cross examination, Mr. Wehner asked you about the
7 change you made when you left the secretary's office and moved to
8 the assistant, the deputy assistant secretary for Multi-Family
9 Office. Was there a reason that you decided to leave the

10 secretary's office?

11 A. I was tired of putting up with threats and demands, and
12 there was unethical behavior in the secretary's office, and my
13 husband encouraged me to resign from that position.

14 Q. Now you referred to threats and demands. Who, who made the
15 threats and demands?

16 MR. WEHNER: Objection. I move to strike. Beyond the
17 scope of cross examination and irrelevant, in addition to not
18 being true.

19 THE COURT: All right.

20 MS. SWEENEY: Your Honor, may we approach?

21 THE COURT: Yes, sure.

22 MS. SWEENEY: Your Honor, I'd ask you to instruct
23 counsel about his comments.

24 THE COURT: All right.

25 (Bench conference on the record.)

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MS. SWEENEY: Your Honor, Ms. Patenaude will testify-
that she left the secretary's office because of Ms. Dean's
behavior, and I believe that in light of the fact that Mr. Wehner
opened up this demotion question on cross, during cross
examination, that this is fair redirect.

THE COURT: All right. And what does it go into, just
so I know? I mean, I don't want to open up some kind Pandora's
box for the jury that is going to have to be stricken or
something. Is it some personal matters, or does it go into
10 threats about sign this or fund or whatever? I mean, I don't
11 know what you're talking about.

12 MS. SWEENEY: Your Honor, I was only intending to
13 elicit that it was Ms. Dean who made the threats and demands and
14 stop at that point.

15 MR. WEHNER: Judge, that's the objection exactly. You
16 can't leave something like that hanging on the record. It's
17 severely prejudicial.

18 THE COURT: Yes. I think it's either got to be fleshed
19 out what you're talking about or not gone into at all. I mean, I
20 don't know what the jury is going to speculate as to what threats
21 and demands are, some personal demands upon her or threats to
22 kill her, I don't know, that kind of thing, up in the air like
23 that. It has to be controlled.

24 So I think either you don't get into that or -- and
25 I'll strike it or have her develop what she thinks her problems

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1 are if they're work-related problems, that she was very
2 demanding, wanted her to be there, work extra hours or whatever.
3 I mean, I don't know what we're talking about here, what
4 allegation.

5 MS. SWEENEY: Your Honor, it would go to Ms. Dean's
6 misuse of the motor pool, her misuse of what she saw about the
7 Mod Rehab Program, that type of things. Perhaps I could rephrase
8 it and ask if, ask her to describe if there was something about
9 Ms. Dean's behavior that caused her to leave the office.

10 THE COURT: well, I think you should do this: I think
11 I'll let you lead her and ask her and I'll strike the threats
12 language, I'll let you lead and ask her, "Did you leave because
13 of your problems of working for Ms. Dean and with Ms. Dean in the
14 office as your supervisor?"

15 I think you can leave it like that, as opposed to -
16 because I think the only thing to deal with threats and demands
17 is to go into that, and you're going to open up several more
18 witnesses, obviously, if you get into it, her personal views of
19 the situation.

20 MS. SWEENEY: Okay. Your Honor, in that case, may I
2 suggest that I would ask her if she left because of
2 dissatisfaction with Ms. Dean as a supervisor?

2 THE COURT: Sure. I mean, I think that's fair. See
2 whether she has a conflict with it. I think that's fine. I
2 think that's fair. Thank you.

1 (End of bench conference.)

2 THE COURT: All right, Ladies and Gentlemen, we're
3 going to rephrase the question -- strike the last question about
4 threats and demands, rephrase the question, and have the witness
5 answer it.

6 BY MS. SWEENEY:

7 Q. Ms. Patenaude, at the time that you left the secretary's
8 office and went to Multi-Family Housing, were you dissatisfied
9 with Ms. Dean's behavior as a supervisor? Did that play a role
10 in causing you to leave?

11 A. Yes, it did.

12 Q. You were also asked on cross examination about the use of
13 the motor pool. Do you recall that particular inquiry?

14 A. Yes.

15 Q. When you used the motor pool with Ms. Dean, could you give
16 us some examples of the places that you went with her?

17 A. On one occasion, we went to The Guards for lunch. On
18 another occasion, we went to the Shoreham for a political
19 function. I went to Baltimore on one occasion for a political
20 function.

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1 Q At this point in time can you recall any other
2 destinations, any other times that you used the motor
3 pool with her?

4 A No, I can't.

5 MS. SWEENEY: No further questions at this

6 time, Your Honor.
7 THE COURT: All right.
8 MR. WEHNER: A few questions, Judge.
9 THE COURT: I'll allow a couple on those
10 areas.
11 RECROSS EXAMINATION
12 BY MR. WEHNER:
13 Q In 1989, Ma'am, you worked with Mr. Demery, did you
14 not?
15 A No.
16 Q In an effort to prevent Miss Dean from being
17 confirmed as Assistant Secretary?
18 A I did not work at HUD in 1989.
19 Q Isn't it true that you spoke to Mr. Demery at least
20 ten or 15 times in terms of an effort to try to prevent
21 her from being confirmed?
22 A No, I did not work with Assistant Secretary Demery.
23 Q Did you talk to him?
24 A In 1989 I was no longer at HUD.
25 Q I know. Did you talk to Mr. Demery is the

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1 question.
2 A It's my understanding that Deborah was not even up
3 for confirmation in 1989.
4 Q Did you talk to Mr. Demery about Miss Dean's
5 confirmation?
6 A Not in 1989.
7 Q Ever? j
8 A If I recall, her confirmation was in 1987 and I was
9 not close to Mr. Demery -10
Q Did you talk to Mr. Demery about Miss Dean's
11 confirmation process?
12 A Not that I can recall.
13 MS. SWEENEY: Your Honor, two more very brief
14 questions.
15 THE COURT: All right.
16 FURTHER REDIRECT EXAMINATION
17 BY MS. SWEENEY:
18 Q Mrs. Patenaude, Mr. Wehner on cross-examination
19 asked you questions about the confirmation process.
20 Were you contacted by anyone during Miss Dean's
21 nomination and confirmation process?
2 A I was contacted by Jan Maxfield of Senator Garn's
2 office, I believe in 1987.
2 Q Can you tell the members of the jury who Senator
2 Garn was?

1 A Senator Garn was the ranking Republican on the
2 Committee.
3 Q And at that time, did you tell Miss Maxfield the
4 things that you've told the members of the jury here
5 today?
6 A Some of them were mentioned.
7 MS. SWEENEY: No further questions, Your
8 Honor.
9 THE COURT: All right. Thank you. You may
10 step down.
11 You don't know about the other witness yet?
12 We haven't heard anything.
13 MR. O'NEILL: No, Your Honor.
14 THE COURT: Okay.

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15 MR. O'NEILL: Judge, she's here.
16 THE COURT: Do you want a break before you
17 start?
18 MR. O'NEILL: Whatever is convenient to the
19 Court.
20 THE COURT: All right. If she's ready to go,
2 call her.
2 MR. O'NEILL: Yes. That solves it, Judge.
2 Judge, the Government would call
2 Susan Withington.
2 THE COURT: All right. Thank you.

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1 (SUSAN WITHINGTON, WITNESS FOR GOVERNMENT, SWORN)
2 DIRECT EXAMINATION
3 BY MR. O'NEILL:
4 Q Though we know your name, Mrs. Withington, would
5 you please state your name for the record, spelling your
6 last name?
7 A Susan Withington, w-i-t-h-i-n-g-t-o-n.
8 Q Mrs. Withington, I would show you three documents
9 that have been marked as Government's Exhibits 555 for
10 identification, 556 for identification and 557 for
11 identification and I ask you, Ma'am, if you recognize
12 those documents?
13 A Yes.
14 Q And what do you recognize those documents to be?
15 A They were - one is a contract of sale for Gordon
16 Dean's apartment at Watergate South and the other two
17 are -are
the settlement sheets for the same property.
18 Q And are those records kept in the normal course of
19 business?
20 A Yes.
2 Q Is it the normal course of your business to keep
2 such records?
2 A Yes.
2 Q Are they made at or about the time of the date
2 indicated thereon? In other words, this Government's

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1 Exhibit 556 that bears the date April 20, 1987, was that
2 made at or about the time April 20th, 1987?
3 A The other agent involved in the transaction would
4 have written the contract on April the 20th and then
5 Gordon Dean would have signed it on April the 24th.
6 Q Now, Miss Withington, where were these documents?
7 A Where were they?
8 Q Yes.
9 A When you contacted me last week?
10 Q Yes.
11 A They were in a storage box with other files of
12 transactions that took place that year.
13 Q And when were you contacted last week, do you
14 recall?
15 A I can't remember which day it was.
16 Q Do you recall who contacted you, Ma'am?
17 A Mr. Batts.
18 Q Special Agent Batts?
19 A Yes.
20 MR. O'NEILL: Your Honor, at this time I'd
2 move into evidence Government's Exhibits 555, 556 and
Page 1809

2 557.
2 MR. WEHNER: No objection, Your Honor.
2 THE COURT: All right, 555, 556, 557 are
2 admitted subject to cross.

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1 (Government's Exhibits 555, 556 &
2 557 received into Evidence).
3 MR. O'NEILL: I have no further questions.
4 Thank you.
5 THE COURT: All right, thank you. j
6 CROSS EXAMINATION j
7 BY MR . WEHNER:
8 Q Hi. It's good to see you again.
9 A Hi.
10 Q Miss withington, the agreement was made on what, j
11 April 20th, 1987?
12 A Correct.
13 Q Backing up from that time period into April and j
14 March , was Mr. Kitchin interested in purchasing the
15 apartment at that time ? \
16 A Yes.
17 Q Did you continue to show it to other people during j
18 that time?
19 A We did, when the contract came -- do you want me to
20 elaborate on this?
2 Q Please.
2 A When Gordon contacted me and told me that Deborah j
2 Dean, his sister, had someone interested in purchasing :
2 it, Gordon said it's -
you know, you can consider it ;
2 sold, but it's not my practice to, to just take i

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1 something off the market until we have a contract in
2 hand. So during a three-week or maybe four-week period
3 I kept contacting their agent, Janet Whitman, to see if
4 she had a contract and she kept telling me that
5 Mr. Kitchin was sending it to us, but it just never
6 materialized.
7 Q And you continued to show it?
8 A Yes.
9 Q And ultimately the Cranes purchased it?
10 A Yes.
11 Q And are they the individuals you showed it to
12 during the same time period that Mr. Kitchin was
13 interested in buying?
14 A Yes.
15 MR. WEHNER: Nothing further.
16 MR. O'NEILL: No redirect, Your Honor.
17 THE COURT: All right. Thank you.
18 Miss withington, you may step down. You're
19 free to go.
20 MS. SWEENEY: Your Honor, we did have a couple
2 of additional exhibits.
2 THE COURT: Have they been reviewed by
2 counsel?
2 MS. SWEENEY: No, Your Honor.
2 THE COURT: All right. Let me take a morning

I

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1 break for a second. we'll look at those documents.

2 Ladies and gentlemen, I told you yesterday

3 we're winding down the witnesses. I have to talk to

4 counsel about some documents and see whatever else we

5 have as possible witnesses or not, and it may be, as I

6 said yesterday, we're going to spend the afternoon on

7 legal issues and instructions and so you wouldn't be

8 sitting this afternoon, but we're going to take a break

9 now and find out where we're going.

10 You all have your morning recess. Remember
11 the admonition during the break, remember not to talk
12 about the case among yourselves or with anyone else.

13 (Jury dismissed)

14 THE COURT: Do you need to look at those for a
15 few minutes?

16 MR. WEHNER: Yes, Your Honor.

17 THE COURT: All right. I'll take a short
18 break and when you're ready I'll come back and we'll
19 take those up and we'll take up the matter whether we
20 need the jury or not, and then we'll let the jury go.

2 MR. WEHNER: Your Honor, for the record, I

2 would intend to put Miss Dean on for a few questions in
2 surrebuttal.

2 THE COURT: Tell me what it's about when I
2 come back.

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1 MR. WEHNER: Yes, sir.

2 (Recess, 11:40 a.m. to 11:55 a.m.)

3 MR. O'NEILL: Judge, there's three documents
4 that Mr. Wehner has not objected to and we'll admit
5 those into evidence.

6 THE COURT: All right. And then should we let
7 the jury go and look at our other documents and resolve
8 those? You all need sometime to read over these
9 instructions and come back and comment and seek
10 additions and changes as well.

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11 I did read through Judge Gesell's comments and
12 I appreciate the Independent Counsel supplying the
13 information to the Court rather quickly. I'll read it
14 again. It's clear to me he didn't want the entire
15 indictment sent in. His concern was more as a reading
16 of an overall indictment versus a hub and spoke theory,
17 but I think I'll have to look at the indictment to see
18 what I'll do about that. I've not reviewed the
19 indictment as to that aspect at all.
20 Let me have the jury in then to do those
2 documents. Do you want to put in the ones you agreed to
2 now in front of the jury?
2 MR. WEHNER: No, sir. I don't want to show
2 them to the jury at this point. I want them to be
2 available to go back and use certain of them for closing

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1 but I think that would be a waste of my time.
2 THE COURT: All right. That's fine. Then I
3 can tell the jury we're finished with the evidentiary
4 phase of this case after these documents come in, as far
5 as we're concerned.
6 MR. WEHNER: I did want to put Miss Dean back
7 on.
8 THE COURT: And that was to go into Patenaude
9 or what?
10 MR. WEHNER: The testimony would be that
11 Reynolds was not her regular driver, that she never met
12 Mr. Mitchell at the Fairfax Hotel, Mrs. Patenaude did
13 not resign but was dismissed, forced to go, to take the
14 demotion she took. That she provided substantial
15 information to Senator Proxmire. That Miss Dean paid an
16 extensive bill along with Secretary Pierce for Mr. Cain
17 at the Beverly Wilshire when he was provided with an
18 award for some kind of superior performance. And a
19 brief explanation as to what Castle Square was.
20 THE COURT: As to what was?
2 MR. WEHNER: Castle Square? It was a
2 Pennsylvania development that came up during the
2 cross-examination. I'm sorry, Boston development,
2 excuse me. It's a rebuttal to their rebuttal. Those
2 are the areas.

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1 MS. SWEENEY: Your Honor, the Government would
2 strenuously object to Miss Dean resuming the stand.
3 Miss Dean was on direct examination if I recall
4 correctly, perhaps understated, for what, six days?
5 Your Honor, I just don't know in what circumstances a
6 surrebuttal case would be appropriate. This is not a
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7 briefing situation and they had their opportunity to

8 cross-examine Miss Patenaude. The Government was very

9 limited in the rebuttal case that we offered to meet
10 Miss Dean's case.

11 THE COURT: All right. I'm going to sustain
12 the objection of the Government. I don't think that
13 Miss Dean has a right to retake the stand in this
14 typical rebuttal type testimony in the areas that were
15 gone into on cross-examination.

16 The other area about the Boston development
17 where there was some cross-examination about it by the
18 special witness Cain, I believe it was, and the Beverly
19 Wilshire matter, he was asked about it at that time. I
20 don't see it appropriate as coming in on some kind of
21 surrebuttal about some new areas, it's unfair, that have
22 been raised by the Government for the first time.
23 Typical rebuttal is challenging one or two statements of
24 certain witnesses to certain areas that are limited.
25 So I'll deny Miss Dean retaking the stand.

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1 All right, bring in the jury.

2 (Jury present)

3 THE COURT: All right, ladies and gentlemen,

4 we're ready to proceed with just a couple of matters. I

5 believe there are some documents the Government intends

6 to offer as part of the rebuttal case, and that should

7 conclude the evidentiary part of this case.

8 MR. O'NEILL: Your Honor, without objection

9 from the defense, the Government is introducing at this
10 time into evidence Government's Exhibit 522, 523 and
11 544. And that does conclude the rebuttal case.

12 THE COURT: Just for the record, would you
13 give the title of those documents?

14 MR. O'NEILL: Yes, Your Honor. Government
15 Exhibit 522 is a letter to the defendant from Linda
16 Murphy. Government's Exhibit 523 is likewise a letter
17 from Linda Murphy to the defendant. And Government's
18 Exhibit 554 is a yellow phonebook called the Federal
19 Yellow Book, spring 1987.

20 THE COURT: All right. Then 522, 523 and 554

2 are admitted.

2 (Government's Exhibits 522, 523 & 554

2 received into Evidence)

2 THE COURT: Let me have counsel up here on

2 timing because so we need to find out when we need to

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1 get you back.

2 (Bench conference)

3 THE COURT: We need to look at your documents

4 sometime soon and hear motions and then review the

5 instructions. Can we get ready by tomorrow or not for

6 closing arguments?

7 MR. O'NEILL: Steve and I have gone over the

8 documents this morning. I think that will take very

9 little time. Don't you think, Steve?

10 MR. WEHNER: Yes.

11 THE COURT: I want you to read the

12 instructions and come back and inform me whether they

13 should be changed or not.

14 MS. SWEENEY: AS I said, Your Honor, we have a

15 few additional supplemental instructions and I'll try to

16 supply those to the Court within an hour or so, if I

17 may?

18 THE COURT: I'll hear some motions this

19 afternoon.

20 Now, are the motions anything new or are there

21 other legal motions you're going to bring up beside the

22 judgment of acquittal that you argued earlier?

23 MR. WEHNER: There are additional grounds in

24 terms of the statute of limitations, Your Honor, with

25 regard to the Kitchin matters. And those are the new

3274

1 grounds. We've reargued -- we re-raise the ground we

2 raised at the close of the Government's case with more

3 emphasis on the Moore matter, the Moore case, and I'm
4 analyzing it from that light but I think Your Honor has
5 pretty much for purposes of the 29 (b) considered those
6 arguments. But in terms of the statute of limitations
7 that's a new ground. We've got a brief.

8 THE COURT: It will be coming in soon, so I
9 can look at it?

10 MR. WEHNER: It should be here right now,
11 Judge, actually.
12 MS. SWEENEY: Would you be able to give us a
13 copy of that?
14 MR. WEHNER: I'll do the same thing you've
15 been doing for the last two weeks, Paula. When I give
16 it to the Court, I'll give it to you. No problem.
17 THE COURT: On the timing, bring the jury in
18 tomorrow morning for closings at ten o'clock and give us
19 an hour ahead of time to finalize the instructions. We
20 can talk about it later this afternoon about any changes
2 based upon whatever we decide.

2 MS. SWEENEY: Was Your Honor planning to get
2 together at some point this afternoon?
2 THE COURT: Yes.
2 MR. O'NEILL: That sounds good, Judge.

3275

1 THE COURT: All right. Let me do this, I can
2 have you - I'll have the jury go. I'll have you admit
3 the instructions on which there's no dispute right away
4 and I'll hear you briefly as to what the other ones are
5 about before lunch and then after lunch you'll have your
6 materials for the MJOA together.
7 MR. WEHNER: Yes, sir.
8 THE COURT: All right. Why don't I give you a
9 long lunch so you can look at these MJOA materials and I
10 can look at those and then we'll do some brief review of
11 those instructions and I'll be back later this afternoon
12 after lunch. If we can get you out of here by 12:30 and
13 get you back at 2:30, which will give you a couple of
14 hours to talk about it.
15 I'll let the jury go until tomorrow morning.
16 MR. WEHNER: If the closings go as we
17 preliminarily thought, do you intend to charge
18 tomorrow?
19 THE COURT: I will try, if it's not late. I
20 won't instruct them if it's after four or 4:30. If it's
2 after 4:30 I definitely will not instruct them. I
2 prefer to instruct the same time of the arguments. I'll

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2 definitely get all the arguments in tomorrow. We'll see
2 how we're doing tomorrow afternoon.
2 MR. O'NEILL: Okay.

3276

1 (Bench conference concluded)
2 THE COURT: All right, ladies and gentlemen,
3 after talking to counsel the schedule will be as follows
4 for this matter. We're going to let you go for the day,
5 have you back tomorrow.
6 Tomorrow, what's going to happen is we get our
7 work done, this afternoon ought to do it, this evening,
8 we will be ready for closing arguments or summation to
t
9 you. |
I
10 If you remember, at the beginning of this case
11 I told you about opening statements of counsel. They i
!
12 were going to lay out the case, what they alleged in the!
13 case, et cetera, and then at the end of the case we
i
i
14 would have closing arguments or summation of the case to\
15 you by each side. That's where each side will lay out, |
i
16 now that you've heard the evidence in the case, the case \
17 from their point of view and they'll summarize it, and ;
18 these closing arguments are very important. They're ;
19 meant to help you understand the positions each side has
i
20 in this case.
2 Now, the closing arguments are just that, and
2 I'll instruct you tomorrow about that. They're i
2 arguments. They're trying to convince you of something. !
2 The closing argument is not evidence in the case. What
2 the lawyer says unless it's a stipulation of fact agreed;

3277

1 to by the parties, it's not evidence in the case. The
2 evidence, as I'll instruct you about it, as I have
3 throughout the trial, is what you find the facts to be
4 from the testimony of the witnesses and the documents
5 and all exhibits that have been admitted into evidence.
6 But the closing arguments are very important and so
7 we're going to spend the day on those closing arguments,

8 I suspect, and on my instructions to you that will guide
9 you during the deliberations.
10 The instructions are also very important.
11 They explain to you the law that you must follow during
12 your deliberations. They give you guidance on the
13 believability of witnesses, they give you guidance on
14 the evidence. They give you the legal definitions of
15 the offenses charged. And, again, you need to listen to
16 the instructions very carefully.
17 If we have time, I'll do the instructions
18 tomorrow as well as the closing arguments. If the
19 closing arguments take a long time and we're tired,
20 we'll do the instructions Thursday morning. That's the
2 lay out for right now.

2 After we do the instructions and we're
2 completed with the open Court part of the case, then
2 that's when you retire and begin your deliberations and
2 you do that in private in the jury room.

3278

1 All right. So, ladies and gentlemen, you're j
i
2 going to be excused for the day. You will come back jI
3 tomorrow. The case is still ongoing. I'm going to have
4 you back tomorrow. I'm going to have you come at ten :
5 o'clock so we'll have a chance in the morning to make
6 sure we're ready to go. So I'll have you back at ten j
7 o'clock tomorrow morning for the final phase of this I
i
8 case.
j
i
9 It's important to remember the instructions of j
i
10 the Court. The case is not completed yet. You haven't I
11 heard the closing arguments, you haven't heard my
12 instructions which control your deliberations. So it's
13 not proper to talk to anyone or among yourselves about
14 the case, or read or listen to it in the media.
15 I hope you have a pleasant evening and see you
16 back tomorrow morning at ten a.m. We'll be here all day
17 tomorrow.
18 (Jury dismissed)
19 THE COURT: All right, we need to look at the
20 documents that are stipulated -stipulated
to. At
2 least documents not objected to by the Government that
2 the defendant had marked for evidence in the defendant's
2 case that we withheld ruling on until they've had a
2 chance to be reviewed. That was on October 14th.
2 There's probably about 100 or some documents marked.

3279

1 MR. O'NEILL: Judge, I think Steve will hand
2 them to me, I'll hand them to Gloria, and in this way -
3 THE COURT: All right. Make sure you've seen
4 each one of those and read the number off.
5 MR. WEHNER: 319 is withdrawn. 797 is a
6 letter to Senator Proxmire from the 12, I guess 12 other
Page 1817

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7 Senators on the Committee asking for quick action on
8 Miss Dean's nomination. Mr. O'Neill objects to that.
9 Do you want to hear them one at a time,
10 Judge?
11 THE COURT: well, let me just hear these
12 objected ones.
13 You object to the letter from Senator Proxmire
14 to all the other Senators, right?
15 MR. O'NEILL: Yes, Your Honor.
16 THE COURT: I'm going to sustain that
17 objection. I don't think the defendant can introduce
18 that letter from someone else with respect to her
19 confirmation.
20 MR. WEHNER: 634 has been withdrawn.
21 THE COURT: Okay.
22 MR. WEHNER: 637, 636 are admitted.
23 THE COURT: All right. No objection to 636
24 and 637.
25 MR. O'NEILL: That's correct.

3280 !

1 THE COURT: All right. j
2 (Defendant's Exhibits 636 and j
3 637 received into Evidence) j
4 MR. WEHNER: Your Honor, 632 is a letter dated t
5 January 12, 1987 to Secretary Pierce from Hunter
6 Cushing. It is a document that was kept -it
7 was a
8 business record of HUD. It bears the stamps of the
9 Independent Counsel's microfiche system, and we move its
10 admission pursuant to the business records exception of
11 the hearsay rule and I believe Mr. O'Neill objects.
12 THE COURT: This is an internal document from
13 HUD?
14 MR. O'NEILL: It appears to be, Judge. It's
15 on Department of Housing letterhead and it's addressed
16 to Dear Mr. Secretary. The Government's objection to
17 this document would be that it's unsigned.
18 THE COURT: Let me see it, Gloria.
19 The issue is whether or not this was really
20 sent, I guess is what you're saying.
21 MR. O'NEILL: That's correct, Your Honor.
22 MR. WEHNER: Is there any evidence at all
23 about this -it's
24 on the stationery of HUD. I'm not at
25 all concerned that it's prepared in the ordinary course
of business. It's with regard to rehab matters.
2 MR. WEHNER: My recollection is the testimony

3281

1 of Miss Dean is that it was sent but I cannot recall
2 that specifically, but it is not inadmissible if it was
3 sent or not sent because, Your Honor, it is a business
4 record and identified as a business record, number one,
5 and, number two, we're not alleging that it was received
6 by Mr. Pierce. That's not the relevance of it. The
7 relevance of it is that that is what occurred and that
8 Hunter Cushing is making a business record of the events
9 that surrounded certain matters that Miss Dean testified
10 about that was kept in the regular course of business at

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11 HUD. I frankly don't care if Secretary Pierce ever
12 received it or not. It's relevant in terms of
13 corroborating Miss Dean's testimony.
14 Finally, Judge, presumably the signed copy
15 would be in Secretary Pierce's files which we of course
16 were not provided in discovery. That makes it a little
17 difficult to find.
18 THE COURT: With reference to all the
19 materials we've had I don't see listed this particular
20 exhibit being discussed by Miss Dean, but it could have j
21 been. i
22 MR. WEHNER: Judge, it may just have been
23 identified as a business record.
24 Your Honor, Miss Dean recalls that, and she
25 refreshes my recollection, that she testified that she

3282

1 saw the signed copy when Secretary Pierce showed her the
2 letter. That's the letter she's referring to, that was
3 shown to her by Secretary Pierce.
4 THE COURT: All right.
5 Well, on the basis of the objection that it's
6 an unsigned copy I will overrule that objection and
7 admit it. 632 will be admitted.
8 (Defendant's Exhibit 632 received
9 into Evidence)
10 MR. WEHNER: 404 is admitted without
11 objection.
12 THE COURT: All right, 404 will be admitted.
13 (Defendant's Exhibit 404 received
14 into Evidence)
15 MR. WEHNER: One is withdrawn. Two is
16 admitted without objection.
17 THE COURT: Two is admitted.
18 (Defendant's Exhibit Two received
19 into Evidence)
20 MR. WEHNER: 638 is admitted without
2 objection.
2 THE COURT: 638 is admitted.
2 (Defendant's Exhibit 638 received
2 into Evidence)
2 MR. WEHNER: Your Honor, 648 and 649 are the

3283

1 plea agreements and indictments for Mr. Demery and I
2 move their admission, and Mr. O'Neill objects.
3 THE COURT: They weren't identified by him?
4 MR. O'NEILL: No, Your Honor. It really isn't
5 on identification as much as I just don't see how
6 they're admissible. The Government's objection would be

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7 as to any foundation.

8 THE COURT: well, obviously I think he could

9 have been crossed with those and they were shown to him

10 and he could have identified them and he could have said

i
!

11 that here's my agreement and here's what I said and they!
12 might have gotten in that way, but they weren't j

i

13 previously, as I understand it. In fact, I don't recall !

i

14 anyone being crossed on their plea agreement. j

15 MR. WEHNER: Judge, I didn't cross them with
16 the paper. I crossed them with the substance of the
17 agreement.

18 THE COURT: All right. I'm going to sustain
19 the objection to that plea agreement and the indictment
2 0 of Mr. Demery.

2 MR. WEHNER: Your Honor, that doesn't limit

2 the closing argument?

2 THE COURT: No, he admitted he pled guilty to

2 a felony. You can certainly use that against him all

2 you want. I have an instruction on that.

3284

1 MR. WEHNER: 575 and 576 are admitted without

2 objection.

3 THE COURT: All right, 575 and 576 are

4 admitted.

5 (Defendant's Exhibits 575 and 576

6 received into Evidence)

7 MR. WEHNER: Three through nine are admitted

8 without objection.

9 THE COURT: Three through nine will be
10 admitted without objection, three, four, five, six,
11 seven, eight and nine.

12 MR. O'NEILL: That's correct, Your Honor.

13 (Defendant's Exhibits Three through
14 Nine received into Evidence)

15 MR. WEHNER: Your Honor, ten is a letter to
16 Mr. Silvio DeBartolomeis at Housing and Urban
17 Development from Richard Carver, Mayor of Peoria,
18 Illinois. Mr. O'Neill objects to that for reasons he's
19 previously stated. In my judgment, Your Honor has not
20 sustained that objection for Mr. O'Neill and we offer it
2 on that same business records exception basis. j

2 MR. O'NEILL: That is correct, Your Honor, the
2 Government is objecting on the basis that the letter is
2 coming from the city of Peoria and no proper foundation
2 has been laid, and you have ruled against me previously.

3285

1 THE COURT: Is this one that Miss Dean has
2 identified at all or one from the files?

3 MR. WEHNER: We went through these documents
4 during the Government's case in chief, Your Honor, with
5 Miss Hastings. >

6 THE COURT: All right, I'll overrule the
7 objection and allow it in.

8 (Defendant's Exhibit Ten received
9 into Evidence)

10 MR. WEHNER : 11 is admitted without
11 objection.

12 THE COURT: All right, 11 is admitted.
13 (Defendant's Exhibit 11 received

14 into Evidence)

15 MR. WEHNER : 16 and 17 are objected to by
16 Mr. O'Neil 1.

17 MR. O'NEILL : The same basis as before, Your
18 Honor.

19 THE COURT: Who are these from?

20 MR. O'NEILL : They're from the local PHA in
2 Miami to -

one of them is to a Mr. George Perez, the
2 other one is to Martin Fine.

2 THE COURT: Fine?

2 MR. O'NEILL : Yes.

2 THE COURT: He's not part of HUD.

3286

1 MR. O'NEILL: No.

2 MR. WEHNER: No, sir, but they were kept as
Page 1821

3 part of HUD's records.

4 THE COURT: One is to the HUD Regional Office

5 from the Housing Office of Miami. All right, I'm going

6 to overrule the objection and let them in on the basis

7 the Court has allowed these documents in besides the

8 business records exception, recognizing the Government's!

9 objections. It's within the courts purview to admit
10 evidence that would otherwise be time consuming and

11 occupy the Court's and the jury's time for many more
12 days than necessary, and these are the type of documents
13 I have in mind. These could be admitted by calling some

14 of these individuals and I don't think that's
15 necessary.

16 (Defendant's Exhibit 16 and
17 17 received into Evidence)

18 MR. WEHNER: 18 and 19 are admitted without
19 objection, Your Honor.

20 THE COURT: All right, 18 and 19 are
21 admitted.

22 (Defendant's Exhibits 18 and 19
23 received into Evidence)

24 MR. WEHNER: 20 is a letter to Mr. Silvio
25 DeBartolomeis from Melvin J. Adams.

1 THE

2 MR.

3 THE

4 I'll overrule

5

6

3287

COURT: The same objection?

O'NEILL : Yes.

COURT: All right, for the same reasons
the obj ection.

(Defendant's Exhibit 20 received
into Evidence)

7 MR . WEHNER : 21, 22, 27, 28 and 29 are
8 admitted without objection.

9 THE COURT: 21, 22, 27, 28 and 29 are
10 admitted.

11 (Defendant's Exhibits 21, 22, 27,

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12 28 & 29 received into Evidence)
13 MR . WEHNER : 13 is admitted without

14 objection. I
15 THE
16
17
18 MR.
19 objection.
20 THE
2
2
2 MR.
2 THE
2

don't know why that one ended up there.

COURT:

WEHNER:
COURT:

WEHNER:
COURT:

It's admitted.

i

i

(Defendant's Exhibit 13 received
into Evidence)
30 and 31 are admitted without

All right. They'll be admitted.
j
(Defendant's Exhibits 30 & 31
received into Evidence)
i

50 is admitted without objection. ;
50 is admitted.
(Defendant's Exhibit 50 received

3288

1 into Evidence)

2 MR. WEHNER: Your Honor, 52, and your ruling

3 on this will affect the ruling on many additional

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4 documents that are categorized, 52 is a letter to Samuel

5 Pierce from John Heinz, United States Senator, in

6 support of a specific Moderate Rehabilitation project.

7 We identified these for admissibility purposes as

8 authentic and business records kept in the regular

9 course of business at HUD. But more importantly than
10 the foundational basis is the fact that the perjury
11 counts in this case charge in essence that Miss Dean
12 attempted to conceal certain attributes of the process
13 by which Mod Rehab funds were awarded from the Senate,
14 and we believe that the letters to Miss Dean and to
15 Secretary Pierce, to the Federal Housing Commissioner
16 and other individuals at HUD that came from HUD's files
17 are directly relevant to Miss Dean's defense that she
18 could not have intended to mislead during her Senate
19 testimony, not that they were not, in fact, misled,
20 because I understand the case law that suggests that
2 that's not a defense; but in terms of her intent she

2 clearly knew that political considerations were at play
2 in terms of the Moderate Rehab Unit, and she knew that
2 the Senators knew that. So I think clearly it goes to
2 her intent.

3289

1 And we have introduced in addition to 52 an
2 additional stack of maybe about 500 of such letters -3
250, for the relevant time period that we've simply
4 tagged as Dean Exhibit 943. Dean Exhibit 943.

5 THE COURT: That's all the Congressional
6 inquiries you're talking about?

7 MR. WEHNER: Yes, sir.

8 THE COURT: Have you had a chance to look at
9 those?

10 MR. O'NEILL: Yes, sir. The Government's
11 objection would be the same as it was before, Your
12 Honor. These do come from HUD files. However, they're
13 Senate letters and it would be basically a foundational
14 argument once again.

15 THE COURT: All right. I'm going to overrule
16 the objection. I think, again, as I expressed, I think
17 that I can control the evidence as such under the
18 federal rules. Where there's no claim to authenticity,
19 or the documents are not what they say to be, you don't
20 need to call the 250 authors of these documents to allow
2 their existence. So I'm going to allow those in.

2 (Defendant's Exhibits 52 & 943
2 received into Evidence)

2 MR. O'NEILL: Your Honor, based on your
2 ruling, just in terms of keeping it safe, I'm sure

3290

1 Mr. wehner is not going to go through all those
2 documents because it would take him forever, but if
3 there's any handwritten notations on something that
4 comes from outside, if he wants to use that, we would
5 ask that that be restricted, but I'm sure that's not
6 even coming up.

7 MR. WEHNER: I would not do that, Your Honor.

8 THE COURT: We had that earlier in several
9 documents and we had that removed.

10 MR. WEHNER: I would not -- yes, sir. 54, 55,
11 56 and 57 I believe were admitted without objection.

12 MR. O'NEILL: Judge, the Government has no
13 objection to the documents. There's a little
14 handwriting again on 56 and 57.

15 THE COURT: Well, 54 and 55 will be admitted.
16 56 and 57 need to be identified a little further.
17 (Defendant's Exhibits 54 and 55
18 received into Evidence)

19 MR. WEHNER: Your Honor, on Dean Exhibit 56,
20 the only "fund 200" handwriting at the bottom was
21 identified by Miss Dean. She recalls that as being that

22 of Mr. Demery's. And with regard to 57, the letter from
23 Alvin Moore to Jim Chaplin, her recollection is that
24 that handwriting is from the Metro-Dade office and is
25 identified as coming from the Metro-Dade office by

3291

1 Miss Hastings. I'm sorry. Miss Sharifi.

2 THE COURT: The Government objects to this
3 handwritten material on here? I'll have to look at my
4 notes on 56 if it was identified as Demery's writing or
5 not. The other one, I don't know who wrote that. I'll
6 sustain the objection to admitting 57. 56, I'll sustain
7 the objection unless I can find where it's been
8 identified as Mr. Demery's handwriting.

9 MR. WEHNER: Your Honor, 58 is a letter from
10 Claude Pepper to Miss Dean. Mr. O'Neill had the same
11 objection regarding Senatorial documents on that.

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12 THE COURT: Is it in the same context as the
13 other ones that are admitted, or is it different?
14 MR. O'NEILL: He's speaking about specific
15 projects, Your Honor. This one was identified by
16 Miss Dean.
17 THE COURT: It was testified to.
18 MR. O'NEILL: Yes.
19 THE COURT: And then I'll overrule the
20 objection of the Government.
21 (Defendant's Exhibit 58 received into
22 Evidence)
23 MR. WEHNER: Your Honor, Dean Exhibits 66
24 through 73 are admitted without objection, I believe.
25 THE COURT: Mr. O'Neill?

3292

1 MR. O'NEILL: That's correct, Your Honor.
2 THE COURT: All right, 66, 67, 68, 69, 70, 71,
3 72, 73 are admitted.
4 (Defendant's Exhibits 66 through 73
5 received into Evidence)
6 MR. WEHNER: Dean Exhibits 85, 88, 91, 93,
7 94, 95, 96, 108, 112, 117, 124, 125, 119, 126, 146, 147,j
8 149, 148, 150, 151, 152, 161, 164, 184, and 185, I
9 believe are admitted without objection.
10 MR. O'NEILL: That's correct, Your Honor.
11 THE COURT: All right, then I'll admit those
12 since they're agreed to by counsel.
13 (Defendant's Exhibits 85, 88, 91,
14 93-96, 108, 112, 117, 124-125, 119,
15 126, 146-147, 149, 148, 150-152, 161,
16 164, 184 & 185 received into
17 Evidence)
18 THE COURT: Do you have a whole other stack?
19 MR. WEHNER: Yes, sir.
20 THE COURT: I think we have to take a break.
2 MR. O'NEILL: We went faster this morning for
2 some reason, Judge. I don't know. We seemed to move -2
THE COURT: I'll review those at 2:30 and come
2 back and have the other conference this afternoon. Do
2 you have copies of your motion here?

3293

MR. WEHNER: I don't see it yet, Judge. I'll
see where it is.
THE COURT: When it comes in, will you drop it
by chambers?
MR. WEHNER: Yes, sir.
THE COURT: All right. we'll take a recess
until 2:30.
(Lunch recess, 12:30 p.m. to 2:30 p.m.)

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3294

AFTERNOO N SESSIO N

2 (Defendant present, Jury out.)

3 THE COURT: All right, can we finish up with these
4 documents, do you think, somewhat quickly and then get to the
5 motions?

6 MR. WEHNER: Okay. 186 is withdrawn, Your Honor.
7 189, 190, 192, 193, 19- -- I'm sorry, 189, 190, 192, and 193 are
8 admitted without objection.

9 MR. O'NEILL: That's correct, Your Honor.

10 THE COURT: All right, they're admitted then.

11 (Defendant's Exhibit Nos. 189, 190, 192,
12 193 were received in evidence.)

13 MR. WEHNER: 194 through 199, 200 -- 194 through 207
14 are letters written in support of Ms. Dean for her position as
15 assistant secretary for Community Planning and Development. They
16 are written to Senator Proxmire. They are from various private/
17 public individuals.

18 Ms. Dean testified during her direct examination that
19 she had received copies of these letters, thus authenticating
20 them. They are relevant because they show the political nature
21 of the process vis-a-vis the committee hearings.

22 Mr. O'Neill objects to their admission.

23 MR. O'NEILL: Yes, Your Honor.

24 THE COURT: I'm going to sustain the objection on the
25 basis that I did earlier to the others.

3295

1 MR. WEHNER: 208, 209, 210, 213, 214 are admitted
2 without objection.

3 THE COURT: 208, 209, 210, 213, and 214?

4 MR. O'NEILL: That's correct, Your Honor.

5 THE COURT: All right, those are admitted.
6 (Defendant's Exhibit Nos. 208, 209, 210,
7 213, and 214 were received in
8 evidence.)

9 MR. WEHNER: 247 is a letter to Secretary Pierce from
10 Arlen Specter in support of the Pennrose Properties, Regent
11 Street project. Mr. O'Neill objects to the admission on, I
12 think, on previously stated grounds.

13 THE COURT: I think that was testified to by a couple
14 different people that it had support from Specter. All right,
15 I'll allow it under my earlier rulings, 247 admitted.
16 (Defendant's Exhibit No. 247 was
17 received in evidence.)

18 MR. WEHNER: 255, 256, 268, 270, 272, 277, 278, are
19 admitted without objection, I think.

20 MR. O'NEILL: Judge, that's correct, with the exception
2 on 278, there is some handwriting that we've agreed to delete.

2 THE COURT: All right, 278 will be deleted. The rest
2 will be admitted, 255, 256, 268, 276, 272, 277, and 278 as

2 redacted.
2 THE CLERK: Was 276 in here?

3296

1 MR. WEHNER: No, ma'am.
2 THE COURT: I misspoke. 270 it was. I was looking at
3 my handwriting. It's 270.
4 (Defendant's Exhibit Nos. 255, 256, 268,
5 272, 277, and 278 were received in
6 evidence.)
7 MR. WEHNER: 392, 393, 394, 395, 396, 397, and 398 are
8 admitted without objection.
9 MR. O'NEILL: That's correct, Your Honor.
10 THE COURT: All right, 392 through 398 are admitted.
11 (Defendant's Exhibit Nos. 392 thru
12 398 were received in evidence.)
13 MR. WEHNER: 409 is admitted without objection.
14 MR. O'NEILL: Correct, Your Honor.
15 THE COURT: All right, 409 is admitted.
16 (Defendant's Exhibit No. 409 was
17 received in evidence.)
18 MR. WEHNER: 410, 411, 412, and 413 are three letters
19 to Ms. Dean and one letter to Secretary Pierce with regard to the
20 Cleveland moderate rehabilitation units that were testified to.
2 THE COURT: I'm sorry, as to what?
2 MR. WEHNER: The Cleveland, if Your Honor remembers,
2 there was some testimony regarding the, some nuns and some Sister
2 Schulte letters, et cetera, et cetera. These are letters that,
2 to Ms. Dean dealing with the Travelodge public housing, Moderate

3297

1 Rehabilitation Project, and I think Mr. O'Neill objects to those.
2 THE COURT: Well, I remember a discussion Ms. Dean had
3 some testimony about that. What was the relevance of that again?
4 Was it Pierce's individual involvement in projects?
5 MR. WEHNER: Project specific.
6 THE COURT: And again, the objection is on the
7 foundational grounds that these are not really mod rehab
8 documents, but supplied by people outside the process?
9 MR. O'NEILL: Correct, Your Honor. 410, for instance,
10 we don't know who it's really from. 411 comes from the City of
11 Cleveland. 412 appears to come from the nuns on that project,
12 and 413 also comes from the nuns.
13 MR. WEHNER: Judge, these are all letters to Ms. Dean
14 and to the secretary. I mean, it's clear that they came from the
15 records of HUD.
16 THE COURT: Well, I know, and I understand
17 Mr. O'Neill's concern about them, because I have been rather open
18 on how these were brought in for reasons I've expressed. I think
19 that 410 is unidentified, you said?
20 MR. O'NEILL: Yes, Your Honor. It's only the first
2 page of a letter. It's clear there's more to it.
2 THE COURT: I don't know how 410 can be admitted unless
2 we have the letter and who it's from. All right, 410 is out.
2 I'll admit 411 through 413.
2

3298

(Defendant's Exhibit Nos. 411 thru 413
were received in evidence.)

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3 MR. WEHNER: 417, 418, 420, 421, 422, 423, 424, 425, I
4 believe, are admitted without objection.
5 MR. O'NEILL: Yes, Your Honor. That's correct.
6 THE COURT: All right, 417, 418, 420, 421, 422, 423,
7 424, and 425 are admitted.
8 (Defendant's Exhibit Nos. 417, 418, and
9 420 thru 425 were received in
10 evidence.)
11 MR. WEHNER: 501, 517, 519, 523, 535, 538, 552, 527,
12 528, 529, 530, 532, 533, 534, 545, 557, 558, 560, 561, 562, 563,
13 564, 566, and 568 are admitted without objection.
14 THE COURT: Did you get those numbers?
15 MR. O'NEILL: That is correct, Your Honor.
16 THE COURT: All right, my courtroom deputy clerk is
17 taking those numbers down again through the court reporter to
18 make sure we have them right. So that 500 series will be
19 admitted just reviewed.
20 (Defendant's Exhibit Nos. 501, 517, 519,
21 523, 527 thru 530, 532 thru 535, 538,
22 545, 552, 557, 558, 560 thru 564, 566,
23 and 568 were received in evidence.)
24 MR. WEHNER: 569, 570, 573, 574, 581, 582, 584, 585,
25 588, 589 are admitted without objection, I believe.

3299

1 MR. O'NEILL: That is correct, Your Honor.
2 THE COURT: All right, 569, -70, -73, -74, -81, -82,
3 -84, -85, -88, -89 in the 500 series will be admitted.
4 (Defendant's Exhibit Nos. 569, 570, 573,
5 574, 581, 582, 584, 585, 588, and 589
6 were received in evidence.)
7 MR. WEHNER : 598, 606, 607, 608, 609, 611, 612, 613,
8 614, 615, 616, 618, I'm sorry, Judge -
9 yes, 618, 619, 620 -
10 I'm
11 sorry , delete 620. 622, 623, 624, 625, 626, 627, 629, 630, 633,
12 782, 783, 785, 787, 788, 789, 794, 795, 858, 871, 876, 877, 881,
13 896, 898, and 899, I believe, are admitted without objection.
14 MR. O'NEILL: That is correct, Your Honor.
15 THE COURT: All right, those numbers, I'll recite them,
16 but I may have missed some, the court reporter has them. 598,
17 606, -07, -08, -09, -11, -12, -13, -14, -15, -16, -18, -19, 622,
18 -23, -24, -25, -26, -27, -29, -30, -33, 782, -83, -85, -87, -88,
19 -89, -94, -95, 858, I believe, 871, -76, -77, -81, 897, -98, and
20 -99, I believe .
21 MR. WEHNER : I believe it was 896, Your Honor, instead
22 of 897.
23 THE COURT: All right, 896.
24 MR. WEHNER : Yes.
25 THE COURT: And 899 will be admitted.
2
2

3300

(Defendant's Exhibit Nos. 598, 606 thru
2 609, 611 thru 616, 618, 619, 622 thru
3 627, 629, 630, 633, 782, 783, 785, 787
4 thru 789, 794, 795, 858, 871, 876, 877,
5 881, 896, 898, and 899 were received in
6 evidence.)
7 MR. WEHNER: Now, Your Honor, there are -- those are
8 the ones that are admitted without objection, and I've culled out
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9 the ones that there are remaining objections to.
10 THE COURT: All right.
11 MR. WEHNER: Your Honor, 621 is a letter to Secretary
12 Pierce from Senator Laxalt with a project-specific request. 620
13 is a letter from Robert K. Dornan, U.S. Congressman, for moderate
14 rehabilitation units. 590 is a letter from Senator J. Bennett
15 Johnston, with a specific project-specific request for moderate
16 rehabilitation units. 580 is a letter from James G. Watt to
17 Secretary Pierce, thanking him for 312 units of Section 8
18 moderate rehabilitation housing.
19 THE COURT: what's the date of that one?
20 MR. O'NEILL: June 6, 1986, Your Honor.
21 THE COURT: Oh, it's in '86.
22 MR. WEHNER: 571 is a letter dated August 1, 1985, from
23 Jacob Javitz, former United States senator, to Sam Pierce,
24 thanking him for Puerto Rican units. 559 is a letter to
25 Secretary Pierce from Kathy Ebright, project manager of Community

3301

1 Housing Developers, regarding the Santa Clara moderate
2 rehabilitation allocation, which Your Honor may remember was for
3 an abused women's shelter, and there was testimony and
4 correspondence back and forth regarding the project-specific
5 nature of that.
6 And 419 is a letter dated August 6, 1984, to Deborah
7 Dean from William R. Ballou, B-a-l-l-o-u, of the Housing
8 Authority of City of Columbia, South Carolina, with regard to 600
9 units.
10 I believe that Dean Exhibits 602 and 603 have already
11 been admitted. At least that looks -
12 THE CLERK: Yes, 602 and 603 are admitted.
13 MR. WEHNER: 602 and 603 were already admitted, Your
14 Honor.
15 THE COURT: All right.
16 MR. WEHNER: 572 is a letter to Samuel Pierce from
17 Ramon Luis Rivera regarding the 180 residential units in Puerto
18 Rico. 426 is a memorandum for Samuel R. Pierce from Thomas
19 Evans, Jr., with regard to the 303 moderate rehabilitation units
20 for Project Dignity in St. Louis, Missouri.
2 THE COURT: And Evans was a former congressman from
2 there, lobbyist?
2 THE DEFENDANT: Yes.
2 MR. O'NEILL: As a lawyer-lobbyist.
2 MR. WEHNER: Former congressman, then lobbyist.

3302

THE COURT: That's to Pierce?
2 MR. O'NEILL: Yes, Judge.
3 MR. WEHNER: Yes, sir, August 30, 1984.
4 864 is a letter to Philip Abrams dated September 16,
5 1983, from John Ritchie, Jr., executive director of the Virginia
6 Housing Development Authority, requesting 378 units for the
7 Jefferson Park Apartments, Midlothian Turnpike, Richmond,
8 Virginia.
9 THE COURT: Mr. Abrams is writing the developer to the
10 local housing authority?
11 MR. WEHNER: Mr. Abrams is writing to -- from -- I'm
12 sorry, to Mr. Abrams from the executive director of the housing
13 authority.
14 THE COURT: Oh, I see.
15 MR. WEHNER: It's directed to Mr. Abrams as general
16 deputy assistant secretary, federal housing commissioner.

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17 THE COURT: Oh, it's to Mr. Abrams. I thought this was
18 when he was out.
19 MR. WEHNER: No, sir.
20 THE COURT: This was when he was at HUD?
21 MR. WEHNER: Yes, sir.
22 THE COURT: All right.
23 MR. WEHNER: 868 is a letter to Samuel R. Pierce, Jr.,
24 from the government of Puerto Rico, Puerto Rico Housing Finance
25 Administration, from the general counsel and assistant secretary,

3303

1 regarding their approval of the 599 units for specific projects
2 listed in their -- in the attachments.
3 And, Judge, I'd like to revisit 410, which Your Honor
4 had previously sustained an objection to.
5 THE COURT: That's the one that was one page without
6 the second page or signature?
7 MR. WEHNER: Yes, sir. I had mistakenly pulled in only
8 the first page, and it is a two-page letter of November 12, 1984,
9 written to Deborah Dean from Sister Donna Hawk and Raymond
10 Pianka, P-i-a-n-k-a, requesting 50 units for the Travelodge
11 Redevelopment in Cleveland. If Your Honor recalls, there was
12 testimony regarding that Travelodge Development, Secretary
13 Pierce's instructions that he'd like -- there's a memo that he
14 would like to help them if he could to Ms. Dean.
15 MR. O'NEILL: And, Your Honor, the government's
16 objections would be once again foundational, that none of these
17 are written from HUD. They're going the opposite way.
18 THE COURT: These are not internal documents generated
19 in HUD in the normal course of business. These are things
20 received from the outside.
21 MR. O'NEILL: Right. And the government also would
22 reserve its objections that these have nothing to do with the
23 projects named in the indictment, but of course understanding
24 Mr. Wehner's argument that the whole process was political and
25 therefore he feels these are relevant to a defense.

3304

1 THE COURT: All right. Based upon my earlier rulings,
2 I'll allow these in over objection and both on foundation and
3 relevancy. That would be 620, -21, 590, 580, 571, 559, 419, 572,
4 426, 864, 868, and 410.
5 (Defendant's Exhibit Nos. 410, 419, 426,
6 559, 571, 572, 580, 590, 620, 621, 864,
7 and 868 were received in evidence.)
8 MR. WEHNER: And, Judge, there are very few more that I
9 think are without objection. 635, without objection.
10 MR. O'NEILL: That's correct, Your Honor.
11 THE COURT: All right, 635 is admitted.
12 (Defendant's Exhibit No. 635 was
13 received in evidence.)
14 MR. WEHNER: 642, 644, 641, 645, and 206 are without
15 objection.
16 MR. O'NEILL: That's correct, Your Honor.
17 THE COURT: All right, thank you. Those will be
18 admitted then.
19 (Defendant's Exhibit Nos. 206, 641, 642,
20 644, and 645 were received in
21 evidence.)
22 MR. WEHNER: And, Your Honor, I would offer into
23 evidence but not for the purpose of going to the jury the
24 Inspector General's audit of April 17, 1989.
25 MR. O'NEILL: Again, Your Honor, the government would

3305

1 object.

2 THE COURT: All right, I'll sustain the objection to
3 that. I think that an outside audit -- that an audit done
4 internally, I don't see a foundation that it can come into here
5 in evidence or be held before me outside the jury's presence. I
6 don't see the basis of that, so I'll sustain the objection to the
7 audit.

8 That's all of the defendant's documents?

9 MR. WEHNER: Yes, sir.

10 THE COURT: All right. Did the government receive this
11 rather lengthy memo from the defendant over lunch hour?

12 MS. SWEENEY: Your Honor, we received it when Your
13 Honor received it.

14 THE COURT: Right. All right.

15 MS. SWEENEY: My Evelyn Wood, I guess, speed reading is
16 not what it used to be. I confess to having read most of it. I
17 haven't looked at the cases, Your Honor.

18 If there are particular portions that Your Honor has
19 trouble with, we'd be more than glad to try to brief those over
20 night.

2 THE COURT: well, two areas I'd just like to discuss to
2 make sure that we have the facts down correctly, and then I think
2 that we can see how else we want to handle the rest.

2 One is the argument on the statute of limitations as to
2 Count 3 and Count 4 now on two grounds, the way I read it. One

3306

1 is the grounds that the \$4,000 check was written earlier than
2 alleged, and it's not certain when it was received and that it
3 was not timely, and then secondly, with the superseding
4 indictment in July broadening and expanding the charges and
5 changing the charges, that the superseding indictment is not
6 saved under the savings clause of the statute and violates the
7 statute of limitations. That's a brief summary, as I understand
8 from reading through it quickly.

9 what I wanted to know was what was the evidence, the
10 state of the evidence as to the check's making and delivery and
11 deposit? I believe the deposit was without question on May 6.

12 MS. SWEENEY: Your Honor, I believe that the evidence
13 shows that the check was deposited on May 6 and entered on the
14 bank statement -

I mean, deposited on May 5. That's the date of
15 the deposit ticket.

16 THE COURT: But not credited until May 6.

17 MS. SWEENEY: And it's shown -- it's reflected on the
18 bank statement, which is an exhibit, on May 6.

19 The government's argument would be that the time that
20 would control would be when the check is, the earliest time would
2 be when the check is deposited. The later time would be when the
2 check is actually paid by the paying bank, and that, of course,
2 for an out-of-state would be five to seven or ten days later,
2 whenever the banking practice is of NS&T.

2 THE COURT: So that it doesn't make any difference when

3307

it would have been written; it would be more when she received
it?

MS. SWEENEY: when she received it.

4 Your Honor, the funds are not available until they -- I

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5 mean, for example, if Mr. Kitchin's check was drawn, had
6 insufficient funds, I mean, the funds would not be available to
7 the individual to be used unless they are actually negotiated
8 through the bank.
9 THE COURT: what about any substantial alteration or
10 broadening the charge in the second indictment, as opposed to the
11 first indictment; I mean, it then may not be a proper second
12 indictment as to these charges?
13 MS. SWEENEY: well, Your Honor, to the extent that that
14 argument is premised on the fact that certain paragraphs are
15 realleged and incorporated, we believe that that motion is not
16 timely at this point in time. That would have been based on the
17 face of the superseding indictment, and that motion should have
18 been brought under Rule 12(b)(2), we believe. It's a defect that
19 would have been on the face of the indictment. It doesn't come
20 within the exceptions that are specified within 12(b)(2).
21 In any event, Your Honor, the conspiracy allegations
22 were not realleged in Count 4. To the extent that the, that
23 there's reliance on the use of co-conspirator 5, we have already
24 received the permission of the Court to use the names of the
25 individuals, and if the court believes that it would be better in

3308

1 Count 4, Count 3 and Count 4 to use Kitchin, Louis Kitchin
2 instead of co-conspirator Kitchin, we're more than willing to
3 make that change. We just don't think it's terribly significant,
4 Your Honor.
5 Moreover, we do not believe the charges are broadened
6 within the guidance of the case as set forth at page 5, but
7 that's something, Your Honor, that we would have to brief --at
8 page 5 of your brief.
9 THE COURT: Right.
10 MS. SWEENEY: That's something that we would have to -11
THE COURT: That's the only one I really wanted to ask
12 a little about. You may want to look at that, and I can hold
13 that now and go ahead with the case.
14 MS. SWEENEY: Your Honor, the specific paragraphs,
15 although we do believe that it's not timely, the specific
16 paragraphs that they're talking about, paragraphs 1 through 17,
17 that's the introductory paragraphs. We believe that those are
18 descriptive paragraphs, not charges.
19 THE COURT: All right. I think the issue really is
20 whether it's substantially changing or broadening the charges. I
21 had written a little bit about that in the Weinberger case,
22 where I dismissed a superseding indictment, one charge, where in
23 the first indictment in Weinberger, because of a rather unusual
24 decision from the United States v. Poindexter case about a 1505
25 violation, I said it didn't correctly allege it.

3309

1 what happened was it made the indictment -
when
2 Poindexter came down, I think our circuit was really unique in
3 how they interpreted the law, that caused the first indictment in
4 my case, one of the counts to be dismissed, and then when they
5 re-pled it, they pled a different offense, although basically
6 closely the same conduct but a little bit different. I held it
7 was barred.
8 So I'm familiar with this case, because I wrote a short
9 memo on it. It's a memorandum and order, Pretrial Order No. 12
10 on Caspar Weinberger. 92-416. It was issued in December of
11 '92.
12 MS. SWEENEY: I take it that was on a Rule 12 motion,
13 Your Honor?

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14 THE COURT: Yes. I was just going to say now you may
15 want to raise the issue of the preservation of this at or by the
16 defendant. This was filed immediately after the indictment had
17 come down, the superseding indictment.
18 MS. SWEENEY: And what was the number of that, Pretrial
19 Order No. 12, and the docket?
20 THE COURT: It's Docket 92-416, United States v.
2 Caspar Weinberger.
2 MS. SWEENEY: Okay.
2 THE COURT: I just said that I see it brought a broader
2 charge that had been not brought originally, when they could have
2 brought it, and that that was barred by the statute at this

3310

1 point.
2 MS. SWEENEY: Your Honor, while of course we'd be more
3 than glad to address it in a brief if Your Honor feels that that
4 would be appropriate, the gratuity charge remains as it was. The
5 conspiracy charge, the check is merely an overt act.
6 THE COURT: Overt act. Right, exactly.
7 MS. SWEENEY: So without looking at Your Honor's
8 earlier discussion, I just don't know -
9 THE COURT: I had a different charge in Weinberger.
10 They brought a different charge. It's somewhat similar conduct
11 involved, actually, but it was a different charge. One was lying
12 to Congress and obstruction of investigation.
13 Yes, I understand that, that here what's complained
14 about is a little bit different. In other words, you have the
15 same illegal gratuity charge in the superseding indictment and in
16 the original indictment.
17 MS. SWEENEY: Yes, Your Honor.
18 THE COURT: You added the conspiracy charge.
19 MS. SWEENEY: Yes, Your Honor.
20 THE COURT: Mr. Kitchin was not identified in the
2 original indictment as a co-conspirator.
2 MS. SWEENEY: Yes, Your Honor.
2 THE COURT: In the second indictment, they called him a
2 co-conspirator.
2 And the conspiracy vis-a-vis the statute of limitations

3311

1 is a different theory applies to that, right?
2 MS. SWEENEY: Yes, Your Honor.
3 THE COURT: I mean, that's the ongoing violation theory
4 that these continued payments of these contracts, once they were
5 let out, renewed the wrongdoing for statute of limitations
6 purposes.
7 MS. SWEENEY: Yes, Your Honor.
8 THE COURT: Okay. Well, I haven't had a chance to look
9 at it enough. I will. I don't want to send you back to the
10 writing desk all night. I don't know if that's necessary. I'm
11 not going to rule on it right this minute, because I do want to
12 read it through, but I'm -
13 MS. SWEENEY: I appreciate that, Your Honor, although
14 we do feel that if Your Honor feels that there are serious
15 questions presented, that we'd avail ourselves of the opportunity
16 to go back to the writing desk.
17 THE COURT: I understand.
18 Well, I'm going to do something else you may want to
19 include in that. I am somewhat concerned -- and I'll let the
20 defendant address it again briefly if you'd like to -- on the
2 argument on the, now in about a 40-page memo, on the conspiracy

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2 arguments as to the circumstantial evidence of Ms. Dean's
2 involvement and agreeing to be a co-conspirator and working
2 towards the aims and the goals of the conspiracy with references
2 to the record the defendant has made, and I wondered if it

3312

1 wouldn't be best to have the Independent Counsel give some
2 response to that, pointing out where the inferences can be made
3 from the evidence as to the knowledge of and the association of
4 the conspiracy by Ms. Dean with the various three conspiracies we
5 have, and that this case differs from other conspiracy cases
6 where there was found not to be sufficient evidence to go to a
7 jury, where there's shown an agreement with illegal purposes and
8 these overt acts.
9 I'm not too sure about, I'm concerned about the overt
10 acts, but I definitely am concerned about the reference to
11 Ms. Dean as to a co-conspirator relationship with these others
12 and the alleged actions that were taken to further the aims of
13 the conspiracy.
14 It may be just on the chart that you have, you can
15 point out to me the evidence. I believe Mr. O'Neill said
16 originally it was substantially, if not all, circumstantial as to
17 this conspiracy and how she conspired with these other
18 individuals.
19 what I was concerned about now that the case is
20 completed is what testimony we have linking Ms. Dean and showing
2 her knowledge of what was going on by any co-conspirators, or if
2 it's simply enough to say that there's a series of lunches and
2 meetings and memos concerning these projects to infer this
2 relationship existed.
2 MS. SWEENEY: Your Honor, did -
was Your Honor's

3313

1 intention to have Mr. Wehner make that argument and then the
2 government respond?
3 THE COURT: Yes. I just want to try to show where my
4 concerns are to try to narrow it down a little bit, and I'm just
5 reflecting on my reading over the lunch hour what occasioned the
6 Court's concerns.
7 Mr. Wehner, let me ask you a couple questions then.
8 Thank you, Ms. Sweeney.
9 Let me just see if I can clear up the statute of
10 limitations. If she received the monies after the 29th of April
11 and assuming there's no amending, superseding indictment, just so
12 we have this indictment charging illegal gratuities, wouldn't
13 that be sufficient at that point to proceed if she received the
14 monies after the 29th of April, deposited a check thereafter
15 reflecting receipt, acceptance of the check?
16 MR. WEHNER: No, because the issue, as Justice White
17 said in the Supreme Court case, is when the statute begins to
18 run, when it starts to run, and it does not continue
19 indefinitely. In other words, if an individual seeks a payment,
20 the statute begins to run upon the completion of the offense. If
2 20 years later that individual deposits the check that they
2 sought at the first instance, the deposit of the check does not
2 bring the seeking within the statute of limitations.
2 So I think Your Honor needs to look at it from the
2 angle of when the statute begins to run, and it starts to run

3314

1 when the offense is complete. It doesn't start to run at the
2 last possible time that an individual could be charged. And I
3 think Justice Bork makes that position clear in his case in the
4 Court of Appeals.
5 I think Your Honor has to look at the statute and make
6 a decision as to when the five-year statute begins to run. The
7 definition is the statute begins to run when Ms. Dean sought the
8 \$4,000. The Independent Counsel has charged her several times
9 with seeking the \$4,000 and is on record as saying it was in
10 early April, it was in April. The only evidence that it was
11 before April 28 -- or, I'm sorry, it was after April 28 is based
12 on a misreading of the check, in my judgment, in terms of the
13 date and the receipt.
14 I think the cases out of the Third Circuit are clear,
15 especially in terms of the contribution statutes, political
16 contribution statutes, that when a check is deposited is not the
17 determinative date as to when the offense of basically smurfing/
18 campaign contributions takes place.
19 So I think yes, I think Your Honor's statement has some
20 surface appeal, because the statute itself is written in the
2 alternative, and one could take the position that any act that
2 falls within the statute would make the, would make the
2 indictment timely.
2 However, if you look at the statute in terms of when
2 the statute of limitations begins to run, it has to run when the

3315

1 offense is first completed. Otherwise, the statute of
2 limitations may never, may never run, as in the Selective Service
3 cases. A failure to register every year for 20 years doesn't
4 bring you within the statute. The offense is complete the day
5 you turn 18.
6 So I admit to the Court that your position has some
7 logical appeal, but it's not consistent with the case law and the
8 Supreme Court or the D.C. Circuit's approach to statute of
9 limitations provisions.
10 THE COURT: Well, it seems to me that if she was mailed
11 a check and then didn't cash it, but kept it and mailed it back
12 eventually, I'm not sure that there's a completed offense in
13 that -
14 MR. WEHNER: Oh, I imagine -
15 THE COURT: -
16 unless they're saying that just -
17 unless there is evidence she demanded it.
18 But here the evidence, I mean, what we have before us
19 is a check that arguably different dates can appear on the front
20 of the check, but there's no question Ms. Dean has testified
2 herself that she received the check and it was deposited on or
2 about May 5 and credited to her account on May 6, 1987, and it
2 seems to me that it's separate whether or not she demanded or
2 sought it earlier. Once she accepted it, I think that is the
2 offense at that point if it's an illegal acceptance. The -
2 MR. WEHNER: Your Honor, I -

3316

1 THE COURT: All right.
2 MR. WEHNER: I would urge the Court to look at the
3 cases that are cited in terms of that interpretation -

4 THE COURT: All right.

5 MR. WEHNER: -

because I think that, frankly, was my
6 interpretation when I first looked at it, and I don't think
7 that's what the cases say when you have a statute that is phrased
8 in the alternative, and I'd point the Court to the fact that the
9 Independent Counsel, in fact, charged Ms. Dean in the charging
10 language of the indictment with seeking.

11 In other words, they charged her with each of the
12 alternatives.

13 THE COURT: Right.

14 MR. WEHNER: So some, there is some place when one of
15 those alternatives was accomplished that the offense is complete.
16 I think the case law is clear that it is not when the check is
17 deposited.

18 THE COURT: All right. I'm just looking at your cites
19 here, all right. I'll go back and get those then.

20 MR. WEHNER: Yes, sir!

2 THE COURT: All right, tell me about the second theory
2 you have on the broadening or substantially changing the charge
2 so that this would not relate back to the original filing of the
2 first indictment.

2 MR. WEHNER: With regards to the attempt, with regard

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1 to the gratuity count in the indictment, the Independent Counsel
2 realleged all of the introductory counts, or introductory
3 paragraphs that they put in the conspiracy count, and that,
4 frankly, is a broadening of the initial charge.

5 I don't know how you can avoid that simply by saying,
6 well, it's just introductory language. In fact, it broadened the
7 charges under any reasonable understanding of the case law as to
8 what broadening means.

9 The reason it's a broadening is because it forces

10 Ms. Dean to defend herself against activities that were not
11 timely prosecuted. It's not a question of whether the language
12 is necessary or unnecessary or superfluous or not. It's a
13 question of notice to Ms. Dean in terms of what she had to
14 defend.

15 Secondly, with regard to the conspiracy count, that is
16 clearly a broadening of the, of the charges for which she was
17 initially indicted, but in addition to that, the conspiracy count
18 contains no other overt acts in furtherance of the conspiracy.
19 In addition to the \$4,000 check, that would bring that conspiracy
20 charge within the statute of limitations.

2 Now it's not to say that they're not charged in the
2 indictment, Judge, because there are overt acts charged in the
2 indictment, but those overt acts, there is either not evidence as
2 to those overt acts, or they are not in furtherance of a
2 conspiracy in which Ms. Dean joined. Therefore, that count would

3318

be barred by the statute of limitations.

And many of the overt acts don't fall within the
,atute of limitations. For example, they go back to 1984, 1985,
4 1986. They're very, very late projects.

5 If you look at the overt acts that do fall within the
6 statute of limitations, the most recent one, I believe, is the
7 statement that in June of 1992, a public housing authority
8 received some payments. Well, Judge, there's no evidence of
9 that, No. 1, that I can find in the record.

10 No. 2, I don't know and I believe that the, that the
11 government is required to show that they're overt acts whether
12 charged in the indictment or not, were in furtherance of the

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13 conspiracy as alleged, and I do not believe that the government
14 has proven that a payment from a housing authority to the
15 developer or from HUD to the public housing authority in
16 relationship to the Cutlerwood/Springwood project specifically is
17 in furtherance of the conspiracy with which they've charged
18 Ms. Dean.
19 I would like to point out to the Court the 12(b)(2)
20 argument of Ms. Sweeney.
21 THE COURT: Yes.
22 MR. WEHNER: And I'd refer the Court to Exhibit A.
23 THE COURT: Is that your earlier motion you filed?
24 MR. WEHNER: Yes, sir. The first paragraph reads,
25 "Pursuant to Federal Rule of Criminal Procedure 12(b)(2), Deborah

3319

1 Gore Dean respectfully moves this Court to dismiss the
2 superseding indictment." That was filed on September 29, 1992,
3 and five separate grounds were raised there specifically in that
4 motion accusing the statute of limitations argument.
5 And specifically at footnote 1, we explain why we were
6 filing at that time, specifically to preserve the Court's
7 jurisdiction so as to prevent such an argument being made
8 earlier. And of course, there was -- simply to show it wasn't
9 form only, there was a six-page memorandum of law attached to
10 that, Judge, setting out the arguments in terms of the statute of
11 limitations.
12 THE COURT: They were never taken up by Judge Gesell?
13 MR. WEHNER: Judge Gesell stated -
14 and this was not a
15 ruling, Judge, and I don't, it's much like his statement about
16 the -
17 THE COURT: The indictment.
18 MR. WEHNER: -
19 the indictment.
20 He said, my recollection is -- and there's a
21 transcript, so if I'm wrong, it can certainly be corrected--
22 that he said something like, "well, I'm not going to consider
23 these," or, "I can't consider these until after the evidence is
24 in." That's my recollection of what he said. And my
25 recollection further is that we agreed with that.
2 So -
3 THE COURT: All right.

3320

1 MR. WEHNER: -
2 that's where -- there is a transcript
3 of that that could deal with that issue.
4 THE COURT: All right. Tell me about the conspiracy
5 and this knowledge as to Ms. Dean as to each of these
6 conspiracies and evidence that you're alleging the government
7 failed to show the requisite intent. They did have testimonies
8 from various individuals as to Ms. Dean's, and including some of
9 the alleged co-conspirators, as to Ms. Dean's meetings with
10 individuals and then making inquiries about the progress of their
11 projects and eventually up through until late '86 anyway
12 apparently recommending their projects for approval, and then
13 starting in '87, there's varying testimony about how this
14 committee worked, but there's at least testimony from
15 DeBartolomeis and Demery as to Ms. Dean's involvement and
16 approval of some of these projects after meeting with the various
17 consultants, I guess you'd say, and sometimes with the developers
18 about these projects ahead of time and then getting them on the
19 list to be approved or writing memos regarding the request for
20 action on these matters at times.

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20 I mean, what else does the government have to show to
2 get an inference there was some understanding that Ms. Dean had
2 that the result was to advance their causes, whether her motives
2 were political or not, just to work with them to help them
2 advance their causes while they were making large sums of money
2 that the government alleges would eventually enure to her benefit

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1 because of her political desires, which I guess there's
2 Ms. Patenaude's rebuttal evidence about that?
3 MR. WEHNER: Could Your Honor repeat your inquiry to
4 me? I want to make sure I'm responding to your question.
5 THE COURT: It's impossible to repeat my musings. What
6 I was asking essentially was point out to me where the government
7 has failed. It's sort of a double negative. Tell me where the
8 government has failed if you look at the evidence in the light
9 most favorable to the government, particularly with the insider
10 testimony, DeBartolomeis and Demery's testimony as to what
11 actions Ms. Dean was engaged in either prior to '87 or from '87
12 on, when they had this committee, about her activities, ordering
13 them to sign some of these documents, et cetera, that type of
14 thing -15

MR. WEHNER: Okay.

16 THE COURT: -- each favoring their own group of people
17 they wanted favored.

18 MR. WEHNER: Judge, in terms of the insiders'
19 testimony --by that I would refer to Mr. Barksdale, Mr. Demery,
20 the federal housing commissioners -- there is no testimony from
2 those individuals on the inside that what Ms. Dean undertook was
2 wrong or unlawful or contrary to the established practice at HUD.
2 The testimony that they gave as to how these moderate
2 rehabilitation units was awarded -- excuse me, were awarded may
2 have been haphazard, and it may have been somewhat non

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1 functional, but the testimony they gave is as consistent with
2 Ms. Dean doing her job and Barksdale and Demery doing their jobs
3 in terms of assigning these units as it is with any inference
4 that they, that they were doing anything unlawful.
5 And I don't think you can take -I'm
sorry, Judge.

6 THE COURT: Go ahead, that's all right.

7 MR. WEHNER: I don't think you can take what appears to
8 be a bad system of government and say this is a crime, this is a
9 conspiracy to defraud.

10 The -- with the exception of Mr. Demery, I believe that
11 Mr. Barksdale, for example -- and I may be wrong on that. I'm
12 not sure I want to say that. I can't recall if it was Mr. Barks13
dale or one of the other federal housing commissioners -- no, it
14 was Mr. Barksdale that testified that Deborah Dean, for example,
15 had never asked him to fund a moderate rehabilitation project.
16 It was Mr. Barksdale.

17 Now if the federal housing commissioner says that
18 Ms. Dean never asked him to fund the project, how somehow can
19 that be a, can she be involved in a criminal conspiracy to fund
20 projects at HUD? And he certainly --he testified that he didn't
2 know why the projects were being funded, but he was sure they
2 were being funded legitimately.

2 Mr. Demery, of course, is somewhat, is somewhat
2 different. I think there's conflicting testimony, but what
2 Mr. Demery's bottom-line testimony, taken in the light most

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1 favorable to the government, and I don't concede this for
2 purposes of argument, is that Deborah Dean told him what units to
3 fund.
4 There is no, nothing wrong inately or suspect inately
5 or immoral or illegal or unlawful about the secretary's
6 administrative executive assistant telling the federal housing
7 commissioner, "I want you, Mr. Demery, to fund Florida projects."
8 That is a common, everyday occurrence in government. That alone
9 doesn't make it legal, but charging it in an indictment doesn't
10 make it illegal.
11 These political decisions that are made are made day in
12 and day out, and if they are political in the sense that, that
13 somehow they are political in the sense that these units are
14 being rewarded to someone or awarded to someone to have the
15 maximum benefit politically, it's hard for me to conceive how
16 that can be a criminal conspiracy.
17 In this case, that would have to include the President
18 of the United States, for example, because there's evidence to
19 show that he directed on occasion -- directed --he announced the
20 funding of some of these units.
2 But that strays from my main argument, Judge. That's
2 where I think the insider testimony goes. At best, it shows in
2 the light most favorable to the government, the insider testimony
2 shows that it was a system that really had no rules and had no
2 boundaries. It went on for a very long time.

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1 Now in terms of the outsider testimony, there is no
2 testimony from any of the consultants or the developers that
3 Ms. Dean ever told them that she would help them get mod rehab
4 units. The one exception to that is a co-conspirator -- no, I'm
5 sorry, there are no exceptions to that that I recall. I was
6 thinking about the \$4,000 check and Mr. Jennings and his
7 co-conspirator statements from Mr. Kitchin on the other count.
8 Mr. Shelby testified consistent with Ms. Dean's, with a
9 position of innocence for Ms. Dean, that he didn't ask her and
10 she didn't help him. He testified that she didn't know about
11 John Mitchell's involvement.
12 Jack Brennan testified on direct as to what Ms. Dean
13 said to him when he went to see her directly, and the evidence is
14 clear in terms of what Ms. Dean did, for example, with Jack
15 Brennan's request. She sent it down to Housing.
16 It's kind of the dirty window, dirty lenses theory. I
17 can imagine a scenario where you could add these together and
18 come up with a criminal conspiracy if you put the worst possible
19 inference on every act that occurred, but if you look at it
20 fairly, you cannot come up to the conclusion, even taken in the
2 light most favorable to the government, that Ms. Dean had the
2 criminal intent to knowingly and willfully enter into the
2 conspiracy.
2 It's interesting, Judge, because of all the immunized
2 witnesses and all of the lunches, nobody could remember

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1 discussing a specific project and getting a specific commitment
2 or a specific reward or a specific quid pro quo. No one
3 testified to that. No one testified that Deborah Dean said she'd
4 give me the units and she did, and then I went out and I helped
5 her get her nomination to be HUD assistant secretary.
6 And with the parade of immunized witnesses we've seen,
7 one would think that if that testimony existed in fact, that it
8 would have been elicited.

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9 Instead, you had witnesses such as Governor Nunn, who
10 testified that he never dealt with Deborah Dean. You had
11 testimony of Mr. Martinez, who testified that while he was making
12 political contributions up on the Hill in an effort to get these
13 mod rehab units, he didn't even know who Deborah Gore Dean was.
14 And yet you have Ms. Dean charged as the central figure in a
15 criminal conspiracy in which there is no evidence that she
16 joined.
17 Now if you take it backwards -
and this is one way to
18 look at the evidence, and I'd be remiss if I didn't tell Your
19 Honor this --if you look at this backwards and you start with
20 the fact that these projects were funded and that millions of
2 dollars went out of the public treasury to these developers and
2 you go back and back in terms of the time frames to try to
2 determine how this could have happened and you take these
2 isolated incidents and who had lunch with whom and who called
2 whom and what memo was sent to whom, that you come up with a

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1 plausible scenario in which you might be able to get a conviction
2 from a jury, but you don't come up in the light, taken in the
3 light most favorable to the government, with evidence that shows
4 that Ms. Dean willfully and knowingly joined the conspiracy.
5 And I hate to argue about what the government's case
6 lacks, because I think that's generally unpersuasive. I think in
7 this case it's what the government's case shows. It's the
8 testimony of their case in chief, it's the testimony of their
9 case in chief that the Court needs to look at in terms of what
10 was affirmatively stated, because it's not a case where they
11 didn't prove this and they didn't prove that and they didn't
12 prove this. It's what they did prove occurred does not rise to
13 the level of criminal culpability on the part of Ms. Dean.
14 THE COURT: All right. Ms. Sweeney, do you have
15 anything else?
16 I'll hear from Ms. Sweeney again for a minute.
17 MS. SWEENEY: Your Honor, Mr. Wehner seems to be
18 arguing that it's impermissible to infer participation in a
19 conspiracy from circumstantial evidence. That's one thread that
20 seems to go through his argument. He also seems to be arguing
2 and in his motion papers that the government hasn't proved its
2 case beyond a reasonable doubt, which is really a post-conviction
2 standard.
2 The evidence that he cites, or -- in his motion papers
2 are lots of statements that Ms. Dean did not acknowledge to other

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1 people that she was doing wrong or that some of the
2 co-conspirators didn't know what other co-conspirators were
3 doing, but, Your Honor, we don't read the conspiracy cases to
4 require us to be able to put forward that type of evidence, and
5 Your Honor's charges on the conspiracy are consistent with the
6 case law that indicate that we're not required to show that.
7 Now in terms of the evidence that the government has
8 shown, Mr. Barksdale testified, for example, that he received an
9 inquiry from the secretary's office on the Arama project. He
10 recalled he received an inquiry from the secretary's office. He
11 knew it wasn't Secretary Pierce, he knew it wasn't the
12 undersecretary, and he couldn't recall if it was Ms. Dean, but he
13 knew that he'd received an inquiry from someone in that office.
14 That's not, of course, the only evidence on Arama. The
15 evidence clearly shows that Ms. Dean knew John Mitchell was a
16 consultant. She attempted to deny it, but on cross, I believe
17 that it was established that she understood that he was a

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18 consultant. She had worked with him.
19 Mr. Dorsey testified yesterday -
20 THE COURT: You mean a consultant, quote, in anything?
2 MS. SWEENEY: A consultant in anything. But
2 Mr. Dorsey -
2 THE COURT: Not consultant with mod rehab work, yeah.
2 MS. SWEENEY: But Mr. Dorsey, who was called by the
2 defense yesterday, testified that when Ms. Dean was out doing

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1 consulting business on HUD matters, John Mitchell was the
2 individual she sent to the department to meet. She was aware
3 that Mr. Mitchell was pursuing Governor Nunn's interests. She
4 admitted that. She was aware that Martinez was Nunn's client.
5 We have the "Dear Daddy" letters, the assurance to Nunn on Arama
6 that the project will be funded.
7 As to Mr. Brennan -- I'll try to go through a few of
8 the witnesses, Your Honor, especially ones that Mr. Wehner has,
9 has mentioned. On South Florida, Mr. Brennan testified that he
10 went to see Ms. Dean. Ms. Zagame testified about the meeting in
11 September of '86 where South Florida was funded. She testified
12 that Ms. Dean dictated the list that included that particular
13 award.
14 Now, Your Honor, the charts that we have submitted to
15 Your Honor and to the defendant as well show the circumstantial
16 connections that can be made from the documents. They, they do
17 not make any attempt to summarize the testimony, and we believe
18 that there is substantial oral testimony in addition to the
19 connections that we believe, the circumstantial connections that
20 the charts very clearly show, and the charts do show the
2 thank-you letters that individuals sent to Ms. Dean after meeting
2 with her and receiving the benefits that they had raised at those
2 specific meetings. That would include Mr. Rosenthal, Mr. Shelby.
2 Now Mr. Wehner points out that Mr. Shelby,
2 Mr. Shelby -- that Ms. Dean does not admit that she was doing

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1 things for Mr. Shelby. On the other hand, Ms. Patenaude
2 testified this morning, testified that Ms. Dean made a statement
3 to her, "I'm taking care of Rick Shelby," and mentioned his name
4 at one of these meetings during which she would dictate the
5 projects that would be funded and the individuals who were behind
6 those projects.
7 Now Jack Jennings, who testified, went through the
8 Kitchin, the Kitchin projects, said that Kitchin told him that he
9 was going to Washington to seek mod rehab units from Dean, that
10 when he returned, he told him that she'd agreed to give these
11 units, that when he had the 185s, the funding documents, he told
12 Mr. Jennings, if I'm not mistaken, that he had obtained those
13 from Ms. Dean.
14 Mr. Rubi testified that Broussard told him that the
15 units had been assigned to him by Dean, and of course, there's
16 evidence that Ms. Dean met with Mr. Broussard. She herself said
17 that she tried to get him interested in units in Puerto Rico.
18 Now Mr. Rubi also testified that he believed he got 150
19 of the units through Senator D'Amato. That doesn't mean that the
20 150 that he got through Ms. Dean and Mr. Broussard and Mr. Sankin
2 are not the appropriate subject of charges. The fact that other
2 people were doing wrong or other people were engaging in a
2 political process, Your Honor, just doesn't bear on the charges
2 in this case.
2 The problem with what Ms. Dean did is that Ms. Dean

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1 made decisions in circumstances where she personally benefited
2 either through payments to her father, payments to herself,
3 lunches, dinners, gifts, as well as the promise of future
4 political support.
5 So, Your Honor, we do believe that there has been
6 sufficient evidence elicited on the government's case to
7 demonstrate that Ms. Dean was a knowing participant.
8 THE COURT: All right. Thank you, Ms. Sweeney.
9 The Court would be, I think, remiss in not going
10 through this motion that's very lengthy more carefully than it
11 has had a chance to over the lunch hour -- it's 46 pages
12 approximately -- and to consider some of the case law suggested,
13 maybe revisiting what it looked at earlier at the time the motion
14 was originally made, but I think in fairness, I should review it
15 all.
16 So I'm not going to rule at this time. I'll take the
17 Rule 29 motions under advisement as well as the statute of
18 limitations motion to dismiss and examine those a bit further.
19 All right.
20 We need to discuss a little bit as well a couple other
2 matters, some immediate reactions you might have on instructions,
2 and then if you haven't had enough of a chance, we can do some
2 more later, I've got a pretrial, either then, afterwards, or we
2 can do it tomorrow morning early, and secondly, the state of the
2 indictment and what's to be done about that, if anything.

3331

1 Judge Gesell's remarks -
and I appreciate it again, I
2 can return these transcripts to Independent Counsel --in
3 November of this past year did reflect a concern that he would
4 not let the indictment go to the jury because of the political
5 allegations and everything else in it. I think he was referring
6 to some of the other remarks he had discussed with counsel in
7 that hearing about the overall conspiracy language. So I think
8 that's going to have to be examined as to how we handle the
9 indictment before it goes back to the jury.
10 And secondly, on the instructions, the government was
11 going to give me a couple of new ones later today, I think.
12 MS. SWEENEY: Your Honor, I have them with me, and I do
13 also have a sample verdict sheet.
14 THE COURT: All right. Thank you, Ms. Sweeney.
15 MS. SWEENEY: We have not at this time, Your Honor,
16 included any special verdicts, and we do not propose to do so.
17 THE COURT: Does the jury have to find any particular
18 overt act that's been proven or anything? Do they have to go
19 through and list those or not, to say what's proven or unproven?
20 MS. SWEENEY: Your Honor, if my recollection serves me
2 correctly, the charge is that they have to find at least one of
2 the overt acts is proved.
2
2
2

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1 MR. WEHNER: Your Honor, I'm sorry.
2 THE COURT: Yes.
3 MR. WEHNER: With regard to the indictment,
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4 the problem with the indictment in sending it back to
5 the jury in its present form is that it contains
6 allegations and overt acts specifically that were never
7 proved - that were not the subject of testimony, were
8 not the subject of evidence.
9 THE COURT: You want that stricken. There are
10 some that have not been testified to. I think we can
11 redact them as well.
12 MR. WEHNER: Strangely, if the redactions are
13 made for those for which there is no evidence, I think
14 it's fine to send the indictment back, but if there's no
15 evidence I don't think those assertions should be
16 included at this point.
17 THE COURT: All right. The Government
18 submitted three additional instructions, the credibility
19 of the defendant, an instruction as to prior statements,
20 reputational concerns. I'm not sure I had a reputation
2 instruction. I'll think about it. I'll look at these.
2 These come from the Federal Pattern Instructions.
2 MS. SWEENEY: Yes, Your Honor, and for
2 supplemental instruction number three we cited a D.C.
2 Circuit case from 1972 that we believe is still the law.

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1 THE COURT: I think I was referring to the
2 new - I don't have my large book out here. The new
3 D.C. Pattern Jury Instructions.
4 All right. Do you have any particular
5 comments you want to bring up right now on the
6 instructions or do you want to wait until tomorrow
7 morning? Recognizing I'll have to get them retyped if
8 they're changed somewhat during the closing arguments.
9 MS. SWEENEY: Your Honor, I have a limited
10 number of comments.
11 THE COURT: Sure. Why don't we listen to some
12 of your comments now if you're ready. I'd like to hear j
13 them. I
i
14 MS. SWEENEY: Your Honor, our comments are all j
15 the in the form of proposed minor additions. I
16 The first one is on page three of the Court's
17 proposed charge and we would propose adding the sentence
18 in the paragraph immediately above statements of
19 counsel.
20 THE COURT: That's the additional paragraph I
2 inserted about matters that have been raised in the
2 defendant's instructions.
2 MS. SWEENEY: Your Honor, we would propose
2 adding a sentence that would go as follows. Nor is the
2 fact that others at HUD may have been committing crimes

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1 any defense to the charges in this indictment.
2 THE COURT: The language to the effect nor is
3 the fact that others at HUD may have been acting
4 improperly, you're saying, or committing crimes any
5 defense of the charges against Deborah Gore Dean.
I
6 MS. SWEENEY: Yes, Your Honor. I
7 THE COURT: All right. what's next? j

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8 MS. SWEENEY: Your Honor, on page 17 it deals !
9 with the Court's proposal regarding the discretionary !
10 nature of the program. •

i

11 THE COURT: All right. i

12 MS. SWEENEY: Your Honor may recall that j

i

13 Mr. Dorsey yesterday, who was the General Counsel, |
14 testified that the program, if I – I believe I'm I
15 correct, testified on direct that the program was not
16 discretionary but was subject to regulations. On cross j
17 he testified that the particular regulation was a rating ;

I

18 and ranking regulation. We believe that a better way to

i

19 perhaps structure that last sentence would be to say j
20 something like after Congress' decision to remove the !
21 fair share restrictions on the Mod Rehab program the
22 program was no longer subject to distribution by
23 geographic formula.

24 THE COURT: Was Mr. Dorsey talking about from ;

25 the time period '87 on, or any particular time period ;

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1 when he made these comments about the ranking and rating
2 thing or did that come out when they did an
3 investigation and realized there was something wrong for
4 the last several years?

5 MS. SWEENEY: My recollection of his
6 testimony, Your Honor, was that he was asked about
7 whether the program was discretionary, but he
8 participated in the funding rounds at the time he took
9 over as General Counsel, which would have been the

10 beginning of '87. He then testified that he asked one
11 of his deputies to look into the legal requirements and
12 the deputy came back and said to him that the rating and
13 ranking regulations were not waived and that remained in
14 effect and it was then that he realized that the
15 regulations had not been followed for a long period of
16 time.

17 We also wanted to point out to the Court that
18 Congress' decision was not that fair share could not be
19 used or that the program was discretionary, but Congress
20 removed a restriction, and that's why we believe the
21 Government's proposed language is a little bit better.

2 THE COURT: All right. Let me look at that.

2 MS. SWEENEY: Your Honor, at page 20, we would
2 propose adding a clause to the first sentence in the
2 last paragraph. The sentence as presently stands is the

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1 Government has not alleged that there was any monetary

2 loss to the Government as a result of the defendant's

3 activities. And, this is our proposal, and as I

4 instructed you earlier, the Government need not prove

5 that the Government sustained any monetary loss.

6 THE COURT: All right. Again, that was a

7 sentence suggested by the instructions submitted by the

8 defendant. All right. I'll put that there for now.

9 MS. SWEENEY: Then, Your Honor, I -- just on
10 page 34 Your Honor has an instruction on the unanimity
11 of the jury on the statements that the Government has
12 alleged were perjurious, and I would just point out
13 there that we have not included that in the special
14 verdict form and just raise that as a question,
15 something that might be considered.
16 Your Honor, we don't believe that a special
17 verdict form, as I said earlier, would be necessary on
18 the overt acts because the court's instruction really
19 instructs the jury as to what to do about that, but I'm
20 not aware that special verdict forms deal with overt
2 acts.

2 THE COURT: I just had in mind when I said
2 that the R Street Crew that we tried here, but that's a
2 different statute, obviously. We must have listed a
2 hundred overt acts and the jury had to prove or not

3337

1 prove each one. They only found one or two.

2 MS. SWEENEY: We don't think that's

3 appropriate in this case, Your Honor.

4 On page 41, the Government would request that

5 the exhibits be sent back during deliberation ab initio.

6 THE COURT: I'm not opposed to that. I think

7 they need to have some organization so they know how to

8 go about what they want to find in these exhibits,

9 rather than give them two or three big boxes of
10 exhibits. I'm not opposed to sending back the
11 exhibits. I said I wasn't going to send them back

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12 originally, but they can see them all. They can ask for
13 them. I'm not opposed to sending back all of the
14 exhibits, saying I'm sending back all of the exhibits
15 that are admitted. I think I would say, I'll rephrase
16 it a little bit, we will send back the exhibits once
17 Miss whyte has checked with both sides to make sure the
18 list is accurate. Now, Miss whyte has things written on
19 it that would be improper for the jury to see.
20 Sometimes a document is described differently or
2 something. But once we get the list prepared of all the

2 documents they get a list, so they would have something
2 to index them, unless they want to go through boxes on
2 their own.
2 I'm not opposed to sending them all back. I

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1 just want to make sure they get organized without
2 suddenly taking documents out of boxes and passing them
3 around.

4 MS. SWEENEY: We share your concerns, Your
5 Honor. That's why we proposed the charts to which Your •
6 Honor has objected. ;

7 THE COURT: I don't mind saying I'm sending j
8 back the exhibits. I think I need some guidance on that
9 to suggest that they will be given eventually, when
10 they're ready, a list of the exhibits they can use to
11 help them retrieve any documents or exhibits they may {

j

12 find helpful in their deliberations. I'll do that. |
13 There's one thing I did want to ask about. I j

j

14 didn't have it here. It's just a mechanical thing and I
15 that is if they want to hear the tape of her testimony j
16 again. Either we can agree that if they want to hear ;

i

17 the tape we can have the Marshal take a tape recorder !

i

18 and play it for them or they can come out here and
19 listen to it and you can make sure that the tape is j
20 played properly, there's no problems with it. :
2 Usually if it's an undercover tape recording ;
2 of a drug agent or something, I have them come out here

i

2 to make sure they're not listening to the wrong part of \

2 the tape or it doesn't get somehow erased or anything.

2 But if this is a copy of the original which is I think j

j

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1 what we have --

2 MS. SWEENEY: Your Honor, this is the original
3 tape that belongs to the reporting service.

4 THE COURT: We don't have a copy made.

5 MS. SWEENEY: We don't have a copy. |

6 Your Honor, I don't think this is like the
7 circumstance of a drug trial. In this particular case

8 they have a transcript which is actually in evidence. |

9 THE COURT: They may or may not want to hear

10 the tape, but I have no idea. I was just thinking a !

11 loud if they want to hear the tape we can make

12 arrangements. They can come in the courtroom where

13 you're present or send a Marshal back there. I'll have

14 the Marshal stay there with the door open and tell the

15 jury they're not to deliberate, and then send the

16 Marshal out and they can continue to deliberate.

17 Maybe we'll cross that bridge when we come to

18 it. They may want to listen to the tape, and we'll send

19 in the tape.

20 MR. WEHNER: As far as we're concerned, the

2 Marshal can play the tape. There's nothing on there

2 except the words that are on the transcript.

2 THE COURT: well, the mechanics. I want to

2 make sure there's no complaints about it.

2 All right. what about the -

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1 MS. SWEENEY: Actually, Your Honor, I had two

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2 others brief comments. We.
3 would ask that the Court not give the partial
4 verdict -5
THE COURT: I was just going to raise that.
6 MS. SWEENEY: - charge at the beginning.
7 THE COURT: You'd rather hold that.
8 MS. SWEENEY: Yes, yes, Your Honor, and we
9 would prefer that Your Honor give the charge from Sand,
10 from Judge Sand. j
11 THE COURT: Yes, Model Federal Jury j
I
12 Instructions. I
13 MS. SWEENEY: That Your Honor supplied to us j
j
14 this morning, just in the form of a xerox, in the j
15 treatise.
i
16 THE COURT: All right,, that's a little longer;
i
17 than the one that I have. If you go to my perjury !
18 instruction that I drafted, that's why I suggested j
19 counsel may want to review it. I believe it's about page;
20 33, the fourth element, this one gives more detail to
2 that fourth element, it gives a rather complete review
2 of what they can consider about the defendant's intent
2 as to committing perjury.
2 Now, does the defendant have a position on :
2 that? Have you read that through? It's a rather I

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1 fullsome discussion.
2 MR. WEHNER: In terms of Your Honor's draft
3 perjury instructions?
4 THE COURT: Yes, where I discuss the fourth
5 element we would say that we would use most of that
6 fourth element discussion that we have, whether the
7 defendant acted knowingly and willfully making the
8 statements, regarding a decision about her state of
9 mind, and then we discussed that in the beginning in a
10 general instruction and this goes into much more detail
11 about the perjury, proof of state of mind.
12 The meaning of a particular act may depend
13 upon the circumstances surrounding it.
14 MR. WEHNER: Your Honor, my reaction is I
15 don't like this instruction in terms of the perjury
16 counts. I think it relates more, frankly, to the
17 conspiracy counts than it does to perjury. I don't
18 like - and I want to make sure we're looking at
19 instruction 48-13, manner of proof.
20 THE COURT: 48-13, right.
21 MR. WEHNER: Especially in a case like this
22 where - I don't know. Particularly in a case like this
23 where the second paragraph, for example, of that jury
24 instruction deals with or could be misinterpreted by the
25 jury to suggest that over the five years that Miss Dean

3342

1 was at HUD anything that she did that was inconsistent

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2 with her testimony could be defined to mean that she

3 knowingly and willfully misled or knowingly and

4 willfully lied.

5 In a case like this we're talking about a four

6 or five year period in which programs were ongoing.

7 I think it's that second paragraph of that

8 instruction broadens the basis upon which the jury could

9 convict beyond that which the general perjury
10 instruction states.

11 THE COURT: Her state of mind at the time
12 she's giving these statements, you're afraid they'll
13 look at other matters beyond that.

14 MR. WEHNER: what occurred at HUD as to what
15 she testified to as opposed to what her state of mind
16 was at the time she gave the testimony, and I don't
17 think in this case we're talking about a continuing
18 event. That it's fair to allow them to take something
19 that happened in 1982 and use it to prove what she
20 testified to in 1987, especially when from our position
2 the question was expressed in terms of 1987.
2 So I frankly don't have any problem with the
2 rest of that, but actions speak louder or more clearly
2 than spoken or written words. I really don't like that
2 in terms of a jury instruction in this case. I think

3343

1 that because there is so much evidence that's not

2 necessarily attributable to Miss Dean as to how the

3 program is run, I think that opens the door for them to

4 get into a lot of collateral issues in terms of judging

5 her state of mind. That one really bothers me.

6 The rest of it doesn't bother me too much. I

7 think the rest of it is fairly standard, but in this

8 case I don't like the second paragraph.

9 Judge, I also lodge an objection to the

10 remaining instructions suggested by the Government and I
11 think it's a general objection because I think it
12 invites the jury to impose a different set of
13 credibility tests upon the defendant for her testimony
14 than with other witnesses and, frankly, I think the
15 tests are precisely the same for all witnesses, whether !
16 it's a defendant or others, and I have no objection to
17 the Court pointing that out to the jury, but when you
18 add language that suggests a stake in the matter,
19 specifically as to the defendant, that's the same
20 language that goes to immunized witnesses, for example.
2 I don't think you need to state it twice. I

2 think you need to state it once as to all witnesses
2 because I think when the Court particularly gives what
2 appears to be different instruction for scrutinizing the
2 credibility of the defendant, that it draws the

3343

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2 appears to be different instruction for scrutinizing the
2 credibility of the defendant, that it draws the

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1 appearance that the Court questions the credibility of
2 the defendant in a different fashion than the Court
3 questions the credibility of the other witnesses and I
4 think generally the Court questions the credibility of
5 the other witnesses not at all. The Court is just
6 neutral as to whether those witnesses are truthful or
7 not, but I think when the Court gives a different set of
8 instructions regarding the defense testimony it tends to j
9 make the jury look more at the instructions in a
10 different way towards the defendant.
11 THE COURT: All right. I'll check those. As
12 I said, there may have been some changes lately in the
13 standardized instructions. The original instruction
14 from the D.C. Instruction manual is very simple, more
15 simply suggested there than the one we used to use. It
16 simply says that the testimony of a defendant shall not
17 be believed or disbelieved because the defendant - you
18 may consider the fact that the defendant has a vital
19 interest in the outcome of this case but you should give
20 his testimony such weight and judgment as is fairly
2 entitled to receive. It's a rather straightforward
2 statement.
2 There are cases in this Circuit that suggest !
2 maybe you shouldn't give it, but there are many others j
2 that in turn say you should give it. I'll look at it.

3345

1 MR. WEHNER: With regard to the fact that
2 other people at HUD may have committed a criminal
3 offense is not a defense to the charges in this
4 indictment, I think that's clearly uncalled for in this
5 case. I don't think anyone suggested that.
6 One, the fact that someone else committed a
7 crime at HUD is some kind of a defense in this case, i
8 think that clearly would be improper and frankly would
9 impugn upon the defense arguments regarding the practice
10 at HUD and would suggest that the Court somehow had made
11 some finding that the practices at HUD were criminal
12 when in fact certain witnesses testified they committed
13 crimes but the fact - I think if I were to argue the
14 fact that Tom Demery or someone had pled guilty to a
15 crime at HUD was somehow a defense to what Miss Dean had
16 done, probably Mr. O'Neill would be jumping up and down
17 and you would sustain his objection. And I can't argue
18 it, nor is it fair to point it out to the jury.
19 With regard to the need not prove any monetary
20 loss, I think our instruction more properly -I
think
2 Your Honor's instruction is fine. I think adding
2 another -stating
the same instruction twice, that the

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2 Independent Counsel need not prove a monetary loss is
2 sufficient.
2 And, Your Honor, I object to the instruction

3346

1 in terms of the Congressional removal of the fair share
2 requirements and I think that the Independent Counsel is
3 trying to get the Court to make an affirmative statement
4 as to what Congress intended or what Congress did that
5 is not supported by the record.

6 THE COURT: well, was it Mr. Dorsey who
7 testified that it was supposed to be discretionary or
8 not? In fact, I have a note to myself all during this

9 trial that I didn't know if Mr. Dorsey had some reason
10 why he was not going to be called as a witness. I kept
11 waiting to hear from him or somebody from the General
12 Counsel's office about what was his legal opinion that
13 was discussed by some witnesses that they had
14 discretionary funding authority, and we never heard that
15 from either side.

16 MR. WEHNER: Judge, that's an interesting
17 question that I think both Mr. O'Neill and I would have
18 liked to have had a witness that would have testified to
19 the existence of, or the lack thereof, of such an
20 opinion.
2 The testimony on the Hill and the testimony at

2 HUD is mixed. There's some indication - let me put it
2 this way, our position is that the various Federal
2 Housing Commissioners legitimately relied on the legal
2 opinion that said that the funding was discretionary and

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1 that remained in effect until Mr. Dorsey, J. Michael
2 Dorsey researched it and made changes from 1987
3 forward.
4 I believe that the Housing Commissioners
5 testified, for example, Maurice Barksdale, that he could
i
6 send those units anywhere he wanted to, if he had the
7 nerve. And his testimony was that that was based on a
8 legal opinion that he received from the General Counsel.

9 That wasn't Mr. Dorsey.
10 So I think the testimony at the trial is that
11 they were discretionary. That's corroborated by the
12 fact that Congress removed the fair share requirements.
13 Finally, Judge, I would request that you
14 instruct the jury, and this is one that we did not
15 submit and frankly I forgot to submit it, I would like
16 you to instruct the jury that Miss Dean is not charged
17 with nor is it a criminal offense to violate the
18 standards of conduct of the Office of Housing and Urban
19 Development. That's my thought. I don't know whether
20 that's the appropriate language, but I had forgotten to
2 put that in my charge.
2 I think there's been a lot of mention of those
2 and I would like that to be clear that she's not charged
2 in this case with violation of the standards.
2 THE COURT: what about as to the gratuity?

3348

1 MR. WEHNER: I think the gratuity clearly you
2 covered that in your charge, Judge, but that's a
3 criminal statute. That's not a violation of the
4 standards of conduct. For example, avoiding incidents
5 that may be appear to be improper or impropriety.
6 THE COURT: I think the Government has alleged
7 maybe - I believe it alleges the violation of the codes
8 of conduct and a criminal offense.
9 MS. SWEENEY: Yes, Your Honor, the case law

10 under rule 371 is virtually analogous to the same
11 standards that happened to have been incorporated into
12 the standards of conduct. If you look at the cases that
13 were cited under 371, Gorman and others, and then
14 compare that with the standards of conduct, they're
15 virtually analogous types of conduct.
16 MR. WEHNER: Judge, I think that may well be
17 true except that, standing alone, a violation of the
18 standards of conduct does not equate with a criminal
19 offense. It may be evidence in support of a conspiracy,
20 but it's not a criminal offense. That's the point I
2 wish to make.
2 MS. SWEENEY: Your Honor, the only thing I
2 wish to ask is that I ask that Your Honor to review the
2 testimony of Mr. Dorsey before deciding on the change
2 the Government suggested on page 17.

3349

1 THE COURT: All right. I will do that. Is
2 there a way that you think the defendant's suggestion
3 could be properly phrased at all about the standard of
4 conduct and any violation, standing alone, without more,
5 is not - well, it seems to me that's a problem because

6 I think that the violation of the standards of conduct
7 you say is evidence of criminal wrongdoing, if the other
8 factors are all there under the offense.

9 MS. SWEENEY: Yes, Your Honor.

10 THE COURT: I'm not sure about that requested

11 instruction of the defendant. I'll look at it. I'll
12 ask that Mr. Dorsey's testimony be brought in to me and
13 then I'll consider these suggested changes and the
14 credibility instructions as to the defendant's
15 testimony.
16 I've got the pattern jury instructions and the
17 others here and I'll see about adding these ones on the
18 proof of the state of mind for a perjury conviction. I
19 think that instruction may be appropriate. Maybe we can
20 adjust the language to avoid any difficulties.
21 The defendant says he's not worried about the

22 indictment, as I understand it, except for unproven
23 overt acts, am I correct in that, as opposed to the j
24 general language in the indictment? Judge Gesell
25 expressed some concern about that.

3350 j

1 MR. WEHNER: Given the way the trial has gone, I
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2 Judge, I think that's all in front of the jury, so I j
3 don't think that matters. Not that it's been j
I
4 overstated. That it exists. I
i
5|

THE COURT: Are there unproven overt acts? I

6 MS. SWEENEY: Not that I'm aware of, Your \
7 Honor. Perhaps Mr. Wehner can help me out.

8 THE COURT: what about the \$7 0,000
9 overpayment? That was just a payment of one of the
10 projects, one of the checks or something that was tossed
11 in.

12 MS. SWEENEY: I will take a look at it.

13 THE COURT: It's the last one listed, as I
14 recall it, in the overt act section of the indictment.

15 MS. SWEENEY: Your Honor, in terms of
16 reprinting the indictment with naming the
17 co-conspirators and eliminating count five, if Your
18 Honor would like to give us some guidance as to whether
19 or not we should deal with Louis Kitchin as Louis
20 Kitchin and not co-conspirator Kitchin, that might be
2 helpful, or we could just have it available both ways,
2 both versions.

2 THE COURT: I haven't looked at it as to how
2 you expressed Mr. Kitchin's existence or not and, as I

2 said, I want to read through the motions anyway a little

I

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1 bit more as to the broadening of the conspiracy charge
2 as a problem or not.

3 I don't know how fast your printing machines
4 go or not on this 72-page indictment, but if you want it
5 prepared both ways, that's fine.

6 I don't know what overt acts may or may not
7 have been proven. I just have a recollection of that
8 one existed. I remember reading it and wondering about
9 it.

10 All right. I'm going to work on these
11 instructions. I've got a pretrial now. Later on. And
12 then if you want to come in tomorrow morning we'll have
13 them ready for you fairly early and I will go on the
14 bench at 9:30 and make some final rulings for you on the
15 record and then we'll -- I'm not too worried about the
16 indictment immediately, if it's ready, fine, but the
17 jury won't start deliberations until tomorrow night at
18 the earliest, if not Thursday morning.

19 MS. SWEENEY: Yes, Your Honor.

20 Did Your Honor want to give us any guidance on
21 whether we should do some briefing?

22 THE COURT: On the -- well, the defendant
23 asserted he's preserved his motion -- her motion for --
24 to dismiss because allegedly he has this motion that was
25 filed quite sometime ago before Judge Gesell who didn't

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1 act on it, apparently.

2 MR. WEHNER: September, '92.

3 MS. SWEENEY: Your Honor, I believe that that

4 may preserve the statute of limitations as to questions

5 that evidence would bear on, evidence that would be

6 produced, but I'm not sure that it goes to the

7 circumstance where the defect is available on the face

8 of the indictment, but we'd have to take a look at that

9 and see what the case law is.

10 THE COURT: It would help the Court, I think,
11 in looking at these overall conspiracies and then on
12 that issue of the indictment, whether it's preserved or
13 broadened, whether it's been impermissably broadened, to

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14 have a brief summary from the point of view of the
15 Government and the evidence pertaining to it as concise
16 as possible. I don't want you to sit all night long
17 working on that. I think you should concentrate on the
18 closing arguments.
19 I'm going to hold this under advisement right
20 now and not rule on these issues and go ahead on the
2 closing argument and instructions, but I think that the
2 Government should file a response to this motion that's
2 rather lengthy with a lot of citations of testimony of a
2 few people, to briefly summarize the Government's side
2 of the case and the evidence most favorable to it,

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1 showing her willing participation and knowledge of this
2 conspiracy. I can then make a ruling upon it.
3 MS. SWEENEY: Is there a particular time, Your
4 Honor, by which we should try to submit it?
5 THE COURT: I think Thursday would be fine.
1
6 You do it Thursday. Sometime Thursday would be all
7 right.
8 MS. SWEENEY: Thank you, Your Honor.
9 THE COURT: I'm sure if we go to the jury it
10 would be wednesday night or Thursday morning and I
11 expect they will be deliberating for sometime.
12 MS. SWEENEY: Thank you, Your Honor.
13 THE COURT: But that's our schedule.
14 MS. SWEENEY: Whenever it's convenient for the
15 Court.
16 THE COURT: If that's impossible, I don't mind
17 Friday. I'd just like to get it done.
18 MS. SWEENEY: Yes, Your Honor.
19 THE COURT: All right.
20 Thank you. we'll stand in recess until 9:30
2 in the morning.
2 (Proceedings recessed at 4:30 p.m. to resume
2 October 20, 1993 at 9:30 a.m.)
2
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Certificate of Official Reporters
It is certified by the undersigned Official Court
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District of Columbia that the foregoing is the official
record of the proceedings indicated.

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1 UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

2

UNITED STATES OF AMERICA, Criminal No. 92-181-01

3

vs. Washington, D.C.

4 October 20, 1993

DEBORAH GORE DEAN, 10:10 a.m.

5

Defendant.

6

7

TRANSCRIPT OF JURY TRIAL

8 BEFORE THE HONORABLE THOMAS F. HOGAN

UNITED STATES DISTRICT JUDGE

9

VOLUME XXVI

10

APPEARANCES:

11

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(Pages 3355 - 3452)

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PROCEEDINGS !

2 (Defendant present, Jury out.) j
3 THE CLERK: Criminal No. 92-181, United States of
4 America v. Deborah Gore Dean. We have Robert O'Neill and Paula
5 Sweeney for the government, Stephen Wehner for Ms. Dean.
6 MR. O'NEILL: Good morning, Judge.
7 THE COURT: All right. Good morning, counsel. As soon
8 as we get organized here -- Juror 7 is late. I'm having Xeroxed,
9 as soon as Mr. Wehner gets in here, a copy of the instructions

10 for you all. I had made a couple of changes after our
11 discussions yesterday.
12 All right, counsel is here now. We are having Xeroxed
13 copies of the instructions. I'll just inform counsel of the
14 changes after the requests of yesterday and discussions we had
15 that have been made, and you'll get your copies in a minute as
16 soon as we can finish Xeroxing, and items that we still need to
17 do.
18 All right, the government had raised an issue about the
19 discretionary nature of the Mod Rehab Program, which was on page
20 3 of the draft they submitted yesterday. That's been amended
21 to -- no, that's not, that was as to the, not the discretionary
22 nature; that was as to others committing crimes at HUD and that
23 being a defense or not.
24 The paragraph on page 3 above "Statements of Counsel"
25 reads, "Evidence has been introduced in this case about other

3358

1 individuals improperly administering HUD programs in matters
2 unrelated to this case. This evidence of other illegal activity
3 at HUD may not be used against defendant Deborah Gore Dean." I
4 have added, "Nor is the fact that others at HUD may have been
5 committing crimes any defense to the charges alleged against
6 defendant Deborah Gore Dean."
7 The government had asked for instructions as to
8 defendant being impeached and giving inconsistent statements,
9 defendant's character and reputational evidence that they had put
10 on, and defendant as a witness. I have amended the instructions
11 and added in page 7 the following two instructions:
12 One, defendant as witness. I have used the standardized D.C.
13 jury instruction for that from the new book that reads, "The
14 defendant has a right to become a witness in her own behalf. Her
15 testimony should not be disbelieved merely because she is the
16 defendant. In weighing her testimony, however, you may consider

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17 the fact that the defendant has a vital interest in the outcome
18 of this trial. As with the testimony of any other witness, you
19 should give the defendant's testimony such weight as in your
20 judgment it is fairly entitled to receive." That is the
2 standardized instruction.
2 Secondly, I've added a character and reputation
2 instruction, because both sides have introduced some evidence on
2 the reputation for truthfulness and veracity of the defendant,
2 and it reads as follows:

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1 "The defendant has introduced testimony that the
2 defendant is a truthful and honest person. Such evidence may
3 indicate to you that it is unlikely that a truthful and honest
4 person would commit the crime charged or testify untruthfully.
5 The government has introduced evidence that the defendant has a
6 bad reputation for truth and veracity. You should consider all
7 this evidence along with other evidence in the case in
8 determining the guilt or innocence of the defendant and should
9 give it such weight as in your judgment it is fairly entitled to
10 receive."
11 There is a second part to the standardized D.C.
12 instruction that I did not put in that says that, discusses that
13 you should not find the defendant not guilty merely on the basis
14 of her reputational evidence, but you can consider it along with
15 other factors, and if you're not convinced beyond a reasonable
16 doubt the defendant is guilty, then you must return a not guilty
17 verdict. It is a rather confusing phrase the way they've phrased
18 it, and I did not put it in.
19 I did not put in separately an instruction of the
20 defendant and inconsistent statements. That, I think, is covered
2 in the next, with inconsistent statements in the general
2 instruction about any witness that we've already had in the
2 indictment.
2 I need to get eventually from the government the names
2 of people who would fit in the category of immunized witnesses or

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1 accomplice witnesses to add to the instructions.
2 MR. WEHNER: Your Honor, in that regard, I would ask
3 that Your Honor delete the accomplice instruction, because I do
4 not believe that there are any witnesses that fall into that
5 category.
6 THE COURT: You don't think that Mr. Demery and others
7 who testified that have made plea agreements didn't testify as -
8 I see, you're saying he didn't testify as an accomplice as in her
9 actions, I guess, as opposed to others?
10 MR. WEHNER: Precisely.
11 THE COURT: I see.
12 MR. WEHNER: I think accomplice --
13 THE COURT: How about a cooperating witness' testimony?
14 I mean, there should be some instruction as to people who have
15 testified as the result of a plea agreement and how you'd judge
16 their testimony. You would hope to provide a benefit to the
17 government and to themselves by their cooperation.

18 MR. WEHNER: It's the word "accomplice" that I object

19 to, Judge.

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20 THE COURT: I understand. All right.

2 MR. WEHNER: If you want to change that to -- I would

2 object specifically to the first two sentences on page 9 of

2 accomplice testimony. I'm looking at the old draft.

2 THE COURT: Yes.

2 MR. WEHNER: And I would ask that in the third

3361

1 sentence, that "accomplices" be stricken and "witnesses" -

2 THE COURT: The third sentence you'd like to read,

3 "Some of the witnesses who testified in this case have agreements

4 with the government whereby they may receive a lesser penalty at

5 sentencing if they provide substantial assistance"?

6 MR. WEHNER: Yes, sir.

7 THE COURT: I don't know if you brought that out in

8 cross. Certainly they admitted they had pled guilty to various

9 crimes.

10 MR. WEHNER: I'm referring -- the example I can recall

11 doing it on, Judge, was the individual who is going to be

12 sentenced October 15, and I can't remember who that was, but you

13 will recall there was a series of questions regarding who was

14 going to determine whether or not he had cooperated with the

15 government as a part of his plea agreement.

16 Mr. O'Neill kindly reminded me that was

17 Mr. DeBartolomeis.

18 THE COURT: All right. Well, let me have the

19 government look at that, too, and I'll talk back with them in a

20 minute whether or not it's appropriate to amend that to just read

2 "cooperating witness' testimony," and then it would begin with

2 the third full sentence, "Some of the witnesses who testified in

2 this case have agreements with the government whereby they may

2 receive a lesser penalty at sentencing if they provide

2 substantial assistance," et cetera, and that would have to amend

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1 the last sentence of that instruction on the following page, at

2 least on my draft now. It would have to be deleted. All right,

3 I'll come back to that one then.

4 We have immunized witness testimony next, and the other

5 ones are standard that we've already reviewed until we get to

6 just before -- on my new draft 15, I don't have the page of my

7 old draft, just before we started talking about conspiracy, I put

8 in a standard instruction, I just missed before, and that is that

9 there are multiple counts and that each one is a separate offense

10 and you have to consider each one separately and return a

11 separate verdict for each. It's a standard instruction.

CO

I 12 All right, then as we get to the conspiracy

13 instructions, after Count 3, the discussion of Count 3 and

14 conspiracy and just before the statute is set forth, the

15 government had requested a review by the Court of whether or not

16 the fair share restrictions being removed was appropriately

17 phrased.

18 I've changed it somewhat as follows: "Congress'

19 decision to remove the fair share restrictions on the Mod Rehab

20 Program made the program more discretionary. However, the Mod

2 Rehab Program continued to be governed by HUD rules, regulations,

2 and standards of conduct." I think that satisfies the concerns

2 on each side.

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2 I believe the others were no changes in, except I have
2 added in the perjury fourth element, which is roughly around page

3363

1 33, 34, the standard, the instruction suggested by the
2 Modern Federal Jury Instructions. Siffert and Sand, that we
3 discussed yesterday, and I've left it as it reads over objection
4 of the defendant as to the second paragraph concerning the
5 circumstantial evidence and the circumstances shown by the
6 evidence to infer the defendant's state of mind. But I have put
7 that entire instruction in.

8 Finally, I've changed the exhibit instruction. It
9 simply reads, "I am sending all the exhibits which have been
10 received in evidence as you retire for your deliberations." It
11 has a typo. It should read, "I am sending back all the exhibits
12 which have been received in evidence with you as you retire for
13 your deliberations. You may examine any and all of the exhibits
14 during your deliberations. This includes a tape recording that
15 was played. If you wish to listen to the tape recording, please
16 advise the marshal."

17 And I have stricken the partial verdict instruction.

18 All right. Either Ms. Sweeney or Mr. O'Neill, have you
19 looked at this accomplice's instruction? I think the defendant
20 may be right on that. I'm not sure we had anyone that came along
2 directly as an accomplice, unless you referred to those
2 cooperating witnesses who had immunity, but they, they didn't
2 plead to anything or anything, the immunized witnesses.

2 I think you may be right, it may be there would be just
2 some witnesses who have received plea agreements, and you can

3364

1 weigh what effect that may or may not have on their testimony.
2 And I don't know how many had plea agreements that testified. I
3 know DeBartolomeis and -- wasn't it three?

4 MS. SWEENEY: DeBartolomeis, Winn, Demery, those were
5 the three, Your Honor.

6 THE COURT: Yes. All right, I'm going to correct to
7 reflect the change on that accomplice testimony in fairness to
8 the defendant on that one.

9 Is Juror 7 here?

10 THE DEPUTY MARSHAL: Yes, Your Honor.

11 MS. SWEENEY: Your Honor, may I be heard on just one
12 matter?

13 THE COURT: Ms. Sweeney, sure.

14 All right, let me instruct counsel my clerk pointed out
15 and I had forgotten I had also amended under conspiracy to
16 defraud the United States, it's my new 21. It's under the first
17 element, after a general approach in the conspiracy instructions,
18 an important phrase. Under "Conspiracy to Defraud the United
19 States," if you go to the second full paragraph concerning the
20 term "defrauded," it begins with, "Rather, for the United States
2 to be defrauded, it is not necessary that the government be
2 subjected to the loss of money or property; it is enough that the
2 conspirators agreed to defeat the government's legitimate
2 official action and purpose by deceit, craft, trickery, or means
2 that are dishonest."

3365

1 I added, "It is not enough, however, that guidelines
2 regulations, or standards of conduct may not have been followed.
3 The government must prove beyond a reasonable doubt that there
4 was a dishonest, deceitful, or fraudulent purpose." And then I

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5 added, "The government has not alleged that there was any
6 monetary loss to the government as a result of the defendant's
7 activities. There are no allegations that the projects that
8 received funding were improper or contrary to HUD regulations."
9 we discussed that yesterday, and the government wanted
10 to add in again it's not necessary that the government be subject
11 to the loss of money or property. I just said that about
12 three -- two sentences prior to that, so I didn't put it back in
13 again.
14 But I did want to put in that was a request that we had
15 earlier about the guidelines or the standards of conduct. They
16 can be evidence, obviously, of misconduct of a criminal nature,
17 but not solely you'd have to have criminal intent.
18 All right, Ms. Sweeney, let me get back to you.
19 MS. SWEENEY: Your Honor, if I understood Your Honor
20 correctly, you have decided not to give the three supplemental
2 instructions we asked for on the credibility of the defendant?
2 THE COURT: I gave two out of the three in somewhat
2 different language.
2 MS. SWEENEY: The one paragraph that I was concerned
2 about and that I wanted to bring to Your Honor's attention -

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1 THE COURT: All right.
2 MS. SWEENEY: -
was the second paragraph on page 2 of
3 the supplemental instructions that we, that we requested
4 yesterday, submitted yesterday: "If a person is shown knowingly
5 to have testified falsely concerning any important or material
6 matter, you obviously have a right to distrust the testimony of
7 such an individual concerning other matters."
8 THE COURT: That's the false in one, false in all
9 instruction?
10 MS. SWEENEY: Yes. I know that there's some latin,
11 Your Honor, but I wasn't going to attempt it.
12 THE COURT: I know it's falses in uno is what it's
13 called. All right. The falses in uno in the earlier Criminal
14 Standard Jury Instructions of D.C., Instruction 2.12, reads, "If
15 you believe that any witness -
here you're saying the
16 defendant -
has willfully testified falsely with respect to any
17 material fact about which the witness could not reasonably be
18 mistaken, then you may, if you deem it fit to do so, disregard
19 all or any part of the testimony of that witness, or you may
20 accept such portion of his testimony as you find worthy of
2 belief."
2 Let me check the new book. The old book has a comment
2 that this entire instruction is in brackets because it no longer
2 can be given in the Superior Court of the District of Columbia as
2 it being improper. There's a Superior Court of Appeals case on

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1 that. "Even in the United States District Court, this
2 instruction, in the committee's view, should be given only within
3 the considered discretion of the trial judge; it clearly is not
4 mandated. And then they have listed some cases that have called
5 it into question, but other cases have not.
6 All right, the new version, called the Criminal Jury

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7 Instructions for the District of Columbia. Fourth Edition, that
8 was just published, has deleted any instruction, also indicating
9 its use is now questioned by the United States Court of Appeals
10 in the D.C. Circuit.
11 I will not give that additional instruction. I've
12 already put in the defendant as a witness and the character and
13 reputation evidence of the defendant.
14 MS. SWEENEY: Yes, Your Honor. And just for the
15 record, we would continue to note our objection to the
16 discretionary language.
17 THE COURT: All right. I think I hopefully have
18 modified that so it reads correctly our understanding as to the
19 evidence. All right.
20 Mr. O'Neill, are you going to go first, or Ms. Sweeney?
2 MR. O'NEILL: Yes, Your Honor.
2 THE COURT: You're going to argue? All right.
2 How do you want to do the timing? If Mr. O'Neill takes
2 until noon or shortly after noon, do you want to break for lunch,
2 or do you want to come right back and start your closing?

1 MR. O'NEILL: We had just discussed that.
2 THE COURT: All right.
3 MR. WEHNER: We had just discussed that, Judge. I'd
4 rather break for lunch, because I don't want to split my closing,
5 and then come back and do my closing and Mr. O'Neill's rebuttal.
6 THE COURT: All right. We may end up instructing
7 tomorrow morning then. We're starting a little late this morning
8 because our juror was late. All right.
9 MR. WEHNER: Judge, can I inquire one more matter
10 before the jury comes in?
11 THE COURT: Yes, certainly.
12 MR. WEHNER: I take it from the fact that Your Honor is
13 going forward that you're deferring ruling on the -
14 THE COURT: I said I had taken those under advisement
15 yesterday, and the government is going to file a responsive
16 pleading on all issues, the statute of limitations and the
17 motions under Rule 29 for judgment of acquittal.
18 MR. WEHNER: Okay. If that's the case, then just to be
19 sure that I'm not waiving anything pursuant to the jury
20 instructions, I would ask that Your Honor add one line, that the
2 jury must find that, however the Court wants to phrase it, the
2 Kitchin transaction or whatever, occurred prior to April 28,
2 1987, which was the date the initial indictment was returned,
2 because if they would find, for example, that the check fell
2 outside the statute and that that completed the transaction, I

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think that that would compel -- as an affirmative defense, would
compel a not guilty finding, and I don't want to be in a position
3 where the jury has not considered that factual dispute during
4 their deliberations.
5 I realize it's a two-edged sword, frankly, but . . .
6 THE COURT: All right. Ms. Sweeney?
7 MS. SWEENEY: Your Honor, I understand what Mr. Wehner
8 is arguing, but I do believe that that would be a legal matter as
9 to whether or not it's sufficient that the government has said
10 "sought or accepted or received or demanded," that the time that
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is going to be controlled is going to be a legal matter for Your
Honor, and the same with whether or not the date that controls is

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13 the deposit of the check, the payment of the check by the bank on
14 which it's drawn.
15 THE COURT: Right, exactly. That's what we discussed
16
17
18
19
20

yesterday -MS.

SWEENEY: Yes, Your Honor.

THE COURT: -

whether it's the receipt or it has to be
the actions of just writing the check, when it was written.

MS. SWEENEY: Yes.

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THE COURT: All right. I'm going to deny the
defendant's request for a specific factual finding by the jury by
a special interrogatory. I think that's what the defendant is
asking for, a special verdict as to when this check was written
or action occurred at the time of the indictment of April 28,

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1 19-

of April 28. I do think it's a legal issue for the Court.

2 There's no question as to, in the factual scenario and Ms. Dean's
3 own testimony, as to when the check was negotiated.

4 All right, I'm going to amend the accomplice testimony-

5 instruction to read "the cooperating witnesses," and we'll name
6 those. Do we have the names of the immunized witnesses so that I
7 can just, when I have this retyped this morning, I can put this
8 in that have testified? Do you recall those?

9 MS. SWEENEY: Your Honor, I have a list. I just wanted

10 to double-check it against the record before I gave it to the
11 clerk perhaps at lunchtime.

12 THE COURT: You can just give it informally to the
13 clerk. That's no problem. All right, thank you.

14 All right, you can bring the jury in then.

15 THE DEPUTY MARSHAL: Yes, Your Honor.

16 (Jury in.)

17 THE COURT: All right, Ladies and Gentlemen, we're
18 ready to proceed. Good morning.

19 THE JURORS: Good morning.

20 THE COURT: I'm glad you got here.

2 Ladies and Gentlemen, as I mentioned to you yesterday,
2 we're at the stage of the case now for summation, or closing
2 argument by counsel. This is a very important stage of the case.
2 While what counsel say to you is not evidence in the case unless
2 they refer to a stipulation by the parties, what they say to you

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1 today in argument is very important, and you should pay close
2 attention to it.

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3 The argument will proceed as follows: The government
4 will argue first, Mr. O'Neill. His argument will take a while, I
5 suspect to lunchtime, and then we'll probably take a break for
6 lunch rather than go right forward with the closing arguments of
7 Mr. Wehner.

8 After the government's closing argument, then

9 Mr. Wehner will argue to you on behalf of Ms. Dean, and after he

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10 has completed his argument, the government has an opportunity for
11 a short rebuttal argument. The government goes first and
12 finishes last because they have the burden of proof beyond a
13 reasonable doubt of all the elements of each of the offenses
14 charged.
15 So, Ladies and Gentlemen, with that in mind, I'm going
16 to now defer to Mr. O'Neill for his closing argument.
17 MR. O'NEILL: Thank you, Your Honor.
18 CLOSING ARGUMENT
19 BY MR. O'NEILL:
20 AS I said in opening statement, Ladies and Gentlemen,
21 this case is about power and how it can corrupt. It is about a
22 public official using her public office for her private gain. It
23 is about looking out for yourself and not others.
24 Instead of looking out for the interests of people who
25 needed public housing, of families with low income, defendant

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1 looked out for her own family and her own interests, and then
2 when confronted with what had happened, when it was going to be
3 revealed, she lied about it.
4 May it please the Court, Judge Hogan, counsel, Ladies
5 and Gentlemen of the Jury. AS I told you in opening statements,
6 there are only two times when I can speak to you. One was
7 opening statement; one is closing argument, so this is the second
8 time. I'd now like to say good morning.
9 THE JURORS: Good morning.
10 MR. O'NEILL: I'd like to thank you, Ladies and
11 Gentlemen, for your attention you've shown throughout the course
12 of this trial, and I'd like to thank you on behalf of the defense
13 and for the Court. We recognize that it was a long trial. It's
14 a lengthy trial. Sometimes there's delays, lots of documents,
15 which sometimes are very hard to follow, and they make for a
16 long, long trial. You've been attentive, and we've appreciated
17 that, because it's very important that you listen to the evidence
18 and that you render a verdict dispassionately based on that
19 evidence.
20 The government made certain statements in opening
2 statement to you, and you remember that a few weeks back. The
2 government has proven each and every statement that was made in
2 that opening statement.
2 I'd like to bring your attention back to a chart that
2 we used, and we used that very early on during the opening

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1 statement. And you'll recall that as I pull it out, it was a
2 breakdown of the various charges in this case. And there are
3 twelve charges in this case of which the defendant is accused,
4 and we went over those, and the evidence that was brought forth
5 by the government was to detail these charges, and you'll see
6 what they are.
7 Count 1 was a conspiracy. It's an unlawful agreement.
8 His Honor will instruct you on the law after myself and
9 Mr. Wehner have a chance to argue what this case is about, and we
10 will tell you a conspiracy is an unlawful agreement. That is
11 what it is. It's a partnership in crime.
CO
3 12 You'll notice there are three separate conspiracies,
13 and you'll recall what those were. Conspiracy 1, that's where
14 the defendant was dealing with John Mitchell, someone she
15 considered very close to her, almost like a father; Louie Nunn;
16 Jack Brennan,- Richard Shelby. Count 2, conspiracy, she's dealing
17 with Andrew Sankin, Thomas Broussard, once again Richard Shelby.
18 Count 3, Louis Kitchin.

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19 And remember, that was the natural lead-in to Count 4,
20 the \$4,000 check that we'll talk very much about. That's an
2 illegal payment, or what's called a gratuity. His Honor will
2 instruct you on that.
2 And then the rest are the various perjury and
2 concealment charges, the lies, the cover-up. Remember, Counts 5
2 and 6, that the information on funding decisions goes solely on

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1 information provided by the assistant secretary for Housing.
2 We've proven that's false. "I have never given or approved or
3 pushed or coerced anyone to help any developer. It's a
4 tremendous waste of time." Again, we've proven it is false.
5 Baltimore Uplift: "I've never heard of Baltimore
6 Uplift One." I'm sorry if you can't see it. "But I've never
7 heard of Baltimore Uplift One."
8 And then finally, "As a matter of fact, no moderate
9 rehabilitation units that I know of, unless they were sent
10 directly by the secretary, have ever gone to my home state of
11 Maryland simply for that reason -- that I sat on the panel."
12 Again, that was false.
13 And I will go charge by charge, Ladies and Gentlemen,
14 but that is what the government proved in this case, and you
15 heard from an assortment of witnesses about what the government
16 proved.
17 The defendant has also presented evidence in this case
18 You heard from the defendant herself, and she testified for
19 several days. There are two completely different stories that
20 you heard, the government's on one side and the defendant's on
2 the other, and this is a kind of case where the two can't be
2 reconciled. It's one or the other. They are totally
2 inconsistent.
2 You are the judges of the facts. His Honor will
2 instruct you on that. It is your determination which story is

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1 credible, is believable. His Honor tells you the law. You take
2 that law and apply it to the facts that you've heard at this
3 trial, during this trial. As the evidence in this case has
4 shown, only one version can be credible. Only one you will find
5 believable.
6 You might remember during the opening statement I said
7 what a jury brings more than anything else to this courtroom is
8 your common sense and your good judgment. Each of you are
9 regular people, who live everyday lives, deal with everything
10 that goes on in regular lives. You know how to assess the
11 credibility of witnesses. You know how to listen to the
12 evidence. You know when someone's telling you the truth, and you
13 know when someone's not telling you the truth. That's as you sit
14 there.
15 And they also say about a jury each person has their
16 own individual experiences in their lives, but together the
17 twelve jurors, the collective whole is greater than each part,
18 because all of your experiences then are put together during your
19 deliberations, and through them, the jury makes its decisions,
20 and that's why it's important that you work together in a team
2 concept and decide what the facts are in a particular case.
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1 And I think a great example of that would be
2 Government's Exhibit 28, and you might recall that's a letter
3 from the defendant to John Mitchell --to Louie Nunn, excuse me,
4 at John Mitchell's place of business. And you might recall it's
5 dated July 5, 1984, and the importance of this -- and remember,
6 you admit what you can't deny; you deny what you can't admit.
7 She has to tell you she wrote this letter. She cannot deny that.
8 It's here. You'll see it.
9 But instead -- and she writes in this, "This confirms
10 my conversation with General Mitchell," again, that she spoke to
11 him about the project -
and that let me assure you that all the
12 units will go to Arama.
13 She has to admit that. It's in black-and-white, as I
14 said during opening. But how does she deny it? Because that
15 document in and of itself shows she's dealing with John Mitchell
16 on Arama. She's assuring a set number of units. So how do you
17 deny that?
18 You say, "well, I got that information from someone
19 else." So you go outside of the document. You say, "Maurice
20 Barksdale told me that."
2 Now Maurice Barksdale didn't testify here that he told
2 her that, but that's what you say. You go around it, because you
2 cannot deny what's in black-and-white, what's on these documents,
2 written before this trial ever started. And in fact, it's
2 written in 1984.

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1 The government's case was built brick by brick. It's
2 like a house. You've got to start with a strong foundation, so
3 what do you do? You put the witnesses on from HUD. You explain
4 what the program is, the Moderate Rehabilitation Program. People
5 very early on, people like Chris Greer and Madeline Hastings,
6 they came on, they explained what this case was. They explained
7 what moderate rehabilitation was all about.
8 Then you heard from the people on the inside, the
9 assistant secretaries, Maurice Barksdale, Janet Hale. You heard
10 from people who worked with them like Susan Zagame.
11 All of those witnesses told a story. And they told you
3)
3 12 what transpired at the Department of Housing and Urban
13 Development from the years 1984 through 1987.
14 That's the evidence that was presented brick by brick,
15 and that's how you build a case. You must make it strong so that
16 it withstands scrutiny, so that it withstands your scrutiny, so
17 that it makes sense, that it passes your judgment.
18 defendant's case is not built the same way. It
19
20 :old you. Everything ~s1
21 T-r- npiii TT-i iri. on what she says.
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the problem, Ladies and Gentlemen.

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1 How do you believe it?
2 You remember during opening statement, I said this is a
3 white collar crime, and in that respect, it's very different than
4 what we encounter in our day-to-day lives. We all know about
5 street crime. And it's just the emphasis is different.
6 You have a burglar. How does somebody get caught under
7 burglary? well, somebody might see him, you call the cops, the
8 cops respond, the person is arrested. Well, if there is a trial,
9 there are eyewitnesses. It's that person who saw it who says,
10 "Yes, that's the person I saw coming out of that apartment."
11 That's how you prove it.
12 The same with car-jacking. Somebody sees somebody take
13 the car, they have a gun, they call in. The police arrest him,
14 they identify him, the eyewitness testifies.
15 In a white collar case, it's very different, because it
16 depends on the position of the person. What renders it
17 different, it's a person who has a position of authority, a
18 position of trust, such as this, executive assistant at the
19 Department of Housing and Urban Development, and abuses that
20 trust, misuses that position.
2 How do you show that? well, we did have witnesses, but
2 the problem with witnesses is you're never quite sure very often
2 totally what they're saying, so you use documents, and the
2 documents are made back in 1984, '85, '86, and '87, and those
2 documents established what was going on. The documents keep

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1 people honest. It's very difficult to go somewhere different
2 with your story when the documents are there.
3 This is a classic case of a government not working for
4 all of us. Our government is to be we the people, by the people,
5 for the people, not for certain people, not for prominent,
6 powerful people, but for all of us.
7 And the problem in a white collar crime is when you
8 have the public official not working for all of us, it undermines
9 our faith in our government, and we see what really happens
10 sometimes, not the way it's supposed to operate, and we see a
11 public official working to help certain people, friends and
12 family, because it benefits that public official, not helping all
13 of us, and as you heard from Melvin Adams, the ex-director of the
14 Dade County Housing Authority, what happens is the local
15 priorities get pushed under, because you do whatever you can to
16 get those units, and in this case, the units would only go to
17 people who knew the defendant.
18 A public official cannot serve two masters. There is
19 no way to do that. If you work for the United States government,
20 you must have, the undivided loyalty of that employee must be
2 devoted to the United States. There is no other way. That
2 person works for all of us. We pay that person's salary. They
2 must work on all of your behalf, not just the people that they
2 want to work for.
2 What is the government's case, Ladies and Gentlemen?

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1 what has the government proved here? I would like to show you
2 charts and utilize those charts to show you exactly what the
3 government has proved, and I hope everyone can see it from where
4 they're seated, and if not, please let me know.
5 Count 1 -
let me move it down just a little. Count 1,
6 what has the government proved in Count 1? You remember this was
7 very early on in the trial. We started in Miami with a developer

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8 by the name of Aristides Martinez. Mr. Martinez wanted to get
9 mod rehab units, and he was asked, "why didn't you just get them
10 from the public housing authority?" and he told you you can't get
11 what they don't have. They couldn't give it to him.

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3 12 As Sherrill Nettles-Hawkins told you, the PHAs became a
13 ghost entity. They were no longer involved in the equation that
14 we talked about where a developer would go to a local public
15 housing authority, the local public housing authority would go to
16 the area office, the region, the headquarters, and the money
17 would filter down. The reason it was set up that way, as
18 Madeline Hastings testified, who designed the program, was
19 because of the need to set priorities in an area.
20 Every area has those. Is there a problem? Is there a
2 crack street you want to close up? Is there a particular
2 apartment building that's really troublesome, and if you
2 rehabilitate that apartment building, the entire street or
2 neighborhood will benefit?
2 None of those things could happen anymore, because the

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1 developers, wherever their property was, would hire prominent,
2 powerful people, and they displaced the local public housing
3 authority.
4 How could a smaller developer hire these powerful
5 people? How could they pay that amount of money? Because as
6 you'll get into on Arama, Mr. Martinez paid \$425,000 just to hire
7 a consultant to get him the mod rehab units. How could a small
8 developer do that?
9 You'll remember what Mr. Mel Adams said: "There were
10 lots of things that we tried to do: encourage minority
11 developers to associate with them, encourage the local priorities
12 to be set and followed, but you can't do that if these monies
13 have to be paid and you have to know certain people."
14 So we have Arama. We have Art Martinez using Louie
15 Nunn, the ex-governor of the State of Kentucky. And remember his
16 testimony, Ladies and Gentlemen? Do you remember how hard he had
17 and what a difficult time he had explaining what he got paid for?
18 He kept saying, "I was hired to advise and to ensure there were
19 no problems."
20 "well, were there any problems?"
2 "No, I don't remember any problems."
2 He couldn't even explain to you what he had done for
2 that money other than to contact John Mitchell, who then
2 contacted someone in headquarters.
2 And then again on South Florida the same way: He

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1 contacts Jack Brennan, who then contacts someone in HUD
2 headquarters.
3 Mr. Martinez paid 425,000. Now we'll go into it again
4 later on, but you've heard a lot about, well, local politicians
5 backed these projects, and that's what it was. It was political.
6 well, if a local politician backed it, why didn't
7 Martinez get him to write a letter and save \$425,000 that he had
8 to shell out? Because of course, local politicians send letters.
9 They do that all the time. The question is are they worth
10 anything? Mr. Martinez apparently didn't think so. He had to
11 pay \$425,000 in order to get it.

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3 12 And how was that money split up? Well, we know 75,000
13 of it went to John Mitchell. What did John Mitchell do? He
14 spoke with the defendant, Deborah Gore Dean, as we saw in that

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15 letter. That's what happened.
16 Arama gets funded. We've seen the letter. The letter
17 is dated July 5, 1984, and Ms. Dean unequivocally states in that
18 letter, she writes, "I've spoken with General Mitchell about the
19 Arama partnership."
20 You heard her on the stand try to fall back from that,
2 but how can you change that? She spoke to him. She writes it.
2 These documents, Ladies and Gentlemen, come from HUD.
2 We can't make them up out of whole cloth. We subpoena them, we
2 get those. It's in her handwriting. She stipulated that's her
2 signature at the bottom of it. It's her document.

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The purpose of this gives you a sort of timetable,

chronology of what transpires on the various projects. And
3 'you'll note how Martinez contacts Nunn at Mitchell's business
4 address. Again, you see that on the letter. We know Ms. Dean
5 iworked at Global Research. She knows what that business is. She
6 iuses it as a reference, and she worked there. She worked for
7 |Mr. Mitchell for a while. She knows what that is.

You see a consulting contract between Martinez and

9 'Nunn, and you've seen all of that go into evidence, the hundreds
10 -of thousands of dollars, all of the checks going back and forth.
11 ' Martinez asks Nunn to get 293 units. We showed you the
12 notes from John Mitchell. Eventually the fee is increased. It's
13 ;increased an additional \$50,000. You were able to see those
14 >documents as they went into evidence.

15 And here we go to that letter, July 5 of 1984. She
16 tells Nunn at Mitchell's business address that Arama will
17 definitely get the units. She assures him and then says, "I hope
18 your partnership will be a viable venture." Could it be any
19 clearer that she's dealing with John Mitchell?
20 On the very next day, you might recall Governor Nunn
21 writes a letter back, and he writes a letter to Art Martinez and
22 said, "It has been read to me from my Washington office that we
23 will definitely get 293 units." Mr. Martinez wants to know that.
24 He shelled out \$425,000. He wants to get going. He told you
25 about that, about being a developer with joint ventures, you have

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1 to lock in certain things. \$425,000.
2 Do you think for a moment he would have spent that
3 money if he wasn't going to get those units? Think about what
4 would happen if he doesn't get those units. He just lost
5 \$425,000 for nothing. Obviously, he's paid \$425,000 to hire
6 somebody with influence, somebody with connections in Washington,
7 somebody who knows the right people, an ex-governor and an
8 ex-attorney general of the United States, and they know the
9 defendant, Deborah Gore Dean.
10 You will hear testimony that other people might have
11 been involved in this. The government doesn't have a problem
12 with that. There might be other people. We already know that

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13 Mr. Philip Wynn, who testified, had done illegal things. He's
14 pled guilty. We know Silvio DeBartolomeis did illegal things.
15 He's pled guilty. We know Thomas Demery did illegal things. He
16 pled guilty.
17 We know there were other people committing crimes at
18 HUD during this time frame, but that's not what this case about,
19 and that should not be your focus. This case is whether the
20 defendant, Deborah Gore Dean, committed the crimes listed on
2 Chart No. 1 over there for which she is charged. That is your
2 focus in this particular case.
2 And it goes on. You'll note the 16th, a rapid reply
2 for 293 units to Metro Dade. All the witnesses told you that's
2 the first funding document. It doesn't get signed for another

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1 eleven days, and who signs it? Mr. Barksdale. He told you he
2 had no idea John Mitchell was involved in this project. He
3 didn't even know John Mitchell, never met John Mitchell, and
4 ultimately he left Washington because he was tired of putting up
5 with what was going on there.
6 And this is a very interesting date, July 18. You saw
7 that document as well. Deborah Dean has a document
8 hand-delivered to Global Research. It is found in John
9 Mitchell's documents after his death, and it's a hand delivery, a
10 request for special service. I'm sure you'll remember that.
11 And the reason for that, the importance of that is
12 she's taken the time to have a HUD messenger or some messenger
13 service deliver this at HUD expense to John Mitchell. He has
14 asked for that. Why else would she be sending it to him?
15 They're communicating, he's asking about Arama. He wants to know
16 what's going on, because he stands to make \$75,000 on it. He's
17 interested. That's what's going on in Arama.
18 Look at this: The HUD Atlanta office on the 27th of
19 July is notified that 293 units are going to Metro Dade. That's
20 over 20 days after Deborah Dean personally notifies Louie Nunn
2 that they will get them units. Is that the way our government is
2 supposed to operate, Ladies and Gentlemen?
2 You heard Maurice Barksdale talk about that. He'd
2 never seen that happen before. That was a very odd letter. He
2 doesn't know how that letter could have been written unless

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1 somebody knew something that he didn't know.
2 Now you start to see what was being paid. John
3 Mitchell received a little over \$8,000. And when you see
4 Mitchell meeting Nunn, those are the calendar entries. You'll
5 have the opportunity when you deliberate on this case to go
6 through the documents. You can look at John Mitchell's calendar,
7 Deborah Dean's calendar, and they're in evidence, and they will
8 show what we've been saying with the various people.
9 Again, scheduled to meet, scheduled to meet. Martinez
10 puts 275,000 in escrow for Louie Nunn, \$275,000. And Nunn pays
11 Mitchell \$75,000 for Arama. He gets paid. We've seen the
12 checks. They've been placed in evidence.
13 Louie Nunn, John Mitchell, influence peddlers, people
14 who make their living selling influence to buyers, but they can't
15 sell that influence unless they have somebody on the inside,
16 because they don't have a product unless there is someone abusing
17 their position of trust within the United States government,
18 doing what these people are requesting, and that's the defendant.
19 South Florida I, again, as we saw with so many of these
20 documents, they just change slightly. South Florida I, you hear
2 from an individual by the name of Jack Brennan, John Mitchell's
2 business partner. He goes to see the defendant, Deborah Gore

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2 Dean, on this project. He goes to see her at HUD. Now he
2 explains, "well, she's the only person I knew."
2 Louie Nunn later explains to you John Mitchell was out

3387

of the country. Does that make a little more sense to you,
2 Ladies and Gentlemen, that John Mitchell is out of the country,
3 they want to get moving on South Florida I, so Jack Brennan goes
4 over there?
5 And we saw a government exhibit in which Art Martinez
6 writes a letter to Governor Nunn that 219 units should be sent,
7 and they carbon-copied Jack Brennan. In fact, Ms. Dean told you
8 he brought that letter when he went to see her.
9 Do you remember what we talked about earlier about
10 coded references? 219. Previously he's asked for 293; now he's
11 asking for 219. why the exact numbers? Because he's paying
CO
3 12 \$425,000 the first time. He's paying 219,000 the second time.
13 If 275 units come down for another project, he's in hot water.
14 He's lost a lot of money.
15 He wants to make sure that he's getting those units,
16 and he wants to avoid any confusion as to whose proposal wins.
17 It's a given. There's no doubt who's going to get those units.
18 You've heard from the local PHA. Do you remember
19 Patricia Sharifi testified that Miami's got problems? Miami is a
20 city with a big, big influx from South America and Central
21 America. So they've got problems. They need units. They can't
22 get them on their own. They explained that, Mr. Adams explained
23 that and Ms. Sharifi.
24 So they were willing to play ball, they were willing to
25 go along with it. why? They wanted the units, and if the

3388

1 developers told them, "we can get the units if you do it our
2 way," "Hey, we'll do it."
3 That's what they told you. They were not impeached on
4 that. Nobody said that's not what's happened in Miami.
5 So when Art Martinez asked for 219 units and they're
6 funded, they're coming to him. So there is no gamble that he's
7 paying out \$219,000 on this project on an off chance he's not
8 going to get them. It's definite. He's getting those units.
9 They're going to him. That's not a project-specific award? It's
10 going right to his project.
11 And you'll see on South Florida, as this shows what
12 happened. The defendant Deborah Gore Dean's own calendar
13 schedules a meeting with Brennan. You heard from Brennan. He
14 went to see her. The meeting took a couple minutes, he told you.
15 And another thing about influence peddling consultants:
16 we talk about consultants. There's nothing wrong with
17 consultants, you'll hear that. I expect even the Judge will
18 charge on that. we're not saying there's something wrong with a
19 consultant when they can, if somebody has a small business, maybe
20 they don't know how to do the bookkeeping, so you bring in a
2 consultant, he tells you how to do this, learn how to do this,
2 save you some time.
2 These aren't consultants that know anything about mod
2 rehab or housing. Jack Brennan told you he didn't know anything
2 about it, yet he stands to make \$109,000 by simply meeting with

3389

1 the defendant once or twice. It's influence peddling. It's not
2 having some expertise that Mr. Martinez needed. The only thing

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3 Mr. Martinez needed was someone at Washington to get him the
4 units, because he couldn't do it out of the local PHA up here on
5 the line that just disappeared, when he brings that letter, what
6 does Ms. Dean write on it? "Send to Housing." She stipulated
7 it's her handwriting.
8 She will tell you she just put it through normal
9 channels, but we know what normal channels were at that time.
10 She was the one making the decisions. She was the decision
11 maker. We'll know it from the handwritten list later. Of
12 course, it went through normal channels. She granted 219 units
13 to South Florida.
14 Martinez calls Nunn. Susan Zagame, remember she
15 testifies, she specifically writes on her handwritten notes which
16 are in evidence, which you'll have, "219 units," right next to it
17 and there's two allocations to South Florida, both 96 and 219,
18 it's written in, "Need letter."
19 They don't even have a letter yet from the local public
20 housing authority. Miami hasn't even asked for units yet,
2 because Miami is out of it. What's going on is it's these people
2 who know each other going around the process, going right up to
2 headquarters.
2 So what happens? Miami sends the letter, because as
2 Patricia Sharifi told you, the developer would say, "Hey, we need

3390

1 a letter. Send it up there quick." That's what they did.
2 You'll see on the 18th the defendant calls the HUD
3 funding control office, says, "No more changes to mod rehab," her
4 word on it, not Secretary Pierce's. We'll get into that later.
5 Mitchell's partner, Brennan, calls Nunn. Mitchell
6 schedules lunch with Dean. You'll see John Mitchell, Deborah
7 Dean, there's a couple entries on her calendar where they have
8 lunch together.
9 Martinez calls Nunn, checking on the status of the
10 project. You see that continues up until the time Nunn bills
11 Martinez for \$219,000. That's what he's getting, \$1,000 a unit.
12 Do you remember that testimony? You've heard it time and time
13 again. That's what they charged, \$1,000 per unit. It's a pretty
14 important piece of commodity.
15 You see it goes down, Nunn sends \$109,000 to Global
16 Research. We put those checks in evidence. You saw them. They
17 have had \$109,000 for a couple-minute meeting with the defendant,
18 Deborah Gore Dean.
19 Mitchell gets \$10,000 from Global two weeks later.
20 Right below that, you'll see Mitchell and Brennan each receive
2 \$50,000 from Global Research for consulting.
2 Interestingly, you'll recall these phone conversations.
2 Shortly thereafter, the defendant, Deborah Gore Dean, calls
2 Governor Nunn. Why is she calling Nunn? Because at this stage,
2 she's up for the assistant secretary for Community Planning and

3391

1 Development, and she needs some help. She wants people to back
2 her.
3 So who does she reach out for? She reaches out for the
4 people she's helped, prominent, powerful people, people who's
5 word is a big deal here in Washington, D.C. politics, and now
6 it's the payback time. Now she calls on him. He will support
7 her.
8 And that is the connection between Louie Nunn, John
9 Mitchell, and defendant Deborah Gore Dean. All arrows lead to
10 her. She is the one controlling, directing the awarding of the
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11 mod rehab unit. what does Governor Nunn make? \$502,169 -
12 excuse me, \$502,169.86. And he couldn't even explain to you what
13 he did. You'll remember his testimony on that. He couldn't tell
14 you anything.
15 Now you still have Park Towers, and Park Towers is
16 interesting, because that, too, is Miami, and you'll remember he
17 testified a long time ago, Martin Fine, the developer. Mr. Fine
18 is a prominent attorney in Miami and also well known in the
19 housing field, did many things in housing.
20 Mr. Fine puts an application in to local public housing
2 authority in mod rehab. He's not going anywhere with it. He's
2 not getting anything. why isn't he getting anything? Because
2 the local public housing authority has no power. Finally, Mel
2 Adams tells him that.
2 Even Mr. Fine, a prominent lawyer down there with a big

3392

1 housing background, can't get anything. He, too, must hire a
2 consultant. So he hires Eli Feinberg, somebody he knows. Well,
3 Feinberg is local. He needs somebody in D.C., so they hire
4 Richard Shelby.
5 Again, are they hiring a consultant on housing matters,
6 a guy familiar with housing and the housing industry and what the
7 Mod Rehab Program is? No, they're hiring a political consultant.
8 They're hiring an influence peddler, a guy who can go to the
9 right place, knock on the right doors, and get the right answers.
10 And why will they listen to him? Because he can do
11 something for them. It's a big you-scratch-my-back-I'll-scratch12
yours. That's what this is about. It's a little club, and if
13 you're not a member of the club, you're out of luck.
14 what happens? Shelby meets Mitchell for lunch. A
15 contract is put in, 150,000. what happens with that contract?
16 Does it stay at 150,000? No, we heard testimony it went up to
17 225,000. It's a valuable commodity. what's it for? It's for
18 142 units. Now the price has gone up. It's no longer \$1,000 an
19 unit; it's closer to \$2,000 an unit.
20 what do we see during this time? We have the defendant
2 congratulating Shelby on his new job. We have her scheduling
2 lunch with Shelby, actually meeting him for lunch, because
2 sometimes there was a lot of talk about whether it was actually
2 meeting for lunch or not.
2 well, the calendars can only tell you what was going to

3393

1 happen. We have the backup documentation such as on this one,
2 where it's an expense account with her name on it. Then we show
3 she actually met for lunch. who meets for lunch this time?
4 Shelby and Mitchell. The three of them are now meeting.
5 The very next day, he sends her information on Park
6 Towers. It's in evidence. Again, it's in black and white. It
7 can't be disputed. The defendant is saying, "I didn't know he
8 was working on these projects. He didn't ask me for anything."
9 It's in black and white. This is back in 1984, way before she
10 says he spoke with her.
11 And it goes on. Dean schedules a briefing with Shelby.
3)
3 12 Dean schedules a meeting with Shelby. She's constantly meeting
13 with him.
14 And you'll see a HUD rapid reply for 266 units. You
15 might remember that gets fax'd almost immediately to Mr. Fine
16 down in Miami. why? Because the contract called for a \$45,000
17 payment to go out. That's what this case is about -- money,
18 Ladies and Gentlemen, and what people will do with money.
19 HUD Atlanta is notified 266 units. This is after Rick

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20 Shelby knows. This is after Martin Fine has found out. The HUD
2 people don't learn until days later. That's how the system has
2 been perverted by these individuals, prominent people in this
2 little circle.
2 Again we see another luncheon date and payment of
2 \$45,000.

3394

1 MR. O'NEILL: Again, this correspondence going
2 back and forth. Dean, Shelby, all of this coming back
3 and forth at this timeframe. Shelby's employer paid him
4 \$10,000. He gets some up-front money already. We're
5 going to find out he gets \$50,000 on Park Towers.
6 Mr. Shelby said he got nothing on Park Towers.
7 Absolutely nothing. Yet he gets 50,000. Why, ladies
8 and gentlemen? It's for access to the defendant Deborah
9 Gore Dean.

10 And you'll see how it keeps going. Continuing
11 meetings on the Park Towers project, and I won't even
12 comment, you'll see there's just a lot of entries.
13 Mitchell meeting with Rick Shelby. Again, Dean, Shelby
14 scheduled to have lunch. Once again they're going to
15 have a meeting.
16 Now, you'll see, Shelby send a telegram. You
17 saw that telegram. When the defendant wants something
18 she reaches out to Richard Shelby, to Louie Nunn, to
19 Louis Kitchin. Because she's reaching out to people
20 that can help her now. She's helped them. They'll help
2 her. They'll get her her job as Assistant Secretary.
2 They sent something to the white House. Can
2 an average person do this, send something to the white
2 House and it will be listened to? It's got to be
2 prominent people, people that the white House will

3395

1 listen to.

2 You heard Jack Brennan. On his own he called

3 up some individual named Ken Duberstein to find out

4 what's going on with the nomination. They can call the

5 white House. They can find out what's going on.

6 They're important people.

7 Again, all the meetings back and forth.

8 Shelby thanking Dean for the time we spent over the last

9 few years.

10 Then you have Fine paying \$250,000 to Shelby.
11 And Richard Shelby, Eli Feinberg and the Keefe Company
12 getting \$175,000 for one project, and John Mitchell on
13 the projects with Mr. Martinez and the project with
14 Martin Fine made \$242,000 and some odd amount of money
15 and all because they knew the defendant Deborah Gore
16 Dean.

17 what does she get out of this? John Mitchell
18 is like a father to her. He is as close as he comes.
19 Later on, in her testimony she says, well, I didn't
20 really become close to him until after I left HUD.
2 Ask yourselves, ladies and gentlemen, when you

2 go over that, is that credible? When she's writing
2 letters to him in 1983 saying Dear Daddy? Would you be
2 calling somebody Daddy if you're not close to him?
2 She told you that he was her mentor. He was

3396

1 her brother's mentor.

2 But the story keeps changing. It changes on

3 what question you ask. But there is no doubt in these

4 documents, documents written in 1983, that's her dad,

5 and that's what she's calling him.

6 Later on when confronted on the stand, I

7 wasn't close to him at that time.

8 That's what she's getting out of this. John

9 Mitchell, who is very close in a family relationship to

10 her practically, is making money and, as she told you,
11 he was not doing all that well. He had problems. He was
12 financially in very bad shape. Well, that \$242,000, I
13 think he was doing pretty good. That's what count one
14 is.

15 Count one is the situation in which these
16 individuals made a lot of money through their
17 relationship with the defendant Deborah Gore Dean, lots,
18 lots of money.

19 I'd like to go on to two count.

20 Count two, ladies and gentlemen. What do we
2 have on count two?

2 Again, the scenario is almost exactly the

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2 same. Names change, projects change, but what occurred
2 is almost exactly the same.
2 Now you have a different individual, Andrew

3397

1 Sankin.
2 You heard the defendant describe that Andrew
3 Sankin was not like a friend to her. That he really
4 didn't do too much with her. Well, that's belied by the
5 documents, the repeated entries in her calendars. The
6 fact that he was working for her on Stanley Arms. The
7 fact that she stated on the witness stand he was on the
8 family payroll.
9 That's why she asked him to do one legal

10 matter. Do you remember that? She said I figured as
11 long as he was on the family payroll I might as well ask
12 him to do that. Well, if he's on the family payroll how
13 is she directing projects towards him? That is self
14 dealing. They aren't interested in these projects. And
15 you didn't hear any of these people, going back to count
16 one for a second, that went down and checked out where
17 Park Towers was, where South Florida One was, where
18 Arama was. Who that was benefiting? How that was
19 helping the neighborhood? There was no testimony as to
20 that, because it didn't exist. They had never seen
2 these projects, Jack Brennan said. He never went down
2 to Florida. He had no idea where these projects were.
2 He was interested in making money on his connections and
2 then getting out of it.
2 This one starts, as you recall, with John

3398

1 Rosenthal. John Rosenthal was the developer from
2 Pennsylvania. John Rosenthal was looking to get
3 exception rents for the Necho Allen hotel.
4 what did he do? He applied to HUD. You'll
5 see that in the documents. What happened when he
6 applied to HUD? He was turned down. Turned down. So
7 what does he do? He applies again. He's turned down
8 again. Twice Mr. Rosenthal is turned down.
9 why is he turned down? HUD made a decision.

10 So what does he do? He hires Andrew Sankin.
11 He hires a consultant. A person connected to the
12 defendant Deborah Gore Dean. He agrees to pay him
13 10,000 if he can get the exception rents. And a meeting
14 is set up.
15 Again, you remember from the testimony,
16 Miss Dean admits there's a meeting. She must. It's in
17 black and white again. She says, well, there were other
18 people there. Other people were involved.
19 well, John Rosenthal didn't get this meeting
20 before he hired Andrew Sankin. And you'll hear again
2 with John Rosenthal that Senators in Pennsylvania wrote
2 letters saying hey, it would be nice if Mod Rehab units

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2 go for this particular project. Well, some of those
2 letters are written way before Andrew Sankin gets in the
2 picture. He didn't get the Mod Rehab units until he

3399

1 hired someone who had the influence, the ability to get
2 to the defendant Deborah Gore Dean.
3 And remember, Andrew Sankin, that guy just got
4 out of school. Just gets out of school. And look at
5 the kind of money he's making.
6 And you remember, when he testified, Miss Dean
7 made much of the fact that he must have drank six
8 gallons of water. Did he look nervous to you up there?
9 He kept drinking and drinking. He asked Joe to get him

10 another drink of water. The guy kept drinking. He was
11 so nervous up there.
12 How does he justify getting out of school and
13 making \$229,000 for doing nothing?
14 And you heard people like Tom Broussard saying
15 they've got to cover for this guy. He's talking to
16 developers on their plane rides. He doesn't know what
17 he's doing. And he's making this kind of cash. It's
18 really unbelievable.
19 So what happens? Andy Sankin gets
20 John Rosenthal in to see Deborah Dean. Bang. Exception
2 rents. They'll say Secretary Pierce signed off on them.
2 Secretary Pierce didn't sign off on them. The autopen
2 was used. Again, you only have her word that Secretary
2 Pierce authorized the signature. It was not his
2 signature. It's an autopen.

3400

1 Regent Street. What happens on Regent
2 Street? John Rosenthal wants 26 units. He gets 13 and

3 13. How does he go about that? The documents with
4 regard to John Rosenthal couldn't speak any louder, no
5 matter what would happen. On this project he writes to
6 Andrew Sankin. What does he say to him? I want 26
7 units. "I would very much appreciate the opportunity to
8 meet with Deborah and get a feeling for the lay of the
9 land and get her advice as to what specifically we
10 should be doing in this connection." Is there any doubt
11 who John Rosenthal is dealing with, and who is the
12 consultant that he's using? It's Andrew Sankin.
13 Is there any doubt that Deborah Dean knows
14 that he's dealing with Andrew Sankin? This is on Necho
15 Allen. "Dear Deborah, Andrew has informed me of the very
16 good news." He's talking about Andrew Sankin. That's
17 what he's doing. He's hired somebody, someone with
18 influence to get him what he needs as a developer. He
19 can't get it on his own.
20 The Secretary - Senators might be writing all
21 the letters they want, it's not helping him. He needs
22 to get into the door. He has to pay someone to get into

23 the door.
24 That's not the way our Government is supposed
25 to operate. It's supposed to be for all of us.

3401

1 Look at the defendant, she is writing back to
2 John Rosenthal, "Please excuse the tardy reply. I was
3 under the impression that we had resolved your question
4 when we last met. I know that on several occasions Andy
5 Sankin has broached the subject of Mod Rehab units for
6 Pennrose Properties with the Department." How does she
7 know that unless he talked to her?
8 On the stand you've got a different story,
9 totally different story, but not in black and white, not

10 in the documents. They speak for themselves.
11 He's dealing with her. That's how he's making
12 his money.
13 And does John Rosenthal get his units? Yes,
14 he does for Regent Street. Does Andy Sankin make
15 money? Absolutely. And still, as I said in opening,
16 he's still making small amounts. He got \$10,000 for
17 Necho Allen. He gets \$11,000 for Regent Street.
18 Now we get to Alameda Towers, and Alameda
19 Towers, as I told you in the opening statement, is when
20 it really starts to change.
21 Andy Sankin and Tom Broussard tell you that
22 they get 150 units and then they go shop around for
23 these 150 units. They look for a buyer. And probably
24 the most honest person that's testified at this trial
25 was a Mr. James Wilson. And you might remember, he was

3402

1 a very brief witness, but he's the guy who Broussard
2 came to and said I've got 150 units for you. Actually
3 he told him 300 units. And he wants a joint venture.
4 Not only does he want to be paid \$1000 per unit, he
5 wants 50 percent of the development that Mr. Wilson
6 has.
7 Mr. Wilson, a big businessman, says, well, I
8 want to know the deal. Where did you get those, how did
9 you get those? And he says it's none of your business,

10 and Mr. Wilson says, hey, if I'm going to do business
11 with you I want to know how you get them. And Broussard
12 doesn't tell him. He said he's just got an in. What
13 does that say? He knows he's got a valuable commodity.
14 He's trying to find a buyer for his project. That's
15 what that is. And Mr. Wilson wants to know if he's
16 going to be giving him hundreds of thousands of dollars
17 he wants to know, hey, Jack, what's the deal? Where are
18 you coming from? I want to know what's going on.
19 Mr. Broussard doesn't want to tell him because
20 he knows he's not supposed to have those units. He's
21 got them in hand.
22 And the defendant tells you on the stand a

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2 different story. She says Sam Pierce told her, even
2 though she doesn't know anybody, go out and find people
2 to get those units. Does that make sense? Go out and

3403

1 find people for those units, otherwise they'll be
2 recaptured.
3 You've got the local Public Housing Authority
4 in Puerto Rico. I've never been to Puerto Rico, but I
5 can guarantee you Puerto Rico needs housing units, it's
6 like anyplace in this country or any Commonwealth, you
7 need units. They have poor people, they have rich
8 people, they have middleclass people. The local Public
9 Housing Authority could have easily taken care of these
10 300 units. They didn't need Tom Broussard, an
11 international lawyer from Los Angeles, as he told
12 Mr. Wilson, to come down and find a buyer for these
13 units.
14 What about Cleofe Rubi? Remember him? He was
15 the developer on that project. The man who came in, had
16 a very heavy Spanish accent. The big talk with him, he
17 had some 50-odd foot boat and he said it's a very big
18 boat. I guess a 50-something foot boat is very big.
19 Mr. Rubi is a successful businessman in Puerto
20 Rico. He paid Tom Broussard \$150,000, and do you
2 remember what he said? I bought the units from him. He

2 wasn't my attorney. I didn't use him for anything else.
2 He had the units and I had to buy them. Do you think a
2 person like Cleofe Rubi would pay \$150,000 if he didn't
2 have to? why did he pay that money? He's a successful

3404

1 businessman. Being a successful businessman, he's
2 probably a smart businessman.
3 You had a chance to judge his credibility and
4 see what he's like. would he pay that unless he had
5 to? He had no other way of getting those units, and in
6 fact, in fact, he had worked the other side. He had

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7 gone through the Senators like D'Amato and the person
8 you heard of, Joe Monticciolo, up in the region covering
9 New York and Puerto Rico, and he thought he had his own

10 150 but he couldn't get that other 150 he absolutely
11 needed unless he paid money, and Broussard and Sankin
12 were holding that.
13 And who did they deal with? They dealt with
14 the defendant Deborah Gore Dean, although she denies it
15 at this time. The documents speak for themselves. They
16 tell you, and on visual presenter you'll see that, the
17 documents, one after the other, showing a chronological
18 order of how this went, the funding documents, the
19 meeting with Broussard, the meetings with Sankin.
20 And don't forget all through this timeframe
2 he's managing the Stanley Arms apartment. The defendant
2 would have you believe she did him a big favor. Maybe
2 he did make some money. But so did she and her family.
2 He's managing an apartment building for her while she's
2 doing HUD business. Could you think of a more egregious

3405

1 example of self dealing? She's benefiting herself.
2 He told you Bill Morgan, who she knew, who she
3 admitted on the stand knowing, was one of his employees.
4 He would give him a bonus every time he got money on Mod
5 Rehab because it allowed him to do so. That's where
6 he's making his money. \$230,000.
7 Now, interestingly, how did Broussard and
8 Sankin hook up? well, Sankin calls him out of the
9 blue. Broussard said he doesn't know him. What does

10 Broussard do? He calls the defendant Deborah Gore Dean
11 because Andrew Sankin has told him I know the defendant
12 Deborah Gore Dean. Broussard then talks to the
13 defendant in this case. He speaks with her and checks
14 out whether Sankin is a good enough guy to work with and
15 she says, yes, he's a good enough guy to work with.
16 where is she coming with this? why is she involved with
17 who is picking who? And the important thing about that
18 is she even admits to putting together Shelby and
19 Sankin.
20 She's working for HUD, ladies and gentlemen.
2 You can't serve two masters. She's working for the
2 United States Government, for we the people. Not for
2 Richard Shelby, not for Andrew Sankin, not for Tom
2 Broussard. She's working for all of us.
2 And what happens on Eastern Avenue? And

3406

1 Foxglenn? Those are two projects in Maryland. Both in
2 Maryland. Both Mr. Shelby and Mr. Sankin tell you that
3 they deal with the defendant on Eastern Avenue. They
4 deal with her on Foxglenn. Foxglenn is before Eastern
5 Avenue and comes first in time.
6 You'll hear from the defendant when she

7 testified she didn't know Shelby wanted anything on any
8 of the projects until Eastern Avenue. That's not true.
9 Both of them told you on Foxglenn they were dealing with

10 her. He's meeting with her. Her calendars are replete
11 with entries, meeting with Richard Shelby during this
12 period of time. They're not talking about what he's
13 interested in?
14 They weren't friends before her position as
15 Executive Assistant to HUD. You will hear from her
16 they're not friends any longer. They're only friends
17 when she's Executive Assistant. Ask yourself does that
18 make sense that they're not talking about Mod Rehab,
19 about these projects while she's Executive Assistant and
20 having lunch with him on a very frequent basis as she
2 says?
2 what does she tell both of them? She tells
2 them she's very interested in Maryland. Not like she
2 told the Senators at the confirmation hearing, I
2 wouldn't do anything with Maryland. She tells them

3407

1 she's very interested with Maryland. why? Because she
2 want to run for public office some day. And you heard
3 from another witness, from Pamela Patenaude yesterday,
4 another witness to whom she said that she was looking
5 for higher office. She was looking for bigger things.
6 And that is why she allowed herself to be corrupted at
7 HUD, to misuse her position and not care about the
8 people that she was supposed to be taking care of, but
9 taking care of herself.

10 And that's what this case is about. Count
11 two. It is once again about favoring certain people,
12 people with influence, people who could sell that
13 influence by having a connection in the Government.
14 Someone who would listen to them and do their bidding,
15 and in return what does she get?
16 well, we see what she gets. Family
17 enrichment. He's running Stanley Arms. In her own
18 words, as she said, he's on the family payroll. The
19 building turns from a loss to a profit under his
20 management. He does what's called, you heard about it,
2 the rent increase. He does this document. He states to
2 you in his testimony it's probably got a market value of
2 about \$20,000. He never charges her. He asks for
2 payment. She doesn't give him anything. He doesn't
2 want to kill the goose that laid the golden egg. He

3408

1 doesn't say anything. That's why.

2 Mr. Sankin takes her out to lunch, out to

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3 dinner. You heard a lot of testimony that his receipts

4 were fabricated, that they're lies. Well, as you go

5 through them you'll see one receipt goes right on

6 point.

7 And isn't it coincidental that all of his

8 receipts are lies, all the Lance Wilson receipts are

9 lies? Lance Wilson is actually a very good friend. All

10 of Linda Murphy's receipts are lies? Remember Linda

11 Murphy, one of her closest friends? I showed you that

12 on an affidavit. And she said one of her closest

13 friends. All of Russell Cartwright's receipts are

14 lies. All of these people.

15 Look through her calendars. She's meeting

16 with them for lunch all the time, but yet they're all

17 lies, all attempts to deduct business expenses and

18 commit crimes.

19 Count three, ladies and gentlemen -

20 UNKNOWN PERSON: Excuse me, could you tell me

21 if this Courtroom is where I --

2 THE COURT: You're interrupting a Court

2 proceeding. You ask the Marshal your question.

2 All right, Mr. O'Neill.

2 MR. O'NEILL: Count three. Again, the names

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1 change, the projects change, but the scenario is exactly

2 the same.

3 The new influence peddler is Louis Kitchin.

4 The new person with connections to the defendant is

5 Louis Kitchin and, again, he knows nothing about Mod

6 Rehab. He's not a housing consultant. He's a guy that

7 runs political campaigns but he's a big shot here in

8 Washington or at least he thinks he's a big shot and

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9 other people think he's a big shot and he can get things

10 done.
11 But what does he do? Ladies and gentlemen,
12 count three, Louis Kitchin. He's the next influence
13 peddler. He's the next one we see with access to the
14 defendant Deborah Gore Dean, and you'll see from the
15 documents in evidence, although it's not on here, it
16 begins with a developer by the name of Jack Jennings,
17 who has a retirement center in San Diego, California.
18 What does Jack Jennings need? He wants some
19 assurance. The only way to do this is a HUD assured
20 program. He must get that in order to build his
2 retirement center. So he applies to the L.A. Office.

2 It's denied. He applies to the Regional Office. It's
2 denied. He applies to headquarters. It's denied. He
2 appeals headquarters. It's denied.
2 Then Louis Kitchin goes and he talks to the

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1 defendant Deborah Gore Dean, and you'll see from the
2 documents she then asked Tom Demery look into this, see
3 if an independent analysis isn't warranted, and what
4 happens? HUD reverses its position. That's not even
5 Mod Rehab. It has nothing to do with Mod Rehab, but it
6 shows what happens.
7 Here's a man who can't get anything done. He
8 gets denied everywhere but when he has Lou Kitchin in
9 his corner, things start to change.

10 Then you go - even before this \$203,000 for
11 Metro-Dade you go to Atlanta. And Mr. Kitchin asks the
12 defendant for 200 units for Atlanta. You remember
13 Nicholas Bazan, another very short witness, a developer
14 from Atlanta. Mr. Kitchin told him, I can get units.
15 I know the defendant Deborah Gore Dean and I can get
16 units from her. So Mr. Bazan agrees that if he gets the
17 units to Atlanta he will take them. He will buy them.
18 Mr. Kitchin says I'm going up to meet with
19 Dean in a couple of days. I need a letter from the
20 Housing Authority very quickly. Please get it for me.
2 Bazan has his employee, you might remember David
2 Westcott, he testified for maybe ten minutes, he went,
2 got the letter, brought it back, brought it to Kitchin's
2 office. Kitchin brings it up with him. He asks for 200
2 units for Atlanta.

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1 A couple of days later, just a couple of days
2 later, as that will show, the units come down. The
3 letter is dated the 27th. On the 30th, three days
4 later, the rapid reply for 200 units to Atlanta.
5 And the documentation for that is in the
6 defendant's own handwriting. You might remember when
7 she was testifying -- it's a handwritten list, it's her
8 handwriting. She admitted to it. She stipulated to

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9 it. She wrote that out, 200 units.

10 They go down to Atlanta. They're down in
11 Atlanta. Mr. Bazan agrees not to pay a cent unless they
12 go to him. You might remember what he said. He didn't
13 think he had the political influence to be assured that
14 they were coming to him. Luckily, he didn't pay because
15 the City of Atlanta found a better developer. They
16 didn't give it to Mr. Bazan. So we don't have it on
17 this chart.
18 What does Mr. Kitchin do? He goes to Miami.
19 In Miami he knows the local PHA. So he goes there and
20 he finds Claude Dorsy and Jim Mitchell, developers on a
21 project, Springwood and Cutlerwood, and he tells them
22 again I can get units for your projects. They agree to
23 pay him money. He goes up.
24 He told you he met with the defendant Deborah
25 Gore Dean. He asks for the units. The units were sent

3412

1 down. Again, we have a handwritten list by Miss Dean in
2 which it says 203 units to Miami.

3 Now, you'll again remember what I said, admit

4 what you can't deny, deny what you can't admit. We have

5 the handwritten list that says 203 units to Miami. It's

6 in her handwriting. She stipulated to it. But she

7 said, well, Tom Demery was telling me what to write and

8 I wrote it down. Ask yourself is that credible or is

9 that just a way to deny what's in your own hand? The
10 units were awarded. \$203,000 go to Lou Kitchin.

11 Count four, ladies and gentlemen. \$4000.

12 You've heard a lot of testimony about the \$4000. The
13 \$4000 can be nothing but what the Government has claimed

14 it is. You've seen the check. It's dated April 29,
15 1987. It was put into Ms. Dean's account. It written,
16 the endorsement, right on the back of the check.

17 In early May the check clears into her
18 account. We went over lots of details about that. That
19 check was given to her by Mr. Kitchin and it was
20 endorsed right on it as a loan.

2 As we showed, Miss Dean was in tremendous

2 financial problems at that time. She had taken out
2 several loans. She owed money on a Diner's credit
2 card. She was in very, very bad financial straits.

2 You've seen her checking accounts. She was getting

3413

1 insufficient funds charges all the time. Her balance

2 was always very low. She needed money. She asked

3 Mr. Kitchin for that money and he gave it to her. She

4 had bought a piano just days before.

5 As the documents on the visual renter will

6 show, she received that \$4000 in between the time that a

7 meeting was held on the Cutlerwood-Springwood project

8 for 203 units to the time that the 185 was signed by

9 Thomas Demery, the then Assistant Secretary for

10 Housing.

11 That \$4000 was a gratuity for and because of
12 the official acts that the defendant performed on behalf
13 of Louis Kitchin. There can be no other explanation for
14 that.

15 Now, the rest of the counts I'll go into later
16 on because they involve lies and attempts to conceal
17 and, as I said very quickly at the beginning, the
18 Government has proved that.

19 What about the defendant's case? What has the
20 defendant shown to you in this trial? Her entire case
2 rests on her credibility, her believability.

2 The first thing you must ask yourselves,
2 ladies and gentlemen, is, is the defendant a credible
2 witness? Did she tell you the truth?

2 And His Honor will instruct you on the law and

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1 you must decide whether a person is credible or not.

2 How do you do that? As I said in opening statement,
3 just as you would judge somebody in a day-to-day life
4 experience. Does that testimony square with your common
5 sense? Does it make sense to you? Does it pass your
6 good judgment?

7 Let's start with the \$4000. Did she tell you
8 the truth about the \$4000 when she said she was going to
9 use that money because it was coming to her to decorate

10 Mr. Kitchin's apartment?
11 Mr. Kitchin, first of all, never owned an
12 apartment. Second of all, the check, the defense will
13 dispute the date on the check, but you look at the check
14 and see if it doesn't say to you 4-29-87. That check
15 was written after the apartment was sold. The apartment
16 was sold on I believe it was April 20th, 1987. Before
17 that check was ever written. And regardless of how you
18 read that date, and when I look at it, it looks like the
19 29th, but it's up to you, you determine, that check was
20 written after it was sold.
2 And more important, ladies and gentlemen, do
2 you remember on direct examination before we had a
2 chance to cross-examine Miss Dean she stated on June
2 15th she had a complete definitive recall of what had
2 happened. She was driving with Hunter Cushing and

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1 Lou Kitchin to pick up a car and on the way back she's
2 with Mr. Kitchin. She remembered exactly where she was
3 and what building was there. What the conversation
4 was. That her brother was antsy about selling the
5 apartment. He wanted her to find out what was going on
6 with the apartment, her exact words, my brother was
7 antsy. Someone else was living in his apartment by June
8 15th. The closing was on June 10th.
9
10 i ~g Court" He fore" you". ffaving done- that ,'
does
11 :make-any-sense-?---&an- yjQU_sieesLhie.:.r as_being
12 a
13 Mr. Kitchin did go to look at Gordon Dean's
14 apartment. That's not in dispute. In fact, he went
15 there in January of 1987.
16 But remember the way Miss Dean put forth the
17 evidence to establish that the \$4000 was to decorate an
18 apartment? She called Susan Withington, the woman who
19 testified yesterday. Why was Miss Withington called?
20 To say that she was the broker who held that apartment,
2 and so she was the realtor you'd have to go through.
2 For Gordon's apartment, not any other apartment. For
2 Gordon's apartment.
2 They never told you that the apartment had
2 been sold. That there was a contract. That there was a

3416

1 closing. It wasn't until Special Agent Batts called up
2 Miss Withington and she said yeah, it was sold already
3 and there was a contract for sale and a closing. It
4 wasn't until Special Agent Batts found this out that we
5 brought forth this information to this jury. She never
6 testified to that on direct examination on the defense
7 case. That information was not given to you.
8 why not, ladies and gentlemen? Because it
9 would have blown that whole theory out of the water. It
10 wouldn't have made any sense. It was a lie. It didn't
11 make sense.
12 The other thing is when I started

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13 cross-examining Miss Dean with that, she's a very bright
14 person, .Mieiii^iiii^lfii;^^
15 niSlillifj^^ not what she
16 told you. She told you Lou Kitchin wanted to take the
17 closet and make it a wet bar or a dry bar or something
18 because he wanted it to be an office, and he didn't like
19 the color in the kitchen. It was a loud color. So that
20 was going to be painted.
2 And if she's supposed to be a decorator,
2 wouldn't each apartment be different? I'm no decorator,
2 but if you're going to decorate an apartment and be paid
2 for it, aren't you going to look at what the color in
2 the kitchen is? If it's a particularly loud color

3417

1 you're going to have to decorate it a certain way or
2 repaint it. It only makes sense. And if you're going
3 to put that dry bar in, that's what she was being paid
4 for.

5 m^i'g^fftT^ie0^^^Smd^"lSi

6

7

8 And remember, what was the going on at that
9 time? what was happening? we're talking April of
10 1987. She was under investigation, an investigation she
11 asked for to be Assistant Secretary for Community
12 Planning and Development. They were looking into her
13 background. She needed that money to make sure that she
14 was not having these insufficient funds. That she had
15 enough money to pay her bills. aaJEBgte*5aptT«fay
16
17 And don't forget the testimony of Jack
18 Jennings. You might recall him. He was the lawyer from
19 Atlanta who when Mr. Kitchin first told him that he was
20 thinking of lending her money he thought he was crazy.
2 He said you don't do that. He didn't believe that
2 Mr. Kitchin would do such a thing and even Mr. Kitchin
2 told him, well, I'll rip up the check. He said, well,
2 that doesn't do any good because they have other ones on
2 file at the bank.

!jj -ww-C*

"jk ' 3418

1 Mr. Jennings' testimony is very important on
2 that point because it corroborates what happened.
3 Mr. Kitchin loaned her money. She had bought things
4 such as the piano and needed money. But she told you a
5 completely different story.
6
7 eJy^^rfwfawHPfrfmony^ -worth- 6fi taasitIjaany i s
8 wrnrth nothing-. -^=riKYH5u: ^H¥h' ^t" hrow^*rt~*^6ut~° tile" window^ i%rto a
9 ga*jbaae pa^l-^^mBm^m^AAA^l^AT^fAAA^J^mi^Mm^Mm^Sto
10
11 But why do we keep going? why do we keep
12 asking questions? Because it was filtered with lies.
13 Her entire testimony just kept changing.
14 I'd like to go over some of them now to show
15 you where she said one thing once and then another thing
16 later on.

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17 She had no Moderate Rehabilitation dealings
18 with Lou Kitchin. Period. Unequivocal. That's what he
19 said to you. Do you recall that? Mrs. Sherrill
20 Nettles-Hawkins told you quite something different. She
2 told you that she heard her on the phone after
2 Mr. Kitchin had said, hey, where is my Mod Rehab units,
2 she asked the defendant, and the defendant said tell him
2 they're coming, or something to that effect
2 Mrs. Hawkins told you correctly on that. That's a lie,

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1 ladies and gentlemen. Both sides can't be right. And
2 Miss Dean has told you Mrs. Hawkins wouldn't lie. So,
3 therefore, Miss Hawkins is telling the truth on that.
4 Then Miss Dean lied.
5 No idea John Mitchell was a consultant. That
6 was his occupation. He was in Global Research
7 International. That's what they did for a living. She
8 put on that he was a consultant. I had to prod her on
9 that and pry, and it's not easy to just keep asking

10 questions, going into this stuff, but when you're not
11 getting a truthful answer you have to pry, and finally
12 she admits, yes, he's a consultant, which I won't
13 even -- I might as well. She wouldn't even admit being
14 a consultant until I showed her a consulting agreement
15 that she had signed and she said, well, if you want to
16 say what that is. I don't testify here, ladies and
17 gentlemen. It's what the defendant testifies. She was
18 a consultant when she left. She did what she complained
19 everybody else was doing. They left HUD and became
20 consultants. That's what she did when she didn't get
2 the job she wanted.
2 Shocked that John Mitchell made any money.
2 Remember, she went into great length about that. That
2 she was absolutely shocked. And the day the I.G. Report
2 came out she called Special Agent Alvin Cain, who was at

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1 HUD at the time, and said I'm shocked. I can't believe
2 it. I thought you were my friend. You should have told
3 me John Mitchell was making money. You'd better be able
4 to defend what you said and if you can't I'm going to
5 hold a press conference and I'm going to do something,
6 I'm going to rant and rave. That's exactly what she
7 told you.

8 So we had to call in Special Agent Alvin Cain

9 for two minutes' of testimony. And you heard Mr. Cain.
10 It didn't happen. It didn't happen like that. And he
11 remembered Marty Mitchell picking up the report,
12 bringing the money, but it didn't happen. Then they
13 asked him a bunch of questions about the Wilshire Hotel,
14 and you could see Mr. Cain had no idea what they were
15 talking about. We had to bring him in just to show that
16 she lied about that.
17 Lance Wilson. She said Lance Wilson gave 600
18 units to Joe Strauss for Puerto Rico. That's her
19 friend. I asked her questions about that. She denied
20 it. Then she said, well, I'm saying Lance Wilson gave
2 600 units. I don't know who Lance Wilson is, but it

2 doesn't matter if I do or not. That is not the
2 testimony. It must come from her.
2 So we had to call in Special Agent David
2 Bowie, and remember Special Agent Bowie? He's been 22

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1 years with the FBI, before that six years as a
2 schoolteacher, before that with the United States
3 military in Vietnam. Mr. Bowie says that's what she
4 told me. She fingered Lance Wilson, her friend, who was
5 giving the 600 units to Joe Strauss.
6 Now, it might seem like a small point, ladies
7 and gentlemen, but she denies it on the stand. She lies
8 when it benefits her. When it's a benefit. When she
9 can say I didn't know John Mitchell was a paid
10 consultant, she lies about that. We have to show if
11 she's going to lie on that will she lie on anything
12 else?
13 I mentioned earlier, not close to John
14 Mitchell until after she left HUD. All the letters were
15 written Dear Daddy. Five years earlier. Come on,
16 ladies and gentlemen. Does that square with your common
17 sense? Does that make any sense at all? She's trying
18 to talk her way out of it.
19 She denied that the HUD driver had driven her
20 to lunch with John Mitchell. There was a stipulation
21 that Mr. Reynolds, if called, would testify. So then
22 she said, well, no, that didn't happen. Besides,
23 Mr. O'Neills you,
24 so we have to call Mr. Reynolds. Mr. Reynolds
25 comes in. He's got long hair. Good thing I got a

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1 haircut, otherwise I guess I'd be a weird guy. He gets
2 up there and he testifies and he says very clearly I
3 remember two specific occasions. Does that sound like a
4 man who is making things up out of whole cloth? He said
5 there were other times, but I remember two specific
6 occasions. Mr. Wehner cross-examined him about, well,
7 didn't you say once a month. And he said yeah.
8 wouldn't that be 12 times a year times X-number of

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9 years? But the guy said two specific occasions.

10 why would she lie about a HUD driver not
11 taking her there? well, the reason is very clear,
12 ladies and gentlemen. The reason it's so clear why she
13 would lie that Mr. Reynolds did not drive her to lunch
14 with John Mitchell, and there are two particular
15 reasons. The first is, as you heard through her
16 cross-examination, she admonished Hunter Cushing for
17 doing that. And she said taking his girlfriend in a
18 car, you can't do that. You can't use a HUD car, a
19 Government car, for personal reasons. So she's not
20 going to admit that she did it and she had gotten
2 somebody in trouble for doing it.
2 And what does she say? You heard the tape and
2 you'll have the transcript and you can hear the tape
2 again. She was asked by Senator William Proxmire at her
2 hearing, the hearing she requested to get this job: The

1 chairman: "Okay, Miss Dean, HUD motor pool records show
2 that you commonly used HUD chauffeurs to drive you to
3 restaurants. During one two-week period in October you
4 were dropped off at the Old Post Office twice, the
5 Hay-Adams, a Connecticut Avenue restaurant, several
6 restaurants on Capitol Hill. Our staffers have spoken
7 to HUD employees who say they have firsthand knowledge
8 that you have used the HUD motor pool for private trips
9 to restaurants. Could you comment on that?"
10 Miss Dean: "First of all, that is absolutely not true.
11 Any time I have ever used a HUD car, it was for official
12 business. There are a lot of people in this city that
13 have official business meetings over lunch. It is
14 always their idea. If that is the time they can meet
15 with me, I take them up on that. I have never taken a
16 car to do anything personal."
17 Then it can only be one of two things. She
18 either met with John Mitchell because it was personal
19 and she lied to Senator Proxmire or it was business, she
20 was dealing with John Mitchell on this HUD business, and
2 she lied to you. It can only -- logically it can only
2 be one way or the other.
2 ^^^^s^jyi^^she_doesn ' t want to a<
2 evidence et a chance to look at it. Let me

3424

1 show you something on the visual presenter for a
2 second. There are several pages in the middle of
3 various, various HUD drivers and the name Ron, as you'll
4 see runs, throughout. There are a number of different
5 pages. There are approximately, I don't know, several
6 pages. Look through it. See how many times Ron's name
7 comes up.
8 But she told us when I cross-examined her
9 about it that there are many drivers. I don't know who
10 Ron is. Well, Pam Patenaude had no problem remembering
11 that she took trips with her when Ron was driving. But
12 you she didn't want to admit to it, ladies and
13 gentlemen, because she was in a trick bag here. Either
14 it's personal, and she lied to Senator Proxmire, or it's
15 business, and she lied to you. Either way it's a lie.
16 It can't be anything else.

17 Do you remember when I asked her whether
18 John Mitchell had the FBI agent who was investigating
19 her investigated because she didn't like what was going
20 on and she said oh, no, no, no, and then when shown
2 documents she said oh yes, he called the Director of the
2 FBI. He calls the top man in the FBI and the agent is
2 then investigated for doing her background check that
2 she requested. I wouldn't blame her for not admitting
2 to that at the beginning.

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1 Louie Nunn. She told you she did not meet
2 Louie Nunn until after she left HUD. She also said it's
3 possible, as Mr. Nunn said, she met him at Lance
4 Wilson's going away party, can't be sure. Very specific
5 about that. And yet when cross-examined she admits that
6 she told the reporter for the Louisville newspaper that
7 she's known Mr. Nunn since she was a young girl. And
8 then she equivocates and said I might have been
9 mistaken. I shouldn't have said that. But she said it.
10 She keeps changing her story.
11 She said she only worked at Global Research to
12 plan a party, during her direct examination. You
13 remember that. She worked there two months. All she
14 did was run a party and then she left. * So I said to
15 her, well, didn't you write on your resume you were
16 director of public relations for that place? And her
17 answer was, well, yes, I shouldn't have done it but, you
18 know, John Mitchell said I could. well, that's false.
19 That's a lie. She wasn't the director of public
20 relations at Global Research any more than I was. She
2 lied about that.
2 She stated as a reference she used Rick Shelby
2 and she stated she knew him for five years. She talked
2 to him once over the phone but didn't know him. She
2 admitted on the stand that she shouldn't have said

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1 that. I was just another lie.
2 Denied knowing that Andrew Sankin was a
3 consultant. Well, we saw those letters. To believe
4 that you'd have to disbelieve Mr. Sankin, Mr. Shelby,
5 Mr. Broussard, Mr. Altman, Mr. Rosenthal. All saying
6 she knew he was a consultant.
7 Beryl Altman, another very short witness, he
8 had lunch with her, he's a developer out of Maryland.
9 And dinner. The lunch was set up by Andrew Sankin.
10 Sankin thought it would be a good idea if they met.
11 She told you, you remember, about
12 John Rosenthal, that he asked her about hiring Sankin
13 and she said it would be preposterous to hire Sankin.
14 Mr. Rosenthal didn't testify as to that. She had an
15 opportunity to cross-examine him about that phone call.
16 That never came out. All you have is her word about
17 this phone call.
18 what we have, ladies and gentlemen, is a
19 person who lied on the 4000 and continued to lie to
2 0 you.
2 You might wonder why we took so long to
2 cross-examine. As I said earlier, after the initial lie
2 you should be able to say that's it. But we wanted to
2 show you that that wasn't the only time. Her entire
2 testimony is fraught with lies and deception. It cannot

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1 be believed.
2 And probably the biggest lie of all is what
3 she says about Secretary Pierce. That Secretary Pierce
4 was responsible for all the actions she took. That
5 Secretary Pierce was the person who was behind the
6 funding of all these awards. That it wasn't her. That
7 she was merely some sort of messenger. To believe that,
8 you will have to disbelieve almost everyone.
9 Maurice Barksdale told you Secretary Pierce
10 was very laid back. Hands off. He delegated authority
11 to people and let them run the show.
12 Philip Winn, who had been FHA Commissioner
13 before Deborah Dean even got there, said the same
14 thing.
15 Silvio DeBartolomeis told you that. Susan
16 Zagame. Janet Hale. Tom Demery.
17 In fact, not one witness told you anything
18 different.
19 Secretary Pierce, a prominent New York
20 attorney, comes down and is nominated by President
2 Reagan to be the chief of all of HUD, he's in charge of
2 thousands of employees.
2 Remember Maurice Barksdale saying how at the
2 beginning he tried to clear his desk every night but it
2 got impossible and he had to start giving it up. He was

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1 only Assistant Secretary for Housing, the FHA
2 Commissioner. Samuel Pierce was in charge of everybody.
3 Even Miss Dean admitted, stating in previous testimony,
4 that he would have had to have worked 40 hours a day in
5 order to keep up with all the work. So he relied on
6 other people. He relied on people to do his work and he
7 relied on the defendant Deborah Gore Dean.
8 She would have you believe that she brought
9 out that there's this adjoining door between his office
10 and her office, so therefore -- and I have no problem
11 that there's a door separating their offices, but
12 somehow he would sneak in, tell her things, sneak out,
13 and nobody else would see it, and that's why everybody
14 else is mistaken and they all think Sam Pierce is not
15 hands on, but he really was.
16 well, you heard he also had a very busy travel
17 schedule. The man traveled all over the place. He
18 wasn't there all the time.
19 Can you believe what she says about
20 Sam Pierce?
2 We are not talking about the entire Mod Rehab
2 program. There are lots of projects. You saw during
2 Miss Dean's direct examination there were literally tens
2 and tens and tens, maybe hundreds of projects that they
2 mentioned as to being funded, and you can bet there were

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1 many more that you've not heard about that were funded.
2 We're talking about specific projects named in
3 this indictment, Arama, South Florida, Park Towers, for
4 count one. For count two, Regent Street, Foxglenn,
5 Eastern Avenue and Alameda Towers. And for count three,
6 the Atlanta projects and the Springwood-Cutlerwood
7 project in Miami. We're talking about these specific
8 projects because these specific projects were ones in
9 which Miss Dean had a hidden interest. Ones in which
10 she cared about herself, not others. We are not talking

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11 about a project in Santa Clara for battered women where
12 Sam Pierce says they need 19 units. If you can, please
13 do so. We know that document is in there. It has
14 nothing to do with this case. Look for documents that
15 have to do with this case, with these exact projects
16 when Miss Dean had a hidden interest.
17 Just as she's deceived you or attempted to do
18 so, ladies and gentlemen, through a series of lies and
19 deceptions she misled Samuel Pierce and didn't tell him
20 of her hidden interest because if this man who she said
2 is such a fine man and prominent attorney, would he have
2 allowed her to do this where she would have had a hidden
2 interest on these projects? Does that make sense? Does
2 that square with your common sense and good judgment?
2 Ask yourselves about that, ladies and gentlemen.

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1 The best defense is always a good offense.
2 You turn the tables. I'm a little reluctant talking
3 about offense and defense since we all know His Honor
4 likes the Redskins so much, but there's no question that
5 the best defense is a good offense. You take the
6 offensive. And that's what she did.
7 She came in and told you a story. It doesn't
8 matter that it wasn't true, but she told you a story. A
9 story that at first blush sounded believable. It
10 sounded credible. Until you started seeing the holes.
11 No hole bigger than the absolute lie about the apartment
12 and the fact that it was sold way before this check –
13 this conversation on June 15th and, as I said, her
14 brother could not -- if he was antsy on June 15th it was
15 how to – excuse me, it would be how to get rid of the
16 profits they made on selling it. Not on something
17 else. Other people were in his apartment at that time.
18 It's always someone out to get the defendant.
19 You remember, on the background check the
20 reason why the background check was almost up, there was
2 a weird FBI agent who kept changing his hair color, one
2 day he's a swat team leader, The next day he's the
2 driver for J. Edgar Hoover, who came up earlier because
2 he was against her family.
2 She didn't get the Assistant Secretary

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1 position because Senator Proxmire was out to get her.
2 And then, finally, the reason she is here is
3 because Independent Counsel is against her and they're
4 made up of not normal people. Now, that might be true
5 for me, but Miss Sweeney and Mr. Batts look perfectly –
6 normal to me.
7 It doesn't make sense. She has taken the
8 initiative from the get-go. She has lied to this Court,
9 to this jury. Do not believe what she says. It's
10 always someone else's fault.
11 In order to believe her you have to believe
12 that John Mitchell is lying. That's what she said. He
13 lied to her. Jack Brennan lied to her. Rick Shelby
14 lied to her. Maurice Barksdale is mistaken. Janet Hale
15 is mistaken. Andrew Sankin, lied. Lance Wilson, lied.
16 Linda Murphy, lied. Silvio DeBartolomeis, lied. Philip
17 Winn, mistaken. Susan Zagame, mistaken. Thomas Demery,
18 lied. Sherrill Nettles-Hawkins, mistaken. Everybody
19 else lied or was mistaken, but not her.
20 But she's the only one we know who
21 definitively did lie. Her story is built on a rotten
22 foundation. It is rotten to the core. It doesn't

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23 square with common sense. It is lies piled upon lies.
24 It crumbles to pieces the minute you look at it.
25 Now, I know I've run a long time. I apologize

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1 for that. But in representing the Government I do need
2 to bring out all the facts. I'd ask you when Mr. Wehner
3 gives his closing argument to be as attentive to him as
4 you were to me and I will have an opportunity to talk to
5 you again, but throughout that listen and wonder why she
6 lied to you throughout her testimony.
7 Thank you.
8 THE COURT: All right. Can I see counsel one
9 minute on timing, please?
10 (Bench conference).
11 THE COURT: You didn't go into the last count
12 on perjury.
13 MR. O'NEILL: Yes, sir.
14 THE COURT: You're going to do that on
15 rebuttal? He may object to that.
16 MR. O'NEILL: I went into them at the
17 beginning, if you recall, and I went over them. They're
18 all just lies.
19 THE COURT: I just wanted to make sure that
20 you didn't in the excitement overlook it.
21 MR. WEHNER: I would like Mr. O'Neill not to
22 be able to argue the perjury counts in his reply.
23 THE COURT: It depends on what you say.
24 MR. WEHNER: I agree.
25 THE COURT: That's the only reason I brought

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1 it out.
2 MR. WEHNER: That's right.
3 MR. O'NEILL: Just for the record, the
4 beginning of the closing will show that I went over
5 them.
6 THE COURT: Okay. 1:30 okay?
7 MR. O'NEILL: Whatever.
8 MR. WEHNER: Yes, sir.
9 (Bench conference concluded)
10 THE COURT: All right, ladies and gentlemen,
11 remember this now, please, the case is still ongoing.
12 It's not the time to talk about it, to discuss with each
13 other or with anyone else about the case or any of the
14 closing arguments you've just heard. It would be
15 improper to make comments with each other whatsoever.
16 Right now you haven't heard my instructions on
17 the law. You haven't heard the defendant's closing
18 argument. You haven't heard the rebuttal closing
19 argument. And until you have my instructions on the law
20 and understand the law and how you go about your
21 deliberation it's not proper to discuss the case. It's
22 still an ongoing trial.
23 Keep in mind during this recess, in a regular
24 case not so long as this we generally get the argument
25 in without a break, but we're going to take a break

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now. we'll take our luncheon recess.
Again, you're not to talk with anybody about
it anybody talk about it or in your presence. Remember
that admonition.
I'll have you back at 1:30 and we'll be ready

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to go with the closing arguments at that time. 1:30.
(Jury dismissed)
THE COURT: All right, 1:30. Thank you
(Lunch recess, 12:15 p.m. to 1:30 p.m.)

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AFTERNOON SESSION

2 (1:45 p.m.)
3 (Defendant present, Jury out.)
4 THE COURT: All right, are we ready?
5 MR. WEHNER: Yes, sir.
6 THE COURT: Okay.
7 (Jury in.)
8 THE COURT: All right, Ladies and Gentlemen, good
9 afternoon. We're ready to proceed now. As I told you at the
10 break, we'll now proceed with Mr. Wehner on behalf of Ms. Dean.
11 After he finishes, then there will be a short rebuttal by the
12 government, and we'll wait until then to see what our timing is
13 as to giving the instructions to you today or tomorrow.
14 All right, the Court is going to recognize Stephen
15 Wehner on behalf of Ms. Dean at this time.
16 MR. WEHNER: Thank you, Your Honor.
17 CLOSING ARGUMENT
18 BY MR. WEHNER:
19 Ladies and Gentlemen of the Jury: The evidence in this
20 case does not support what Mr. O'Neill has said. I thought about
21 becoming more loud, passionate regarding some of the more
22 outrageous statements that Mr. O'Neill said during his closing,
23 and I may do that before I'm finished, but I'm going to keep my
24 passion and my temper under control for now, because I think it's
25 important to figure out who's lying and who's telling big lies
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1 and who's lying on purpose and who's mistaken, who
2 unintentionally said something and then corrected it.
3 And before I go into some detail in terms of who's
4 lying, I'd like to just give you one example that steps out in my
5 mind throughout this six- or eight-week trial, and I ask you to
6 recall the testimony of Mr. Sankin, and I ask you to recall
7 Mr. O'Neill made light of Mr. Sankin's testimony, which was a
8 smart move, except this is not a light-hearted subject. This is
9 not a light-hearted time.
10 And Mr. Sankin testified that his credit card receipts
11 were inaccurate, that they didn't reflect what the Independent
12 Counsel wanted you to believe they reflected. And then almost
13 unbelievably, Mr. Sankin told you that he told the Independent

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14 Counsel that, and yet they went ahead and they tried to introduce
15 more credit card receipts, and they were still incorrect, and
16 Mr. Sankin admitted they were incorrect.
17 That's not a laughing matter. That's not funny. It's
18 not funny when the fate of Deborah Gore Dean rests in your hands
19 and the Independent Counsel wants to ridicule their own witness.
20 Now there are lies and there are lies and there are big
2 lies, and the Independent Counsel wants you to believe the big
2 lie. When Mr. O'Neill began his opening statement, I asked you
2 to pay close attention to it, because I told you the Independent
2 Counsel wasn't going to be able to prove what they said they were
2 going to be able to prove.

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1 I'd like to review a couple of things that were said in
2 the opening statement and talk to you about how some of the
3 government's own witnesses have said this is not true; this
4 didn't happen. I'll start with Mr. O'Neill's statement in his
5 opening regarding code. If you'll recall, Mr. O'Neill said
6 regarding units in the Arama project that 293 was a coded way of
7 knowing whether you would get the units or not.
8 Now the first or second witness out of the box was
9 examined for about two hours by Mr. O'Neill, and he was an expert
10 witness, their expert on HUD, and a question that I asked him,
11 having never talked to him before, and violating the cardinal
12 rule of cross examination, don't ask a question if you don't know
13 the answer, I asked him, "A specific project." What about "as
14 specific as 2020 Fish Street --do you remember the reference to
15 Fish Street - for example?"
16 The answer was, "I don't believe it's that specific. I
17 believe it's the numbers of units."
18 Now you'll recall that Mr. O'Neill said that the number
19 of units at HUD was a code. My question was, "Oh, is this the
20 code? I've heard something about a code for numbers of units.
2 Is that a code?"
2 Answer from Mr. Greer, Independent Counsel's own
2 expert, "No, sir." No.
2 "No, no, numbers of units, is that a code for
2 something?"

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1 "Answer: I'm not following you.
2 "Question: Is it a code? Does it mean something other
3 than numbers of units?"

"Answer: Not to me.

5 "Question: Well, you audited HUD's programs for 27
6 years. It doesn't mean it's a code to you?
7 "Answer: HUD funds in numbers of units, if that's what
8 you mean, yes."
9 There's no evidence, zero, zip evidence in this case
10 that Deborah Gore Dean or, for that matter, anybody else at HUD
11 was using numbers of units as a code for anything. It wasn't a
12 code. The Independent Counsel's own witness tells you that it
13 wasn't a code, that that's the way the system operates.
14 This is one of those rare cases where there are so many
15 documents, and the reason there are so many documents is because
16 the documents are prepared by a government that's top-heavy in
17 documents, millions and millions prepared every day. There are
18 writings here; there are writings there. There are letters back
19 and forth. There are memos that are written. In this case,
20 there are probably half-a-million documents total that have been

21 looked at.

22 One of the things that you need to look at when you're
23 considering both the Independent Counsel's evidence and
24 Ms. Dean's evidence is that much of the evidence that proves her
25 innocence was introduced by the Independent Counsel. The

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1 difference is, the difference is is that the Independent Counsel
2 is trying to give you the big lie, the big lie being twofold:
3 One, there's a fundamental principle of law at work in
4 a criminal case that His Honor will instruct you on extensively,
5 and that fundamental principle of law is reasonable doubt, and
6 that means that you have to be convinced in your own mind of
7 Ms. Dean's guilt beyond a reasonable doubt before you can vote
8 individually to return a verdict of guilty. If you're not
9 convinced beyond a reasonable doubt, you have a duty under the
10 law to return a verdict of innocent or not guilty.
11 Now I'm not going to tell you what the law is. The
12 Judge will tell you what the law is. But that's my summation,
13 and I believe you'll hear that in his instructions.
14 Mr. O'Neill and the Independent Counsel know that they
15 haven't proven their case as a result of their witnesses and
16 their documents, so he spent the entire closing argument
17 attacking the credibility of the defendant, who testified to you
18 for over a week, who looked you in the eyes, who talked to you,
19 who corrected herself when she made mistakes, who told you, as we
20 said in our opening statement, what she did, when she did it, and
2 what she knew.
2 And there's not one piece of paper that looked at
2 fairly proves beyond a reasonable doubt that what Ms. Dean told
2 you was not true.
2 I will come back to you in my closing, but first I want

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1 to show you the misinformation, the bad information that the
2 Independent Counsel wants you to rely upon in trying to convince
3 you that Ms. Dean committed some offense. I'm going to start
4 with some of their own charts. I'm not going to go through
5 these, each chart and each event, because that would take
6 probably about eight hours, and I don't intend to do that.
7 Let's start with Alameda Towers. Now if you start with
8 Alameda Towers -
9 THE COURT: Mr. Wehner, I'm sorry, I've got to
10 interrupt for a second. A juror doesn't feel well.
11 MR. WEHNER: Yes, sir.
12 THE COURT: Sorry.
13 (Juror No. 7 out.)
14 THE COURT: All right, Ladies and Gentlemen, we'll just
15 take a break for a minute here, wait in the courtroom to see how
16 she's feeling.
17 We'll just take a short break, I apologize, in the
18 middle of your argument. She's apparently indisposed for a
19 minute. So we'll take a short break for all the jurors.
20 Ladies and Gentlemen, we're going to take a short
2 break. Please don't talk about the case during the recess. If
2 you want to step out for a minute, we'll let Juror No. 7 relax
2 for a minute, please.
2 (Jury out.)
2 (Recess from 2:00 p.m. to 2:17 p.m.)

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1 THE COURT: All right, Mr. Wehner, do you want to come
2 to the bench and Mr. O'Neill and Ms. Sweeney?
3 MR. WEHNER: Yes.
4 (Bench conference on the record.)
5 THE COURT: Okay. For the record, Ms. Proctor, Juror
6 No. 7, became ill during Mr. Wehner's early parts of his closing
7 argument and had to leave the courtroom. I had her checked by my
8 courtroom deputy as well as taken to the nurse's station. She
9 was vomiting physically and not just didn't feel well, but
10 actually threw up, and believes that it was some lasagna she ate
11 in our cafeteria.
12 MR. O'NEILL: Ms. Sweeney figured that out, Judge.
13 THE COURT: And Alternate No. 1 indicated to the staff
14 that she had had some of that and also did not feel well but is
15 not sick yet.
16 Ms. Proctor has stated to the nurse through my deputy
17 courtroom clerk she feels fine. I'll have her out here if you'd
18 like and make sure if she feels --we still have alternates
19 available. If she can't continue, if she can't, I would replace
20 her. Through my staff, she says she feels well, but I'd be happy
2 to talk to her.
2 MR. WEHNER: Judge, I don't think you need to call her
2 and talk to her, but here's my problem: I don't want to give
2 closing argument to a juror that's not paying attention, that's
2 more worried about being sick. Frankly, that concerns me

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1 greatly. If she's vomiting in the ladies' room, she's not going
2 to be concentrating on the closing argument.
3 And if the alternate is afraid that she is not feeling
4 well, who ate the lasagna, as well as the court reporter, I would
5 prefer to wait 18 hours and then close or wait an hour and see if
6 they're okay. But this is not -
7 THE COURT: well, what I'll do is it's 2:20 now, and
8 they've been out about 15 minutes. I'll take a little bit more
9 of a recess for another 15 minutes or so and see how they feel,
10 and I'll ask if anyone is bothered about it and see how they're
11 doing at that point, and if there's a concern that they're upset
12 or don't feel good because of the food they think they've had,
13 I'll see if they can recess or not. I'd rather not recess and
14 get it in today, and then I'll just do the instructions tomorrow.
15 MS. SWEENEY: Your Honor, as long as we're at the
16 bench -
17 THE COURT: Sure.
18 MS. SWEENEY: -
I mentioned to Mr. Wehner just
19 before -
during the break, during the luncheon break that we've
20 taken a little bit of a look at the special verdict issue, and
2 there is a Supreme Court case, Griffin v. United States, Judge
2 Blackman's concurrence talks about, suggests that it might be
2 appropriate in this circumstance.
2 I'm having some language typed up now, Your Honor, and
2 Mr. Wehner and I were hoping that perhaps we could agree on it

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1 and bring that to the Court's attention after the closings today,
2 though. But I just wanted, as long as we had the opportunity to
3 come up -
4 THE COURT: Did you have any case cite in mind?
5 MS. SWEENEY: It's Griffin v. U.S. It's Judge
6 Blackman's concurrence, and it's December 3, 1991. I don't have
7 the reporter's cite -- reported cite.
8 THE COURT: I won't say anything on Justice Blackman's

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9 concurrence until I read it. I would like to see it, so when
10 it's ready, we'll talk about it and look at it.
11 MS. SWEENEY: Yes, Your Honor. We believe it applies
12 to the four counts: the perjury count, where you've given the
13 unanimity charge, and then to the multiple object conspiracies.
14 Those would be the ones where this question comes up.
15 THE COURT: Okay.
16 MS. SWEENEY: Okay? We are doing some further
17 research. If I find something further, we'll call it to your
18 attention.
19 THE COURT: All right, thank you.
20 All right, I'll just take a continued recess and advise
2 the marshal to tell the jury we'll take another 15 minutes or so,
2 and then I'll see how they feel.
2 MR. WEHNER: Yes, sir.
2 THE COURT: Okay.
2 (End of bench conference.)

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1 THE COURT: All right, the Court is going to take
2 another 15-minute recess to make sure the juror is feeling well
3 enough to continue, and then we'll see at that point how she
4 feels. All right, 15 minutes more.
5 (Recess from 2:20 p.m. to 2:40 p.m.)
6 THE COURT: All right, I've inquired of the jury again
7 through staff and have been informed that Ms. Potter, who was
8 ill, feels all right to continue and believes she can not be
9 distracted, and Alternate 1, who said she didn't feel well, says
10 she feels fine now.
11 I believe we could continue with security -feeling
12 secure that they are in an appropriate mettle condition to pay
13 attention to the arguments and follow them.
14 I would be happy if counsel for defense would like to
15 have Ms. Potter out -- Ms. Proctor, I'm sorry, out to question
16 her a little bit further, but she has indicated in response to
17 the questions of the staff and the nurses that she's fine at this
18 time and would like to finish with the case.
19 MR. WEHNER: Your Honor, I don't want her to be brought
20 out for questioning.
2 THE COURT: I understand. You'd rather feel, you would
2 not like to subject her to special scrutiny.
2 MR. WEHNER: Exactly. And I think she probably
2 already -2
THE COURT: Feels embarrassed enough.

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MR. WEHNER: Yes.

2 THE COURT: well, I have had them asked and told them
3 that if they needed more time or if they -I've
suggested that
4 we could have more time if they need it, and they both said no,
5 they would like to go back and get going with it.
6 MR. WEHNER: My concern is this, Judge: If I talk, I
1 don't know that I'll finish, and I want to finish in one discrete
8 period of time, and at the point where I was broken up, I feel
9 like I almost, with this kind of break, I have to go back and
10 re-cover certain ground.
11 THE COURT: That's fine. You need a couple hours, you

12 think?

13 MR. WEHNER: Yes, sir. And I don't want to break my
14 argument up, and I will have to do that, because really I'm
15 starting again at a quarter of three, and consistent with my
16 original timing, I'm going to be longer than that, and I don't
17 think it's fair to make me split it three ways.

18 THE COURT: Do you mean you want to recess?

19 MR. WEHNER: Yes, sir.

20 THE COURT: You don't think you could finish by five or
21 so?

22 MR. WEHNER: I'm not sure that I can, Judge. I mean,
23 I'm just not sure. It's too late in the day for me to start,
24 frankly, in my judgment.

25 THE COURT: well, my concern was that you would have

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1 wanted to argue today, as opposed to wanting to argue tomorrow.

2 MR. WEHNER: I did.

3 THE COURT: And I think, you know, we've got two hours,
4 two and a half. The only thing that would happen is then
5 rebuttal would have to go over until tomorrow, which you may not
6 want, but you know, I don't, I don't want to make you and
7 Ms. Dean uncomfortable, that you feel that somehow the argument
8 has been interfered with and that you haven't gotten a fair shot
9 at it, but at the same time, my feeling was that you would prefer
10 to do it today as opposed to tomorrow.

11 MR. WEHNER: well, Judge, here's -12

THE COURT: It leaves the government's argument there
13 with them for a day.

14 "MR. WEHNER: I think that's fair, Judge, and I also
15 think that it would be even, it would be worse and more unfair if
16 they were left with the government's rebuttal case or rebuttal
17 argument without my argument fresh in their minds.

18 THE COURT: All right.

19 MR. WEHNER: I mean, I've -20

THE COURT: I just hate to lose the time.

2 Mr. O'Neill, do you have any response to the
2 defendant's request to continue their argument until tomorrow
2 morning?

2 MR. O'NEILL: Yes, Judge. We've only lost one hour. I
2 believe originally I said I would be between an hour and an hour

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and a half. Mr. wehner said he would be half of that. And then
2 I said approximately a half-hour rebuttal. If those time frames
3 are still right, we'd be finished this afternoon with no problem.

4 THE COURT: well, we'd finish probably about 5:30 or
5 6:00, something like that, I would think. I think Mr. Wehner
6 said he's going to be two hours.

7 MR. O'NEILL: Oh. That's a change from the original,
8 Judge.

9 THE COURT: Yes, it is a little longer estimate than he
10 gave yesterday by a half an hour or so.

11 MR. O'NEILL: I won't be longer than a half-hour, Your
12 Honor.

13 THE COURT: Yes.

14 MR. O'NEILL: I'd have no problem -

15 THE COURT: well, let me suggest this: I think in
16 fairness to both sides, let me have the jury come out in toto,
17 all of them come out, and I'm going to ask them this question
18 about whether they feel they would like to stay today or not.
19 (Jury in.)

20 THE COURT: Ladies and Gentlemen, let me talk to you
21 for a minute about our timing. Ordinarily, because of the short
22 delays we've had, to finish this evening would probably take us
23 to the 5:30-6:00 range on the closing arguments and rebuttal
24 arguments, and then we'd do the instructions tomorrow. Another
25 way to handle it would be to recess for today, come back and do

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1 the closing arguments tomorrow and the instructions tomorrow.
2 I really need to know how you all feel and how you're
3 feeling about staying for three more hours or not today and how
4 your comfort level is, particularly those who haven't felt well.
5 would you just take a short recess and discuss that? And then
6 come back. If there's a consensus, we'll see what you feel like
7 doing.
8 It would be nice to be able to complete the argument
9 today if we can, but I want to make sure you all are attentive
10 and are listening carefully to the arguments, all right? So
11 we'll take a short break.
12 (Jury out.)
13 MR. WEHNER: Thank you, Your Honor.
14 THE COURT: You may get a hung jury whether or not they
15 want to go home.
16 (Short recess.)
17 (Jury in.)
18 THE COURT: Let me just ask Juror No. 1, so I don't
19 focus on any particular juror for any particular reason, did you
20 all have an idea if you'd like to stay today and finish this or
21 come back tomorrow? How do people feel? Do you know what the
22 jury has as a whole decided?
23 JUROR PHILLIPS: Some of them have class, some have to
24 pick the kids up, so -
25 THE COURT: They don't feel they could stay today,

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1 you're saying, later, until 5:30 to 6:00?
2 JUROR PHILLIPS: They said they'd rather come back
3 tomorrow.
4 THE COURT: All right. All right, Ladies and
5 Gentlemen, I'll do that. It's unfortunate, because we wanted to
6 finish it up today, but in fairness, because of the unavoidable
7 delays, and hopefully we'll be in a position to complete it
8 tomorrow then, I will go ahead and recess it now.
9 Because of this unusual break, you're going to have to
10 be very careful in your consideration of this matter over the
11 recess, and that is, you're just going to have to not talk about
12 it, not think about it in the sense that you're trying to make
13 some decisions. You haven't heard the other parts of the case
14 yet, the other arguments that are going to come, the closing of
15 the defendant, the rebuttal of the government.
16 More particularly, you haven't heard my instructions on
17 the law that will apply, and you're going to have to listen
18 carefully to the law, because you have to follow the instructions
19 on the law, and I'm going to also give you some guidance on your
20 deliberation about credibility of witnesses, lots of things, what
21 the evidence is in the case.
22 So please don't talk about it, obviously, on the way
23 home with each other if you go home together or see each other,
24 and just do something else this evening. Don't worry about this
25 case.

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1 we're going to have you back tomorrow morning fresh and
2 ready to go, and we'll finish the case. What will happen is then
3 we'll do the closing arguments in the morning and probably get to
4 the instructions early afternoon. We may be able to get them all
5 done in the morning. We'll see how our timing is.
6 Ladies and Gentlemen, we'll do it at 9:30 then tomorrow
7 morning, all right? If you don't feel well or anything, please
8 let the Court know as soon as possible so we know what we're
9 doing in the morning.
10 It's a very delicate stage of the case. Remember the
11 overnight admonitions again. You don't talk about this case,
12 again, among yourselves or with anyone else on the way home,
13 don't let anyone talk to you about it at home or anywhere. If
14 it's carried in the newspaper or the television or the radio,
15 don't read about it, watch, or listen to anything about this case
16 whatsoever.
17 So have a pleasant evening. Come back refreshed, and
18 we're going to then complete the case tomorrow morning. It will
19 probably be to you for deliberations sometime tomorrow afternoon,
20 all right? Okay, you're excused. 9:30 tomorrow morning, please.
2 (Jury out.)
2 THE COURT: All right, counsel, I apologize that we
2 couldn't get it done. It's no one's fault, but I feel badly that
2 it's not put to bed today. I think everyone would be much
2 happier if it was, but I see no alternative, with the jury's

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1 request and the situation of the illness of that one juror
2 interrupting the argument.
3 Then, Ms. Sweeney, maybe we could hear later on today
4 or tomorrow morning?
5 MS. SWEENEY: With the special verdict form, Your
6 Honor?
7 THE COURT: Or any advice you wanted to submit as to
8 language involving the overt acts or the statute of limitations
9 question apparently you said that you're looking at.
10 MS. SWEENEY: Oh, our brief, Your Honor?
11 THE COURT: No, I didn't mean your brief.
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3)
3 12 MS. SWEENEY: Okay.
13 THE COURT: The verdict form.
14 MS. SWEENEY: Oh, the verdict form.
15 THE COURT: You said you were looking at some
16 particular language you were thinking about.
17 MS. SWEENEY: Yes, Your Honor. I will send that down
18 and send a copy to Mr. Wehner as well.
19 THE COURT: Okay.
20 MS. SWEENEY: I didn't know if Your Honor had a
2 practice from his past cases of using special verdicts -
2 THE COURT: No.
2 MS. SWEENEY: -
in multiple object conspiracies.
2 THE COURT: No. The only thing I have done and I have
2 a couple examples of ones where we had certain acts had to be

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1 proved as part of a RICO pattern, practice, they had to find two
2 prior acts, things like that. I have listed those, and in the
3 last case I did, we listed many, but that the only example I

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4 thought of.

5 In this case, I had concluded, I thought, that we
6 didn't need to list which overt act, if any, they found, but if
7 your review indicates it's necessary -

8 MS. SWEENEY: Your Honor, we would not be preparing to
9 list the overt acts, but in the multiple object conspiracies, if
10 there was a need to use a special verdict -- special
11 interrogatory for those on each of the objects if there is not
12 unanimity on all of them.

13 THE COURT: Okay. We'll look at that then when you
14 bring it in.

15 All right, 9:30 in the morning then.

16 MR. O'NEILL: Thank you, Your Honor.

17 (Recess from 2:57 p.m. to 9:30 a.m., October 21, 1993.)

18 CERTIFICATE OF THE REPORTERS

19 We certify that the foregoing is a correct transcript of the
20 record of proceedings in the above-entitled matter.

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1 UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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UNITED STATES OF AMERICA, Criminal No. 92-181-01

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VS. Washington, D.C.

4 October 21, 1993

DEBORAH GORE DEAN, 9:50 a.m.

5

Defendant.

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TRANSCRIPT OF JURY TRIAL
8 BEFORE THE HONORABLE THOMAS F. HOGAN
UNITED STATES DISTRICT JUDGE

9

VOLUME XXVII

10

APPEARANCES

11

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1 PROCEEDING S

2 (Defendant present, Jury out.)

3 THE CLERK: Criminal No. 92-181, United States of

4 America v. Deborah Gore Dean. We have Robert O'Neill and Paula

5 Sweeney for the government, Stephen Wehner for Ms. Dean.

6 THE COURT: All right. Good morning, counsel.

7 MR. O'NEILL: Good morning.

8 MR. WEHNER: Good morning, Your Honor.

9 THE COURT: All the jurors are here and say they're in

10 good health. we'll see how we'll proceed with that.

11 Did counsel want to just go into arguments, or did you

12 want to talk about the suggestion of the verdict form for a

13 minute? I mean, what's your preference? I don't want to hold

14 the case up.

15 MS. SWEENEY: Your Honor, whatever. It would be

16 Mr. Wehner's preference.

17 MR. WEHNER: I'm ready to argue, but if Your Honor

18 wants to resolve that -19

THE COURT: well, why don't we do the argument so you

20 aren't distracted, and then we can get to that after lunch or

2 something and resolve any questions. I read Justice Blackmun's

2 concurrence and suggestions.

2 MR. WEHNER: Yeah. I don't think that's a major

2 problem.

2 THE COURT: So we can take that up, all right.

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1 Then we're going to begin the arguments over -- the

2 defendant's argument over again. we'll start the time running
3 over again. All right.
4 (Jury in.)
5 THE COURT: All right, good morning.
6 THE JURORS: Good morning.
7 THE COURT: Thank you for getting in. We trust you're
8 all well and ready to go.
9 Ladies and Gentlemen, as you recall, yesterday we had
10 to break unavoidably, so we're going to be beginning again, start
11 the closing arguments with the defendant going first, and then
12 there will be rebuttal argument by the government. So I'm going
13 to recognize Mr. Wehner again, who will begin again with his
14 closing argument on behalf of Ms. Dean, and again I ask you to
15 pay close attention to these arguments.
16 All right, Mr. Wehner.
17 CLOSING ARGUMENT
18 BY MR. WEHNER:
19 Good morning.
20 THE JURORS: Good morning.
2 MR. WEHNER: Thank you, Your Honor.
2 Ladies and Gentlemen of the Jury, when His Honor closes
2 the case and puts it in your hands, he's going to give you a
2 series of instructions. One of the things he's going to tell you
2 is that what I'm saying to you and what Mr. O'Neill is saying to

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1 you is not evidence, and there's a very good reason for that, and
2 that's because sometimes in argument lawyers say things that
3 aren't true. Sometimes when a lawyer closes and uses words like
4 "garbage," he tries to bring your attention to something that is
5 a complete misimpression and misstatement of the evidence.
6 I would like to quote for you what Mr. O'Neill said to
7 you yesterday out of the official record: "The defendant's story
8 just doesn't make sense. This is not credible. It is not
9 believable. It is what you often see about admitting what you
10 can't deny, denying what you can't admit."
11 "We -- that's the evidence that was presented brick by
12 brick. It's how you build a case. You make it strong -- this is
13 Mr. O'Neill -
so it withstands scrutiny. The defendant's case
14 is not built the same way. It's on a very shaky foundation.
15 That foundation is her credibility. Everything she told you
16 rests on her word, on what she says. The problem with that is
17 her story is like a house of cards with a very rotten foundation.
18 She lied to you, and if she lied to you, how can you believe the
19 rest of what she says?"
20 "She lied to you, Ladies and Gentlemen. She lied in
2 this court before you. Having done that, does anything else make
2 any sense?"
2 "It was a lie, Ladies and Gentlemen, out and out, right
2 in front of you."
2 "Based on her lies, you should throw out her entire

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1 testimony. Her six days of testimony is worth nothing. You can
2 throw it out the window into a garbage pail for what it's worth
3 for having lied to you."
4 Now I'm going to read to you the testimony from
5 Ms. Dean upon which the Independent Counsel rested his entire
6 personal attack on Ms. Dean. It didn't have anything to do with
7 the evidence; it had to do with the personal attack, and I'm
8 going to read to you what Ms. Dean said, and the reason I'm going

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9 to read to you what Ms. Dean said is because my statement is not
10 evidence and Mr. O'Neill's statement is not evidence, and you
11 need to look at what the transcript says, and I'm going to read
12 that to you word for word.
13 Mr. O'Neill, page 2818, "Question: Now I believe you
14 testified on direct examination that you were quite upset when
15 Mr. Kitchin told you he would not be buying the apartment."
16 Answer by Ms. Dean: "well, yes. I mean, he had put a
17 lot of people out, and a lot of people had done a lot of work."
18 "Question: By 'a lot of people,' would you be
19 referring to Janet Whitman, Gordon, your brother?
20 "Answer: well, I think Gordon had sort of mentally
2 moved on by this point, and we were then discussing whether or
2 not if he didn't get Gordon's apartment, he was going to get
2 another one in the Watergate, but I think he had put Ms. Whitman
2 out, and I think he had put Mrs. Withington out, and he certainly
2 put my brother out in the first part of the year, and he

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1 certainly put me out. I mean, I did a lot of work for him.
2 "Question: what were you referring to when you said
3 Gordon mentally moved on?
4 "Answer: well, I think that -- I know that they had a
5 lot of conversations in February or March, and then at some
6 point, I knew Mrs. Withington decided to keep showing the
7 apartment to other people because Mr. Kitchin hadn't returned a
8 signed contract, and so I think my brother was, 'well, he either
9 buys or doesn't buy it, I don't much care, but if I get another
10 contract, I'm going to take it.1
11 "And at that point, Mr. Kitchin said, 'well, even if we
12 don't get Gordon's apartment, I'll get another one at the
13 Watergate.'"
14 Question, 2819: "And how about Gordon? Did you tell
15 Gordon that Kitchin was not buying the apartment?"
16 "You know, I don't remember having a conversation with
17 Gordon, either, because he might have already moved on and
18 already decided to sell his apartment to someone else at that
19 point. I really don't know. I don't have a recollection of
20 that. I just have a recollection of being very displeased with
2 Mr. Kitchin at that day."
2 Now, Ladies and Gentlemen of the Jury, when you
2 contrast the testimony with regard to the Watergate apartment and
2 with regard to Louis Kitchin and Ms. Dean's testimony about Louis
2 Kitchin, when she was asked the exact questions that I've read to

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1 you and the exact responses that she gave, it doesn't match the
2 closing argument. If you want to talk about something that is
3 built on crumbling bricks, it's the closing.
4 Let me give you another example: the evidence.
5 Mr. O'Neill puts up on a visual presenter this piece of evidence.
6 This is going back to the jury room with you. This piece of
7 evidence happens to be some logs of trips taken by people at HUD.
8 Do you recall his reference to that? And he invited you to look
9 at it and see how many times Ron had driven Ms. Dean. How many
10 times Ron drove Ms. Dean according to this log book? Once.
11 This case is about the evidence, Ladies and Gentlemen.
12 It's not about garbage pails.
13 I'm going to talk to you about the evidence, as opposed
14 to about character assassination and ridicule, because that's
15 what I want you to base your verdict on, the evidence, not what I
16 think of someone or what my personal opinion is. One of the

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17 reasons you have a jury in a criminal case is because what the
18 government thinks and what the defense thinks are two opposite
19 things. So for me to stand up here and tell you that all
20 Mr. O'Neill's witnesses are liars and should be in the garbage
2 isn't helpful. I may think that, but it's not helpful.
2 So let's talk about the evidence for a few minutes, and
2 let's talk about the evidence in terms of the way the government
2 presented it, and I'd like to use some of the government's own
2 charts.

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1 Now if you remember, there was testimony in this case
2 that the FBI went to Los Angeles and they found a lot of John
3 Mitchell's notes and they took them out of a locker from Marti
4 Mitchell and they brought them back and the FBI went through them
5 and they took a look at them and they decided what they were
6 going to present to you as evidence.
7 Well, let's look at the notes regarding Arama. Now
8 this is a chart the government wants you to use to summarize
9 their -- used to summarize their argument. It's a blown-up
10 chart. And let's look at the March 20 entry: "Martinez asked
11 Nunn to get 293 units ASAP."
12 Now let's look at the notes that the FBI brought back
13 that Mr. O'Neill didn't show you, what the FBI didn't tell you
14 about, that we had to bring to your attention, that takes that
15 chart from being something upon which you can rely to being
16 something upon which you cannot.
17 When you go back to the jury room, look at Exhibit 638,
18 six-three-eight. This is a blow-up of the Exhibit 638. It is a
19 phone message identified by the FBI on cross examination as being
20 for Mr. Mitchell, from Lance Wilson, Returned your call, and what
2 does it say in the bottom right-hand corner? It says, "300
2 units. Talking to Barksdale."
2 Now who would -
you look at that exhibit back in the
2 jury room and see if I'm telling you the truth that that's what
2 it says, because you're going to look at it, and that's going to

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1 be exactly what it says. It doesn't say, "Talking to Deborah
2 Gore Dean." It says, "Talking to Barksdale." And who was
3 Barksdale? He was a federal housing commissioner.
4 Now why is that not on the chart? why? It came from
5 the same place the rest of the evidence came from. Why isn't it
6 there? It's not there because the basis of their case is to talk
7 about garbage pails and credibility, and it's not on the
8 evidence. That's why it's not there. They're not interested in
9 fairness and justice any more than Senator Proxmire's interested
10 in fairness and justice.
11 When Ms. Dean testified on that stand, who was it that
12 told you what the documents said and what the documents meant and
13 what was attached to what and who did what to whom and what
14 politicians were behind what projects? When you saw Mr. Barks15
dale testify, he couldn't remember squat. When you saw Janet
16 Hale testify, she couldn't remember anything. When you saw the
17 other presidential appointees testify, they couldn't remember
18 anything. They don't remember. My goodness, they're not
19 responsible for this.
20 How do you think this town works? when you go back to
2 the jury room, you are going to see at least 200 individual
2 letters from U.S. senators, from congressmen, from developers,
2 from consultants, from all over the United States asking for

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2 moderate rehabilitation units, and I'm sorry, Ladies and
2 Gentlemen, but it is wrong for the government to say that this

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young lady, at 28 years old, because she had two lunches with
someone she considered her father, is responsible for the way
that system operated.
when Ted Kennedy writes you a letter, when Senator
Proxmire writes you a letter, when Senator Rockefeller writes you
6 a letter, when Ronald Reagan announces that units are going to be
awarded on a Tarmac at an airplane field and you have to award
them, what is she supposed to do? what would you have her do as
a good public servant? The best she can.
10 And what is the best she can do? The best she can do
11 is say, "Mr. Secretary, this is the information. What do we do?"
12 and let Sam Pierce make that decision.
13 The government would have you characterize Sam Pierce
14 in this case as a victim. He's no victim. He's as innocent as
15 she is. It's the way the system operated.
16 And I'm going to come back to this at the end of my
17 closing, but let me tell you this, Ladies and Gentlemen: There
18 is something deadly wrong in this country when an office of
19 Independent Counsel can decide, ""we're going to indict Ms. Dean.
20 Yes, sirree, she had lunches. Now what we're going to do is
21 we're going to take those lunches, and we're going to take her
22 friends, and we're going to call it a conspiracy, and then we're
23 going to back up, and we're going to see what happened in a
24 government department, and then we're going to charge her with a
25 crime of criminal conspiracy because she had some lunches."

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1 There's something very wrong when you do it backwards.
2 Mr. O'Neill wanted to talk to you, "This is not like a
3 burglary." You're darn right this is not like a burglary,
4 because no one came in and said, "Hey, a crime has been
5 committed." There's no burglary. They started with lunches and
6 dinners and breakfasts and moved backwards.
7 The only thing that happened in this case, the only
8 thing they can put on the stand to testify that Deborah Gore Dean
9 was not telling the truth was a driver, someone who had been
10 demoted in every position she had at HUD as to her reputation,
11 and an FBI agent who somehow had saved the day because he went to
12 the watergate and found a contract for the sale of an apartment
13 on June 15.
14 And as I read you her testimony, which you have the
15 right to see -- and don't let anybody fool you, you have the
16 right to see the evidence in this case, it's coming back with
17 you, and you have the right to see transcripts, and you have the
18 right to go to the page numbers, and you have the right to see
19 what was said, and I beg of you to look at it, because it's the
20 evidence that matters.
2 Let's talk about some of the additional evidence. What
2 is the evidence, the evidence in the case about the use of
2 consultants? Now this exhibit is going to come back to you, and
2 it's evidence, not argument. It's evidence. I would ask you to
2 examine it carefully, because when Mr. O'Neill talks about these

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1 hundreds of thousands of dollars and 250,000 here and Deborah
2 Gore Dean here and \$500,000 there and tries to get you to think
3 that this case is about money, as if she got any of it, as if she
4 got any of it, because she was sending these units someplace, I

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5 want you to read this memo.

6 And here's what this memo says: "HUD --" let's back up
7 for a second. Let's back up. It's for David White, general
8 counsel; it's from Betty Park, acting assistant general counsel,
9 the lawyers, the government lawyers, the very same government
10 that paid Mr. O'Neill's check, the very same government that pays
11 these individuals' checks, the same government that pays Senator
12 Proxmire's checks.

13 The second paragraph -- and I know it's hard to read,
14 but it's so important, I'm going to read to you, and I'll let you
15 follow it so I don't make any mistakes, and I ask you to look at
16 it when you get back into the jury room. Notice it's Dean
17 Exhibit 13. It doesn't show up on any of the charts. "HUD does
18 not regulate the amount or terms of contracts between a
19 prospective section 8 property owner and his consultant."

20 Now you can read -- I want you to read the whole thing
2 when you go back there, because what this says, even though it's
2 broad and it's written by lawyers, what it says is that there's
2 nothing we can do about consultants. We can't regulate them. We
2 can't stop them. We don't like them, but there's nothing we can
2 do, and these are the HUD lawyers saying that.

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Now this memo is dated in 1988. Now the reason it's
important is because in 1988, after all this had blown up,
they're still coming to the same opinion, and it's the same
opinion that Ms. Dean testified to: We can't do anything about
consultants.

Look at the last paragraph: "Subsequently, provided
that the consultant fee is not included in the costs which are
8 used to calculate the contract rent, the owner is free to enter
9 any agreement that he desires with his consultant."

10 Now it doesn't get any better than that. It doesn't
11 get any clearer than that, that there's not one darn thing that
12 Deborah Gore Dean or Sam Pierce could do about consultants. They
13 could not stop developers from entering into whatever contract
14 they wanted to. It wasn't in their control. They don't do it.
15 Their own lawyer said so.

16 Now why is that important? The reason that's important
17 is because you've got to find that Ms. Dean willingly and
18 knowingly entered a conspiracy, a criminal conspiracy with the
19 developers and the consultants. That's what they've charged her
20 with. How can they charge her with that when she can't do
21 anything about it?

22 Now we didn't manufacture that memo. You know, I
23 didn't make it up. Ms. Dean doesn't even show up on it. It's
24 HUD policy. What would you have her do? How can she avoid it?
25 You know how she can avoid it. She can avoid it very

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1 carefully. All she has to do is cut off relationships with John
2 Mitchell, not become friends with Richard Shelby, not talk to
3 Mr. Brennan when he comes by the office, ignore the person who
4 has a close relationship with her mother, not see Mr. Kitchin,
5 who's an important political person, and otherwise, what she
6 could do is not do her job.

7 And the reason I say that to you is if you will look at
8 her job description when you go back into the jury room and read
9 it -

and that's another exhibit that's not on the chart, what
10 was Deborah Dean supposed to be doing -- it says in that job
11 description that part of her job is to talk to all these private
12 individuals and private groups.

13 Now that's what she's supposed to do, because Secretary

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14 Pierce can't do it all. He can't talk to all of them. So he
15 relies on Deborah Dean to tell him what they're saying.
16 And you know what would have happened if somebody as
17 prominent as, say, Ronald Reagan had announced that units were
18 going to be awarded someplace and Ms. Dean and HUD hadn't done
19 anything about it? They would have all been fired. Of course
20 they would have been fired.
2 Do you know what would have happened if Deborah Gore
2 Dean had ever, had ever violated her duty to Secretary Samuel
2 Pierce? She would have been fired. And why? Because the most
2 important characteristic in an executive assistant is loyalty,
2 and you've got to be loyal. You've "got to do what your boss

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wants.

2 Now Deborah Dean didn't stand on this stand and say,
3 "Okay, okay, Secretary Pierce did it, Secretary Pierce did it,
4 Secretary Pierce did it, Secretary Pierce did it." No, she
5 didn't. She knew what Janet Hale said, which was, "Deborah Dean
6 did it, Deborah Dean did it." She told you what she told
7 Secretary Pierce when she told Secretary Pierce and what she
8 didn't tell Secretary Pierce.
9 Now she also told you there was a door between their
10 two offices. I don't remember her testifying that he was running
11 and whispering to her on a regular basis as to what she should
12 do. That's not fair. what Mr. O'Neill says isn't fair. She
13 didn't say that.
14 But when you look at the exhibits, the exhibits, not
15 the government exhibits, not the ones that are on their chart,
16 but when you look at the evidence, you're going to see several
17 instances of Samuel Pierce saying, "See me on this." "Take care
18 of this." "Get back to me on this."
19 One good one is, "I would like to fund this if we can."
20 Do you remember the battered women's shelter out in Seattle?
21 "See what you can do about it." It got funded, about as project
22 specific as you can get, by the way. A battered women's shelter
23 in Seattle certainly deserved consideration to get funded, and
24 they saw what they could do it about it, and they helped them.
25 The point being that when you look at the credibility

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1 of witnesses, you've got to look at what they said and the
2 questions that were asked, as opposed to a personal attack,
3 because the case revolves around evidence, not around harassment
4 or heckling or ridicule.
5 what else does the evidence, the evidence show with
6 regard to Arama? well, Mr. O'Neill says in his opening, page
7 3353, "Mitchell goes to the defendant, goes to Ms. Dean.
8 Mitchell spoke with the defendant about Arama, and she agreed to
9 send 293 units to Arama."
10 well, take another look at this, 638. Who is Mitchell
11 talking about 300 units to Florida? He talked to Maurice
12 Barksdale.
13 Now you might say, well, okay, I mean, yeah, there's
14 one telephone message. I mean, what's that? well, one telephone
15 message maybe, Mr. Wehner, may not be too much.
16 You go to another telephone message, 637, about the
17 same time, John Mitchell talking to Lance Wilson, all of these at
18 or about the time this project is being funded.
19 Now what's not fair about this is that John Mitchell
20 isn't here. He's dead. I'm sorry, I would like for him to have
2 been here to testify, because I think it would have been

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2 fascinating to hear what he would have said, but what you've got
2 to do is look at the evidence and figure out in your own mind
2 your best estimate as to what happened, and once you figure out
2 your best estimate as to what happened, whether it's guilt or

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1 innocence, determine whether the government has proven beyond a
2 reasonable doubt based on the evidence that there was some crime
3 committed.
4 Now how can you take the evidence, the evidence and
5 reach that conclusion that John Mitchell got these units from
6 Deborah Gore Dean? It's not illogical, but it's not proven.
7 It's hardly proven, because how can you prove what John Mitchell
8 said or did?
9 well, one way the government can prove what John
10 Mitchell said or did is they can put some witnesses on the stand
11 and they could say, "Mr. Mitchell told me he got these units from
12 Deborah Gore Dean."
13 well, they tried, and who did they put up there? They
14 put up Governor Nunn of Kentucky, who testified -
and look in
15 the transcript -
who testified that John Mitchell didn't tell
16 him he was going to see anybody at HUD, much less Ms. Dean, and
17 then the government puts on Jack Brennan, and they try to get
18 Mr. Brennan to say -
well, they tried to get Mr. Brennan to say,
19 they tried to infer from what Mr. Brennan said that Ms. Dean knew
20 that John Mitchell was involved.
2 Instead, what does Jack Brennan say on cross
2 examination? "When Deborah Dean found out that John Mitchell had
2 been involved in any of this, she was shocked and aghast."
2 That's the government witness. It's not somebody the defense
2 called. That's evidence. That's evidence.

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Now, so what does the government rely upon? what they
rely upon is absolutely fascinating that your government could do
this, your government could do this. It just fascinates me.
what they rely on is a letter. Here's the letter.
It's dated July 6, 1984. And you'll have this letter back there.
Look at the letter. And a letter dated July 5, 1984, okay?
Now the government's theory is, their theory and what
they want you to believe is that this July 6 letter was written
as a result of this July 5 letter.
10 Now let's look at the July 6 letter. "There has been
11 read to me from my Washington office a letter signed by the
12 assistant secretary of HUD."
13 Now last time I checked, Deborah Gore Dean was never
14 the assistant secretary at HUD. There's no evidence that she
15 was. In fact, she wasn't. And more significantly, this is from
16 an executive assistant to the secretary. Now there's a huge
17 difference.
18 But, you know, maybe they could have, maybe they didn't
19 hear right on the phone. I mean, the testimony, there was
20 testimony that this letter was read. Maybe they weren't -
well,
21 maybe so. I guess that's a reasonable explanation at this point.
22 The letter confirmed approval of the above-named
23 project of the 293 units.
24 well, this letter doesn't say anything about 293 units.
25 It doesn't appear in here. This is the evidence, not what

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1 somebody wants you to believe.
2 But the clincher based on the evidence is where this
3 letter says, "Let me assure you that all the necessary paperwork
4 for the units will be transmitted by the end of this week."
5 This letter says, "... should be sent to Atlanta
6 within the next three working days."
7 Now when you go back in the jury room, what I want you
8 to do is look at the July 1984 calendar, which you will have back
9 there, because the government -
10 if I can find 1984, and you look
11 and see what day July 4 and July 6 were, and you're going to see
12 that there's absolutely no way those two letters have the
13 relationship Mr. O'Neill and Ms. Sweeney would suggest to you
14 that they have.
15 Now that's evidence. That's the story. It might be a
16 different story if -- I don't know, I guess it might be a
17 different story if the Independent Counsel would have shown you
18 the two letters side by side and asked you to look at them.
19 what else could the government have done to show you
20 that Deborah Dean was involved with John Mitchell? Well, what
21 they could have done, I suppose, is they could have asked more
22 questions about Jack Brennan, and they could have asked
23 Mr. Brennan, "well, when you went to see Deborah Dean,
24 Mr. Brennan, of course, you told Ms. Dean that John Mitchell was
25 involved in this project."
26 Now -
27 and remember that this was the same Jack Brennan

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1 the government puts on the stand. You remember Mr. Brennan's
2 testimony. What he said was, "Later -- Mr. Mitchell --he said,
3 'Yeah, Debbie works there. I can't get involved.1"
4 Now if you look at the testimony of Jack Brennan and
5 he's saying John Mitchell is saying to him, "Debbie works there;
6 I can't get involved," what does that tell you about the
7 relationship between John Mitchell and Deborah Gore Dean? What
8 it tells you is is that John Mitchell wasn't going to go to
9 Deborah Gore Dean on that project. It also tells you that he
10 didn't want Deborah to know that he was involved in HUD.
11 Now this might be suspect if Jack Brennan had been the
12 witness that the defense called, but I submit to you it's much
13 less suspect when the government puts witnesses on the stand who
14 testify to that effect.
15 Count 1 also includes a project by the name of Park
16 Towers. The Park Towers project, the Independent Counsel would
17 have you believe based on their argument that their chart gives
18 you this solid foundation upon which to find Ms. Dean guilty.
19 well, I'd like to talk" to you a little bit about Park
20 Towers, and what I'd like to tell you about is what the
21 government leaves out of their chart, and what they leave out is
22 what their own witness testified to.
23 Their own witness was a witness by the name of Richard
24 Shelby, who testified to you for an extensive period of time, and
25 he testified that he was working with Silvio DeBartolomeis and

that when he asked Silvio to help him with something, Silvio said
he'd try and help him, and when he asked Ms. Dean for something,
that she would not say anything. She never told him she would

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help him, she never said she'd do one thing for him.

!
5 i Now which person do you think is responsible for the

I
6 moderate rehabilitation units being funded as a result of
Shelby's intervention?
8 Or do you think that Deborah Gore Dean liked
Mr. Shelby, respected Mr. Shelby, and had lunch with Mr. Shelby
10 four times in four years, sometimes paying, sometimes not paying?
11 And theirs was a social relationship.
12 And you have to separate in your own mind what the
13 evidence shows the relationship between Ms. Dean and Richard
14 Shelby was, and one of the things that you need to look at is
15 what Mr. Shelby did with regards to mod rehab or was he working
16 on something else?

17 Now Government's Exhibit 74 is an exhibit that
18 Mr. O'Neill pounded and pounded and pounded Ms. Dean on when she
19 was on the stand, and he tried and he tried and he tried to get
20 Ms. Dean to say that this was a thank-you note for all the mod
21 rehab units she had sent to Shelby. This is the way that
22 Mr. O'Neill and your government would have you interpret this

23 letter.
24 Now I'd like you to look at the letter, and I want you
25 to look at it when you're back in the jury room, because that's

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the evidence, and I want you to look at this and see what it
says. It says, "It was wonderful to have an opportunity to get
to know you better, and I especially appreciated your advice and
counsel relative to certain areas that we should focus our
attention on over the course of the next few months. In fact, at
your convenience, I would very much like to take advantage of
your kind offer to sit down with certain of your technical people
in order to learn more about the coinsurance program."
Now how in the world does that relate to mod rehab?
10 That letter tells you what they discussed at lunch. They
11 discussed something called coinsurance that has obviously nothing
12 to do with mod rehab or he would have said "mod rehab." It has
13 something to do with a technical program. She's giving him
14 information about some technical program, and he wants to come in
15 and get a briefing from his government.
16 well, okay, but what does it have to do with this case?
17 what does it prove? It proves that they were with best wishes
18 and kindest regards. It doesn't prove that any money went from
19 Richard Shelby to Deborah Gore Dean. It doesn't prove that she
20 was corrupt. It doesn't prove she entered into a criminal
21 conspiracy.
22 And do you know how far this goes? They talk about
23 meetings and lunches and dinners, and they even tell you that on
24 Christmas Eve, she was criminally conspiring with Richard Shelby,
25 because she had a lunch scheduled with him on December 24.

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Now I'm sorry, but sometimes good friends get together
around Christmas. Sometimes friends buy lunch for another friend
on Christmas Eve. A pretty strange time to have a meeting in a

criminal conspiracy.

It doesn't wash, and the reason it doesn't wash is because it's the evidence that counts in this case, the evidence that counts in this case, not what someone characterizes as garbage. To argue that a meeting on Christmas evening with a close friend is somehow part of a criminal conspiracy is 10 staggering. What kind of government calls it garbage and wants 11 you to believe a Christmas Eve lunch is part of a criminal 12 conspiracy?
13 Is she the devil incarnate? Is she? Is she worth so 14 little in her six days on the witness stand that it's garbage?
15 It would probably bore you, I know it would bore you, 16 it would certainly bore me if I go through all these charts one 17 by one and showed you how each entry on the government's charts 18 is subject to different interpretations based upon the evidence. 19 Unfortunately, that's a task that falls to you.
20 We've had the chance to argue to you about what the 21 evidence shows. You have to review the evidence, and you have to 22 review the testimony to determine what the facts are. And I 23 don't intend to go through every one of these charts, but please 24 don't take that to mean that there aren't any more inaccuracies 25 in any of these charts, and just to show that to you, I'm going

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to point out some additional ones just so you know that you can't rely on what you're hearing from your government. Let's talk about Foxglenn. Let's go to the Foxglenn chart, and specifically, let's talk about a couple dates the government puts on that chart as showing a criminal conspiracy. Let's talk about August 5 and August 7.
Now what I'd like you to do is to take the government's evidence and go back and find out whether Ms. Dean had lunch with Mr. Shelby on those days as part of a criminal conspiracy, 10 because if you recall, that's when Ms. Dean was home with I think 11 it was meningitis, but you can look in the testimony and see. 12 You can look at the calendars.
13 And yet you say -- and yet the government says that 14 that's a part of a criminal conspiracy to have that lunch with 15 Rick Shelby.
16 Now what's significant about that? What's significant 17 about that is it is not only did not Richard Shelby testify, but not 18 one other person testified in this case that during any of these 19 lunches they talked about a criminal conspiracy. Not one of the 20 government's witnesses said, "Yes, I'm a co-conspirator. Yes, 21 Ms. Dean's a conspirator. Yes, we broke the law."
22 They all sat up there and told you, "We didn't think we 23 were doing anything wrong. We weren't doing anything wrong."
24 They didn't know why they were named co-conspirators.
25 These were the government's witnesses that make them,

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that give them immunity, they're saying, "We're not going to charge you with what we're charging Ms. Dean with. We're not going to charge you with making hundreds of thousands of dollars."
But they got on the witness stand, and Richard Shelby said, "I wasn't doing anything wrong." Do you know why he said he wasn't doing anything wrong? Maybe he had a crush on Ms. Dean. Maybe they enjoyed each other's company. I don't know. But they certainly weren't having lunch as a part of a 10 criminal conspiracy, because that's what he testified to.
11 Now isn't that what Mr. Shelby said? Didn't he say 12 that he wasn't doing anything wrong?
13 Speaking of Shelby, it's probably a very good time at

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14 this point to talk to you about this theory that the government
15 has that somehow Ms. Dean was personally benefiting from what was
16 going on with these consultants, and, you know, the theory is it
17 may have some initial attractiveness, but here's the problem with
18 it:

19 These consultants were making hundreds of thousands of
20 dollars. I mean, they were cleaning up. Now if anybody was ever
21 in a position to demand \$50,000, \$100,000, \$20,000, a
22 quarter-million dollars from John Mitchell, from Richard Shelby,
23 from Lou Kitchin, from John Rosenthal, from Andy Sankin, if there
24 was ever anybody that was in a position to be corrupt, it would
25 have been Deborah Dean and Samuel Pierce, because given some of

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the people that testified for the government, I imagine that if
they would have given the slightest indication, either Deborah
Dean or Samuel Pierce, that they would have taken a kickback, it
probably would have been offered.

And you know as well as I do that with the millions of
dollars that had been put into this case by the Independent
Counsel, the flying to California by the FBI, the witnesses they
brought in from New Hampshire, from California, from all across
the country, that if there were one small penny going from John
10 Mitchell's financial records, from his bank accounts, from his
11 will, from his estate, from his pocket to Deborah Gore Dean or
12 her mother or her family or her aunt or her uncle or her brother
13 or anybody else remotely connected to the Dean family, you would
14 have seen the evidence. It's not there.

15 And don't you think if there were a criminal conspiracy
16 involving John Mitchell and Deborah Gore Dean and her mother,
17 that money would be a part of it, that the money would have
18 flowed from John Mitchell to Mrs. Dean? Not to Deborah, but to
19 Mrs. Dean?

20 No. Instead what does the evidence show? The evidence
21 shows that Mr. Mitchell had an apartment or a house and was
22 living in it that was owned by Ms. Dean's mother. Now who's
23 getting the benefit? John Mitchell is getting the benefit from
24 the Dean family. He's not even paying the rent for the house.
25 He's not giving them a free house; they're giving it to him.

3480

It's backwards.

The whole theory is backwards, because there's no
evidence of the kickback. Where's the corruption? Where's the
money? Where's the money from Mr. Shelby to Ms. Dean? Not
there. Four lunches, some of which Deborah Gore Dean paid for
and which Mr. Shelby paid for, but where's the money?

Mr. Sankin, where's the money? Is it -- do Independent
8 Counsel truly want you to believe that somehow Mr. Sankin, who is
managing the Stanley Arms for Ms. Dean, was really giving
10 Ms. Dean something in return for moderate rehabilitation units?
11 The money was all going from Ms. Dean out. It wasn't coming
12 back. Look at the evidence.

13 And speaking of Mr. Sankin, that's another good
14 example. In the government's opening, when they opened to you
15 and they started talking to you about this case, Mr. O'Neill told
16 you about Mr. Sankin, and I'll be darned, I reread this last
17 night, and Mr. Sankin, he describes his testimony and talks about
18 the amount of money Mr. Sankin received on all these projects and
19 all these commissions, and he talks about how somehow Mr. Sankin
20 performing these free services for Ms. Dean, but you know
21 something? He never tells you in his opening that Sankin was

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22 getting paid. He doesn't tell you that Sankin was getting paid
23 4-1/2 percent of the gross rents, which was later increased to 6
24 percent. He didn't tell you that.
25 Now I'm telling you that, but that doesn't matter,

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1 because what I'm saying isn't evidence, but it's testimony, which
2 is evidence, that Sankin was getting money. He was getting paid
3 for his efforts.

How can you turn that into a criminal conspiracy, a
corrupt Deborah Dean? Is she truly the devil incarnate? I don't
think so. Or does the evidence show you that she had social
friends, she had people that worked for her family, she talked to
them, she had lunch with them, she went out and had a drink with
them, she met with them in her office, they came to see her, she
10 went to see them?

11 And what did she do? No, she didn't refuse to see
12 them. No, she didn't become a hermit. What she did was she did
13 her job, as I told you in my opinion, as best she could, and the
14 way she did her job as best as she could was to not to lie, not
15 to cheat, not to steal.

16 And how did she do it? She did it by when somebody
17 bought her lunch, she'd buy them lunch, by spending her own money
18 on entertainment. She did it by telling her boss, Samuel Pierce,
19 who was involved in projects. She did it by making sure that
20 Samuel Pierce knew when 600 units went to Puerto Rico and Joe
2 Strauss was behind them, they got pulled back because it made
2 Samuel Pierce look bad.

2 She tells Samuel Pierce that she's friends with some of
2 these people who are getting mod rehab units, and what's his
2 response? It's a very wise response, frankly: "You can't not do

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your job."

I mean, part of good government, Ladies and Gentlemen,
is doing your job in full disclosure, and if your boss knows what
your relationships are, how can you be corrupt if your boss is
making the decisions? How does that work?

Now probably one of the most troublesome areas in this
case in terms of the evidence is Deborah Dean's relationship to
Louis Kitchin. I think if there's anything that Deborah Dean
ever did in her entire life that she would like to have not done
10 is taken that \$4,000 check. It looks bad.

11 She didn't deny that she took it, and she explained to
12 you the circumstances about which she took it. And
13 notwithstanding Mr. O'Neill's frantic efforts, frankly, to toss
14 it in the garbage can, her testimony fits the facts, and the
15 reason it fits the facts is because Mr. O'Neill would have you
16 believe that Ms. Dean made absolutely no effort to pay back those
17 funds when she discovered that Lou Kitchin was no longer
18 interested in finding a condominium or an apartment in
19 Washington.

20 Now one of the exhibits that's going to come back to
21 you in the jury room is going to be the checkbook from which that
22 check was written, and you're going to be able to look at that
23 checkbook, and you're going to be able to look at the check stub,
24 and it's going to say that the check was written in the amount of
25 \$4,250 to Lou Kitchin.

3483

1 Now you can decide on your own if that was somehow made
2 up or false or if Ms. Dean is just making up this story just to
3 try to explain what she did, but when you do that and you look at
4 that check, well, figure, look at the check, and I challenge
5 Mr. O'Neill to tell you why it's phony. He cross-examined her.
6 It's not phony. It's evidence she wrote the check. It's not
7 phony.
8 The FBI, with all its resources, who had the check to
9 examine the check and tell if you it's phony, they'll tell you if
10 the ink came from a year that it couldn't have been written, the
11 best they can do is say she didn't have sufficient funds in her
12 account.
13 well, of course she didn't have sufficient funds in her
14 account. She'd taken the money from Mr. Kitchin, she'd spent it,
15 and she had to get the money back to him. So she wrote him a
16 check, and then she goes out the next day, and she applies for a
17 loan for \$10,000. Now Mr. O'Neill would have you ignore that.
18 She went out and she applied for a loan.
19 Now does that truly mean that Ms. Dean is guilty of
20 taking a bribe? I submit to you that it doesn't on the evidence.
2 she made a mistake, and she tried to correct it.
2 Another exhibit that you'll see that the government has
2 introduced when you go back to deliberate will be a handwritten
2 list, and on tha*t handwritten list in Ms. Dean's handwriting
2 there's going to be a list. I'm going to hold up part of it

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1 here. I'll put it on the presenter.
2 You can't see it very well from this, but I just want
3 you to remember what you're looking at when you go back. You'll
4 see a list that looks something like this, with boxes around it,
5 and you remember testimony as to that list?
6 well, one of the reasons that I want you to look at
7 that list is because that is in Ms. Dean's handwriting, as she
8 testified to, and it contains the, the very project, Metro Dade,
9 that the government claims is a part and parcel of this alleged
10 Kitchin-Dean gratuity/bribe/corruptness.
11 And the reason it's important to look at that list is
12 because when you look at it with the rest of the evidence in the
13 case, you will find that the person who truly caused that project
14 to go to Metro Dade was not one Deborah Dean,- it was one Thomas
15 Demery.
16 Now I want --if you would just concentrate, please, I
17 know I've been talking a long time, on this for a minute, because
18 I want you to remember this evidence when you're deliberating.
19 The general counsel of HUD testified as to a defense
20 witness. His name was Dorsey, J. Michael Dorsey. He testified
2 to the April 7 funding round, when the decision was made to fund
2 Metro Dade. He testified that he was a member of the committee
2 that actually made the decision, and what he said was that he
2 asked Tom Demery about the Metro Dade project and that Tom Demery
2 says that they'll be funded, because they've got severe problems.

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Now this is a defense witness. Assume he was lying for
a minute, because garbage. You know why it wasn't garbage?
Because he also testified as to why he remembered it, and the
reason he remembered it was because that housing authority was
having some real problems. Do you remember he testified the
executive director had been fired?

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1 MR. WEHNER: And that he knew he should ask
2 questions about that because he wanted to make sure they
3 could administer the program. So he asks Tom Demery and
4 Demery asks him why did he fund it? Now, why is that
5 important? It's important because he doesn't remember
6 Deborah Gore Dean saying should be funded, should be
7 funded, should be funded. And when he asked the
8 question why should it be funded, Deborah Dean didn't
9 say fund it. Tom Demery said fund it. Reason one she's

10 telling the truth about those Kitchin transactions.
11 Reason two. When you look at the list that
12 I've put up on the monitor, there are four projects that
13 are in squares on that list. Miss Dean put the squares
14 on the list. She testified to that. Why did the
15 squares get on the list? She told you why they got on
16 the list, because she hadn't discussed them with
17 Secretary Pierce.
18 why did she have to discuss that Metro-Dade
19 project with Secretary Pierce? Because she had a
20 relationship with Lou Kitchin.
2 what did she tell him? The same conversation
2 I've been talking to you about previously. What do I
2 do? This is the situation between Mr. Kitchin and
2 myself. What do I do? She says she can't move. What
2 does she do? She goes to the meeting. And who

3487

1 testifies that he wanted the project funded? Demery.
2 And the testimony, the evidence is, there is no evidence
3 that Deborah Dean said a word.
4 Now, what corroborates Miss Dean's story? Her
5 own testimony, the testimony of Michael Dorsey. And one
6 of them, a very nice, very critical piece of evidence
7 that the Government didn't show you but that we found in
8 their documents and what it is, ladies and gentlemen,
9 it's a letter -- I'll put my hand on it. I'm trying to

10 keep all this organized, and you've seen throughout this
11 trial sometimes I've had a problem with organization.
12 But it's Dean Exhibit 147 and Government Exhibit 580.
13 Well, now, where did this come from? It came
14 out of Tom Demery's file. It didn't come from Deborah
15 Dean. The writing is not in her handwriting. Lou and
16 file. Funded. Mod Rehab file. Nope. What
17 corroborates her story, what corroborates her
18 testimony? The evidence. Not garbage. The evidence.
19 And that, ladies and gentlemen, is how you
20 start backwards. You decide you're going to indict
2 Miss Dean, you decide she's committed a crime, and you
2 back up and you pick and choose pieces of paper and you
2 pick and choose testimony and you pick and choose
2 witnesses until you can put something colorable,
2 politically colorable, and get a charge.

3488

1 And when I talked in my opening about level
2 playing fields, that's exactly what I meant. Because
3 you're the level playing field. There's not a chance of
4 survival of this young lady or her family or any part of
5 her until she comes in here, gets on the witness stand
6 for six or seven days and talks to you. You're the only
7 chance she's got. Because you don't come from the
8 Government. You don't come from the Senate.

9 You remember the tape recording we played?
10 The tape recording? The venom from Proxmire? Listen to
11 it again back in the jury room. He was out to get her.
12 What about the Diners Club card? What about loans from
13 subordinates? Well, you were a bartender. Well, excuse
14 me. Senator D'Amato was a janitor. What does that have
15 to do with anything? Nothing, nothing, nothing.
16 The Government, it's like she's going into a
17 threshing mill. They're going to chew her up and spit
18 her out. And it all starts in the same place. And it's
19 all the same Government. It's all the same Government
20 that we know doesn't work, that doesn't empower anyone,
2 that doesn't help anyone, and it's chewing her up. And

2 they want you to throw her out as part of the garbage.
2 She doesn't deserve it.
2 Your Honor, could I have a few minutes break,
2 please?

3489

1 THE COURT: All right.

2 Have you got a couple of more minutes to go?

3 MR. WEHNER: Yes, sir, I do, but I'm losing my

4 throat here for a minute, so I'd like to --

5 THE COURT: All right, I'll give you a short

6 recess.

7 MR. WEHNER: Thank you.

8 THE COURT: Ladies and gentlemen, we'll take a

9 short recess, five minutes, and come right back and
10 finish up.

11 Remember the admonitions again, still do not
12 talk about the case among yourselves or with anyone else
13 during our short break. All right?

14 (Jury dismissed)

15 THE COURT: All right.

16 (Recess 10:50 a.m. to 11:25 a.m.)

17 THE COURT: I just want to note for the record
18 that juror number four says she's not feeling well. I
19 thought maybe Mr. Wehner perceived that when he asked
20 for the recess. But she was checked at the nurse's
2 station. She's feeling better but apparently there's a

2 stomach flu that may be circulating among our jurors.

2 But she says she's fine and ready to go back.

2 (Jury present)

2 THE COURT: All right, ladies and gentlemen,

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1 we're ready to proceed now with the completion of the

2 closing argument on behalf of Miss Dean.

3 MR. WEHNER: Thank you, Your Honor.

4 Ladies and gentlemen, one thing that

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5 Mr. O'Neill didn't or barely mentioned in his closing
6 argument were the charges regarding perjury and false
7 statements. I would like to spend a few of my remaining
8 minutes on those issues and tell you what the evidence
9 shows on those issues.
10 The evidence on those issues, and you will

11 have the transcript, so don't take my word for it, but
12 this document which is entitled hearing will be back in
13 the jury room with you, and as well as the tape
14 recording which has been entered into evidence and I
15 believe His Honor will instruct you that if you wish to
16 listen to the tape recording he will make arrangements
17 for someone to play it for you, to provide a tape

18 machine.
19 But the evidence in the case is what you need
20 to rely on with regard to the perjury counts as well as
2 the other counts in the case and I would like to read to
2 you just a portion and I'm not going to read the whole
2 thing, you needn't have to look at the whole thing, but
2 I just want to highlight a couple of areas.
2 First of all, the Chairman, who is Senator

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1 Proxmire, you remember his voice from the tape,
2 says, "Now, Miss Dean, we have received a number of
3 complaints that in 1987," in 1987, "this year, there has
4 been no notification of funds availability at regional
5 offices." He then goes on, and there's a discussion
6 between the Chairman of the Committee and Miss Dean in
7 which Miss Dean says, "Senator, have you switched
8 programs? Are you still on the Secretary's
9 discretionary fund?" He says, "I'm sorry, will you -

10 you're speaking clearly, but I think a little too fast
11 for my slow mind." Miss Dean said he talked too fast,
12 and there's some laughter. Miss Dean asked if he
13 switched programs and he said, "Well, all right, I'll go
14 slower, too." And he repeats the question.
15 So there's no doubt about what he's asking.
16 Let's not have any doubt about it. There's no doubt
17 about what the Senator is asking about. There's no
18 doubt that Miss Dean knows what he's asking about, and
19 the Senator repeats the question. "All right, I'll go
20 slower, too.
21 we received a number of complaints that in
22 1987, this year, there's been no notification of funds
23 availability to regional offices," and then he goes on
24 and he continues his question. Please read the whole
25 thing in the back. The point I want to make without

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1 going over every word is that Miss Dean responds to the
2 question and the question in his own words which he
3 repeats twice is limited to 1987 and how the Moderate
4 Rehabilitation Program is working in 1987. He says it
5 twice. He goes slower. She responds to it.
6 Now, why is Miss Dean's answer truthful? It's
7 truthful because when you read it she is talking about
8 1987. She's talking about the time period when Thomas
9 Demery was the Federal Housing Commissioner. That was,
10 according to the evidence, that's when Mr. Demery was a

11 Federal Housing Commissioner, in 1987.
12 Now, what does Mr. Demery have to say, the
13 Government's own witness? We didn't call him, they
14 called him. What does Mr. Demery have to say about the
15 way the program operated in 1987? There's an exhibit.
16 There's evidence about what Mr. Demery has to say. And
17 that is in exhibit 190, and this is a blow-up of what
18 you're going to have back in the jury room that is
19 evidence for you to consider, and a part of his
20 testimony is, this is him responding to the following
2 allegation, he says, "As you will recall, in January,

2 1987," that same year, "you directed me," and let me
2 remind you, you can look at it in the jury room, it's a
2 memorandum from Demery to Secretary Pierce, "you,"
2 Secretary Pierce, "directed me," Tom Demery. Now, where

3493

1 did you hear that testimony before to set up the
2 Committee? You heard it from Deborah Dean. "To chair a
3 Mod Rehab Selection Committee comprised of your

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4 Executive Assistant, Deborah Dean, and the

5 Undersecretary J. Michael Dorsey," who you heard

6 testimony from, "the Committee reviewed the PHA, Public

7 Housing Authority, letter requests for funding

8 consideration and made their selections. Mr. Adams,"

9 that's the person who gave the other information to the
10 Secretary, "is well aware of this process. For him,"
11 Mr. Adams, "to allege that I personally controlled the
12 Mod Rehabilitation Project allocation process is a
13 misstatement. In all cases, each funding action
14 occurred as a result of specific written or verbal
15 communications with Public Housing Authorities, elected
16 public officials, and regional or area HUD personnel.
17 It was my job to coordinate the various requests and
18 present them to the Selection Committee. The Committee,
19 not Tom Demery, decided and approved the allocation of
20 Mod Rehab units."

2 Now, when you compare what the Government's

2 own witness said about the selection of Moderate
2 Rehabilitation units in 1987 with what Miss Dean said
2 about the selection of Moderate Rehabilitation units in
2 1987 you can't find one false statement.

3494

1 That's the evidence. It's the evidence of the
2 way it was run in 1987. Not the it was run in 1986 or
3 1985 or 1984 or 1983 or 1982 or 1960.
4 Now, the Government would have you believe
5 that her testimony is contrary to all the other evidence
6 they've put in, and that's about as fair as the rest of
7 their arguments. It's about as fair as the rest of the
8 arguments, and that's why we played the tape for you.
9 That's why the tape is in evidence. That's why the

10 whole thing, the whole kit and caboodle is for your
11 consideration. All of the evidence.
12 And it's not our witness that put this in
13 black and white and wrote it down in a memo to Secretary
14 Samuel Pierce.
15 Not wanting to make misstatements to you
16 regarding any of the evidence, and I was refreshing
17 myself during the short break we had, i wondered if I
18 had said to you that Miss Dean had lunch with Mr. Shelby
19 four times, and if I said that, what I meant to say is
20 it was four times a year. So, please, don't hold that
2 against me if that's what I said, because that was a
2 mistake. I didn't intentionally lie to you. But I
2 wanted you to know that I think it was four times a
2 year, not four times.
2 Now, with regard to the Lou Kitchin check, I'd

3495

1 like you to consider when you go back to the jury room
2 the unimpeached testimony of Miss Dean regarding why she
3 took the check. And that goes to two areas.
4 One is the testimony of Jack Jennings. Do you
5 remember Jack Jennings testified that he was a partner
6 of Lou Kitchin, and he further testified that
7 Mr. Kitchin had told him that the money was for
8 furniture. Now, that was a Government's witness that
9 was saying that the money was for furniture. It wasn't
10 something that we came up with. It came out of the
11 Government's witness' mouth. Now, where do you put
12 furniture? You put furniture -- out of the mouth of
13 Ms. Deborah Gore Dean, that the purpose of the money was
14 to furnish Lou Kitchin's apartment.
15 Now I think I satisfactorily rebutted for you
16 the Government's theory as to why Miss Dean should be
17 thrown in the garbage as a result of her testimony
18 regarding that. But if I haven't, I want you to think
19 about the furniture and what Mr. Jennings said about the
20 furniture.
2 The second thing I want you to think about is

2 the fact that Miss Dean does run an antique store and
2 that is true, that is a fact, and that's evidence, and,
2 in fact, antiques are furnishings. She's always had an
2 interest in that and that's what she does on the side.

3496

1 Now, there are probably 200,000 other specific
2 statements I could make to you, specific arguments about
3 the evidence in this case, about other things that
4 happened, about what the witnesses testified to, and I'm
5 not going to do that. And it's not because I can't.
6 It's because there comes a point in every trial where
7 it's up to you to look at the evidence and make your
8 decision and I can point out to you those pieces of
9 evidence and the evidence that supports the conclusions

10 that I desperately want you to draw but what I can't do
11 is I can't go back in the jury room and I can't say to
12 you when you look at a particular piece of evidence, no,
13 but remember that this piece of evidence says something

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14 else, or, no, but remember that this witness said this.
15 I can't deliberate with you any more than Mr. O'Neill
16 can deliberate with you.
17 And one of the issues that arises from time to
18 time when you're a defense attorney is the fact that you
19 don't get to talk to the jury for the last time. I'm
20 not going to talk to you after I finish. The last word
2 in a criminal case always comes from the Government.
2 And that's one of the key reasons that I went through
2 what Mr. O'Neill had previously told you in his opening
2 and what he previously told you in his closing. And I
2 went back to refer you to the evidence in the case as

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1 opposed to what Mr. O'Neill says about the evidence in
2 the case. Because it's the evidence that governs.
3 And I would like you to give Mr. O'Neill's
4 rebuttal argument the credibility it deserves. You
5 figure out what credibility it deserves based on the
6 evidence.
7 Now, why are we here? We're here, ladies and
8 gentlemen, because Miss Dean, as His Honor will instruct
9 you, is presumed innocent. As we sit here today, she's
10 innocent. We're here because many many years ago a
11 young lady took a job with the Secretary of Housing and
12 Urban Development. We're here because she was nominated
13 for further advancement. She went through a Committee
14 process. She didn't get confirmed.
15 We're here because here's what Secretary
16 Fierce thinks of Miss Dean, and this is not something
17 that I made up, this is in the evidence. Page 28 of the
18 transcript of the evidence. And this is something
19 that -- I don't know, Mr. O'Neill wants to call
20 Secretary Pierce a victim. He doesn't sound like a
2 victim to me. "Again, Deborah Dean, in an outstanding
2 performance as my Executive Assistant during the past 12
2 months. Her dedication," this is Sam Pierce now,
2 Secretary Pierce, excuse me, "her dedication and skill
2 were dramatically exemplified during the negotiations

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1 earlier this year, with the National Association of
2 Realtors on the administration's Fair Housing Initiative
3 Program. Largely through her untiring efforts, the NAR
4 relaxed its longstanding opposition to testing as an
5 instrument for combating discrimination in housing
6 throughout the Nation." Does that sound like a victim?
7 Or does it sound like somebody that thought very highly
8 of his Executive Assistant and thought that she had done
9 a darn good job in what he wanted her to do.
10 Why are we here? Miss Dean could have taken
11 the route of a Janet Hale. She could have taken the
12 route of a Thomas Demery. She could have entered guilty
13 pleas. Could have done what this case is all about and
14 agreed to go on the witness stand to testify, agreed to
15 talk about Secretary Pierce. She didn't do that.
16 Instead she puts her fate in your hands.
17 We submit to you, the evidence shows the
18 reason she chose to put her fate into your hands is
19 because she's innocent. Because she got on the witness
20 stand and she explained to you everything she did, why
2 she did it, when she did it, and what she meant.

2 And I submit to you that Miss Dean's life has
2 really come full circle. The reason it's come full
2 circle is because she told you about her real father.
2 Her real father who died, when she was age three, in a

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1 plane crash. And her real father, who was a prosecutor
2 in the Nuremberg trials. You remember the Nuremberg
3 trials were about Nazi war crimes. And he received the
4 Medal of Freedom for his work there. A colleague of
5 his, a person by the name of Justice Jackson, and
6 Justice Jackson ended up on the Supreme Court, one day

7 in 1940, 53 years ago, Justice Jackson said this, "With
8 the law books filled with a great assortment of crimes,
9 a prosecutor stands a fair chance of finding at least a
10 technical violation of some act on the part of almost
11 anyone. It is not a question of discovering the
12 commission of a crime. It is a question of picking the
13 man," in this case, a woman, "and then pinning some
14 offense on him. It is in this realm that the greatest
15 danger of abuse of prosecuting power lies. It is here
16 that law enforcement becomes personal." And I submit to
17 you that in this case what her father's colleague said
18 over 43 years ago came true. Law enforcement has become
19 personal. About as personal as you can get, to ask a
20 jury to throw you out like garbage.
2 And I ask you, I beg of you and I plead with
2 you, decide this case on the evidence in the case, to
2 look and think, and if this country has a true justice
2 system and we're not ending up where Justice Jackson
2 said we were ending up, then you will return after your

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1 deliberations with a verdict of not guilty and tell
2 Deborah Dean that our justice system is not personal.
3 Thank you, Your Honor.
4 THE COURT: All right.
5 Mr. O'Neill, do you think you'll be very
6 long?
7 MR. O'NEILL: I don't think so, Your Honor.
8 THE COURT: All right.
9 MR. O'NEILL: I just have to pull one chart.

10 THE COURT: Ladies and gentlemen, we'll have
11 the rebuttal argument now by the Government and we'll
12 take our luncheon break and argue the instructions after
13 lunch.
14 MR. O'NEILL: what did I tell you, ladies and
15 gentlemen? Someone else's fault. It's always someone
16 else's fault. Now it's my fault, it's Miss Sweeney's
17 fault. It's now the prosecutors. That's why we're
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18 here. Not the evidence that was brought forth. It's
19 now a personal attack brought by us. You would think
20 you would get mad about your integrity being attacked
21 when you just presented the evidence, because you might

2 remember in opening statement I told you what a
2 prosecutor does is present the evidence. We're merely
2 vehicles by which questions are asked, witnesses take
2 the stand, documents are introduced. Both Miss Sweeney

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1 and myself.
2 But the problem is desperate times call for
3 desperate measures. When your back's against the wall,
4 when it's obvious the Government has put forth all this
5 evidence, the only thing you can do is lie. And when
6 that doesn't work, when the lies are shown to the jury,
7 it becomes a personal attack. And that's what it is.
8 Nothing more, nothing less.
9 You can't argue the facts of the case. So you

10 argue that someone is out to get you. That the
11 prosecution now is out to get you. Much like the FBI
12 was out to get you on that background check when you
13 asked for that background check because you wanted that
14 job. Much like a United States Senator from the United
15 States Senate was out to get Miss Dean because he didn't
16 want her for some reason to get the job that she was
17 seeking.
18 I told you during closing argument that
19 Miss Dean lied to you very clearly and that she lied to
20 you a series of times thereafter and, I repeat, you can
21 take her testimony and throw it in the garbage where it
22 belongs because someone --
23 MR. WEHNER: Your Honor, I object to that
24 continued characterization.
25 THE COURT: That's overruled. It's closing

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1 argument. It's not facts, it's argument.
2 MR. O'NEILL: Since Mr. wehner kept saying
3 that it was not garbage, that I should not have said
4 that, I'm saying that's where it belongs, in the
5 garbage. Because it was a lie, ladies and gentlemen.
6 And then you must -- as I said earlier, there

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7 are two, two conflicting stories here, totally

8 different. Irreconcilable. One or the other is

9 correct. You must base it on what all the witnesses

10 said on one hand or Miss Dean's credibility on the
11 other, and that's what her whole case hinges upon, her
12 veracity, her honesty, her credibility. But she lied to
13 you.

14 And I'd like to show you at this time since it
15 was put into evidence and never shown to you, the
16 documents that show that, and judge for yourself, ladies
17 and gentlemen. This is a contract of sale for the
18 Watergate apartment owned by Gordon Dean and it is dated
19 April 20th, 1987, nine days before Lou Kitchin writes a
20 check to Miss Dean for \$4000. This is Government's
2 Exhibit 556. And you'll see it bears Gordon Dean's

2 signature, dated April 24th, 1987. Then what we have
2 here is the purchaser's settlement statement dated June
2 10th, 1987. It's a closing. They move in after the
2 closing. And you'll see the purchase price, 135,000.

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1 All the necessary signatures. And here's the seller's

2 settlement statement that the seller gets at the time,

3 likewise dated June 10thf 1987. Unequivocal proof that

4 Miss Dean lied to you.

5 Mr. Wehner read certain parts of the

6 transcript to you during his closing argument, and what

7 did he read to you, ladies and gentlemen? He read to

8 you a passage in which on cross-examination Miss Dean

9 said, well, Gordon had mentally moved away before that
10 at that time and maybe there was going to be another

11 apartment, and you remember he read that at the very
12 beginning of his closing arguments today. Well, that's

13 fine. But that was on cross-examination when I started

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14 pressing her on the issue about the apartment, what's
15 going on with the apartment. He didn't read to you what
16 she said on direct examination. Let me read that to you
17 at this time, and you'll remember the direct examination
18 when Janet Whitman testified, when Miss Withington
19 testified the first time, and they never asked her about
20 when it was sold or anything like that.
2 Let's read that testimony. And this is from

2 Mr. Wehner to Miss Dean.
2 "Question: When you received – subsequent to
2 that date when you received the check, did you discover
2 Mr. Kitchin was not going to buy an apartment?"

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1 "Answer: Before he gave me the check?"

2 "Question: No, after, subsequent."

3 "Answer: Oh, after. Well, at a certain

4 point, in June of that year, he had, he and I had plans

5 to have dinner, I think, and he came to my office a

6 couple of hours early, and I said, well, I can't leave

7 right now, because I have to pick up my car, and I've

8 already made arrangements to do that.

9 And he said, well, I'll come with you to pick

10 up your car.

11 I said, well, it's out in Rockville, but if

12 you want to, come along.

13 And so he came with me. And I remember Hunter

14 Cushing had agreed to give me a ride out there after

15 work. So Mr. Kitchin got in the car with us, and we

16 went out, picked up my car. And we were driving down

17 Wisconsin Avenue," she remembered very precisely, "and I

18 was discussing with him basically where -- what I had

19 bought and what we were doing and the fact that my

20 brother was getting antsy about, you know, had he signed

2 a contract.

2 And I was like, you know, you are so slow

2 about this. Are you going to do it, or are you not

2 going to do it or whatever?

2 And he said, Deborah, I talked to mu wife

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1 about it and she's decided that we really don't need to
2 by an apartment in Washington. Maybe we'll do it next
3 year.

4 And I remember exactly where the car was when
5 he said that. It was, we were driving down Wisconsin
6 Avenue, and it's just where Tenley Circle, the Tenley
7 Theatres are, we were right there. And I pulled the car
8 over to the side lane, and I said, I can't believe this.

9 I mean, I was pretty upset with him because he had
10 yanked me all over Washington, D. C., and I had done all
11 this work for him, and now he's telling me that he had
12 finally discussed it with his wife and that she decided
13 he wasn't going to do it this year.
14 And I pulled the car over, and I said, well, I
15 said, I'm going to give you the money back that you gave

16 me."

17 And then it goes on for another page.
18 Well, what does she say? She says the fact
19 that my brother was getting antsy about, you know, had
20 he signed a contract, and she told you, ladies and
2 gentlemen, that was on June 15th, 1987, that was a lie.
2 That was an attempt to get you to believe her story, but
2 it couldn't be true. On June 15th Mr. and Mrs. Crane
2 are living in that apartment. They signed a contract
2 for that two months earlier, on April 20th. Nine days

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1 before the loan to Lou Kitchin.
2 And then I went over a series of things the
3 other day, yesterday, you might recall. A series of

additional mistruths that she told on the witness stand
5 about no Mod Rehab dealings with Kitchin. Never had
6 it. Sherrill Nettles-Hawkins said they did have.
7 No idea Mitchell was a consultant. But that
8 was his occupation.
9 Shocked that Mitchell made any money. Al Cain

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10 told you, the Special Agent from HUD, that conversation
11 never ever happened.
12 She denies that Lance Wilson sent the 600 to
13 Joe Strauss in Puerto Rico. Special agent Bowie had to
14 come in here and say that's exactly what she told me.
15 Not close to Mitchell until after she left
16 HUD. In fact, the record shows she was calling him
17 Daddy five years earlier.
18 Denied the HUD driver ever drove her to
19 lunch. The records show that he did.
20 Again, the reason she would lie about that,
2 she was in a trick bag. Either she lied to the Senate
2 about using it for personal reasons or she lied to you
2 about Mitchell doing business with her.
2 She said she didn't know Nunn until she left
2 HUD. Yet told other people she knew him as a young

3507

1 girl.
2 Only work at Global to run a party when in
3 fact she wrote Director of Public Relations.
4 Only knew Shelby for five years -- excuse me,
5 stated she didn't know Shelby until her time at HUD.
6 when in fact she had said she had known him for five
7 years.
8 It goes on, ladies and gentlemen. One after
9 the other -10
MR. WEHNER: Your Honor, I object to the
11 mischaracterization, and the continuing
12 mischaracterization, of the testimony of Miss Dean.
13 THE COURT: All right. It's overruled. It's
14 closing argument. The jury's recollection will control.
15 MR. O'NEILL: And I'll keep going, ladies and
16 gentlemen, because I won't miss a step with objections.
17 This is something I've done for quite sometime and I'll
18 be able to continue.
19 They were lies, ladies and gentlemen. Lies,
20 blatant attempts to cover up what had occurred, to sway
2 you.
2 You've heard several times about the
2 Government's witnesses. Mr. Wehner says it's the
2 Government's witness, the Government called this
2 person. Let's make no mistake about this. Andrew

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1 Sankin is not my friend. Richard Shelby is not my
2 friend. These are people who were called by the
3 Government because they worked at HUD at that time, who
4 were colleagues of Miss Dean or were friends of
5 Miss Dean. They're not people that I know. The
6 Government calls who is available at that time. We go
7 back, just like the documents, you cull through the
8 documents, Mr. Sankin is not in my calendars. You will
9 get the calendar entries that are in evidence. You will
10 see it's Miss Dean's calendars in which Mr. Sankin
11 appears, in which Mr. Shelby appears, Mr. Broussard and
12 a host of other people that you've heard about, not
13 mine.
14 I don't vouch for the credibility of these

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15 witnesses, nor does Mr. wehner. It is you, the jury,
16 that determines what is believable, what is credible,
17 whether the defendant is guilty as charged or not. That
18 is your function, ladies and gentlemen. And His Honor,
19 when he instructs you on the credibility of the
20 witnesses, will tell you, you judge whether that person
2 was credible, whether they've made misstatements and if
2 those misstatements were made, do you think -we all
2 misstate, I misstate quite often when I go to speak and
2 maybe speak too fast and the words come out wrong,
2 that's one thing, but when someone purposely misstates

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1 what they're saying, such as my brother is antsy on June
2 15th, when there is no more apartment, and all the other
3 misstatements that I've just gone through, if those are
4 purposeful, you will hear, you can just disregard her
5 entire testimony based on what His Honor reads you on
6 the law. That is the state of the law. If you find a
7 witness incredible you do not have to believe a single
8 thing that witness says.

9 So you as the jury can throw her testimony in
10 the garbage. That is up to you. It's what you decide.
11 You again are the judges of the facts.
12 Mr. wehner has talked about reasonable doubt.
13 I won't go into that because it's a concept that His
14 Honor must instruct you on, and that's the applicable
15 law in this case and every criminal case in this
16 country, in every courtroom throughout these 50 States.
17 That is the rule of law that applies in each and every
18 criminal case; it's the Government must prove the
19 defendant guilty beyond a reasonable doubt and in this
20 case, ladies and gentlemen, the Government has proved it
2 beyond all doubt.

2 You've heard the evidence. The evidence that
2 the Government produced through all the witnesses,
2 through all the documents, and on the other side you
2 have a series of misstatements, of falsehoods, of lies.

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1 They don't balance up. They're not even close, ladies
2 and gentlemen. They can't be.
3 Yesterday when Mr. wehner started on his

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4 closing argument he talked about the fact that we said
5 there was a code, a coded reference to a number of units
6 and that we weren't able to prove that. Well, ladies
7 and gentlemen, we cited Mr. Greer's testimony, that
8 Mr. Greer knew nothing about a code.
9 I'd like to show you Government's Exhibit 39

10 just briefly and show you if you don't believe that
11 there was a code, and you might remember what I said
12 yesterday about why would a person like Mr. Martinez pay
13 425,000 on Arama and 219,000 on South Florida unless he
14 couldn't be assured of the units. Look what he's
15 saying, "Please note that while we submitted 219 units
16 which is as close as we could come to the 200 number,
17 there are eight different buildings, this should present
18 no problem because when the funds are set aside in the
19 HUD Central Office in Washington, since they do not know
20 the exact bedroom mix of the units, the funds are set
2 based on all the apartment being two bedrooms. Our mix
2 is 24 efficiencies, 153 one bedroom, and 42 two
2 bedrooms, therefore, there is ample room to support this
2 proposal.
2 Notwithstanding the above, if we could get

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1 that the fund availability is for 219 units it would be
2 much better, since then there would be no confusion as
3 to whose proposal it is."
4 Of course it's a code. He has to know the
5 exact amount. He's going to shell out \$129,000 and if
6 he's paying that, he's going to make sure he gets those
7 units.
8 Mr. Wehner also began with yesterday saying
9 there's not one piece of evidence, not one document to

10 show Miss Dean did not tell the truth, that she lied, as
11 the Government said. You'll have the opportunity, like
12 with all the other documents, look at these closing
13 April papers. Look at the dates on them. They
14 unequivocally show that she lied to you, ladies and
15 gentlemen, on that stand, under oath.
16 Mr. Wehner is in a very tough position, ladies
17 and gentlemen. Because he cast in his opening statement
18 to get a level playing field, and that's what happened
19 here. We picked a jury. You recall it took a lot of
20 time to pick a jury. We picked a jury that could be
21 fair to both sides, had nothing to do with this case and
22 could listen dispassionately, but it wasn't this jury
23 that hasn't provided a level playing field, and I
24 believe that you will to both sides, it's his client by
25 telling you falsehoods you're in a position where you

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1 can't believe a word she said. And that prevents you

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2 from listening to them, and as His Honor will instruct
3 you the law is clear on that, if you don't believe them
4 you can discount that testimony.
5 That's what creates an uneven playing field.
6 The evidence creates it. The playing field is even when
7 the trial begins. It always is. You've heard no
8 evidence. But as the evidence stacks up on one side and
9 not the other over time as you continually hear one
10 witness after the other and then you hear a totally
11 incredible story on the other side, of course you're
12 going to come for some determination once you
13 deliberate. That's the whole jury process.
14 We talked about consultants again this
15 morning. No one has ever said that the use of
16 consultants is illegal, and I might be beating a dead
17 horse at this point but the problem is I just want to
18 make sure on this point, consultants are legal. They're
19 used in a variety of different businesses. They're even
20 used in the housing field.
2 what's wrong in this case is that these people
2 were influence peddlers who had no knowledge whatsoever
2 of the housing industry, and by themselves they can do
2 nothing. They need a corrupt public official on the
2 inside to give them what they want. Without that person

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1 they're powerless. That's what this case is about.
2 It's not about going to lunch and talking with
3 friends. It's about directing awards of Government
4 monies, of taxpayers' monies to those friends simply
5 because they can benefit you and the whole system will
6 benefit you and your family and your friends. That's
7 what the case is about. Not about having lunch.
8 Mr. wehner mentioned the 19 units for a

9 battered women's shelter, as I did, during closing
10 argument, and you will remember and you'll see it in

11 evidence, there's a note from Sam Pierce saying if we
12 can, please do so. He's not directing anybody. He's
13 not telling anybody. He's putting his input in.
14 when you go through the evidence look and see
15 if there's any notes like that on the projects in this
16 indictment for which Miss Dean is being charged. You're
17 not going to see those notes. Those notes don't exist.
18 You heard six days of testimony about all of
19 those other projects being funded. All around the
20 country. All their political backing. It is a
21 non-issue. It has nothing to do with this case.
22 In this case there are several distinct
23 projects that I listed yesterday and for brevity's sake
24 I won't go over them again. Those are the specific
25 ones. Look through the documents, and remember in your

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1 recollections through the course of this testimony have
2 you heard anything or seen anything to suggest that
3 Sam Pierce asked for those to be funded?
4 And furthermore, Miss Dean will tell you and
5 has told you on the witness stand she didn't tell
6 Sam Pierce about John Mitchell's involvement with these
7 other people because she didn't know it. So Sam Pierce,
8 also, he's not involved in this case. It's what she
9 did.

10 You recall he ran the honor system. He relied
11 on other people to work and do their jobs properly and
12 when people do not do their jobs properly that's when
13 you have a problem here. When you have a public
14 official who uses a public office for private gain.
15 Mr. wehner talked about the perjury counts.
16 And you'll see I've listed them, counts five through 12
17 in the indictment, and you'll get a copy of the
18 indictment and what those words are.
19 Mr. wehner talked about 1987 and "that goes
20 solely on information provided by Secretary for
21 Housing." That's not true, ladies and gentlemen,
22 because once again we have that handwritten list,
23 Government's Exhibit 202. That's in Miss Dean's
24 handwriting, and you heard, just like we saw at the very
25 beginning of my closing argument yesterday, the

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1 Government's exhibit 28, the letter to Louie Nunn at
2 Global Research, referencing a conversation with John
3 Mitchell. The defendant had to admit that that letter

4 existed because we had it, but she denied being involved
5 in that, saying Maurice Barksdale gave me that
6 information. Just like this. This is a handwritten
7 list of the various projects, the amounts funded, and in
8 fact on Metro-Dade, the exact bedroom configuration.

9 It's in her handwriting.
10 So she says to you, well, yes, this is mine,
11 this is my handwriting, but Thomas Demery is the one who
12 told me this and I wrote it down very quickly.
13 well, you remember Michael Dorsey's testimony,
14 a witness testifying for the defense. He said that
15 Miss Dean did speak during that meeting and was saying
16 who was behind the project.
17 In her own handwriting she has the bedroom
18 configurations and the number of bedrooms, and then it
19 says "letter. They are funding 203 units to Metro-Dade
20 before Metro-Dade even asks for them." Is that the way
2 this program was supposed to operate? Is that the way

2 it's supposed to run?
2 There are four separate counts of perjury,
2 four separate counts of concealment. There is no sense
2 going into all of them because the Government contends

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1 that each of those was a lie and a misstatement in much
2 the manner as you've seen during the course of this
3 trial. The defendant's statements change as they
4 benefit her. If she would lie on such trivial little
5 matter as to how long she knew Rick Shelby, what do you
6 think she'll do when faced with serious criminal
7 charges? And you've seen what she did.
8 There is no doubt, as we said, about that
9 \$4000.
10 I'd like to talk about the message to Lance
11 Wilson from John Mitchell. The Government has never
12 said that other people didn't write to John Mitchell.
13 First of all, we don't know what project we're talking
14 about here. Arama is not mentioned and, of course,
15 Maurice Barksdale is the Assistant Secretary at the
16 time. We know that. Mr. Barksdale testified.
17 But you might recall Government's Exhibit 18,
18 and this is the document that says - has a little
19 handwritten note on top of Miss Dean's letterhead and it
20 says to Daddy.
2 And there's a memo from Philip Abrams, and you
2 recall she identified the handwriting on the upper
2 lefthand corner as being that of Lance Wilson. So Lance
2 Wilson is helping her out here, giving her information.
2 She's passing it on to John Mitchell.

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1 Is that a defense to this charge? No, ladies
2 and gentlemen. Because count one has three projects.
3 Arama being the first, South Florida, the second, Park
4 Towers, the third. Lance Wilson isn't even in the
5 Department of Housing and Urban Development at any time
6 when those three projects are funded.
7 Again, politicians. Mr. Wehner said you can
8 see hundreds of pieces of paper in which politicians
9 back projects. And that's true. You will see that.
10 But what does that have to do with this case? What do
11 these politicians -- that is not what this case is
12 about.
13 You've heard the consultants were being paid
14 big money by the developers. If all they needed was a
15 politician, and they're a constituent of that
16 politician, to write a letter and that would have had an
17 effect, don't you think they would have done that and
18 saved hundreds of thousands of dollars on each project?
19 That doesn't make sense. It is not credible
20 to believe that just because someone sent a letter, it
2 got funded.
2 President Reagan, a lot was talked about some
2 project in which President Reagan announced the awarding
2 of units, I believe it was in New Jersey, and I don't
2 remember the State any more. Andrew Sankin is not

3518

1 President Reagan. Andrew Sankin was, as we said, this
2 guy out of school just recently, who made \$250,000 and
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3 in Deborah Dean's own words he was on the family
4 payroll. That's why he received those units. It's not
5 Ronald Reagan we're talking about in these charges.
6 Other projects are non-issues. We're talking
7 about these specific ones. Much like if there was a
8 \$50,000 kickback, Mr. Wehner said you'll hear evidence
9 of it. If there was a \$50,000 kickback she'd be charged
10 with it. That is not one of the charges. It's a
11 non-issue. There are 12 charges that you the jury must
12 determine the guilt or non-guilt of the defendant. Not
13 everything in God's creation.

14 And the Government has never called the
15 defendant the devil incarnate. We are simply saying she
16 misused her position. She misused the public trust in
17 her time at HUD and then when it was discovered, when it
18 was detected, she lied about it. That is what's at
19 issue here. Not everything else. The devil incarnate?
20 It's a non-issue.
2 I just would like to mention Mr. Wehner said

2 things might have been different if the Government's
2 exhibits 27, 28, 29, that were shown at the same time,
2 well, you might recall they were shown to Governor Nunn
2 at exactly the same time, and you might also note since

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1 they're numbered 27, 28 and 29, when you get them they
2 will be one right after other, that's exactly how we
3 showed them. That's the order they're in.
4 Mr. Wehner mentioned something about the
5 conspiracies and saying, well, some of the people said
6 they didn't know certain things. Jack Brennan didn't

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7 know that John Mitchell was involved in Arama. Well,

8 isn't that the hallmark of conspiracy? Secrecy? Where

9 people don't know it?

10 Remember Martin Fine, the developer for Park
11 Towers? He said he did not know John Mitchell was
12 involved. The consultant he hired, Eli Feinberg, he did
13 not know Mr. Mitchell was involved. And both of those
14 testimonies were unimpeached. Nobody ever contended
15 that they did know. So the evidence is neither
16 individual knew, and Mr. Fine paid \$225,000, 50,000 of
17 which went directly to John Mitchell, and he didn't even
18 know he was involved. His role was secret. That's what
19 conspiracies are about.
20 Mr. Wehner talked about the \$4000. And the
2 fact that he has shown that that is really what happened

2 because they have a bank stub. Well, to believe this
2 you'd have to believe that Mr. Kitchin gave her \$4000 to
2 decorate an apartment he never owned, aside from the
2 fact that we found these documents later on to

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1 absolutely disprove the claim that she was trying to

2 sell it as of June 15th. So she'd have to prove that

3 the apartment that he never owned he was going to have

4 decorated and that this \$4000 check was written when she

5 has no funds whatsoever to pay it with.

6 And he told you that the FBI had time to

7 analyze this and they would have shown that it was

8 false. Well, that's not in evidence. There's no

9 evidence here that the FBI had time to analyze that
10 check stub. Or that they looked and made sure that the

11 ink was two years old or three years old or whatever.

12 That is not in evidence. It's the evidence on which you
13 must base your decision, ladies and gentlemen.

14 And don't forget that \$4000 and the antique
15 store. No evidence yet of an antique store in 1987. In
16 fact, she couldn't remember exactly when she got it.

17 But it wasn't in 1987. But in 1987 we do know that only
18 12 days before the check from Lou Kitchin she bought a

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19 piano for \$4500, and that, too didn't come out on direct
20 examination. That only came out on cross-examination.
2 Ladies and gentlemen, during his opening
2 statement Mr. Wehner told you that the Government is all
2 fouled up. All fouled up. That's exactly what he said.
2 He's wrong about that. The Government's not all fouled
2 up. Private individuals, certain individuals might be

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1 when they don't do their job as they should. When they
2 don't properly perform a public function. When they
3 corruptly favor certain people. That's when Government
4 gets fouled up. Not all Government. Not everyone.
5 And he kept saying your Government, and that's
6 right. It is your Government. It's all our
7 Government. Not for a select few, not for certain
8 insiders who have access to high ranking public
9 officials like Mr. Shelby who Mr. Wehner mentioned who

10 said I didn't do anything wrong, and you might recall
11 that I had to go back at him in redirect and say didn't
12 you tell the grand jury, and this time I got that right,
13 you told the grand jury several years ago, didn't you,
14 that you were wrong, and he admitted that, yes, in fact
15 he had. He, too, was trying to tell you he had done
16 nothing wrong but he told the grand jury he had done
17 something wrong. That's what Mr. Shelby testified to.
18 He knew he had done something wrong. He knew he had
19 access to high ranking public officials.

20 Ladies and gentlemen, in the name of the
2 United States of America, I will be asking you to find

2 the defendant guilty as to each and every charge in the
2 indictment. All 12 of them.
2 In the Government's view the Government has
2 proven its case beyond all reasonable doubt, beyond any

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1 and all doubt. There could be no doubt that the
2 defendant conspired with the people in counts one, two
3 and three, accepted that illegal gratuity or loan in
4 count four, and then lied and covered up and concealed
5 what she had done so she wouldn't be known for what she
6 had done. So people wouldn't -- it wouldn't become

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7 public. Because she didn't want people to know how she

8 was using her office, using a public office for private

9 gain.

10 And by your verdict tell her no more. You
11 won't put up with corrupt public officials, people who
12 use their office, public office, for private gain, who
13 work for a select few and not for all of us, because it
14 is as Mr. Wehner said your Government, our Government.
15 She was a public official entrusted with
16 millions of dollars of taxpayers' money, for what
17 purpose? To provide housing for the poor. Is that the
18 way it worked? Did local priorities play any role in
19 this? No, ladies and gentlemen. It just depended on
20 who you knew and how it worked out. And I say millions
2 of dollars, Arama alone, the evidence shows, was over

2 \$28,000,000 and that's still being paid to this day.

2 They're 15-year contracts.

2 Think of the amount of money that went for

2 housing, and did it work the way it should have? The

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1 way Mel Adams told you it could have if priorities

2 played a role? No. It worked the way a select few

3 wanted it to work.

4 when you are paid by the United States you

5 work for all of us. As Mr. Wehner said, it's your

6 Government.

7 Mr. Wehner asked you what would you have

8 Miss Dean do in the performance of her duty? What would

9 you ask of her? Honesty. Faithfulness. Undivided

10 loyalty. Remember what I said, it is we the people, by

11 the people, for the people. We, the people. It is all

12 of us. It is not if your prominent and powerful and you

13 belong to a select few. It is for all of us.

14 And, ladies and gentlemen. Miss Dean did not

15 work for all of us. She worked for herself, for her

16 family, for her own enrichment, and because of that she

17 is guilty. Not because of lunches and other matters.

18 It's because of her corrupt actions as a corrupt public

19 official.

20 Thank you.

2 THE COURT: All right, ladies and gentlemen,

2 what we're going to do is have a luncheon recess at this

2 time.

2 Again, the case is not submitted to you yet

2 for decision. You're not to discuss it or talk about it

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1 when you go to lunch with each other, or anyone else

2 obviously, or let anyone talk to you about it or speak

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3 about it in your presence. Say nothing about this case
4 to each other. You're not ready for deliberations. You
5 have not heard the final instructions in this case which
6 you have to follow in those deliberations. We'll do
7 that after lunch.

8 It will take an hour or an hour and a half to

9 read those after lunch and then I will also be sending
10 you written copies of the instructions back to aid you
11 in your deliberations, because they're rather complex.
12 So, ladies and gentlemen, have a pleasant
13 lunch. Remember the admonitions. And I release you now
14 until 1:30.

15 (Jury dismissed)

16 THE COURT: There's an argument made on both
17 sides as to reviewing the transcripts in the case. I
18 anticipate we may get a request from the jury to read
19 some transcripts. That goes on a very slippery slope.
20 The problem is -- or at least suggestions were made
2 about the transcripts being available, and that parts of

2 the transcripts were read to the jury.
2 I can anticipate the jury asking to see
2 certain portions of certain witnesses. I can also
2 understand counsel legitimately saying, well, then you

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1 have to read X, Y and Z's testimony, and I can see
2 dumping the whole transcript back there as a result. I
3 don't like to do that, and I don't do that. I'll just
4 going to announce now I'm going to resist giving them
5 any transcript, unless absolutely necessary in some
6 particular area, that the parties can agree upon; but
7 I'm going to tell them in preliminary remarks before I
8 give them the formal instructions that it's their

9 recollection that is going to control. I'm not going to
10 send transcripts back to them.
11 Additionally, there's suggested by the
12 Government in the case United States versus Griffin,
13 rather versus U.S., a Supreme Court Reporter cite, 112
14 Supreme Court, 466, Justice Blackmun's concurring
15 opinion as to whether there should be special
16 interrogatories to the jury regarding the objects of the
17 conspiracy or not. I've looked through the instruction
18 again that we have drafted and we do tell them that they
19 have to unanimously agree as to the object that they
20 find proved beyond a reasonable doubt, and they're laid
2 out fairly clearly, I believe. They're not in the

2 presently constructed verdict form separately set out.
2 I'll listen to counsel on what they would wish
2 to do about it. It seems to me this wouldn't be taken
2 out of count three. You would have to put the special

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1 interrogatory to counts one and two, either defraud, or
2 to commit a subsequent offense against the Government.
3 And then I guess the argument will continue saying what
4 about the overt acts and listing all of those. I think
5 again it's probably not necessary to do that.
6 We also on the overt acts tell them they have
7 to unanimously agree that the overt act that they find,
8 has been done by one of the co-conspirators.
9 MS. SWEENEY: Your Honor, we're satisfied with
10 the general verdict form. We just wanted to bring that
11 issue to Your Honor's attention.
12 THE COURT: I see.
(I 13 Mr. Wehner, are you satisfied on that?
14 MR. WEHNER: Yes.
15 THE COURT: All right. Thank you. I did read
16 through the case carefully and determined that I do not
17 think it's necessary in this case.
18 All right, the Court will be back then at
19 1:30.
20 We can give you copies of these instructions
2 now. The only thing I've done is we had added instead
2 on an accomplice testimony, cooperating witness
2 testimony, and I add at the end that we have a verdict
2 form for their convenience to decide it and fill it in
2 if they reached unanimous verdicts. I'll have those

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1 available for you in a few minutes, xeroxed copies of
2 those.
3 All right, we'll stand in recess until 1:30.
4 MR. WEHNER: Could I see you on an unrelated
5 matter?
6 (Bench conference)
7 MR. WEHNER: I had to write a letter to a
8 District Court Judge in New Jersey concerning my
9 availability on Monday and I gave him your name and
10 number.
1 THE COURT: Who is the Judge?
1 MR. WEHNER: Judge, I can't remember right
1 now. I'm sorry. I'll find out and let you know. The
1 District Court is in Newark. Thank you.

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1 (Bench conference concluded)
1 (Lunch recess, 12:25 p.m. to 1:30 p.m.)
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1 available
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gave him your name and

the Judge?
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out and let you know. The

Thank you.
concluded)
25 p.m. to 1:30 p.m.)

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2 (1:50 p.m.)

3 (Defendant present, Jury out.)

4 THE COURT: All right, Juror No. 4 has informed my
5 courtroom deputy that she's not feeling well and that she will
6 try to stay for the instructions but will raise her hand if she
7 thinks she's going to be sick again, but feels that she is not
8 feeling as well as she'd like to.

9 It may be best that we don't have deliberations this
10 afternoon, that we have instructions and then wait to see if
11 she's going to be available tomorrow or not, because if I send
12 them to deliberations today and she's out right away, then we're
13 facing a concern of going with eleven or not.

14 If we still have the alternates, I can keep the
15 alternates until tomorrow and then see if she comes in tomorrow
16 feeling well and ready to deliberate at that point. I'd rather
17 have deliberations today, though. We'll finish these by 3:30, I
18 think.

19 But I'll make an inquiry of the jury before I make any
20 final decisions or take any final steps in that area, and after I
21 finish the final instructions, I'll see how Ms. Hardy is and what
22 she'd like to do. It may be best to hold off and start
23 deliberations tomorrow and tell the alternates that's why they're
24 here and we want to keep them around for another morning at
25 least. Shades of the Denny trial.

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1 All right, if you'd bring the jury in, I'm ready to go
2 on the instructions. Copies have all been given out to counsel.
3 Once we start the instructions, for people who are in
4 the courtroom, I don't let those get interrupted, so if you want
5 to go out now, you should probably go out, because it will take
6 about an hour and a half. You may not all want to sit there that
7 long.

8 (Jury in.)

9 THE COURT: All right, Ladies and Gentlemen, we're
10 going to go forward with the instructions at this time, and if
11 you all need a break, just raise your hand or something, and
12 we'll give you a break as I go through these. I want you to
13 listen to these carefully, please, all of you, and then as I
14 indicated before, depending on how we are, how long it takes to
15 do these, we'll see about retiring to deliberate this afternoon
16 or tomorrow morning.

17 I want to make a couple of preliminary remarks that
18 will not be in my written jury instructions to you. First,
19 obviously, it's been a fairly long trial, and we all appreciate
20 the time and efforts you have spent in the case.

2 Secondly, there's been some references to transcripts,
2 that is, the typewritten portion of the testimony of some of the
2 witnesses that's been made up by the court reporter. I want you
2 to understand it's your collective recollection that controls as
2 to what the evidence is in the case, and I'm not going to be, as

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1 a general rule, providing you copies of transcripts of the
2 testimony of all the witnesses. That would be thousands and
3 thousands of pages. That would take you days and days to read
4 them all.

5 It could be a problem if you asked for a transcript of
6 one particular witness phrase at one point, because then there
7 may be several other witnesses who have testified about that as

8 well. Then we'd have to get those transcripts out to make it
9 fair.

10 If there's a particular problem that comes up, we'll
11 consider a request for a particular transcript, but I want to
12 encourage you to use your collective recollection as much as
13 possible and not think you're going to get to read the entire
14 trial transcript in this case, even if it's all available.
15 Ladies and Gentlemen, with that short preamble, I'm
16 going to begin the formal jury instructions at this time. They
17 are generally divided in three areas. One, the first area will
18 be about our functions as jurors and the Judge in this case and
19 the conduct of the case and of counsel, about credibility or
20 believability of witnesses and how you gauge that, matters of
2 evidence and what you consider to be the evidence in the case,
2 and then we'll go into the elements of the offenses charged, and
2 there's a rather detailed description of an analysis for you of
2 what the charges are and legally what they mean and what you have
2 to be considering when you consider the evidence in this case.

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1 And then the final phase is the instructions to you on
2 the management of your deliberations, you know, that you elect a
3 foreperson, you do various things. It will be in those
4 categories that we'll be covering in these instructions.
5 First, I'm going to inform you of the function of the
6 Court. It's my function to conduct this trial in an orderly,
7 fair, and efficient manner, to rule upon questions of law, and to
8 instruct you in the law that applies to this case, and it's your
9 duty to accept the law as I state it to you. You should consider
10 all the instructions as a whole. You may not ignore any
11 instruction or question the wisdom of any rule of law.
12 The function of the jury. Your function as the jury is
13 to determine what the facts are in this case. You are the sole
14 judges of the facts. You alone decide what weight to give to the
15 evidence presented during the trial. You decide the value of the
16 evidence and the believability of the witnesses.
17 You should determine the facts without prejudice,
18 without fear, sympathy, or favoritism. You should not be
19 improperly influenced by anyone's race, ethnic origin, or gender.
20 Decide the case solely from a fair consideration of the evidence.
2 Now you may not take anything I may have said or done
2 as indicating how I think you should decide this case. If you
2 believe that I have expressed or indicated any opinion as to the
2 facts, you should ignore it. It is your sole and exclusive duty
2 to decide the verdict in this case.

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1 If any reference by the Court or the attorneys to
2 evidence does not coincide with your own recollection of the
3 evidence, it is your recollection that should control during your
4 deliberations.
5 And again, I'm going to depart very briefly from the
6 written instructions. For instance, in closing argument, if one
7 of the counsel mentioned a witness's name and they may have been
8 mistaken as to that name, that type of thing, it's your
9 recollection that will control during your deliberations.
10 During your deliberations, you may consider only the
11 evidence properly admitted in this trial. The evidence in this
12 case consists of the sworn testimony of each of the witnesses,
13 the exhibits that have been admitted -
were admitted into
14 evidence by any of the parties, and all the facts and testimony
15 stipulated to by the parties.
16 During the trial, you were told the parties had

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17 stipulated, that is, agreed to certain facts. Any stipulation of
18 fact is undisputed evidence, and you may consider it undisputed
19 evidence.

20 During the trial, you were told the parties had
2 stipulated, that is, agreed to what testimony a particular
2 witness would have given if she or he had testified in this case.
2 You may consider this testimony as exactly what this witness
2 would have said had either she or he testified.
2 When you consider the evidence, you are permitted to

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1 draw from the facts which you find have been proven such
2 reasonable inferences as you feel are justified in the light of
3 your experience.
4 You are to consider only the evidence in this case, but
5 in your consideration of the evidence, you are not limited to the
6 statements of the witnesses. In other words, you are not limited
7 solely to what you see and hear as the witnesses testify. You
8 are permitted to draw from the facts which you find have been
9 proved such reasonable inferences as you feel are justified in
10 the light of experience.
11 Evidence has been introduced in this case about other
12 individuals improperly administering HUD programs in matters
13 unrelated to this case. This evidence of other illegal activity
14 at HUD may not be used against the defendant, Deborah Gore Dean.
15 Nor is the fact that others at HUD may have been committing
16 crimes any defense to the charges alleged against the defendant,
17 Deborah Gore Dean.
18 The statements and arguments of the lawyers are not
19 evidence unless the lawyer is referring to a stipulation.
20 Otherwise, the statements of counsel are only intended to assist
2 you in the understanding of the evidence.
2 Sometimes a lawyer's question suggests that something
2 is a fact. Whether or not something is a fact depends upon the
2 witness' answer, not the lawyer's question. A lawyer's question
2 is not evidence.

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1 Now the indictment is not evidence. That is, the
2 indictment is merely the formal way of accusing a person of a
3 crime to bring her to trial. You must not consider the
4 indictment as evidence of any kind. You may not consider it as
5 evidence of the defendant's guilt or draw any inference of guilt
6 from it.
7 Now as to inadmissible and stricken evidence. The
8 lawyers in this case sometimes objected when the other side asked
9 a question or made an argument or offered evidence that the
10 objecting lawyer believed was not proper. You must not be
11 prejudiced against the lawyer who made the objections. It is the
12 lawyers' responsibility to object to evidence which they believe
13 is not admissible.
14 If during the course of trial I sustained an objection
15 to a lawyer's question, you should disregard the question, and
16 you must not speculate as to what the answer would have been.
17 If after a witness answered a lawyer's question I ruled
18 the answer should be stricken, you should disregard both the
19 question and the answer in your deliberations.
20 Likewise, exhibits as to which I have sustained an
2 objection or which I ordered stricken are not evidence, and you
2 must not consider them in your deliberations.
2 Now, Ladies and Gentlemen, there are two types of
2 evidence from which you may find the truth as to the facts of a
2 case — direct evidence and circumstantial evidence. When a

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1 witness asserts actual knowledge of a fact, such as an
2 eyewitness, that witness's testimony is direct evidence.
3 A chain of facts and circumstances indicating the guilt
4 or innocence of a defendant is circumstantial evidence. The law
5 makes no distinction between the weight you should give to either
6 kind of evidence, nor does circumstantial evidence require a
7 greater degree of certainty than direct evidence. In reaching a
8 verdict in this case, you should weigh all the evidence
9 presented, both direct and circumstantial.
10 Ladies and Gentlemen, I'm going to give you an
11 instruction now as to credibility of witnesses. Another word for
12 credibility is believability.
13 In determining whether the government has established a
14 charge or charges against the defendant beyond a reasonable
15 doubt, you must consider and weigh the testimony of all the
16 witnesses who have appeared before you.
17 You are the sole judge of the credibility of the
18 witnesses. In other words, you alone are to determine whether to
19 believe any witness and the extent to which any witness should be
20 believed.
2 In reaching a conclusion as to the credibility of a
2 witness, you may consider any matter that may have a bearing on
2 the subject. You may consider the demeanor and the behavior of
2 the witness on the witness stand; the witness' manner of
2 testifying; whether the witness impresses you as a truthful

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1 person; whether the witness impresses you as having an accurate
2 memory and recollection; whether the witness has any motive for
3 not telling the truth; whether the witness had a full opportunity
4 to observe the matters about which he or she has testified;
5 whether the witness has any interest in the outcome of this case,
6 or friendship or hostility toward other persons -- other people
7 concerned with this case.
8 Inconsistencies or discrepancies in the testimony of a
9 witness or between the testimony of different witnesses may or
10 may not cause you to discredit such testimony. Two or more
11 persons witnessing an incident or a transaction may see or hear
12 it differently; an innocent misrecollection, like a failure of
13 recollection, is not an uncommon experience. In weighing the
14 effect of the inconsistency or discrepancy, always consider
15 whether it pertains to a matter of important or unimportant
16 detail and whether the inconsistency or discrepancy results from
17 innocent error or intentional falsehood.
18 You may consider the reasonableness or
19 unreasonableness, the probability or improbability of the
20 testimony of a witness in determining whether to accept it as
2 true and accurate. You may consider whether the witness has been
2 contradicted or corroborated by other credible evidence.
2 If you believe that any witness has shown him or
2 herself to be biased or prejudiced for or against either side in
2 this case -- in this trial, you may consider and determine

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1 whether such bias or prejudice has colored the testimony of the
2 witness so as to affect the desire and the capability of that
3 witness to tell the truth.
4 You should give the testimony of each witness such
5 weight as in your judgment it is fairly entitled to receive.
6 Now, Ladies and Gentlemen, the defendant has a right to
7 become a witness in her own behalf. Her testimony should not be

8 disbelieved merely because she is the defendant. In weighing her
9 testimony, however, you may consider the fact that the defendant
10 has a vital interest in the outcome of this trial. As with the
11 testimony of any other witness, you should give the defendant's
12 testimony such weight as in your judgment it is fairly entitled
13 to receive.
14 The defendant has introduced testimony that she is a
15 truthful and honest person. Such evidence may indicate to you
16 that it is unlikely that a truthful and honest person would
17 commit the crimes charged or testify untruthfully. The
18 government has introduced evidence the defendant has a bad
19 reputation for truth and veracity. You should consider all this
20 evidence along with other evidence in the case in determining the
21 guilt or innocence of the defendant, and you should give it such
22 weight as in your judgment it is fairly entitled to receive.
23 And again continuing with the general instruction of
24 believability, I'm going to instruct you on the evaluation of
25 prior statements of a witness, first as to inconsistent

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statements.

2 A witness' testimony may be discredited or impeached by
3 showing that the witness has previously made statements which are
4 inconsistent with his or her present testimony. Such prior
5 statements are admitted into evidence solely for you to consider
6 in deciding whether to believe the witness' present testimony.
7 This means that if you find the previous statements are
8 inconsistent with the witness' present testimony in this court,
9 then you may consider the previous statements when you are
10 deciding whether the witness' present testimony is truthful. But
11 you must not use the earlier statements as proof of any fact or
12 facts contained in those statements.
13 When the testimony of a witness at trial is
14 inconsistent with a statement previously made by the witness and
15 that previous statement was given under oath, subject to the
16 penalty of perjury at another trial or at a hearing, a deposition
17 or other proceeding, you may consider the earlier statement both
18 in deciding whether to believe the witness' present testimony and
19 as proof of any fact or facts contained in the earlier statement.
20 This means if you find the previous statement of this type is
21 inconsistent with the witness' present testimony, you may use it
22 for two purposes:
23 First, you may consider the earlier statement in
24 deciding whether to believe the witness' present testimony.
25 Second, if you find the previous statement truthful, you may

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1 consider any fact or facts contained in the previous statement as
2 evidence in this case.
3 Now as to consistent statements. The credibility or
4 believability of a witness may be rehabilitated or supported by
5 showing the witness has previously made statements which are
6 consistent with his or her present testimony. The earlier
7 statements are admitted into evidence for you to consider both in
8 deciding whether to believe the witness' present testimony and as
9 evidence in this case. This means if you find the earlier
10 statements are consistent with the witness' present testimony in
11 this court, you may consider those statements both in deciding
12 whether to believe the witness' present testimony and as evidence
13 in the case.
14 The number of witnesses. The weight of the evidence is
15 not necessarily determined by the number of witnesses testifying

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16 on either side. Rather, you should consider all the facts and
17 circumstances in evidence to determine which of the witnesses you
18 believe. You may find the testimony of a smaller number of
19 witnesses on one side is more believable than the testimony of a
20 greater number of witnesses on the other side.
2 Now, Ladies and Gentlemen, one of the questions you
2 were asked when we were selecting this jury was whether the
2 nature of the charge or charges would affect your ability to
2 render a fair and impartial verdict. There was a reason for that
2 question. You must not allow the nature of the charge or charges

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1 to affect your verdict. You must consider only the evidence that
2 has been presented in this case in rendering a fair and impartial
3 verdict.
4 The question of possible punishment of the defendant in
5 the event of conviction is no concern of yours and should not
6 enter into or influence your deliberations in any way. The duty
7 of imposing sentence in the event of conviction rests exclusively
8 with me. You should weigh the evidence in this case and
9 determine the guilt or the innocence of the defendant solely upon
10 the basis of such evidence, without any consideration of the
11 matter of punishment.
12 Now, Ladies and Gentlemen, we're going to continue with
13 a couple more instructions on the believability of witnesses.
14 First as to testimony of cooperating witnesses.
15 You have heard testimony that Silvio DeBartolomeis,
16 Thomas Demery, and Philip Winn have plea agreements with the
17 government whereby they may receive a lesser penalty at
18 sentencing if they provide substantial assistance to the
19 government in the prosecution of the defendant and, in some
20 instances, other persons.
2 The testimony of these witnesses should be examined
2 with greater caution than the testimony of an ordinary witness.
2 You should consider whether what these persons may receive from
2 the government has motivated them to testify falsely or
2 truthfully in order to further their own interests. You should

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1 give the testimony of such persons such weight as in your
2 judgment it is fairly entitled to receive.
3 Now as to the testimony of immunized witnesses. You
4 have heard evidence that Jack Brennan, Thomas Broussard, Louis
5 Kitchin --or Louie Kitchin -
6 no, it's Louis Kitchin, Louie B.
7 Nunn, Cleofe Rubi, Andrew Sankin, and Richard Shelby have
8 received immunity. What this means is that the testimony of
9 these witnesses may not be used against them in any criminal
10 case.
11 You should consider whether such testimony may be
12 colored in any way as to further the witness's own interests, for
13 witnesses who realize that they may obtain their own freedom by
14 incriminating another have a motive to lie. However, you may
15 also consider that the witnesses are under the same obligation to
16 tell the truth as are any other witnesses, because the grant of
17 immunity does not protect them against a prosecution for perjury
18 or false statement should they lie under oath.
19 The testimony of a witness as to whom immunity has been
20 granted should be received with caution and scrutinized with
2 care. You should give the testimony such weight as in your
2 judgment it is fairly entitled to receive.
2 Tape recordings and transcripts of the testimony of the
2 defendant before the Senate Committee on Banking, Housing and
2 Urban Affairs as identified by the witnesses have been received

2 in evidence. Both the tapes and the transcripts are evidence in

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this case.

2 All right, now, Ladies and Gentlemen, I'm going to get
3 to some of the definitions of some of the factors that you must
4 consider in this case and the elements of the offenses that you
5 must consider. Those are fairly lengthy.
6 First as to the burden of proof and presumptions of
7 innocence. Every defendant in a criminal case is presumed to be
8 innocent. This presumption of innocence remains with the
9 defendant throughout the trial unless and until she is proven
10 guilty beyond a reasonable doubt.
11 The burden is on the government to prove the defendant
12 guilty beyond a reasonable doubt. This burden of proof never
13 shifts throughout the trial. The law does not require a
14 defendant to prove her innocence or to produce any evidence. If
15 you find that the government has proven beyond a reasonable doubt
16 every element of the offense with which the defendant is charged,
17 it is your duty to find her guilty. On the other hand, if you
18 find the government has failed to prove any element of the
19 offense beyond a reasonable doubt, you must find the defendant
20 not guilty.
21 The definition of reasonable doubt. Reasonable doubt,
22 as the name implies, is a doubt based on reason, a doubt for
23 which you can give a reason. It is a doubt as would cause a
24 juror, after careful and candid and impartial consideration of
25 all of the evidence, to be so undecided that he or she cannot say

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1 that he or she has an abiding conviction of the defendant's
2 guilt. It is such a doubt as would cause a reasonable person to
3 hesitate or pause in the graver or more important transactions of
4 life.
5 However, it is not a fanciful doubt, nor a whimsical
6 doubt, nor a doubt based upon conjecture. It is a doubt which is
7 based on reason. The government is not required to establish
8 guilt beyond all doubt or to a mathematical certainty or to a
9 scientific certainty. Its burden is to establish guilt beyond a
10 reasonable doubt.
11 Now as to proof of the state of mind. Someone's intent
12 or knowledge ordinarily cannot be proved, ordinarily cannot be
13 proved directly, because there is no way of directly looking into
14 the workings of the human mind, but you may infer the defendant's
15 intent or knowledge from the surrounding circumstances. You may
16 consider any statement made or acts done or omitted by the
17 defendant and all other facts and circumstances received in
18 evidence which indicate or that indicate the defendant's intent
19 or knowledge.
20 You may infer but are not required to infer that a
2 person intends the natural and probable consequences of acts
2 knowingly done or omitted. It is entirely up to you, however, to
2 decide what facts to find from the evidence received during this
2 trial. You should consider all the circumstances in evidence
2 that you think are relevant in determining whether the government

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1 has proved beyond a reasonable doubt the defendant acted with the

2 necessary state of mind.
3 An act is done knowingly if done voluntarily and
4 purposely, not because of mistake, inadvertence, or accident.
5 You may find the defendant guilty of the crime charged
6 in the indictment without finding that she personally committed
7 each of the acts constituting the offense or was personally
8 present at the commission of the offense. A defendant is
9 responsible for an act which she willfully causes to be done if
10 the act would be criminal if performed by her directly or
11 another. To cause an act to be done means to bring it about.
12 You may convict the defendant of the offense charged if you find
13 that the government has proved beyond a reasonable doubt each
14 essential element of the offense and that the defendant willfully
15 caused such an act to be done, with the intent to commit the
16 crime.
17 Ladies and Gentlemen, you will note that the indictment
18 charges the offenses were committed on or about certain dates.
19 The proof need not establish with certainty the exact date of the
20 alleged offenses. It is sufficient if the evidence in the case
2 establishes beyond a reasonable doubt the offenses were committed
2 on a date reasonably near the date alleged.
2 Ladies and Gentlemen, you will recall I explained to
2 you at the beginning of the trial that the defendant, Deborah
2 Gore Dean, had been charged with twelve different crimes:

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1 participation in three separate conspiracies, illegal receipt of
2 a payment, four separate acts of perjury, and four separate acts
3 of falsifying or concealing by trick or device. Each of these is
4 a separate crime, and you should consider each one separately and
5 return a separate verdict for each.
6 Now, Ladies and Gentlemen, I'm going to describe to you
7 the elements of the offenses in this case. First we'll start out
8 with the conspiracy charges. Count 1 of the indictment charges
9 the defendant, Deborah Gore Dean, with conspiring to defraud the
10 United States and to commit an offense against the United States,
11 in violation of Title 18, United States Code, Section 371.
12 The indictment charges that the purpose of the illegal
13 conspiracy alleged in Count 1 of the indictment was for the
14 defendant, Deborah Gore Dean, to use her official position to
15 facilitate the award of funds and units of the Moderate
16 Rehabilitation Program, known as the Mod Rehab Program, of the
17 U.S. Department of Housing and Urban Development, known as HUD,
18 for the benefit of herself and of her co-conspirators, John
19 Mitchell, Louie B. Nunn, Richard Shelby, and Jack Brennan.
20 Count 1 charges the defendant conspired to defraud the
2 United States by depriving HUD and the citizens of the United
2 States, one, of defendant Deborah Gore Dean's loyal and
2 conscientious services in the performance of her official duties;
2 and two, of their right to have HUD's business and affairs
2 conducted in an honest and impartial way.

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1 Specifically, Count 1 alleges that the defendant,
2 Deborah Gore Dean, improperly facilitated the award of mod rehab
3 funding to a number of projects for the benefit of her
4 co-conspirators: to the Arama project and the South Florida I
5 project for the benefit of co-conspirators Mitchell and Nunn, and
6 to the Park Towers project for the benefit of co-conspirators
7 Mitchell and Shelby. Additionally, Count 1 alleges that the
8 defendant conspired to commit offenses against the United States
9 by falsifying and covering up material facts in matters within
10 the jurisdiction of a department or agency of the United States.
11 Now Count 2, conspiracy. Count 2 of the indictment

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12 charges the defendant, Deborah Gore Dean, with a second and
13 separate conspiracy to defraud the United States and to commit an
14 offense against the United States, in violation again of Title
15 18, United States Code, Section 371.
16 The indictment alleges the purpose of the illegal
17 conspiracy charged in Count 2 was for the defendant, Deborah Gore
18 Dean, to use her official position to facilitate the award of
19 funds and units of the Mod Rehab Program for the benefit of
20 co-conspirators Richard Shelby, Andrew C. Sankin, and Thomas
2 Broussard.
2 Count 2 of the indictment charges the defendant,
2 Deborah Gore Dean, conspired to defraud the United States by
2 depriving HUD and the citizens of the United States, one, of
2 defendant Deborah Gore Dean's loyal and conscientious services in

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1 the performance of her official duties; and two, of their right
2 to have HUD's business and affairs conducted in an honest and
3 impartial way.
4 Specifically, Count 2 alleges that defendant Deborah
5 Gore Dean facilitated the approval of exception rents for the
6 Necho Allen Hotel and the award of mod rehab units to the Regent
7 Street project, the Alameda Towers Apartments project, the
8 Foxglenn Apartments project, and the Eastern Avenue project, all
9 in furtherance of the conspiracy to unlawfully enrich and benefit
10 herself, her family, and her co-conspirators.
11 Additionally, Count 2 charges that the defendant
12 conspired to commit offenses against the United States by
13 falsifying and covering up material facts in matters within the
14 jurisdiction of a department or agency of the United States.
15 And now as to Count 3, the final conspiracy count.
16 Count 3 of the indictment charges the defendant, Deborah Gore
17 Dean, with a third separate conspiracy to defraud the United
18 States and to commit offenses against the United States, in
19 violation of Title 18, U.S.C., Section 371.
20 The indictment alleges the purpose of the illegal
2 conspiracy charged in Count 3 was for the defendant, Deborah Gore
2 Dean, to use her official position to facilitate the award of mod
2 rehab funds and units for the benefit of co-conspirator Louis L.
2 Kitchin.
2 Specifically, Count 3 of the indictment charges the

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1 defendant, Deborah Gore Dean, conspired to defraud the United
2 States by depriving HUD and the citizens of the United States of
3 defendant Deborah Gore Dean's loyal and conscientious services in
4 the performance of her official duties, and of their right to
5 have HUD's business and affairs conducted in an honest and
6 impartial way.
7 Count 3 of the indictment also charges that it was a
8 further goal of the conspiracy that defendant Deborah Gore Dean
9 conspired with Kitchin to commit two separate offenses against
10 the United States. First, that the defendant unlawfully agreed
11 to demand, seek, or receive an illegal gratuity, that is, \$4,000
12 for and because of official acts performed and to be performed by
13 her. Second, in matters within the jurisdiction of a department
14 or agency of the United States, the defendant, Deborah Gore Dean,
15 conspired to falsely conceal and cover up material facts and to
16 make false and fraudulent statements and representations
17 concerning the manner in which HUD funding decisions were
18 actually made in order to hide the existence and nature of the
19 unlawful conspiracy.
20 The indictment does not charge and the government has
2 not argued that it is illegal for developers to hire consultants

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2 to help them get funding from HUD for their projects.
2 Congressl decision to remove the fair share
2 restrictions on the Mod Rehab Program made the program more
2 discretionary. However, the Mod Rehab Program continued to be

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1 governed by HUD rules, regulations, and standards of conduct.
2 Now, Ladies and Gentlemen, I'm going to explain to you
3 the elements of the offense of conspiracy that will apply to the
4 three counts I've just reviewed with you. First, the statute
5 involved. In relevant part, Section 371 of Title 18 of the
6 United States Code provides: "If two or more persons conspire
7 either to commit any offense against the United States or to
8 defraud the United States or any agency thereof in any manner or
9 for any purpose, and one or more of such persons do any act to

10 effect the object of the conspiracy, ..." then each shall be

11 guilty of the offense of conspiracy.
12 Now the elements of this offense. The essential
13 elements of the offense of conspiracy, each of which the
14 government must prove beyond a reasonable doubt, are:

15 1. That two or more persons formed an agreement either
16 to defraud the United States or to commit an offense against the
17 United States;
18 2. That the defendant knowingly participated in this
19 conspiracy with the intent to defraud the United States or to
20 commit an offense against the United States; and
2 3. That during the existence of the conspiracy, at
2 least one overt act was committed by one or more of the members
2 of the conspiracy in furtherance of the common scheme.
2 Now, Ladies and Gentlemen, I'm going to give you some
2 general principles discussing conspiracy, the general approach I

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1 suggest you take in considering these charges, and then the
2 definitions in some more detail of the elements of the offense of
3 conspiracy.

4 First, a conspiracy is a combination of two or more
5 persons to accomplish an unlawful purpose or to accomplish a
6 lawful purpose by unlawful means. It is a partnership in crime.
7 While the essence of the offense is a combination or agreement to
8 violate the law, it is not necessary the conspirators have met
9 together and entered into an express or formal agreement. Nor is
10 it necessary the conspirators have stated in words or in writing
11 what the scheme was or how it was to be accomplished.
12 On the other hand, a mere similarity of conduct among
13 various persons or the fact that they may have associated with
14 each other or may have assembled together and discussed common
15 aims is not a sufficient basis to demonstrate the existence of a
16 conspiracy.

17 It is sufficient to prove that they came to a mutual
18 understanding, either spoken or unspoken, to accomplish an
19 unlawful purpose or a lawful purpose by unlawful means. Such an
20 agreement may be shown by direct evidence. It also may be shown
2 by circumstantial evidence, that is, from the circumstances and
2 conduct of the parties. This is so because ordinarily a

2 conspiracy is characterized by secrecy both in its origin and
2 execution.
2 Now, Ladies and Gentlemen, as to your approach to

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1 consider these charges of conspiracy, under the law, you should
2 approach each of the conspiracy counts charged in this indictment
3 in the same general way:
4 First, you should determine whether or not you are
5 convinced beyond a reasonable doubt that a conspiracy existed as
6 alleged in the indictment.
7 Second, if you conclude the conspiracy as alleged in
8 the indictment did exist, then you should proceed to the next
9 step to determine whether or not the defendant, Deborah Gore
10 Dean, knowingly became a member of the conspiracy.
11 And third, if you find beyond a reasonable doubt from
12 the evidence the conspiracy alleged in the indictment was formed
13 and that the defendant, Deborah Gore Dean, knowingly became a
14 member of the conspiracy either at the beginning of the
15 conspiracy or afterwards, you should then determine whether one
16 or more of the conspirators knowingly committed one or more overt
17 acts in furtherance of the purpose of the conspiracy.
18 Now I'm going to give you the elements again in more
19 detail. The crime of conspiracy consists of three elements. The
20 first element is the requirement that the government prove beyond
2 a reasonable doubt that there were two or more persons -- that
2 two or more persons conspired either to defraud the United States
2 or to commit an offense against the states.
2 First as to conspiracy to defraud the United States.
2 Conspiracy to defraud the United States encompasses any

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1 agreement, the purpose or effect of which is to obstruct,
2 interfere, impair, impede, or defeat the lawful functions of any
3 instrumentality of the government, including the United States
4 Department of Housing and Urban Development, by means of deceit
5 or craft or trickery or by means that are dishonest. Conspiracy
6 to defraud the United States includes an agreement to interfere
7 or undermine -- I'm sorry, to interfere with or undermine the
8 lawful functions of a particular government instrumentality. And
9 it includes a scheme to deprive the United States of the honest
10 and loyal services of a public official.
11 You are further instructed that while the term
12 "defraud" is often understood to mean injuring someone
13 financially by deception, that is, to cheat someone out of money,
14 that understanding is not the only meaning of the term. Rather,
15 for the United States to be defrauded, it is not necessary the
16 government be subjected to the loss of money or property; it is
17 enough that the conspirators agreed to defeat the government's
18 legitimate official action and purpose by deceit, craft,
19 trickery, or means that are dishonest. It is not enough,
20 however, that the guidelines, regulations, or standards of
2 conduct may not have been followed. The government must prove
2 beyond a reasonable doubt that there was a dishonest, deceitful,
2 or fraudulent purpose.
2 The government has not alleged that there was any
2 monetary loss to the government as a result of the defendant's

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1 activities. There are no allegations the projects that received

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2 funding were improper or contrary to HUD regulations.
3 Now as to the second part of the first element of the
4 conspiracy, conspiracy to commit an offense against the United
5 States. The first element of conspiracy can also be established
6 by proof beyond a reasonable doubt that two or more persons
7 conspired to commit an offense against the United States. Counts
8 1 through 3 charge that the defendant, Deborah Gore Dean,
9 conspired to commit a substantive offense against the United
10 States by agreeing to falsify and conceal material facts within
11 the jurisdiction of a department or agency of the United States
12 by means of trickery and deceit so as to conceal the manner in
13 which the, in which HUD funding decisions were actually made.
14 Additionally, Count 3 alleges the defendant agreed to demand,
15 seek, or receive an illegal gratuity of \$4,000 for and because of
16 official acts performed and to be performed by her.
17 Later in these instructions, I will define the elements
18 of the offense of falsifying and concealing material facts in a
19 matter within the jurisdiction of a department or agency of the
20 United States which, if proved beyond a reasonable doubt,
2 constitutes a separate substantive crime. I will also define the
2 elements of the offense of acceptance of an illegal public
2 payment by a public official. I instruct you now that the
2 elements of these offenses have the same meaning in this count as
2 they do in the later counts.

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1 You should bear in mind that a conspiracy to commit a
2 crime is an entirely separate and distinct offense from the
3 substantive crime that is charged to be the object of the
4 conspiracy. Thus, if you find that the elements of conspiracy as
5 I have explained them to you are satisfied, you may find the
6 defendant, Deborah Gore Dean, guilty of the crime of conspiracy
7 to commit an offense against the United States even though the
8 substantive crime that was the object of the conspiracy was not
9 actually accomplished or committed. In other words, the crime of
10 conspiracy to commit an offense against the United States is an
11 independent offense.
12 Now I'm going to the second element of the three
13 elements. The second element of the offense of conspiracy, which
14 the government also must prove beyond a reasonable doubt, is the
15 defendant, Deborah Gore Dean, knowingly participated in the
16 conspiracy with the intent to defraud the United States or to
17 commit the other offense charged. If you have found that the
18 conspiracy existed, it is then necessary for you to take this
19 next step to determine whether Deborah Gore Dean was knowingly a
20 member of that conspiracy, with the intent to commit at least one
2 of the objects that the conspiracy contemplated.
2 To be a member of a conspiracy, the defendant -- or a
2 defendant need not know the identities or the precise number of
2 all of the other members. Likewise, the defendant need not know
2 the entire scope of the conspiracy or all of the details of the

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1 conspiracy or the means by which the objects or the purpose of
2 the conspiracy are to be accomplished.
3 It is also not necessary in order to convict a
4 defendant on a charge of conspiracy that she be a member of the
5 conspiracy from its very beginning. Different persons may become
6 members of the conspiracy at different times.
7 Finally, the extent of the defendant's participation in
8 the alleged conspiracy is not determinative of her guilt or
9 non-guilt. A defendant may be convicted as a conspirator even
10 though she played a minor role in the conspiracy. Each member of
11 the conspiracy may perform separate and distinct acts.

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12 It is necessary, however, that the government prove
13 beyond a reasonable doubt the defendant was aware of a common
14 purpose of the conspiracy and was a willing participant with the
15 intent to commit at least one of the objects of the conspiracy -
16 excuse me, at least one of the objects contemplated by the
17 conspiracy. While one may become a member of a conspiracy
18 without full knowledge of all the details, a person who has no
19 knowledge of the conspiracy itself, but who just happens
20 unknowingly to act in a way that furthers some object or purpose
2 of the conspiracy, does not thereby become a co-conspirator -
or
2 a conspirator.
2 Thus, before you may find the defendant or any other
2 person has become a member of the conspiracy, the evidence must
2 prove beyond a reasonable doubt that the conspiracy was formed

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1 and that the defendant or any other person knowingly participated
2 in the unlawful plan with the intent to further one or more of
3 the objects of the conspiracy. An act is knowingly done if done
4 voluntarily and purposely, and not because of mistake,
5 inadvertence, or accident.
6 It is not necessary the government prove that the
7 defendant joined the conspiracy to accomplish all of the objects
8 of the conspiracy. It is sufficient if you find beyond a
9 reasonable doubt the defendant, Deborah Gore Dean, became a
10 willing and knowing participant in the unlawful scheme as to one
11 of the objects of the conspiracy. Should you determine the
12 defendant, Deborah Gore Dean, was a member of the conspiracy but
13 that she agreed to participate only with respect to one of the
14 alleged objects, you must agree upon which of the objects that
15 the defendant, Deborah Gore Dean, conspired to achieve. Your
16 verdict must be unanimous as to the crime charged -- I'm sorry,
17 your verdict must be unanimous as to the charged object or
18 objects as to which the defendant, Deborah Gore Dean, conspired.
19 The acts or declarations of any other member of the
20 conspiracy, done in furtherance of the purpose of the conspiracy
2 and during its existence, may be considered as evidence against
2 the defendant, whether done in or out of her presence. When
2 persons enter into an agreement for an unlawful purpose, they
2 become agents for each other, so that the act of one conspirator
2 is considered the act of all of the other conspirators and is

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1 evidence against all. However, statements of any conspirator
2 that are not in furtherance of the conspiracy or that are made
3 before its existence or after its determination -
after its
4 termination, may be considered as evidence only against the
5 person making them.
6 Now, Ladies and Gentlemen, that gets me to the third
7 element, and after that, then we'll go to the other offenses in
8 the indictment and then to the concluding instructions.
9 The third element. This brings us to a discussion of
10 the third element of conspiracy, the requirement that the
11 government prove beyond a reasonable doubt that during the
12 existence of a conspiracy, at least one overt act was committed
13 in furtherance of the conspiracy by one or more of its members.
14 An overt act is any act committed by one or more of the
15 conspirators to accomplish a purpose of the conspiracy. It need
16 not be in violation of law, and the other conspirators need not
17 join in it or even know about it. It may be an entirely innocent

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18 act as long as it furthers the purpose of the conspiracy.
19 It is not necessary the purpose or purposes of the
20 conspiracy have been accomplished or that a substantive offense
2 that was an object of the conspiracy have been committed. Nor
2 must the government prove the United States suffered a financial
2 loss of money or property as a result of the conspiracy.
2 Furthermore, it is not necessary that all of the overt
2 acts charged in the indictment be proved; one overt act is

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1 sufficient. Nor is it necessary that each member of the
2 conspiracy have performed an overt act; an overt act of one
3 conspirator is attributable to all of the co-conspirators. As I
4 stated before, however, you must all agree as to which overt act
5 was committed by the defendant or one of the co-conspirators.
6 If you find a conspiracy existed, it is not essential
7 that the government prove that it began or ended on a specific
8 date. It is sufficient if you find in fact a conspiracy was
9 formed and existed for some time within the period set forth in
10 the indictment and at least one overt act was committed in
11 furtherance of the conspiracy within that period.
12 As I previously have mentioned, counts of the
13 indictment charge separate and distinct offenses. For that
14 reason, you must deliberate and return verdicts on each count of
15 the indictment. You are to consider each count and the evidence
16 applicable thereto separately. That you may find the defendant
17 guilty or not guilty on any of the offenses charged in the
18 indictment should not control your verdict with respect to any
19 other offense charged.
20 Now, Ladies and Gentlemen, I'm going to go through the
2 remaining counts in the indictment and the elements applicable to
2 those counts. First, as to Count 4, illegal receipt of payment
2 to a public official, Count 4 of the indictment charges the
2 defendant, Deborah Gore Dean, with demanding, accepting, or
2 receiving an illegal gratuity, in violation of Title 18, U.S.

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1 Code, Section 201(c)(1)(B). Specifically, Count. 4 alleges that
2 while a public official, and otherwise than as provided by law
3 for proper discharge of official duty, defendant Deborah Gore
4 Dean demanded, sought, received, accepted, and agreed to accept a
5 thing of value, namely, \$4,000, for and because of official acts
6 performed or to be performed by her, including official acts
7 relating to allocations of funds under HUD's Mod Rehab Program.
8 And now the statute, the law. Section 201(c)(1)(B) of
9 Title 18 of the United States Code provides in relevant part that
10 whoever . . . being a public official . . . otherwise than as
11 provided by law for the proper discharge of official duty,
12 directly or indirectly demands, seeks, receives, accepts, or
13 agrees to receive or accept anything of value personally for or
14 because of any official act performed or to be performed by such
15 official or person, shall be guilty of an offense against the
16 United States.
17 Now the elements of this illegal gratuity charge, Count
18 4. For you to find the defendant, Deborah Gore Dean, guilty of
19 this crime, you must be convinced that the government has proved
20 each of the following elements beyond a reasonable doubt:
2 First, the defendant was a government official at the
2 time of the alleged offense;
2 Second, that the defendant demanded, sought, accepted
2 or received, or agreed to accept or to receive directly or
2 indirectly a gratuity, that is, anything of value, namely,

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1 \$4,000, that is not authorized by law;
2 Third, that the gratuity was received by the defendant
3 for or because of an official act or acts already performed or to
4 be performed by her in the future.
5 The phrase "anything of value" means any item, whether
6 tangible or intangible, that the person giving or offering or the
7 person demanding or receiving considers to be worth something.
8 The phrase "anything of value" includes a sum of money, favorable
9 treatment, a loan with favorable interest or repayment terms, a
10 job, or other special consideration.
11 The term "official act" means any decision or action on
12 any question or matter which may at any time be pending or which
13 may by law be brought before any public official in such
14 official's official capacity or in such official's place of
15 profit or trust.
16 Public official defined. The term "public official"
17 means an officer or employee or person acting for or on behalf of
18 the United States or any department, agency, or branch of
19 government thereof in any official function, under or by
20 authority of any such department, agency, or branch of
2 government.
2 The term "public official" includes any employee of the
2 United States government, as well as any person who is performing
2 work on behalf of the United States government. Thus, the term
2 "public official" includes the executive assistant to the

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1 secretary of the Department of Housing and Urban Development.
2 Now as to intent. Under the intent element of this
3 statute, it is sufficient for the government to prove that the
4 illegal gratuity was demanded, sought, accepted, or received
5 knowingly and purposefully, and not through accident,
6 misunderstanding, inadvertence, or other innocent reason.
7 However, the government need not prove that the
8 defendant actually did anything specifically in exchange for the
9 gratuity. In other words, the government need not prove the
10 gratuity allegedly demanded, sought, accepted, or received by the
11 defendant while she was a public official in any way caused her
12 to perform some specific identifiable act.
13 The government need not demonstrate that because she
14 received or agreed to receive the alleged gratuity, the defendant
15 altered in any manner --in any way, rather, the manner in which
16 she conducted or planned to conduct her official business. An
17 illegal gratuity can be given for an official act already
18 performed or to be performed in the future.
19 Finally, it is not a defense that the official act or
20 acts in question would have been performed in any event.
2 Government officials are not permitted to receive gifts for acts
2 that they would have done anyway.
2 Now, Ladies and Gentlemen, I'm going to go to the
2 remaining counts, and they're going to be in two groups. Counts
2 5, 7, 9, and 11 are what are known as the perjury counts, and

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1 I'll treat those together, and then the remaining counts I'll
2 explain to you together.
3 Counts 5, 7, 9, and 11 charge that the defendant,
4 Deborah Gore Dean, having taken an oath that she would testify

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5 truthfully before the Senate Banking Committee, knowingly and
6 willfully testified falsely concerning material matters, in
7 violation of Title 18, United States Code, Section 1621.
8 Count 5 charges that on or about August 6, 1987, having
9 taken an oath that she would testify truthfully before the Senate
10 Banking Committee, defendant Deborah Gore Dean made material
11 false statements concerning the manner in which mod rehab funding
12 decisions were made at HUD, specifically, that a panel of HUD
13 officials, of which defendant Deborah Gore Dean was a member,
14 would make mod rehab funding decisions based "solely on
15 information provided by the assistant secretary for Housing."
16 Likewise, Count 7 charges that on or about that same
17 date, August 6, 1987, while under oath before the Senate Banking
18 Committee, defendant Deborah Gore Dean knowingly and willfully
19 made material false statements when she stated that I have never
20 given or approved or pushed or coerced anyone to help any
2 developer and when she asserted, "It's a tremendous waste of time
2 for developers to come to HUD."
2 Count 9 charges that on or about August 6, 1987,
2 defendant Deborah Gore Dean knowingly and willfully testified
2 falsely in sworn testimony before the Senate Banking Committee by

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1 stating twice that she had never heard of Baltimore Uplift One.
2 Finally, Count 11 of the indictment charges on or about
3 August 6, 1987, defendant Deborah Gore Dean knowingly and
4 willfully committed perjury by testifying falsely under oath
5 before the Senate Banking Committee to the effect that as a
6 matter of fact, no moderate rehabilitation units that I know of,
7 unless they were sent directly by the secretary, have ever gone
8 to my home state of Maryland, simply for that reason -- that I
9 sat on the panel.
10 Now the statute in these counts. Section 1621 of Title
11 18 of the United States Code provides in relevant part: "Whoever
12 . . . having taken an oath before a competent tribunal, . . . in
13 any case in which a law of the United States authorizes an oath
14 to be administered, that he will testify, declare, depose, or
15 certify truly . . . willfully and contrary to such oath states
16 . . . any material matter which he does not believe to be true
17 . . . is guilty of perjury . . ."
18 Now the elements of the charges of perjury in this
19 case. The elements will be the same for all four counts. What
20 will be different in each count is the allegation of what the
2 defendant said under oath.
2 In order to prove the perjury charges against the
2 defendant, Deborah Gore Dean, that are contained in Counts 5, 7,
2 9, and 11 of the indictment, the government must prove the
2 following elements beyond a reasonable doubt:

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1 First, the defendant took an oath to testify truly
2 before the Senate Banking Committee, a body authorized by law to
3 administer oaths;
4 Second, that the defendant made false statements as to
5 matters about which the defendant testified under oath as set
6 forth in the indictment;
7 Third, the matters to which -- as to which it is
8 charged the defendant made false statements were material to the
9 issues under inquiry by the Senate Banking Committee, - and
10 Fourth, that the false statements were willfully made
11 in that at the time the defendant made these statements to the
12 Senate Banking Committee, the defendant knew them to be false.
13 Now, Ladies and Gentlemen, there is no issue as to the
14 first and third elements of the offense; that is, in

15 consideration of the perjury, there is no issue as to the first
16 and third elements of the perjury offenses.
17 With respect to the first element -
that the
18 defendant, Deborah Gore Dean, took an oath to testify truly -
19 the government and the defense have stipulated and thus there is
20 no dispute that on August 6, 1987, the defendant, Deborah Gore
2 Dean, took an oath to testify truthfully before the Senate
2 Banking Committee. In addition, there is no dispute that the
2 Senate Banking Committee is a body authorized by law to
2 administer oaths.
2 With respect to the third element, that the statements

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1 that defendant Deborah Gore Dean made to the Senate Banking
2 Committee were material to the inquiry that the committee was
3 conducting, the Court instructs you that the questions asked of
4 the defendant, Deborah Gore Dean, as alleged in the indictment,
5 constituted material matters in the proceedings before the Senate
6 Banking Committee.
7 Therefore, the only issues that you have to decide are
8 whether, issues you have to decide are whether defendant Deborah
9 Gore Dean made false statements when she testified before the
10 Senate Banking Committee, as alleged in the indictment, and
11 whether she made such false statements knowingly and willfully.
12 Now as to the second element, you must determine
13 whether any part of the testimony given by the defendant, Deborah
14 Gore Dean, as set forth in the indictment, was false. An answer
15 to a question is false when it is contrary to the facts --to
16 fact, that is, when it is not true. The truth or falsity of an
17 answer must be determined by the facts existing at the time the
18 answer was given.
19 In reviewing the testimony which is alleged to have
20 been false, you should consider such testimony in the context of
2 the sequence of questions asked and answers given. The words
2 used should be given their common and ordinary meaning unless the
2 context clearly shows that a different meaning was understood by
2 both the questioner and the witness.
2 If you should find that a particular question was

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1 ambiguous, that is, subject to more than one interpretation, and
2 that the defendant truthfully answered one reasonable
3 interpretation of the question under the circumstances presented,
4 then such answer would not be false. Similarly, if you should
5 find the question was clear but the answer was ambiguous and one
6 reasonable interpretation of such answer would be truthful, then
7 such answer would not be false.
8 In deciding whether the defendant's answers are false,
9 the answers must be given their natural meaning in the context in
10 which the words were used. If you find that an answer given by
11 the defendant was literally true, but unresponsive to the
12 question asked, you may not find that answer false or convict the
13 defendant because of it. As long as a statement, or a reasonable
14 interpretation of a statement, is narrowly or literally true,
15 there can be no conviction for perjury. This is so even if you
16 find that the answer was intentionally misleading.
17 The burden is upon the government to establish beyond a
18 reasonable doubt that the answers made by the defendant were, in
19 fact, false.
20 Now the fourth element of perjury. If you determine
2 that any of the answers the defendant, Deborah Gore Dean, gave
2 were false, then you must decide whether the defendant, Deborah
2 Gore Dean, gave those answers knowingly and willfully. To

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2 testify willfully and contrary to such oath, as provided in the
2 statute, means to give false testimony voluntarily and

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1 deliberately, with the intent to avoid the known legal duty to
2 testify truthfully. In order for the statements to be
3 perjurious, they must have been made consciously and in the
4 exercise of the defendant's free will. Thus, you must find
5 beyond a reasonable doubt the defendant, Deborah Gore Dean, both
6 knew that her answers were false and intentionally gave those
7 false answers.
8 Your decision whether defendant Deborah Gore Dean acted
9 knowingly and willfully in making any statements you find to be
10 false involves a decision about the defendant's state of mind at
11 the time the statements were made. It is obviously impossible to
12 ascertain or prove directly what the operation of the defendant's
13 mind was. You cannot look into a person's mind to see what her
14 state of mind is or was. But a wise and intelligent
15 consideration of all the facts and circumstances shown by the
16 evidence and the exhibits in the case may enable you to infer
17 with a reasonable degree of accuracy what the defendant's state
18 of mind was.
19 In our everyday affairs, we are continuously called
20 upon to decide from the actions of others what their state of
2 mind is. Experience has taught us that frequently actions speak
2 louder than words. You may well rely in part on circumstantial
2 evidence in determining the defendant's state of mind.
2 Proof of circumstances surrounding the defendant's
2 actions can supply an adequate basis for a finding the defendant

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1 acted knowingly and willfully. The actions of an individual must
2 be set in their time and place. The meaning of a particular act
3 may depend upon the circumstances surrounding it. Thus, you may
4 consider evidence which you recall and believe about the
5 defendant's actual knowledge of certain facts and their
6 occurrences, as compared to the testimony she gave about these
7 facts and occurrences; the extent to which statements were made
8 to conceal facts or events; and in general the manner in which
9 certain actions were undertaken by the defendant and by others
10 with her knowledge.
11 You may consider whether the defendant has a motive to
12 lie or to conceal facts. The government is not required to prove
13 the existence of such a motive, let alone exactly what the motive
14 was. The government's failure to prove a motive does not
15 establish innocence, but if you find evidence of a motive, that
16 may help you decide what the defendant's state of mind was.
17 Therefore, you should ask yourselves whether the defendant stood
18 to gain any personal benefit from concealing the truth or whether
19 she stood to avoid any personal liability.
20 Now, Ladies and Gentlemen, as to Count 7 of the
2 indictment, it charges the defendant, Deborah Gore Dean,
2 committed perjury in connection with two statements that she made
2 under oath before the Senate Banking Committee. In considering
2 Count 7, you should bear in mind the government is not required
2 to prove that both of the statements or representations alleged

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1 in that particular count were perjurious. The government
2 satisfies its burden of proving falsity if it proves beyond a
3 reasonable doubt that either of the statements recited in Count 7
4 is false.

5 However -- and this is important -
you may not find
6 the defendant guilty unless all of you agree unanimously that one
7 particular statement is false. That is, you cannot find the
8 defendant guilty if some of you think that only statement A is
9 false and the rest of you think that only statement B is false.
10 There must be at least one specific statement that all of you
11 believe is false in order to convict the defendant.
12 Now, Ladies and Gentlemen, as to rules of evidence in a
13 perjury case, while the government must establish beyond a
14 reasonable doubt that the statements of the defendant, Deborah
15 Gore Dean, to the Senate Banking Committee were false, the law
16 has a special rule for the amount of proof required to show that
17 the defendant's statements were false.
18 In order to convict the defendant of perjury, the
19 government must establish the falsity of the defendant's
20 statements, that is, the falsity of the facts the defendant
2 stated. The government can do this in one of two ways: one, by
2 the testimony of two witnesses whose testimony you believe to be
2 true, or two, by the testimony of one such witness whose
2 testimony is corroborated or confirmed by other independent
2 evidence such as documentary evidence that you believe and you

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1 find to be trustworthy and to substantiate the testimony of that
2 one witness. "Independent" means something other than and in
3 addition to the testimony of one witness --of the one witness.
4 where the government relies upon the testimony of one
5 witness and other independent evidence that corroborates or
6 confirms the witness1 testimony in order to prove the defendant's
7 statements were false, the corroborating evidence presented by
8 the government need not itself prove guilt. However, it is
9 sufficient if there is direct testimony from one witness and
10 additional independent evidence so corroborative of this direct
11 testimony that the two, when considered together, are sufficient
12 to establish the falsity of the defendant's statements beyond a
13 reasonable doubt.
14 In other words, the government is required to produce
15 in evidence something more than one witness. Thus, if defendant
16 testifies under oath as to certain facts and at a later date
17 another person testifies to the contrary, the testimony of that
18 second individual alone, without any other corroborating
19 evidence, would not be sufficient to convict the defendant of
20 perjury. To support a conviction, the government must produce
2 either a second witness or independent witness that corroborates
2 a single witness1 testimony concerning the falsity of defendant's
2 statements.
2 Now, Ladies and Gentlemen, we have a few more pages of
2 instructions. I will give you the instructions on Counts 6, 8,

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10, and 12, which is falsifying or concealing by trick or device,
2 and then the final instructions on deliberations that govern your
3 deliberations.
4 First, as to Counts 6, 8, 10, and 12, they charge the
5 defendant, Deborah Gore Dean, knowingly and willfully falsified,
6 concealed, or covered up by a trick, scheme, or device certain
7 material facts that she had a duty to disclose concerning matters
8 within the jurisdiction of the Senate Banking Committee, in
9 violation of Title 18, United States Code, Section 1001.
10 Count 6 charges that on or about August 6, 1987, in
11 connection with her testimony under oath before the Senate
12 Banking Committee, defendant Deborah Gore Dean knowingly and
13 willfully falsified, concealed, or covered up material facts that

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14 she had a duty to disclose concerning the manner in which HUD's
15 mod rehab funding decisions were actually made and her role in
16 those funding decisions; specifically, by testifying that HUD
17 field offices rated and ranked mod rehab applications from public
18 housing authorities and that a panel of HUD officials, of which
19 the defendant, Deborah Gore Dean, was a member, would make mod
20 rehab funding decisions based solely on information provided to
21 the panel by HUD's assistant secretary of Housing.
22 Likewise, Count 8 charges that on or about August 6,
23 1987, Deborah Gore Dean knowingly and willfully falsified,
24 concealed, or covered up material facts that she had a duty to
25 disclose by testifying before the Senate Banking Committee, that

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1 she had never given or approved or pushed or coerced anyone to
2 help any developer, and when she asserted that developers'
3 meetings with HUD officials were a tremendous waste of time.
4 Count 10 charges on or about August 6, 1987, in
5 connection with her testimony under oath, before the Senate
6 Banking Committee, defendant Deborah Gore Dean knowingly and
7 willfully falsified, concealed, or covered up material facts that
8 she had a duty to disclose by willfully failing to disclose her
9 knowledge of the HUD project known as Baltimore Uplift One.
10 And finally, Count 12 charges on or about August 6,
11 1987, defendant Deborah Gore Dean knowingly and willfully
12 falsified, concealed, or covered up material facts from the
13 Senate Banking Committee when she testified under oath before the
14 Senate Banking Committee concerning her lack of knowledge of the
15 award of mod rehab units to projects in the State of Maryland.
16 Now, Ladies and Gentlemen, as to the statute under
17 which these charges arise, Section 1001 of Title 18 of the United
18 States Code provides in relevant part that: Whoever, in any
19 matter within the jurisdiction of any department or agency of the
20 United States knowingly and willfully falsifies, conceals or
21 covers up by any trick, scheme, or device a material fact . . .
22 shall be guilty of an offense against the United States.
23 Elements of the offense. In order to establish that
24 defendant Deborah Gore Dean is guilty of knowingly and willfully
25 falsifying or concealing by trick or scheme a material fact that

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she had a duty to disclose, as charged in Counts 6, 8, 10, and 12
2 of the indictment, the government must prove each of the
3 following elements beyond a reasonable doubt:
4 First, the defendant falsified or concealed or covered
5 up a material fact;
6 Second, that she did so by trick, scheme, or device;
7 Third, that she acted knowingly and willfully; and
8 Fourth, that the falsification, concealment or cover-up
9 was with respect to a matter within the jurisdiction of a
10 department or agency of the United States.
11 The first element that the government must prove beyond
12 a reasonable doubt is the defendant, Deborah Gore Dean,
13 falsified, concealed, or covered up a material fact. The Court
14 has already determined that the government has established that
15 the facts at issue in each of the Counts 6, 8, 10, and 12 were
16 material. Therefore, you should not be concerned with this
17 aspect of the first element of the offense.
18 The second element of the offense the government must
19 prove beyond a reasonable doubt is that the defendant, Deborah
20 Gore Dean, falsified or concealed or covered up by trick, scheme,
21 or device. A scheme is a plan for the accomplishment of an
22 objective. A trick or device is a deceptive act or strategy
23 calculated to deceive persons.

24 To falsify means to make a statement that is untrue at
25 the time it is made and that the person making the statement

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1 knows to be untrue at the time it is made. To conceal means to
2 withhold from another. It requires some act to prevent detection
3 of some fact the defendant was required to reveal. To cover up
4 means to hide from another.
5 whether the defendant Deborah Gore Dean's behavior
6 amounted to a trick, a scheme, or a device is a question for you
7 as finders of the facts to decide. It is the government's burden
8 with respect to this element to prove beyond a reasonable doubt
9 that the defendant falsified or concealed or covered up a
10 material fact by trick, scheme, or device.
11 The third element. If you decide the defendant,
12 Deborah Gore Dean, did, in fact, falsify or cover up a material
13 fact by trick, scheme, or device, as charged in each of Counts 6,
14 8, 10, and 12 of the indictment, you must then decide whether she
15 acted knowingly and willfully.
16 An act is done knowingly if it is done purposely and
17 voluntarily, as opposed to mistakenly or accidentally.
18 An act is done willfully if it's done with an intention
19 to do something the law forbids, a bad purpose to disobey the
20 law, or with specific intent to fail to do something the law
2 requires to be done.
2 And as to the final element, the fourth element, you
2 are instructed the material facts charged in Counts 6, 8, 10, and
2 12 are matters within the jurisdiction of the Senate Banking
2 Committee and are thus matters within the jurisdiction of a

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department or agency within the United States.
Now, Ladies and Gentlemen, my final instructions are as
follows to you: First, you may notice that in some of the counts
of the indictment, the word "and" is used between various
charging words. For instance, Count 4 charges the defendant,
Deborah Gore Dean, demanded, sought, received, and accepted a
thing of value. You are specifically instructed that it is
sufficient for the government to prove the defendant, Deborah
Gore Dean, did one of the alternative acts so charged. Thus, in
10 the example given regarding Count 4, it's sufficient for the
11 government to prove the defendant demanded or sought or received
12 or accepted a thing of value, provided the other elements of that
13 offense are also satisfied.
14 Now, Ladies and Gentlemen, as to your deliberations,
15 when you return to the jury room, you should first select one
16 from among your members to be your foreperson. The foreperson
17 should preside over your deliberations and will be your
18 spokesperson here in open court.
19 Unanimity. The verdicts you render must represent the
20 considered judgment of each juror. In order to return verdicts,
21 each juror must agree to the verdicts. Your verdict as to the
22 defendant must be unanimous.
23 As to the exhibits, I am sending back to the jury room
24 all the exhibits which have been received in evidence as you
25 retire for your deliberations. You may examine any and all of

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1 the exhibits during your deliberations. This includes the tape
2 recording that was played. If you wish to listen to the tape
3 recording, please advise the marshal.
4 Let me depart for one minute and tell you if we go

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5 ahead with the deliberations this evening, I will not get those
6 exhibits back to you tonight. We have to sort them all out and
7 organize them. But they will eventually get back to you.
8 Now communications between the court and jury during
9 deliberations. If it becomes necessary during your deliberations
10 to communicate with me, you may send a note by the clerk or
11 marshal, signed by your foreperson or by any one or more members
12 of the jury. No member of this jury should ever try to
13 communicate with me by any means other than a signed note, and I
14 will never communicate with any member of this jury on any matter
15 touching the merits of this case except in writing or orally here
16 in open court.
17 Again, let me depart a minute from my written
18 instructions. I don't mean by that if you want more ice water,
19 you need to send me a formal written request and wait for the
20 marshal to find me and bring it to me to sign it. I'm talking
2 about things dealing with the merits of the case, please.
2 Because I frequently get requests for more ice water.
2 You can ask the marshal, and he'll get it for you. He'll be
2 outside your door at all times, making sure no one disturbs you
2 in your deliberations. If you need to take a smoke break, you

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1 can ask the marshal to take a smoke break. But I'm talking about
2 matters dealing with the case.
3 Now, Ladies and Gentlemen, back to the written
4 instructions. Bear in mind also that you are never under any
5 circumstances to reveal to any person -
6 not the clerk, the
6 marshal, or to me -
how the jury stands on the question of the
7 defendant's guilt or innocence until after you have reached a
8 unanimous verdict. This means, for example, that you never
9 should state to the court that the jury is divided six to six,
10 seven to five, eleven to one, or in any other fashion, whether
11 for conviction or acquittal.
12 And again, as an aside, let me tell you that would
13 cause severe complications in the case and maybe a mistrial, so
14 you're never to tell anyone how you stand unless and until you
15 reach a unanimous verdict, and then you simply tell us you've
16 reached a verdict.
17 Now, Ladies and Gentlemen, I'm going to provide you, I
18 am providing you with a copy of the instructions. During your
19 deliberations, you may if you want refer to these instructions.
20 while you may refer to any particular portion of the
2 instructions, you are to consider the instructions as a whole,
2 and you may not follow some and ignore others. The fact that you
2 have been provided a copy of my instructions should not
2 discourage you from making an inquiry regarding the meaning of
2 these instructions if necessary. Please return the instructions

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1 to me when your verdict is rendered.
2 Finally, Ladies and Gentlemen, a form for the verdicts
3 has been prepared for your convenience. If you reach a unanimous
4 agreement as to your verdicts, you will have your foreperson
5 write your verdicts, date and sign the form, and then return with
6 your verdicts to the courtroom.
7 Again, the verdict form -
again departing from my
8 written instructions, because that completes them -- I'm holding
9 it up just so you can get an idea of what it is. It's a simple

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10 form that says "Verdict Form" on it. It says "Count 1," it
11 describes the count, it says how do you find as to that count,
12 guilty or not guilty, and it goes through each of the charges in
13 that fashion, and then it ends with a signatures line for the
14 foreperson and a date.
15 Now, Ladies and Gentlemen, I need to do two things.
16 One, I don't want you to deliberate now right this instant, all
17 right? what I'd like you to do is just wait in your seats for a
18 minute, and I'd like to ask Ms. Hardy if she would prefer to come
19 back tomorrow and begin deliberations rather than start today,
20 because once you begin deliberations, we let the alternates go,
2 and then I can't replace you.
2 JUROR HARDY: Okay. Can we come back tomorrow?
2 THE COURT: You'd like to come back tomorrow morning?
2 Pardon me?
2 JUROR HARDY: I'll be all right in a couple hours,

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1 THE COURT: I couldn't hear the last part, I'm sorry.
2 JUROR HARDY: I said I'll be all right in a couple
3 hours. Can we come back tomorrow?
4 THE COURT: All right, we'll do that tomorrow morning,
5 because I don't want to start tonight in case you don't feel good
6 tomorrow. Then we've lost the alternates, and we've got a
7 problem; we don't have enough jurors any longer.
8 JUROR HARDY: I'll be all right tomorrow. No, it only
9 lasts a couple hours.
10 THE COURT: All right, that's fine then. I appreciate
11 your attention this afternoon.
12 All right, Ladies and Gentlemen, let me talk to counsel
13 before we recess for a few minutes, please, at the bench, and
14 then we'll be getting back to you. Stay right where you are,
15 please.
16 (Bench conference on the record.)
17 THE COURT: All right, let me start with the government
18 on any exceptions or corrections to make besides some typos I saw
19 in here. Anything else?
20 MR. O'NEILL: No, Your Honor.
2 THE COURT: All right. Do we have from the defendant
2 any particular exceptions beyond which you earlier indicated?
2 MR. WEHNER: Yes, sir. Page 40.
2 THE COURT: All right.
2 MR. WEHNER: The first full paragraph, Count 12, Count

1 12 charges.
2 THE COURT: Okay.
3 MR. WEHNER: I would ask that the Court add at the end
4 of the sentence the words "unless sent directly by the
5 secretary." I think Your Honor's charge describes it a little
6 overbroadly.
7 MR. O'NEILL: Your Honor, would you like, maybe the
8 best thing would be to read exactly what she said, if you want a
9 copy.
10 THE COURT: I don't want to see that to become a
11 problem.
12 MR. WEHNER: That's fine
13 MR. O'NEILL: Yeah, I think Steve has a good point.
14 THE COURT: Let me just see, I did try to, as I said,
15 cut the instructions down -
16 MR. O'NEILL: Right.
17 THE COURT: -
and try to organize things, and if I cut
18 too much out, let me just see what I have in this indictment. I
19 don't want to be misleading at all.

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20 MR. WEHNER: Yes, sir.

2 THE COURT: All right, Count 12 does have the same
2 language as the perjury count, and it has the exclusion for the
2 "unless sent directly by the secretary." what I'll do is go back
2 and then read that again to them on page 40 then and add that
2 language -

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MR. WEHNER: Yes, sir.

2 THE COURT: -
that you wish.

3 MR. WEHNER: Yes, sir.

4 THE COURT: All right, I'll add "unless sent by the
5 secretary. I think that's appropriate.

6 MR. WEHNER: The second is simply for the record, I
7 think that the affirmative defense of the statute of limitations
8 should have been mentioned on pages 14, 27, and 43.

9 THE COURT: Okay. I'll take that as an exception on
10 the arguments.

11 MR. WEHNER: Yes, sir.

12 THE COURT: Okay. I'll do that, and then I'm going to
13 dismiss them and have them come back in the morning, because
14 Ms. Hardy doesn't feel well.

15 Yes?

16 MS. SWEENEY: Your Honor, we do have the new copies of
17 the indictment. I gave Mr. Wehner one right when we started the
18 lunch break.

19 THE COURT: All right, thank you. Ms. Whyte can get a
20 copy. Thank you.

21 (End of bench conference.)

22 THE COURT: All right, Ladies and Gentlemen, I want to
23 make one correction. I left out a line in one part of an
24 instruction. Let me go back to that for a minute, and then we'll
25 wrap it up.

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1 In the counts concerning the alleged falsifying or
2 concealing by trick or device, Count 12 of that series of charges
3 charges that on or about August 6, 1987, defendant Deborah Gore
4 Dean knowingly and willfully falsified, concealed, or covered up
5 material facts from the Senate Banking Committee when she
6 testified under oath before the Senate Banking Committee
7 concerning her lack of knowledge of the award of mod rehab units
8 to projects in the State of Maryland, unless sent directly by the
9 secretary, and I had left that last phrase out, and so it's
10 amended to reflect that. It will be in the written instructions
11 you will get as to that Count 12 offense.

12 Now, Ladies and Gentlemen, we'll recess now then
13 instead of having you begin your immediate deliberations. What
14 that means is two things: One, you cannot start to deliberate.
15 Even though you've heard the instructions and you're ready, you
16 cannot do that on your way home together. Two of you cannot talk
17 about the case together.

18 Secondly, it means that I'm going to still have back
19 tomorrow morning the two alternates. There's a good chance you
20 could be used if someone is ill and can't come tomorrow, and then
2 we'd have to replace that juror. If all twelve jurors show up
2 and are feeling well tomorrow, you will be let go at that point,
2 all right? But I need you back tomorrow morning. It's essential
2 in case we have problems overnight.

2 Ladies and Gentlemen, when I say you can't deliberate

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1 at this point, I not only mean that; I mean that there are no
2 deliberations, meaning talking about this case, outside the jury
3 room. When all twelve of you who are the deliberating jury are
4 present, and that means when you're in the room behind my
5 courtroom here, that's the only time you talk about it, and not
6 when ten of you are there, eleven are there, but twelve. When
7 all twelve are there, then you may deliberate.
8 what I'd like you to do tomorrow morning is come in
9 here and check in and see when you're here. Leave the door open,
10 and don't talk about the case even if all twelve show up. Wait
11 until we make sure everybody is here, the marshal and I make sure
12 everybody is here, and then when we're satisfied everybody is
13 here -- and the alternates can sit in there with you; just don't
14 talk about the case in the morning -- then when everybody is here
15 and everybody feels in good shape, we can go ahead and begin
16 deliberations and release the alternates. But don't on your own
17 start to deliberate even though you're all in that room.
18 But once you start your deliberations, you can only
19 deliberate in that room with the door closed, when all twelve of
20 you are there. If you need to take breaks during your
2 deliberations, you're tired, it's stuffy in there, open the door
2 and take a walk, that's fine, but then the others don't talk
2 while anybody is out of that room. Only when twelve are all
2 together deliberating together can you function as a jury.
2 Now, Ladies and Gentlemen, in the overnight recess,

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1 it's a very sensitive part of the case. You have not started
2 your deliberations yet. You cannot advance any opinion about
3 this case to anyone. You can't talk to anyone about it, read,
4 watch, or listen to it in the newspapers or television or radio.
5 People were in here listening to the arguments. People
6 were in here listening to what has gone on lately, and maybe
7 people want to talk about the case. You cannot do that. It
8 would be totally improper. So don't do that.
9 Just have a relaxing evening. You can watch the last
10 of the world series games, I think, if you want, although I had
11 the other side, and after that, you can come back and be ready to
12 go tomorrow morning.
13 I'm going to let you have a little later reporting
14 tomorrow morning for the convenience of some jurors. So I'm
15 going to have you come in at 10:00 instead of 9:30, all right?
16 You're welcome to bring with you to the jury room donuts and
17 coffee, whatever you'd like in the morning to be comfortable. If
18 you bring a newspaper, make sure there's nothing about this case
19 in it, but you're welcome to bring reading materials, too.
20 But in any event, we'll be ready to deliberate by
2 10:00. we'll have everybody here and ready to go by 10:00. I'll
2 ascertain that you all feel well and are ready to go ahead. If
2 you all are here, then we'll go ahead, but I'll tell you when to I 2 do that,
and then we'll talk to the alternates, all right? So I
2 need both alternates back tomorrow morning, too. 10:00, please.

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1 All right, you're excused for the evening. Have a
2 pleasant evening. we'll see you back tomorrow morning at 10:00
3 a.m.
4 (Jury out.)
5 THE COURT: A couple matters: One is I would like the
6 exhibits gone over to make sure they're in order and correct and

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7 that something didn't get in by accident or is admitted by
8 accident and that any kind of index or list that goes back so the
9 jury can look down and find what exhibit they'd like is neutral
10 in its description and that both parties have examined those
11 lists, and make sure they're in agreement with my court clerk as
12 to what's in evidence and that it's accurately portrayed. It may
13 mean you're going to have to not get the exhibits organized until
14 sometime tomorrow, but I need that done in fairness to both
15 sides.
16 Secondly, you don't have to be in the courtroom. You
17 should be nearby on call, wherever that would be. I don't know
18 where you all hang out.
19 Your office is up on Capitol Hill?
20 MR. WEHNER: Yes, Your Honor. I'm real close to
21 Independent Counsel's office, actually, so we're both within a
22 10-minute walk.
23 THE COURT: Ten minutes? Within 15 minutes is my rule.
24 That's okay. Please don't be in some other community, but within
25 15 minutes is fine. If you're going to be somewhere else in this

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courthouse or something for some period of time, please tell
2 Ms. Whyte -- she'll be the contact person for you -
3 where you'll
4 be so she can reach you by phone if needed and get you back here
5 if we have to, and we can proceed on that basis.
6 All right, you can be here tomorrow morning if you
7 want. You don't have to be -
8 well, that's not true. You'd
9 better be here tomorrow morning, because I may have to replace a
10 juror. So you'd better be here in the morning in case Ms. Hardy
11 doesn't come back for some reason or says that she can't sit and
12 we have to reach a decision how to handle that. So you'd better
13 be here tomorrow morning then at 10:00 a.m. to take up that issue
14 then.
15 All right. We have copies of the indictment for the
16 jury and the verdict form and copies of the instructions.
17 MR. O'NEILL: Judge, the only thing with the indictment
18 would be, and we brought the actual signed last page, if you
19 think the one we've turned up, it doesn't seem to matter.
20 THE COURT: No, I don't think we need that.
21 MR. O'NEILL: Okay.
22 THE COURT: That's fine. Thank you.
23 All right, then we'll recess until 10:00 in this case
24 and have you back at that time, and then after that, just let us
25 know where you'll be, please.
26 MR. O'NEILL: Thank you, Your Honor.
27 THE COURT: All right. Thank you, all.

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1 (Recess from 3:20 p.m. to 10:00 a.m., October 22, 1993.)
2
3 CERTIFICATE OF THE REPORTERS
4 We certify that the foregoing is a correct transcript of the
5 record of proceedings in the above-entitled matter.
6
7

Zizzo

8
9

Thomson

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1 UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
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UNITED STATES OF AMERICA, Criminal No. 92-181-01
3
vs. Washington, D.C.
4 October 22, 1993
DEBORAH GORE DEAN, 10:20 a.m.
5
Defendant.
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TRANSCRIPT OF JURY TRIAL
8 BEFORE THE HONORABLE THOMAS F. HOGAN
UNITED STATES DISTRICT JUDGE
9
VOLUME XXVIII
10
APPEARANCES
11
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ALSO PRESENT: MARK BATTS
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19 OFFICIAL COURT REPORTER: ANNELIESE J. THOMSON, RPR-CM
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Washington, D.C. 20001
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2 (Pages 3588 - 3599)
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1 PROCEEDING S
2 (Defendant present, Jury out.)
3 THE COURT: Good morning, counsel.
4 THE CLERK: Criminal No. 92-181, United States of
5 America v. Deborah Gore Dean. We have Robert O'Neill and Paula
6 Sweeney for the government, Stephen Wehner for Ms. Dean.
7 THE COURT: The jury is all back, and Juror No. 4 has
8 indicated to the staff that she feels better and is fine and
9 ready to proceed.
10 I had another matter that I wanted to discuss briefly
11 with counsel, and before I have the jury deliberate, I think I'll
12 let counsel look at these case law and see if there's any
13 response to it.
14 Closing argument got very much into the prosecutor's
15 attack on Ms. Dean as a liar based upon her testimony, and it's
16 certainly appropriate to comment on her testimony as a defendant,
17 but as to the methodology used by counsel for the government, I
18 had some concerns, and it occurred to me last night, did not
19 occur to me during the argument, but last night, we had a case on
20 this in this circuit that I found this morning in doing some
2 research by Circuit Judge Burger at that time, a 1968 case,
2 402 F.2d 656, Harris v. U.S.
2 That was followed by several subsequent cases, one
2 being a civil case, per curiam, again Burger on the opinion,
2 referencing the Harris case, as holding it's improper conduct

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1 to characterize a person as a liar, a witness as a liar, that is,
2 personal comment by counsel, and that merits reversal at times.
3 I wonder if we should not give an instruction to the
4 jury about that.
5 MR. O'NEILL: Well, Your Honor, I am familiar -6
THE COURT: I mean, it's a perjury case, and you're
7 going to have to make comments upon her credibility. I
8 understand that, and that's one reason I did not stop it,
9 obviously, but I had known about this rule, because I had been
10 subject to it myself in closing argument in this circuit for a
11 long time, and I went back and read it again, and I thought
12 perhaps I should have let the jury know at least that what
13 counsel says, obviously, as we said in instructions, about a
14 matter is not evidence in the case, and it's their personal
15 opinion. In the context of a criminal case, I didn't want to see
16 any concerns raised in that.
17 Let me let you all look at these cases. I think you
18 probably have seen them.
19 MR. O'NEILL: Yes, Your Honor. Also, as a possibility,
20 you might want to, since you have to call them in anyway to let
2 them deliberate, say, "Don't forget your testimony has to be
2 based on the evidence. What counsel for either side says is not
2 evidence."
2 THE COURT: That's what I'm talking about, an
2 ameliorating instruction before they begin to deliberate, but

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1 maybe a little more pointedly, but something like that. But you
2 both can look at this. The first one you want to look at is
3 Harris. 402. That's the criminal one. This is a civil case
4 that follows Harris.
5 I'm just going to take a short break so you can look at

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6 those cases for a minute. There are some other ones I just
7 didn't pull. There are about seven or eight in this circuit
8 following that line of reasoning.
9 we'll take a short break.
10 (Recess from 10:25 a.m. to 10:45 a.m.)
11 MR. WEHNER: Your Honor, could I have a minute to speak
i 12 to Ms. Whyte?
13 THE COURT: Sure.
14 Are you all right?
15 MR. WEHNER: Yes, sir. I think we've got the
16 exhibits -17
THE CLERK: Not quite.
18 THE COURT: All right. Let me ask counsel if they've
19 had a chance to briefly look at the cases I've pulled and have
20 any comment about an ameliorating instruction or not to the jury.
21 MR. O'NEILL: Judge, from the government's point of
22 view, the government would have no problem with Your Honor,
23 before sending them out once again, just stating, you know, "It's
24 your recollection of the evidence that controls. What counsel
25 for each side says is not evidence. As I told you at the

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1 beginning of the case and as I told you again before closing
2 argument, it's your determination that controls. You're the
3 judges of the facts."
4 THE COURT: Mr. Wehner, do you have any comment?
5 MR. WEHNER: Your Honor, I don't think Mr. O'Neill's
6 suggested instruction addresses the point with regard to
7 substituting his personal opinion with regard to Ms. Dean's
8 veracity as taking her testimony and throwing it out in the
9 garbage. If Your Honor will recall, I did not object to that
10 during his opening. I did object to it during his rebuttal.
11 THE COURT: Right, eventually in rebuttal.
12 MR. WEHNER: Yes, sir. And I was overruled as to that
13 objection.
14 THE COURT: well, the objection was that it was a
15 mischaracterization of her testimony, as opposed to improper
16 argument.
17 MR. WEHNER: Fair enough. Whatever it says, Judge.
18 THE COURT: I'm going to give an ameliorating
19 instruction about what is for the jury to decide is the issues
20 and it's not the opinion of counsel that is appropriate in the
2 case, because I think the case law in our circuit, referring to
2 Harris v. United States, 402 F.2d 656, is fairly clear as well
2 as subsequent expressions of that, although the latest case I
2 have is 424 F.2d 769, a civil case, Olenin v. Curtin &
2 Johnson. Inc.

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1 THE COURT: All right, I'll have the jury in. They're
2 ready to go. They'd like to get going, I'm sure, in the
3 deliberations. And I'll let the alternates go.
4 If you all wish, you may speak to the alternates, but
5 I'm going to advise them, obviously, they can't talk to anybody
6 else about this case.
7 (Jury in.)
8 THE COURT: All right, good morning.
9 THE JURORS: Good morning.
10 THE COURT: I'm glad you're all here. I take it you're
11 feeling well and ready to proceed? You have no concerns?
12 All right. What we're going to do now, Ladies and Gentlemen,
13 I have a couple of matters. One, I'm going to give a very brief
14 instruction to you concerning the arguments you heard yesterday
15 before you begin your deliberations, remind you of some things
16 that were said earlier, in essence, and then secondly, we're
17 going to be saying good-bye to Ms. Lea and Ms. Chisolm in a

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18 minute.

19 Let me ask Ms. Lea and Ms. Chisolm, do you have
20 anything in the jury room back here, coats and belongings, books,
2 papers, purses, anything like that?
2 ALTERNATE JUROR LEA: No.
2 ALTERNATE JUROR CHISOLM: No.
2 THE COURT: Okay. All right, Ladies and Gentlemen,
2 first as to the arguments you heard yesterday and the day before,

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1 I take it, but particularly as to yesterday and the day before,
2 the closing arguments and more particularly as to the
3 prosecutor's closing arguments, there were comments made as to
4 using the word "liar" or "lying" and the like, and it is,
5 obviously, the issue is for you as the jury to make a decision
6 keeping in mind the evidence in the case, and it is not the
7 opinion of counsel, that is, whatever their personal belief is,
8 that is appropriate, so that an argument to you that someone is
9 lying is really an expression of personal opinion by the
10 attorney, as opposed to pointing you to the evidence and saying
11 it's for you to make up your mind whether or not someone is
i 12 telling the truth. I want you to keep that in mind.
13 It's the evidence you have to focus on and not the
14 statements of counsel, which I informed you previously are not
15 evidence in the case.
16 The Court will be sending back to you shortly the
17 exhibits in the case, and as I said previously, then you review
18 the exhibits along with your recollection jointly of what the
19 evidence is in the case, the testimony of the witnesses, and in
20 following my instructions, you deliberate on that basis. And
2 you're not to be influenced by any personal expressions of
2 whether someone is worthy of belief or not by counsel in the
2 case,
2 Now, Ladies and Gentlemen, with that advice to you, I'm
2 going to ask you to go back and begin your deliberations. A copy

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1 of the instructions will be sent back to you, the exhibits, as
2 soon as they're finished being prepared, will be sent back to
3 you, and you should now begin your deliberations.
4 That means you keep in mind my instructions and proceed
5 to follow them in your deliberations. You're now free of the
6 admonition we've had for six weeks about not talking about the
7 case among yourselves. You only still talk about it among
8 yourselves when all twelve of you are together in this room at
9 one time.
10 If you need to take breaks, that's fine. If you take a
11 break and somebody wants to walk outside, go down the hall and
12 smoke or something, that's fine. I'd ask you not to smoke in the
13 jury room, for those people who don't smoke. But once someone
14 takes a smoke break, remember the others no longer continue with
15 deliberations. You wait until they're back.
16 All right, so you can be excused now.
17 I would like Ms. Lea and Ms. Chisolm to stay for one
18 minute so we could talk to them.
19 (Jury out.)
20 THE COURT: All right, Ms. Lea and Ms. Chisolm, you've
2 been with us since early September. As you note, we had to use
2 two alternates, and up until a few minutes ago, we may have had
2 to use one or both of you with the jurors who are not feeling
2 well, but they say they're ready to go, and now that they're
2 going to begin their deliberations, it's necessary to release you

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1 all.
2 I want to point out to you we could not have gone
3 forward with the case unless we had jurors available to take the
4 place of someone who had become ill during the trial or otherwise
5 unavailable, and we'd have to start the trial over again, so it's
6 necessary and you served a very important purpose in the case.
7 It's a little frustrating you don't get to go back and
8 deliberate, I'm sure, after this long trial, and you have your
9 own feelings and opinions about the case you'd like to discuss
10 with others and be able to finish your work, but that's not the
11 way the system works in the criminal cases.
12 In our civil cases today, we do have a system now where
13 all the alternates go back and deliberate as well as the regular
14 jury, but we don't do that in a criminal.
15 What I would like you to do is a couple things for me.
16 One, I'd like you, if you have become friendly with any of the
17 sitting jurors, not to talk with them at all about the case at
18 this time. If you ride home with them or see them on the weekend
19 or something like that, please don't discuss this case whatsoever
20 if they are still in deliberations. It would be improper to do
2 so.
2 Once you hear that they render a verdict -- and you can
2 call the Court and ask if a verdict has come down -- you can then
2 talk with them if you wish, but not until then. It would be
2 improper to talk to them at all about the case during their

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1 deliberations. It could cause a mistrial. So please don't do
2 that.
3 If you wish, you may talk to counsel about the case. I
4 don't object to that. I don't want you talking about anything
5 that may impinge upon the other jurors or anything about the
6 other jurors personally at all, but if you want to talk about
7 your own impressions about the case or about counsel with them,
8 you're welcome to do so, but you don't have to.
9 Other than that, I'm going to thank you again for your
10 time and effort with us. It's a sacrifice to be away from a
11 family and friends and work for such a long time, but we
12 appreciate it, and it's the best system that I think we've been
13 able to devise so far for trying cases fairly is to have citizens
14 of the community act as the jury.
15 A long time ago, they used to have the judges only do
16 it, and in England, well, almost 800 years ago now, when King
17 John and the barons met and wrote what they call the Magna Carta
18 was the first time they incorporated something like a jury trial
19 in our English system that we adopted here, and it's done well
20 for that many years.
2 we'll have you released then. You can go to the jury
2 lounge and tell them you're finished in this case. You'll get
2 credit for being here today and get your check for being here
2 today as well.
2 And again, we appreciate your time and efforts with us.

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1 If you have any other questions, Ms. Whyte can answer anything
2 for you, our courtroom clerk, all right?
3 All right, would you please go out the front door then
4 so you don't bother the people in the back? Thank you very much.
5 (Alternate jurors excused.)
6 THE COURT: All right, I'm going to stand in recess,
7 and you tell Ms. Whyte where you are.
8 MR. O'NEILL: Judge, can I just make one reference for

9 the record?

10 THE COURT: Sure.

11 MR. O'NEILL: I guess it was my misunderstanding, Your
§ 12 Honor, but I didn't realize you would direct your final comments
13 directly to the prosecutor's opinion, so I would just cite the
14 Court to page 3508 of the transcript, where I state that it is
15 not for me to determine the credibility of the witnesses, but it
16 is clearly the function of the jury, after charged by the Judge,
17 who will instruct them on what's credible and what's not.

18 THE COURT: Okay. No, I know you had done that. It's
19 one reason I didn't interrupt the argument yesterday, because you
20 had laid the foundation, but it got repeated so much, the lying
2 and the garbage can, I felt that an ameliorating instruction was
2 probably appropriate.

2 All right, we'll take a recess until return of court.

2 MR. WEHNER: Your Honor, what's your schedule today?

2 When do you intend to let the jury go this evening? Are you

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1 going to keep them late?

2 THE COURT: I'll keep them until 4:45, somewhere in
3 that range.

4 MR. WEHNER: Thank you, Your Honor.

5 THE COURT: All right. And I'll be here in court all
6 afternoon in another case, so I'll be here.

7 (Recess at 11:00 a.m.)

CERTIFICATE OF THE REPORTER

10 I certify that the foregoing is a correct transcript of the
11 record of proceedings in the above-entitled matter.

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Anneliese J. Thomson

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1 UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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UNITED STATES OF AMERICA, Criminal No. 92-181-01

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vs. Washington, D.C.

4 October 25, 1993

DEBORAH GORE DEAN, 11:45 a.m.

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Defendant.

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TRANSCRIPT OF JURY TRIAL

8 BEFORE THE HONORABLE THOMAS F. HOGAN

UNITED STATES DISTRICT JUDGE

9

VOLUME XXIX

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2 (Pages 3600 - 3609)

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2 COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

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PROCEEDING S

2 (Defendant absent, Jury out.)

3 THE COURT: All right, good morning, counsel.

4 THE CLERK: Criminal No. 92-181, United States of

5 America v. Deborah Gore Dean. We have Robert O'Neill and Paula

6 Sweeney for the government, Stephen Wehner for Ms. Dean.

7 THE COURT: All right, we've got a note from the jury,

8 signed by Milton Phillips, the foreperson, he's Juror No. 1 -- at

9 least that's how he identifies himself -- a while ago, and it

10 said, "Can we have a transcript of Louis Kitchin's testimony on

11 Count 3?" That inquiry is exactly as I was afraid of, they would

12 make inquiries about transcripts of testimony.

13 So they are asking to see Louis Kitchin's testimony on

14 Count 3. My feeling is -- and I'll hear from counsel -- that if

15 they had asked about a specific reference, did Mr. Kitchin say it

16 was Tuesday when he did this, had this meeting, that might be

17 something we could answer and give them something, but to start

18 giving parts of testimony when there's other testimony, also,

19 that may affect that issue, without giving all the transcribed

20 testimony, I have concerns.

21 Mr. O'Neill or Ms. Sweeney, do you have anything on

22 this?

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23 MR. O'NEILL: Yes, Your Honor. The government is in
24 agreement with the Court. I've never seen transcripts go back,
25 first of all, so that would be highly unusual, and generally, if

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1 they have a specific inquiry, the court reporter could read back
2 a specific piece.

3 THE COURT: Right, exactly.

4 MR. O'NEILL: Perhaps an overall cautionary instruction
5 again telling them, "It's your recollection of the evidence that
6 controls, all of you. We don't want to highlight one particular
7 part of the evidence. There -a

great many witnesses testified

8 and a great many documents, and if you have one specific
9 question --as this Court has already indicated --we could
10 address that particular inquiry."

11 THE COURT: All right.

i 12 (Defendant present.)

13 THE COURT: Mr. Wehner, as to this request for the
14 transcript of Mr. Kitchin's testimony as it relates to Count 3?
15 Ms. Dean just got here. Do you want to talk to her for a minute
16 about the note?

17 MR. WEHNER: If I could just have a few seconds?

18 THE COURT: Sure.

19 MR. WEHNER: Your Honor, I don't -I
agree with the

20 Court. I don't agree with Mr. O'Neill in terms of the need to
2 give them an extended additional instruction. I would prefer
2 something brief along the lines of, "It is your recollection of
2 the testimony that governs," period.

2 THE COURT: All right. I will have the jury brought in
2 and briefly instruct them. I will say a little bit more than

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1 counsel's request for the defendant, but I will give them a brief
2 instruction they're going to have to rely upon their collective
3 recollection as to the testimony, that there were a lot of
4 witnesses, and supplying a transcript of part of the testimony of
5 one witness in relation to the other witnesses' testimony, fall
6 into dangers of highlighting particular testimony.

7 All right, we'll have them in, and I'll talk to them
8 briefly. Is the marshal out there?

9 They're going to go to lunch in about 20 minutes.

10 THE CLERK: 12:15.

11 THE COURT: About 12:15, they're going to lunch.

12 They started at about 9:30, right, Gloria?

13 THE CLERK: It was about 9:45.

14 THE COURT: About 9:45.

15 (Jury in.)

16 THE COURT: All right. Ladies and Gentlemen, good
17 morning.

18 THE JURORS: Good morning.

19 THE COURT: Thank you for waiting for us until we got

20 everybody organized here and could answer your question. The
2 question came from the jury, and I'll read it again just so you
2 can keep it in your minds, and then I'll respond to it, and we
2 have consulted with counsel on this matter: "Can we have a
2 transcript of Louis Kitchin's testimony on Count 3?" Signed by
2 Milton Phillips.

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1 The short answer to that is no. Let me explain that to

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2 you. It's not an arbitrary decision at all. The concern the
3 Court has is that it's your collective recollection of all the
4 witnesses' testimony that you have to rely upon, and to highlight
5 one part of one person's testimony by giving you the transcript
6 of that as compared to all the other witnesses that may have
7 testified about the subject may be unfair, so that I'm going to
8 have to have you rely upon your collective recollection of the
9 testimony that was given in this case.
10 The only exception to that would be if there was a
11 specific question about did somebody say Tuesday or somebody say
12 Wednesday, some particular issue that we could, factual that's
13 not at dispute, basically, issue we could ask the court reporter
14 to look through the testimony about, but otherwise, as I
15 mentioned in my final instructions in the general charge to you,
16 that we're not going to be sending back all the transcripts of
17 all the testimony of the witnesses to you, because it's really
2 18 your recollection that has to control.
i
19 All right. Thank you again for your attention to this
20 matter, and I'm going to release you now. You can continue
21 deliberations. I think lunch is about 12:15. You'll be taken to
2 lunch. All right?
2 (Jury out.)
2 THE COURT: All right, we'll be back whenever there's
2 any other word from the jury. We stand in recess.

1 (Recess from 11:55 a.m. to 1:57 p.m.)
2 (Defendant present, Jury out.)
3 THE COURT: All right, the jury --do you need to call
4 the case again?
5 THE CLERK: No. No, sir.
6 THE COURT: The jury has come back with a follow-up
7 note, as might have been expected from the instruction. For the
8 record, it reads, "we would like to know the date or very close
9 time frame of Sherrill -- they spelled it -- Needles-Hawkins'
10 testimony on when Lou Kitchin called and asked, 'where are my
11 (his) units?'"
12 I'll listen to counsel's remarks about that, what they
13 recall from the testimony what they're addressing in this note.
14 MR. O'NEILL: Judge, the only --I
believe there were
15 two references during Ms. Nettles-Hawkins' testimony as to
16 conversations with Lou Kitchin. I know one occurred on direct
17 testimony at page 1551 of the transcript. I have digested much
18 of the testimony, so that's how I can do that.
19 The redirect, I believe the other notation was on
20 redirect, and I don't have a notation as to that, just an
21 independent recollection.
22 THE COURT: And what was the testimony about?
23 MR. O'NEILL: On the -- as to page 1551, it was that
24 Mr. Kitchin was calling about the status of his units, and
25 Ms. Dean said something to the effect -- and I'm quoting my

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1 notes -- something to the effect that tell him they're coming.
2 THE COURT: The question was about a date or a time
3 frame when that telephone message had come in.
4 MR. O'NEILL: Oh.
5 THE COURT: Was it a telephone message they were
6 referring to?
7 MR. O'NEILL: Yes.
8 THE COURT: It was an actual message in evidence?
9 MR. O'NEILL: No. It's a telephone message through
10 oral testimony.

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11 THE COURT: Through oral testimony.
i 12 MR. O'NEILL: There is no corresponding written
13 memoranda reflecting that.
14 THE COURT: Was there a time frame given for this?
15 MR. O'NEILL: No. In terms of the date, yeah, I wasn't
16 sure when Gloria first read the message whether they mean the
17 date she testified, but now as you're asking -18
THE COURT: It said, "We would like to know the date -19
I think --or very close time frame of the Hawkins," well, it
20 says, "testimony on when Lou Kitchin called." I guess they're
2 asking if she testified when he called her.
2 MR. O'NEILL: Yeah.
2 THE COURT: They're asking simply, as I understand it,
2 when this alleged telephone call take place.
2 MR. O'NEILL: If that is their inquiry, Your Honor, I

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1 don't believe there was any testimony as to when it occurred.
2 That would be my recollection.
3 THE COURT: Let me give everybody the note so you can
4 look at the note again. Everybody can look at the note to make
5 sure I'm reading it correctly.
6 MR. WEHNER: Your Honor?
7 THE COURT: Yes, Mr. Wehner.
8 MR. WEHNER: My recollection is that there is no, as
9 Mr. O'Neill said, there is no testimony as to when that alleged

10 telephone conversation took place.
11 THE COURT: Looking at my own notes about the trial, I
12 don't see any particular reference to a time frame.
13 when did she testify in your notes? Do you know the
14 day?
15 MR. O'NEILL: I don't go by dates, Your Honor.

I 16 THE COURT: Do you know the order of her testimony?
! 17 MR. O'NEILL: Yes. Immediately preceding Philip Winn,
i 18 immediately after Jack Jennings.

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>-19 THE COURT: I've got it. I see. She testified
20 September 28.

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Q.
2 MS. SWEENEY: And, Your Honor, if it would be helpful,
2 our recollection as to the second conversation that she testified
2 about regarding Mr. Kitchin was about whether he could have a

2 project-specific letter. Again, that's from my recollection.
2 THE COURT: She spent a lot of time identifying entries

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1 in the calendar. My notes don't reflect any particular language
2 of the telephone conversation about Mr. Kitchin's call, and I
3 certainly don't reflect any date from my own notes. I haven't
4 gone through the transcript.

5 Would it be safe to tell the jury that there was no
6 testimony as to the date or the time frame when this telephone
7 call they've referred to occurred?

8 MR. WEHNER: I would prefer that Your Honor's response
9 not assume that that telephone conversation took place -10

THE COURT: Occurred, yes.

11 MR. WEHNER: -

but with that exception, I have no
12 problem with that type of answer.

13 MR. O'NEILL: Judge, I don't know how you cannot refer
14 to the conversation, since it's at page 1551 of the transcript,
15 but I have no notes as to any date being mentioned, so I can't
16 tell you that any was mentioned.

17 THE COURT: Yes, I do have a note about Mr. Kitchin's
18 phone call, that she testified he kept pestering her and he asked
19 her where the units were. She said they were coming. That's the
20 shorthand version of it. I don't see any date on it.

21 Can I have the note back, please?

22 All right, we'll have the jury in. I'll respond that
23 we don't know when this alleged phone call took place. That's
24 all.

25 (Jury in.)

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1 THE COURT: All right, Ladies and Gentlemen, thank you
2 for coming in promptly.

3 We got this note over lunch. It took a while to get
4 everybody back together then. The question was, "We would like
5 to know the date or very close time frame of Sherrill Needles
6 Hawkins' testimony on when Lou Kitchin called and asked, 'where
7 are my (his) units?'"

8 I think it's Sherrill "Nettles."

9 But in any event, discussions with counsel and a review
10 of the record does not indicate there was any date or close time
11 frames given as to any alleged phone call that may have gone
12 forward. There was no such testimony as to any time frame.
13 So that's all we can tell you about it. You have to go
14 back to continue in your deliberations.

15 (Jury out.)

16 THE COURT: All right, we'll recess until return of
17 court.

18 (Recess at 2:08 p.m.)

19

20 CERTIFICATE OF THE REPORTER

2 I certify that the foregoing is a correct transcript of the
2 record of proceedings in the above-entitled matter.

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Annelieae J. Thomson

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1 UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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UNITED STATES OF AMERICA, Criminal No. 92-181-01

3
vs. Washington, D.C.
4 October 26, 1993
DEBORAH GORE DEAN, 2:30 p.m.

5
Defendant

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7
TRANSCRIPT OF JURY TRIAL
8 BEFORE THE HONORABLE THOMAS F. HOGAN
UNITED STATES DISTRICT JUDGE

9
10

APPEARANCES:

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FOR THE GOVERNMENT:

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15 FOR THE DEFENDANT:
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OFFICIAL COURT REPORTER:

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VOLUME XXX

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(Pages 3610 - 3619)

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2 COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

3611

1 PROCEEDING S
2 (Defendant present, Jury out.)
3 THE CLERK: Criminal No. 92-181, United States of
4 America v. Deborah Gore Dean. We have Robert O'Neill and Paula
5 Sweeney for the government, Stephen Wehner for Ms. Dean.
6 THE COURT: All right, counsel, we have received a
7 note, the time was 1:55 p.m., signed by Milton Phillips,
8 foreperson, that has been shown to counsel, I believe, but for
9 the record, it says, "We have reached a verdict." So I'll have
10 the jury back.
11 I just want to note one thing for the record, that the
12 deliberations apparently were very intense. Juror No. 5, Stacey
13 Peters, who had been Alternate No. 1, was seen by court personnel
14 to leave the jury room earlier today in tears, was asked if she
15 felt all right, and she said she was just upset and said she'd
16 return and deliberate in a little bit, and she did. But there's
17 been no other communications from her as of this time.
18 All right, we'll bring the jury in, please.
19 (Jury in.)
20 THE COURT: All right, Ladies and Gentlemen, we
21 received a note from you a few minutes ago indicating you have
22 reached a verdict. My clerk will now seek to take the verdict.
23 THE CLERK: Okay. Will the foreperson please stand.
24 Has the jury agreed upon a verdict?
25 FOREPERSON PHILLIPS: Yes, we have.

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1 THE CLERK: Marshal, may I have the verdict form,
2 please?
3 You can pass it back, Marshal. Thank you.
4 Count No. 1, how do you find the defendant, Deborah
5 Gore Dean, as to the charge of conspiracy to defraud the United
6 States and to commit an offense against the United States, in
7 violation of 18 U.S.C. 371?
8 FOREPERSON PHILLIPS: Guilty.
9 THE CLERK: You may be seated if you like.
10 FOREPERSON PHILLIPS: That's okay.
11 THE CLERK: Count No. 2: How do you find the
CO
§ 12 defendant, Deborah Gore Dean, as to the charge of conspiracy to
13 defraud the United States and to commit an offense against the
14 United States, in violation of 18 U.S.C. 371?
15 FOREPERSON PHILLIPS: Guilty.
16 THE CLERK: Count 3: How do you find the defendant,
17 Deborah Gore Dean, as to the charge of conspiracy to defraud the
18 United States and to commit offenses against the United States,
19 in violation of 18 U.S.C. 371?
20 FOREPERSON PHILLIPS: Guilty.
21 THE CLERK: Count 4, how do you find the defendant,
22 Deborah Gore Dean, as to the charge of demanding, accepting, or
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23 receiving an illegal gratuity, in violation of 18 U.S.C.
24 201(c) (1) (B)?
25 FOREPERSON PHILLIPS: Guilty.

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1 THE CLERK: Count 5: How do you find the defendant,
2 Deborah Gore Dean, as to the charge of perjury (testifying
3 falsely concerning material matters), in violation of 18 U.S.C.
4 1621?
5 FOREPERSON PHILLIPS: Guilty
6 THE CLERK: Count 6: How do you find the defendant,
7 Deborah Gore Dean, as to the charge of falsifying, concealing, or
8 covering up by trick, scheme, or device, in violation of 18
9 U.S.C. 1001?
10 FOREPERSON PHILLIPS: Guilty
11 THE CLERK: Count 7: How do you find the defendant,
12 Deborah Gore Dean, as to the charge of perjury (testifying
13 falsely concerning material matters), in violation of 18 U.S.C.
14 1621?
15 FOREPERSON PHILLIPS: Guilty
16 THE CLERK: Count 8: How do you find the defendant,
17 Deborah Gore Dean, as to the charge of falsifying, concealing, or
18 covering up by trick, scheme, or device, in violation of 18
19 u.s.c. :L001?
20 FOREPERSON PHILLIPS: Guilty
2 THE CLERK: Count 9: How do you find the defendant,
2 Deborah Gore Dean, as to the charge of perjury (testifying
2 falsely concerning material matters), in violation of 18 U.S.C.
2 1621?
2 FOREPERSON PHILLIPS: Guilty •

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1 THE CLERK: Count 10: How do you find the defendant,
2 Deborah Gore Dean, as to the charge of falsifying, concealing, or
3 covering up by trick, scheme, or device, in violation of 18
4 U.S.C. 1001?
5 FOREPERSON PHILLIPS: Guilty.
6 THE CLERK: Count 11: How do you find the defendant,
7 Deborah Gore Dean, as to the charge of perjury (testifying
8 falsely concerning material matters), in violation of 18 U.S.C.
9 1621?
10 FOREPERSON PHILLIPS: Guilty.
11 THE CLERK: Count 12: How do you find the defendant,
12 Deborah Gore Dean, as to the charge of falsifying, concealing, or
13 covering up by trick, scheme, or device, in violation of 18
14 u.s.c. :L001?
15 FOREPERSON PHILLIPS: Guilty.
16 THE CLERK: Marshal, may I have the verdict form back,
17 please?
18 You may be seated.
19 Ladies and Gentlemen of the Jury, as to Counts 1
20 through 12, your foreperson has just stated your verdicts. Are
2 these the verdicts as stated by your foreperson?
2 ALL JURORS: Yes.
2 THE CLERK: Okay.
2 THE COURT: All right. would you like to have the jury
2 polled?

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1 MR. WEHNER: Yes, Your Honor.

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2 THE COURT: All right Ladies and Gentlemen, we're
3 going to have you individually polled as to the verdict.
4 THE CLERK: Ladies and Gentlemen of the Jury, as to
5 Counts 1 through 12, as I call your number, please answer yes if
6 your verdicts are the same as just stated by your foreperson. If
7 it is not, please answer no.
8 Juror No. 1.
9 FOREPERSON PHILLIPS: Yes.
10 THE CLERK: Juror No 2.
11 JUROR THOMAS: Yes.
12 THE CLERK: Juror No 3.
13 JUROR WOODS: Yes.
14 THE CLERK: Juror No 4.
15 JUROR HARDY: Yes.
16 THE CLERK: Juror No 5.
17 JUROR PETERS: Yes.
18 THE CLERK: Juror No . 6.
19 JUROR STODDARD: Yes
20 THE CLERK: Juror No . 7.
2 JUROR PROCTOR: Yes.
2 THE CLERK: Juror No . 8.
2 JUROR FRANKLIN: Yes
2 THE CLERK: Juror No . 9.
2 JUROR ROBINSON: Yes •

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1 THE CLERK: Juror No. 10.
2 JUROR HIGH: Yes.
3 THE CLERK: Juror No. 11.
4 JUROR PORTER: Yes.
5 THE CLERK: Juror No. 12.
6 JUROR NEWMAN: Yes.
7 THE CLERK: The jury has been polled, Your Honor.
8 THE COURT: All right. The verdict will be entered on
9 the record.
10 Ladies and Gentlemen, that finishes your work in this
11 case. It's been a lengthy case, and we thank you for your time
s 12 and efforts in this matter. You started with us in September,
s
13 and now it's towards the end of October, and I know that it's
14 been a sacrifice for many of you from your families and work.
15 I'd like you to please take your personal belongings
16 from the jury room. Leave all the materials dealing with the
17 case there, however, all the exhibits and notes, et cetera,
18 instructions and the like, and please just take your personal
19 belongings from the jury room, and then you can check out through
20 the jury lounge, let them know you've finished your service, and
2 they won't expect you back again for a while.
2 I'd like you to also just be counseled by me that I'm
2 not telling you you can't talk about the case, but it would not
2 be appropriate to talk about internal deliberations that you had
2 during your deliberations in the jury room. If you wish to speak

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1 to counsel about the conduct of the trial in general or about
2 your own personal viewpoint, that's one matter, but the
3 deliberations are secret. And that goes also talking to press.
4 All right, Ladies and Gentlemen, we're going to excuse
5 you at this time. If you'd go out the back way, please.
6 (Jury excused.)
7 THE COURT: All right, that note will be made part of
8 the record in the case. That's the jury's note.
9 All right, I have still under advisement the motion for
10 judgment of acquittal. I'm going to ask the government to

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11 supplement their response to the motion for judgment of acquittal
12 not as to the statute of limitations issue, but as to the
13 sufficiency of the evidence issue on the conspiracy and perjury
14 counts, with references to the record.
15 The defendant filed one with specific reference to
16 testimony, indicating a lack of any evidence to go to the jury as
17 to whether or not Ms. Dean had the requisite intent to knowingly
18 enter into a conspiracy, the three different conspiracies, and
19 the testimony that went to that, I believe, area, and I'd like to
20 see some record evidence as to what the Court can consider in
2 regards to that on behalf of the government. Today is the 26th.
2 I would think we could have that in by Friday, the 29th.
2 All right, Ms. Dean, I'm going to release you on your
2 own recognizance pending sentencing at this time. I'm going to
2 set a sentencing date at this time as well. It takes about 70 to

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80 days to get a presentence report done, which will be November,

2 December, to January.
3 January, I don't know
4 available, we can put
5 Wednesday, 9:30 a.m.
6 All right,
7 then, January 19, at
8 report prepared ahead
9 opportunity to review
10 Mr. Wehner?
11 MR. WEHNER:

Either the second or third week of
what's good for counsel. If counsel are
it in on the 19th of January, on a

we'll schedule the sentencing Wednesday

9:30 a.m., and there will be a presentence
of time that counsel can have the
and comment on it along with the defendant.
Your Honor, can I have until Friday a week

I 12 to file final dispositive motions with regard to posttrial?

13 THE COURT: You mean new trial motions -14

MR. WEHNER: Yes.

15 THE COURT: --or renewed -16

MR. WEHNER: New trial.

17 THE COURT: -- judgment of acquittal motion as well?

18 MR. WEHNER: Yes.

19 THE COURT: Under the rule, you've got what?

20 MR. WEHNER: Ten, I believe.

2 THE COURT: Ten days? Today is the 26th. I think the
2 5th would be the 10th day in any event, it looks like to me, so
2 you can have until November 5.

2 All right, we'll allow that to be filed November 5, any
2 additional posttrial motions by the defendant.

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1 All right, counsel, I appreciate the work on both
2 sides. I know it was a lot of work in this case, lots of
3 documents and a long trial, and I thank you for all the efforts
4 and hard work.

5 All right, we stand in recess.
6 (Which were all the proceedings had
7 at this time.)

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9 CERTIFICATE OF THE REPORTER

10 I certify that the foregoing is a correct transcript of the
1 record of proceedings in the above-entitled matter.

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