

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

THE HON. KENT J. DAWSON, JUDGE PRESIDING

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, ) Case No. CR-S-04-119-KJD(LRL)  
 )  
 vs. )  
 )  
 IRWIN SCHIFF, CYNTHIA NEUN, )  
 and LAWRENCE COHEN, )  
 )  
 Defendants. )  
 )

REPORTER'S TRANSCRIPT OF JURY TRIAL (DAY 2)

Tuesday, September 13, 2005

APPEARANCES: (See Page 2)

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

1 APPEARANCES:

2 For the Plaintiff:

3 JEFFREY A. NEIMAN  
4 DAVID IGNALL  
5 Trial Attorneys  
6 U.S. DOJ - Tax Division  
7 P.O. Box 683, Ben Franklin Station  
8 Washington, DC 20044-0683  
9 (202) 307-6413

7 For the Defendant, Cynthia Neun:

8 MICHAEL V. CRISTALLI, ESQ.  
9 Cristalli & Saggese  
10 732 South Sixth Street, Suite 100  
11 Las Vegas, Nevada 89101  
12 (702) 386-2180

11 For the Defendant, Irwin A. Schiff:

12 IRWIN A. SCHIFF, PRO PER  
13 444 East Sahara Avenue  
14 Las Vegas, Nevada 89104  
15 (702) 385-6920

14 TODD M. LEVENTHAL, ESQ.  
15 Flangas & Leventhal  
16 600 South Third Street  
17 Las Vegas, NV 89101  
18 (702) 384-1990

17 For the Defendant, Lawrence Cohen:

18 CHAD A. BOWERS, ESQ.  
19 Albert D. Massi, Ltd.  
20 3202 West Charleston Boulevard  
21 Las Vegas, Nevada 89102  
22 (702) 878-8778

21 Also Present:

22 Adam Steiner, Special Agent, IRS  
23 Sam Holland, Special Agent, IRS  
24 Gary Modafferri, J.D.

25

## 1 I N D E X

2 WITNESS: Direct Cross Redirect Recross Further  
3 Government's: Redirect

4 Antoinette Mitchell 334 424(S)

6  
7 EXHIBITS

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

10 Government's:  
11 1 -- 351  
12 2 -- 362  
13 3 through 59 -- 363  
14 237A -- 419

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1 LAS VEGAS, NEVADA; TUESDAY, SEPTEMBER 13, 2005; 9:52 A.M.

2 --oOo--

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

4 THE COURT: Please be seated.

5 We're still waiting for one of the jurors to arrive.

6 With respect to the issue of mentioning the report of  
7 Dr. Hayes in the -- in the openings, the Court has received the  
8 memorandums from Government, Defendant Neun, and Defendant  
9 Cohen. And, unless you have anything to add, I'm prepared to  
10 rule.

11 MR. CRISTALLI: Um, um, your Honor, we had -- I had  
12 spoken with Government counsel today, actually had an  
13 opportunity to show them what I was planning on using during the  
14 course of my opening statement. We do have it available, the  
15 portions that I was, um, going to use for your Honor's, uh,  
16 review if your Honor wanted to see those portions that I was  
17 planning on citing to or, uh, talking to the jury about during  
18 the course of my opening statement.

19 THE COURT: The Court is going to instruct you not to  
20 mention the report during your opening.

21 MR. CRISTALLI: And, um -- and -- okay. And the  
22 report, is it -- would it be also fair to say that the Court is  
23 gonna preclude me from stating to this jury that they will hear  
24 testimony from Dr. Hayes and Dr. Hayes's, uh, psychological  
25 consultation and findings as it specifically relates to

1 Mr. Schiff?

2 THE COURT: Is it true that Dr. Hayes has not been  
3 subpoenaed?

4 MR. CRISTALLI: He hasn't yet, but he will be.

5 THE COURT: Well, until he is you're not to mention it.  
6 Because, again, the Government cannot comment in closing if you  
7 fail to produce him or if his testimony is -- is ruled out. It  
8 will implicate the defendant's right not to take the stand. So  
9 the instruction is not to mention Dr. Hayes or his report or  
10 anticipated testimony.

11 MR. CRISTALLI: Yes, sir.

12 THE COURT: At this time it is irrelevant.

13 MR. SCHIFF: Uh, your Honor, in his report he says that  
14 Dr. Hayes has not been subpoenaed. Here's a copy of the  
15 subpoena that I sent to Dr. Hayes with a return receipt  
16 requested. It was sent to him, uh, September 9th.

17 THE COURT: Well, has he been served, legally served?  
18 We have one already that -- Dr. Silverman. I received a motion  
19 to quash saying that he hadn't been legally served.

20 MR. SCHIFF: Well, I'll call him. He said he was gonna  
21 come, and I didn't think -- I told him I would send him a  
22 subpoena. I didn't tell him it would be officially served. I  
23 mailed him the subpoena; he said he would come.

24 THE COURT: That's my ruling for now.

25 MR. SCHIFF: Pardon me?

1 MR. CRISTALLI: Thank you, your Honor.

2 Just so the record's clear, it's my position that I  
3 have a good-faith belief that Dr. -- uh, or Dr. Hayes, Ph.D.  
4 Hayes, will actually take the stand in this case and be  
5 subpoenaed and testify to those areas for which he examined  
6 Mr. Schiff. And, therefore, I believe I have a good-faith  
7 belief that -- and -- and as such I believe I should be able to  
8 argue it during -- during the course of my opening statement.

9 MR. SCHIFF: Incidentally, also, I got a copy of the --  
10 of the motion that, uh, Elliott Silverman said. He said I  
11 didn't send him any money or something. He asked -- I told  
12 Mr. Silverman -- he just said send me a subpoena as if all the  
13 lawyers -- so I said, look, I'll take care of your expenses and  
14 your plane fare. Because I was so rushed, I didn't know how  
15 much it was gonna be. I said, whatever your expenses are I'll  
16 take care of it. I -- I'm gonna call him. I haven't been able  
17 to reach him because I've been so busy.

18 THE COURT: We'll deal with that later. We'll deal  
19 with Dr. Silverman's motion --

20 MR. SCHIFF: The other --

21 THE COURT: -- motion to quash.

22 MR. SCHIFF: -- comment I would make is that during my  
23 opening I am not gonna get into my books. But I said I was  
24 gonna hold them up. I've written books on the subject of income  
25 tax. And the Government said to me they are going to object to

1 me referring to my books because the Government's, um, um,  
2 Indictment infers that everything I put in my books I don't  
3 believe which is, of course, a little ridiculous. People are  
4 criticized for the arguments that they put in their books, but  
5 I've never seen a review where the reviewer said he doesn't even  
6 believe those views.

7 Now, I'm not gonna get into the arguments I made. But  
8 certainly -- this book was recorded as a best seller in Time  
9 Magazine. Walden and Dalton sold 15,000 copies of this book  
10 apiece. Um, Simon & Scheuster --

11 THE COURT: Well, let me hear the Government's response  
12 to --

13 MR. NEIMAN: Your Honor, it's that very testimony that  
14 the Government believes is irrelevant to this trial. Obviously  
15 the Government's not going to be moving any of Defendant  
16 Schiff's books into evidence. In fact, we've filed a pretrial  
17 motion with respect to our position to a lot of these materials.  
18 The only way these come in is if Mr. Schiff does testify. Once  
19 again, that may or may not happen.

20 And, if he wants to say he wrote a bunch of books,  
21 he's -- the Government has no problem saying that. But the  
22 holding them up and going into descriptions as to how many were  
23 sold by him and best sellers --

24 THE COURT: What do you have to do --

25 MR. NEIMAN: -- is irrelevant.

1 THE COURT: -- with this? Sit down.

2 MR. CRISTALLI: Oh. I have -- I have something to say  
3 with regard to this.

4 THE COURT: Sit down. Let him finish. I don't want  
5 everyone standing while --

6 MR. CRISTALLI: Oh, I'm sorry.

7 THE COURT: -- one person is talking.

8 MR. NEIMAN: Your Honor, I -- I believe I'm finished  
9 with my position now.

10 THE COURT: All right.

11 Do you have a position what Mr. Schiff is going to do?

12 MR. CRISTALLI: No, not during his opening statement.  
13 But I do have a position about whether or not the books are  
14 going to come into evidence during the course of trial through  
15 certain witnesses who have read the books.

16 THE COURT: Well, we're talking about opening  
17 statements right now, not what is coming into evidence.

18 MR. CRISTALLI: That's fine, your Honor.

19 MR. SCHIFF: Can I make -- the reason why, the  
20 Government just said, they are not gonna put my books into  
21 evidence is that they couldn't find one false statement in any  
22 of my books. If they could, they'd put my books in.

23 Now, this goes to the issue of willfulness. I'm not --  
24 all I'm gonna say for the last -- I've written books on the  
25 subject of income tax.

1 THE COURT: If that's all you say, that's fine.

2 MR. SCHIFF: But I wanna say I wrote this book. This  
3 book was published -- this is my first book. It's not even on  
4 income tax; it's on the economics of how I believe the income  
5 tax is undermining. Why can't I say I wrote them? This goes to  
6 the issue of my good-faith belief.

7 THE COURT: Well, it depends on how far you intend to  
8 go after that. So I'll watch and see what you do. If you say I  
9 wrote books, the Government has no problem --

10 MR. SCHIFF: I'm gonna say here's --

11 THE COURT: -- with that.

12 MR. SCHIFF: -- here's some books that I've written  
13 over the last 30 years.

14 THE COURT: Okay. If that's all you say, fine.

15 MR. SCHIFF: Well, I wanna hold up -- I wanna say this  
16 book is entitled, The Biggest Con, How The Government Is  
17 Fleecing You. This is called How -- notice there's an  
18 underlying theme in all of my books -- How an Economy Grows and  
19 Why. Some British -- I'm a very good economist, your Honor. I  
20 don't know if you know that, your Honor -- some British  
21 economist said that this is the funniest book in economics he  
22 ever read. People read this book. Here's a book I wrote in  
23 1984 -- incidentally, your Honor, I don't know if you ever heard  
24 of John Chamberlain. He was a -- he was a -- --

25 THE COURT: It doesn't matter whether I've heard of him

1 or not. You don't --

2 MR. SCHIFF: -- well, he wrote the --

3 THE COURT: -- you don't --

4 MR. SCHIFF: -- the foreword to this.

5 THE COURT: -- question the Court about --

6 MR. SCHIFF: I'm not gonna get into --

7 THE COURT: -- economists.

8 MR. SCHIFF: -- substance of these books.

9 THE COURT: If you want to say you wrote books. But,  
10 you know, we're gonna have a --

11 MR. SCHIFF: I wanna hold up the books that I wrote and  
12 just name them and say here are the books.

13 THE COURT: Do we need to go over this again and again?  
14 You've repeated yourself several times.

15 All right. Is the jury ready to come in?

16 Mr. Bowers.

17 MR. BOWERS: I'm sorry, your Honor. Just as I -- I  
18 want to clarify your decision.

19 As I understand it, you're saying that because we can't  
20 demonstrate this morning that there's a strong possibility that  
21 Dr. Hayes has been subpoenaed or will appear that we're not  
22 gonna mention these arguments in opening. But I also understand  
23 your decision to then leave it open for further discussion.

24 THE COURT: Still open for further discussion. The  
25 question is: Does it get mentioned in the opening?

1 MR. BOWERS: Okay.

2 THE COURT: The ruling is no.

3 MR. BOWERS: So I understand that.

4 The second part is: I just want to be clear that I  
5 provided the Court as well as all the attorneys and so forth  
6 with the case that I referenced yesterday regarding the willful  
7 conspiracy instruction in the Ninth Circuit.

8 And I needed to apologize to the Court because I didn't  
9 have that document with me and I represented to the Court that  
10 this was part of a long line of cases. And, although the  
11 holding stands exactly for what I said and it's good law and  
12 very, very recent, that's not the case. So I apologize. I  
13 didn't intend to mislead anyone. It was a misstatement.

14 THE COURT: All right. Thank you.

15 Ms. Clerk, will you bring in the jury?

16 THE CLERK: Yes, sir.

17 (Pause in the proceedings.)

18 THE CLERK: Are we ready?

19 THE COURT: Ready.

20 THE CLERK: All right. Come on in.

21 (Jury enters the courtroom at 10:03 a.m.)

22 THE COURT: Please be seated.

23 Will counsel stipulate to the presence of the jury?

24 MR. BOWERS: Yes, your Honor.

25 MR. NEIMAN: Yes.

1 MR. CRISTALLI: Yes, your Honor.

2 MR. LEVENTHAL: Yes, your Honor.

3 THE COURT: Mr. Bowers said yes.

4 The trial will now begin. First, the lawyers for each  
5 side will have the opportunity to make opening statements in  
6 which they may explain the issues they expect the evidence to  
7 show. The Government will then present its witnesses and  
8 counsel for the defendants may cross-examine the Government's  
9 witnesses. Following the Government's case, the defendants may,  
10 if they wish, present witnesses whom the Government may also,  
11 uh, cross-examination [sic]. After the evidence has been  
12 presented and the case is concluded, the parties will have a  
13 final opportunity to address you and make their summations, or  
14 final arguments, in the case.

15 The statements that's the lawyers make now, as well as  
16 the arguments they present at the end of the trial, are not to  
17 be considered by you as evidence in this case or as a substitute  
18 for the instructions of law which will come only from me.  
19 Nevertheless, these statements and arguments of counsel are  
20 intended to help you understand the issues and the evidence as  
21 it comes in. So I ask that you give them your close attention.

22 Government may proceed with its opening statement.

23 MR. NEIMAN: Thank you, your Honor.

24

25

## 1 GOVERNMENT'S OPENING STATEMENT

2 MR. NEIMAN: May it please the Court, Counsel, ladies  
3 and gentlemen of the jury. Every April 15th Americans across  
4 this country file taxation returns. Nobody likes this process.  
5 But the law requires us to: report how much income you made.  
6 You subtract whatever you're allowed to subtract. You get  
7 credit for what you may have already paid: whether you paid it  
8 each week out of your paycheck, whether you paid it quarterly,  
9 or at the end of the year. You do a calculation. Some people  
10 get money back; some people have to pay more taxation.

11 This is never a fun process, but this is what the law  
12 requires. And Defendants Irwin Schiff, Cynthia Neun, and  
13 Lawrence Cohen were in the business of obstructing this process.  
14 They were in the business of exploiting their customers' desire  
15 to not pay income taxes.

16 The defendants, despite knowing what the law required  
17 of them, sold countless tapes, videos, and books giving forth  
18 the bad advice, the wrong advice, to report nothing, zero, to  
19 the federal government. They sold millions in dollars of  
20 products to thousands of customers preventing the United States  
21 from collecting the money it is owed.

22 My name is Jeff Neiman. I'm honored to represent the  
23 United States in this matter. Sitting with me at counsel table  
24 is my cocounsel, Dave Ignall, and Special Agents of the Internal  
25 Revenue Service Sam Holland and Adam Steiner.

1           Throughout this trial or at the end of this trial the  
2 United States will have proven beyond a reasonable doubt that  
3 the defendants were aware of the law and chose to violate it.

4           Irwin Schiff arrived in Las Vegas in 1994. He opened  
5 up his business named "Freedom Books." And since 1994 Defendant  
6 Schiff has lived off the profits of Freedom Books.

7           Defendant Neun -- his right-hand woman, his assistant,  
8 his companion -- she ran the office. And Defendant Cohen was  
9 one of his top salesmen. Together the three of them and others  
10 caused thousands of false taxation returns and countless bogus  
11 lawsuits to be brought against the United States.

12           Like any good business, Freedom Books and Defendant  
13 Schiff needed customers and customers Defendant Schiff sought.  
14 He cohosted a weekly radio show with Defendant Neun. Time that  
15 they paid for, an infomercial of sorts. Defendant Schiff  
16 traveled the country putting on seminars. He tried to get the  
17 attention of any television, radio, or newspaper who would --  
18 who would listen to him. He even had a Web site,  
19 [www.paynoincometax.com](http://www.paynoincometax.com).

20           Now, whether you listened -- whether you heard it on  
21 the radio, on the television, in the paper, on the Web site, the  
22 message was always the same: For \$38, buy my book and learn how  
23 you can stop paying taxes.

24           The book I just referenced is called "The Federal  
25 Mafia." And he sold hundreds of thousands of copies of it. And

1 in the book Defendant Schiff gives a step-by-step, sort of,  
2 details to his scheme. The first step to the scheme, the most  
3 essential step, is to file a special kind of tax return, a tax  
4 return he calls "the zero return."

5 As the name would suggest --

6 (Document displayed in open court.)

7 MR. NEIMAN: As the name would suggest, a zero return  
8 has all zeroes. Let's ignore the handwriting for a moment here.  
9 The handwriting, you'll hear, is that of Defendant Neun. You're  
10 gonna see it throughout trial time and time again.

11 But the zero return, as it -- as I've said the name  
12 says, encourages the followers to write zeroes all the way down.

13 Line 7, "Wages, salaries, [and] tips." If you made  
14 \$50,000 at the hospital, if you worked at the casino,  
15 whatever -- whatever -- whatever your salary was you put zero  
16 even if you had wages, even if you earned income. The  
17 defendant's advice was put zero on the line.

18 You put zero on the line, according to the defendant,  
19 on every line but two -- or I guess three, one's an aggregate of  
20 the other. The first, whatever taxes may have been taken out of  
21 your paycheck during the year, write down how much amount was  
22 taken out, and then seek a refund for that amount. So not only  
23 is he telling you to report nothing to the IRS, he then is  
24 telling you to try and get back everything that's been taken  
25 out, everything that's been paid.

1           This return is filed under the penalties of perjury.  
2   The advice in The Federal Mafia was despite having income,  
3   despite working, despite having wages, put zero on the line and  
4   sign the return and send it to the IRS and seek a refund. And  
5   Defendant Schiff's advice in The Federal Mafia was also to  
6   attach to the zero return two pages, two pages that actually  
7   were found in the book itself that were written by Defendant  
8   Schiff and purports to put forth his position. You're gonna  
9   hear that it misquotes/misstates the law. But you're gonna see  
10   a lot of these returns, a lot of zero returns, and a lot of  
11   two-page attachments.

12           At first when the IRS began receiving these, some  
13   slipped through the cracks and some refunds were paid. And  
14   Defendant Schiff, Defendant Neun, and Defendant Cohen they took  
15   advantage of this. They took these refund checks and they  
16   waived them around like bait. They waived them around like bait  
17   and said: Look. Our returns work. Buy the book, follow the  
18   advice, and you're gonna get money back. But that was not --  
19   simply not the case and the defendants knew that this was not  
20   the case. They knew that an overwhelming majority of the time  
21   when the IRS got these letters trouble for the person who filed  
22   the return was on its way.

23           The second step outlined in The Federal Mafia, which  
24   you're gonna hear from many witness who have read the book and  
25   followed the advice, was to prevent the employer from continuing

1 to take money out of the paycheck, to stop those taxes from  
2 being withheld.

3 Employers require employees to file out -- file zero --  
4 excuse me -- a W-4 form. W-4 form you write -- provides certain  
5 information: Are you married? Are you single? Do you have any  
6 kids, exemptions? Somehow a computation is figured out and they  
7 determine how much money to take out of the paycheck each  
8 week -- each week or biweekly or every month, however often the  
9 employee's paid.

10 Well, Defendant Schiff's advice on this W-4 form was to  
11 simply write "exempt." Employers accepted this and it prevented  
12 the taxes from continuing to be withheld from the paycheck. The  
13 defendants knew that you had to tell your employer to stop  
14 taking the taxes out because when time came to file the zero  
15 return and seek the money back you weren't going to get it.

16 Defendant Schiff used this exempt W-4 as further bait.  
17 He marketed it as you're going to see an immediate pay rise.  
18 And he's right. You did, the customer did, because taxes were  
19 no longer being taken out of the check. You're gonna hear  
20 people got an extra three, four, five, a thousand dollars a  
21 paycheck because they were no longer paying taxes. But what the  
22 defendants didn't tell you was that trouble was on its way, that  
23 you were going to have to pay back that money. And the  
24 defendants knew that this trouble was coming.

25 The zero return and the exempt W-4 ignited a chain

1 reaction of negative events, negative events that Defendant  
2 Schiff knew were coming, negative events that Defendant Neun  
3 knew were coming, negative events that Defendant Cohen knew were  
4 on its way. Yet they continued to put forth their ideas.

5 The first thing that happens -- all right. Let me take  
6 that back for a second.

7 And, when these negative events began to come, when  
8 they began to come crashing down on the customer, the customer  
9 turned to Freedom Books, turned to the defendants for help. And  
10 that help came at a cost and that cost and the way the  
11 defendants made money was through the selling of more  
12 products -- more books, more videos, more tapes, more packets --  
13 all of which the defendants knew would just ensure further  
14 trouble.

15 Let me show you a order from Freedom Books.

16 (Document displayed in open court.)

17 MR. NEIMAN: You're gonna see a lot of these order  
18 forms throughout the trial. But, just to give you a quick  
19 rundown of what was for sale at Freedom Books, they had  
20 different -- The Federal Mafia was a book, these are more books  
21 written by the defendant. All available anywhere from a price  
22 of -- we have a \$2 bumper sticker to the \$415 video and cassette  
23 seminar. All of these packets, all of these packets caused more  
24 negative events and the defendants knew that they were coming.

25 Let me give you an example of how this all plays out.

1 You're gonna hear from Toni Mitchell. Ms. Mitchell works at the  
2 Monte Carlo at the banquet hall. Ms. Mitchell like many, many  
3 others heard Defendant Schiff on the radio. She heard him  
4 talking about how you don't have to pay taxes. Sounded  
5 appealing to her.

6 She walked into Freedom Book store and she actually  
7 bought The Federal Mafia. She read the book. She learned about  
8 the zero return, she learned about the exempt W-4, and she filed  
9 a zero return signed under the penalties of perjury despite  
10 having income from The Monte Carlo, despite making money.

11 The impression Ms. Mitchell got -- and she's gonna tell  
12 you this -- it's gonna be a simple process. She's just gonna  
13 get a refund. File the return; get a refund. She had seen and  
14 heard about all these other checks that were paid.

15 That wasn't the case. The defendants knew that that  
16 wasn't going to be the case. The defendants knew exactly how  
17 the government was going to react and they took advantage of it  
18 by selling and pushing the product.

19 So Toni Mitchell files the zero return. She doesn't  
20 get a refund. Instead, she gets a letter from the government,  
21 from the IRS, that says: This zero return has no basis in law.  
22 It's being rejected. You're wasting our time. And, as a result  
23 of filing the return, she was fined \$500 for wasting the  
24 government's time, for filing a bogus document.

25 The defendants knew that this was going to be the

1 result. And you're gonna hear how exactly they knew this letter  
2 was coming in a second. But Toni Mitchell wasn't the only  
3 customer who got this letter. They almost all did. And you're  
4 gonna hear from a good number of 'em.

5 And Toni Mitchell will also tell you that this letter,  
6 which we called "the frivolous letter" because it says the  
7 return is frivolous meaning it has no basis, it's not mentioned  
8 in The Federal Mafia. File the zero return. Expect the refund.  
9 Instead, get fined.

10 So what did Toni Mitchell do, what did many other  
11 customers do when they got these letters? They called Freedom  
12 Books; they called the radio show. And they began askin': What  
13 do I do now? You gave me this advice; help me now. And the  
14 advice they were given? Well, for \$85 you could buy a set of  
15 tapes and that set of tapes will explain to you what you need to  
16 do next.

17 The set of tapes are marketed. And you'll see them in  
18 the order form in a little bit as "Schiff Reports" or "Series."  
19 They are numbered 1 through 6 or 7. And they are pretty much  
20 the Defendant Schiff saying and explaining what they need to do  
21 next. And they even provide a sample letter to send to the IRS.

22 So Toni Mitchell hears the radio, buys the book, files  
23 a zero return. Expects a refund; gets fined \$500. Calls --  
24 calls up Freedom Books; told 85 bucks will give you tapes and a  
25 letter. She buys -- buys the tapes. She sends the letter. She

1 still expected her refund. The defendants knew that that refund  
2 was not coming.

3           Instead, what came but more letters, more trouble.  
4 Call back to Freedom Books and the advice is the same. Well,  
5 now that you got the second letter you need to buy a different  
6 set of tapes. For another \$85 we'll sell you -- we'll tell you  
7 what you need to do next. We'll explain to ya how -- how to  
8 respond and we even give you another sample letter or maybe you  
9 need to buy a packet with the letter. For another hundred and  
10 twenty-five dollars, we'll tell ya what you need to do in the  
11 packet and give you more documents to file.

12           You're gonna hear taped conversations between Defendant  
13 Neun, Defendant Cohen, another employee at Freedom Books named  
14 "Woody," and an undercover agent. And you're gonna hear  
15 questions, you're gonna hear this undercover agent pose  
16 questions to -- to Defendant Cohen, pose them to Defendant Neun,  
17 pose them to Woody and say: I just got this letter. What do I  
18 need to do?

19           And you're gonna hear the sales job. You're gonna hear  
20 them say: You need to buy this; you need to buy that. And it's  
21 also gonna be consistent with the testimony you're gonna hear  
22 from the government witnesses in this case who followed the  
23 defendants' advice.

24           You're also gonna hear Defendant Neun say on these  
25 audiotapes that she hasn't filed a tax return since 1987.

1 You're gonna also hear that was long before Defendant Schiff --  
2 she ever met Defendant Schiff.

3 Those who followed the advice of the defendants had  
4 advice that -- or had results that varied. They were  
5 substantially all the same, but the results varied a bit. They  
6 all encountered multiple problems. And the defendants were  
7 aware of all these problems that the defendants were going to  
8 encounter. A lot of 'em had to file for bankruptcy at the end  
9 of the day. Many were -- all of them were fined. Some were  
10 even prosecuted themselves, prosecuted for filing these zero  
11 returns under the penalties of perjury despite having income.

12 For example, you're gonna hear from Melvin Lewis. He's  
13 a firefighter with the City of Las Vegas. He was so sick and  
14 tired of -- he's gonna tell ya -- so sick and tired of callin'  
15 up Freedom Books every time and saying: I just got this letter.  
16 What do I need to do next? And them saying: Oh, you need to  
17 buy this: You need to buy this packet. You need to buy the  
18 Lien & Levy Packet. You need to buy the W-4 Packet. Whatever  
19 they were.

20 And he bought everything. He spent about \$800. Bought  
21 every product. Even bought a T-shirt. He even had  
22 consultations with Defendant Schiff for a hundred dollars. At  
23 the end of the day, Mr. Lewis had to pay the IRS five, six,  
24 seven times what he owed. The defendants knew that would be the  
25 result. All three of them knew that this would be the result

1 for Mr. Lewis.

2           You're gonna hear from Bud Allin. He's a professional  
3 golfer and he makes a lot of money. The defendants knew he made  
4 a lot of money. Spent hundreds of dollars at Freedom Books. He  
5 even fought his liability in Tax Court on the advice of  
6 Defendant Schiff. Defendant Schiff prepared for him a petition  
7 that he filed with Tax Court saying I'm disputing the liability.  
8 Let me know.

9           This petition was so ridiculous and wasted the court's  
10 time that Bud Allin was fined himself \$25,000 -- he's gonna tell  
11 you this -- for following Defendant Schiff's advice. The  
12 defendants knew that this would be the result. They knew it.

13           You're gonna hear from James Dentice. He's a  
14 chiropractor in California. He bought the book, bought The  
15 Federal Mafia; filed the zero return. He was indicted and  
16 charged with filing a false tax return. He said he had zero  
17 income. He did not have zero income. He even had Defendant  
18 Schiff testify at his trial. He was still convicted. The  
19 defendants knew that this would be the result.

20           You're gonna hear from Jason Cardiff. He's a salesman,  
21 also in California. He heard Irwin Schiff on the radio. He  
22 called up and bought The Federal Mafia; he bought a series of  
23 tapes as well. It was marketed to him as, I think, "The  
24 Beginner's Special" or "The Starter's Tool Kit." You're gonna  
25 hear Freedom Books had a lot of specials. They had "The Truck

1 Driver's Special," "The Silver Bullet Special." They marketed  
2 this stuff endlessly.

3 So, after buying the tapes, he called up Freedom Books  
4 and he got Defendant Cohen. And he paid Defendant Cohen \$2,000  
5 to prepare zero returns for him. At the end of the day,  
6 Mr. Cardiff had to pay the IRS and the State of California  
7 around \$300,000 in penalties, interest, fines, and after -- and  
8 legal fees he incurred himself.

9 A lot of the customers you're gonna hear from don't  
10 still follow the advice of the defendants. They've tried to  
11 make good. They are gonna tell ya that some of 'em had to file  
12 for bankruptcy; many of 'em are involved in payment options with  
13 the IRS. The government's workin' with 'em. Many of 'em still  
14 owe the IRS lots of money, many of 'em still have liens on their  
15 homes all for following the defendants' advice, the results the  
16 defendants knew were going to happen.

17 You're also gonna hear from other witnesses who still  
18 follow the defendants' advice. They haven't made good on their  
19 obligations to the government. But they, too, still owe the  
20 government money.

21 You're also gonna hear from some customers who, that I  
22 alluded to, filed their own zero returns, despite having income,  
23 under the penalties of perjury. They are going to testify with  
24 assurance from the government that no truthful statements they  
25 make in that box can be used against them in a criminal

1 proceeding, an immunity of sorts. They have not been given  
2 permission to lie.

3 The defendants' goal was to end the income tax in the  
4 United States. Some may think it's not a bad idea. But the  
5 method chosen by the defendants was to overwhelm the government,  
6 specifically the IRS, and the courts with bogus returns,  
7 letters, and lawsuits.

8 You're gonna hear, for example, from Tom Menaugh. He  
9 works in the appeals group. He's actually in Phoenix, but he  
10 supervises a group of agents here in Las Vegas. You're gonna  
11 hear Mr. Menaugh testify that his agents spent more than  
12 50 percent of their time dealing with Defendant Schiff and his  
13 followers. They -- he encouraged them all to request some sort  
14 of hearing. It's called "a collection due process hearing."  
15 You're gonna hear a bit about it during trial.

16 In fact, Defendant Neun made weekly visits to the IRS  
17 for a hundred and three hundred dollars a visit is what she was  
18 paid by the customers to represent these people at the IRS to  
19 challenge the authority of the Government, "Show me your  
20 delegation and authority." You're actually gonna hear one of  
21 these -- these hearings that was recorded.

22 These were arguments she knew the IRS had rejected, she  
23 knew the government had rejected because she sat in that very  
24 chair just a day or two earlier or the week earlier and heard  
25 the government say, here's the law.

1           You're also gonna hear from Mr. Menaugh, the  
2 supervisor, that because his group was spending so much time  
3 with the -- Schiff and his followers that they were prevented  
4 from helping those who really -- they needed the help, prevented  
5 from work out those payment plans.

6           Defendant Neun and Defendant Cohen, they worked for  
7 Defendant Schiff. All the products were created by Defendant  
8 Schiff. But Defendant Neun and Defendant Cohen were paid to  
9 spread the word; they were paid to sell the products.

10           You -- I alluded to it earlier. Defendant Neun  
11 cohosted the radio show weekly in Las Vegas. She answered  
12 telephones. You're gonna hear from employees from within  
13 Freedom Books who will say that she, in essence, ran the office.

14           She created what you will see in evidence what is  
15 called "The Desk Manual," and this pretty much gave the  
16 employees advice on what products to sell. It's tabbed in her  
17 beautiful handwriting: If you -- if you get a phone call about  
18 the frivolous letter and they have a copy of the frivolous  
19 letter, which you will see -- excuse me -- sell them Series 5 or  
20 Series 6. And, when they get the next letter, you turn to --  
21 request "the Backyard Role Play," which you'll hear about in a  
22 bit as well, or "the Lien & Levy Packet." Role Play, \$75;  
23 Lien & Levy Packet -- I don't remember off the top of my head  
24 how much that cost.

25           You also are gonna hear that Defendant Neun represented

1 a lot of people before -- at the IRS and was paid between a  
2 hundred and three hundred dollars for showing up.

3 Defendant Cohen received bonuses for selling packages.  
4 I alluded to some of the packages earlier. They also had "The  
5 Freedom Package." It cost about a thousand dollars, the  
6 whole -- the whole kit and kaboodle over there.

7 Both defendants made decent hourly wages. And you're  
8 gonna hear from coworkers that they were paid in cash: No paper  
9 trail. No documents. No W-2's. No Social Security taxes taken  
10 out. Nothing. No paper trail to show how much the defendants  
11 were making.

12 This was consistent with the defendant's scheme. His  
13 overall objective, to defraud the United States out of tax  
14 revenue. Not only the tax revenue of the countless customers  
15 but also his employees as well.

16 You're also gonna hear from Bill Thomas. He ran  
17 Defendant Schiff's shipping plant out in, uh, Indiana. The way  
18 it would work, he'll tell ya, is the orders would come in over  
19 the Internet, they'd come in over the phones, they'd come in in  
20 person, and they'd send all these records -- or all the order  
21 forms out to Indiana and he would then be the one who had a  
22 warehouse of all the books and he'd -- and he'd put them all in  
23 the box and he'd send them out.

24 You're gonna hear that Defendant Schiff told him:  
25 Eliminate the paper trail. Don't keep any records. What

1 Defendant Schiff doesn't know is that he kept records. And  
2 you're going to see these records and you're going to see the  
3 millions of dollars in products sold to all these customers.

4 Despite earning income, Defendant Neun never filed a  
5 tax return. She didn't even file a zero return. You'll see  
6 that she -- the evidence will show that she had two reasons:  
7 one to prevent the IRS from knowing what she made and, second,  
8 she was also collecting Social Security disability benefits.  
9 She got about \$600 a month in Social Security. Benefits that  
10 she knew would -- would stop, would stop if she told them about  
11 her employment at Freedom Books.

12 Defendant Schiff has filed his own zero returns. He  
13 filed his first set of 'em in 1991 and they were almost  
14 immediately rejected by the courts. He was told point blank in  
15 1991: These returns are frivolous. These are not valid  
16 returns. Yet he came out to Las Vegas, started up Freedom  
17 Books, and has sold them ever since. He knew that the  
18 government had rejected his position.

19 Mr. Schiff's been doing this for longer than that, in  
20 fact, since 1974, 1974, Defendant Schiff has failed to  
21 voluntarily pay a single dime in taxes. And the government has  
22 tried to collect. The government has tried. But Defendant  
23 Schiff has taken steps in order to hinder that collection.

24 You're gonna hear from Collection Officer Luddie Talley  
25 of the Internal Revenue Service. Mr. Talley's job is to collect

1 old tax bills, collect the amount. Mr. Schiff actually -- I  
2 don't know if I said this. I don't think I did -- owes the IRS  
3 about \$1.3 million, conservatively, for taxes dating back to  
4 years long ago, 1979 to '85. And Mr. Talley's job is to try and  
5 collect this money.

6 And, as a last resort, oftentimes the IRS needs to do  
7 collection activity. So, after trying to work something out  
8 with Mr. Schiff, which just didn't work you'll hear, they seized  
9 his car. What did he do? He bought a new one and put it in  
10 someone else's name.

11 The IRS took money out of his bank account to pay his  
12 old tax liability. What did he do? He opened up a new bank  
13 account with somebody -- using a different Social Security  
14 number, different EIN, making it more different for the IRS to  
15 find.

16 He's even hidden his money offshore. By "offshore," I  
17 mean he -- you're gonna see money, you're gonna see checks  
18 written to a group called "P.I.L.L.," Prosper International  
19 Liability Limited. I may have messed it up. But P.I.L.L.  
20 you're gonna hear a lot about P.I.L.L.

21 And what P.I.L.L. is -- you're gonna hear in Defendant  
22 Schiff's own words, he calls it the trust in Belize -- is it  
23 eliminates a paper trail and you send the money offshore, you  
24 send it to Belize, and then you get a credit card, a credit card  
25 tied to a bank outside the United States, outside the reach of

1 the government, out -- the government doesn't even know these  
2 exist. And then he uses the credit card for expenses here in  
3 the United States and the government has no way of getting its  
4 hands on any of the money.

5 You're gonna hear from Luddie Talley, the collection  
6 officer, that the placing the car in somebody else's name; the  
7 using the bank account with a different Social Security number,  
8 a different employment identification number; the putting the  
9 money outside the reach of the federal government, the offshore  
10 accounts, prevented him from doing his job, prevented him from  
11 collecting this old tax.

12 How does this all translate into potential violations  
13 of law? The Indictment -- the defendants have all been charged  
14 in an indictment. They are allegations right now. But, at the  
15 end of this trial, the United States will prove beyond a  
16 reasonable doubt the charges in this Indictment. And I'd like  
17 to take a quick moment to quickly go through some of these  
18 charges.

19 At the conclusion of the trial, Judge Dawson will  
20 further instruct you on the law and how to apply the law to this  
21 case. But I just want to do a quick rundown of how -- what --  
22 what to expect.

23 Count 1 of the Indictment charges the defendants with a  
24 Conspiracy to Defraud the federal government, an agreement to  
25 break the law more or less. And the United States will prove

1 during this trial that the defendants took steps to market and  
2 promote the millions of dollars of products that were sold at  
3 Freedom Books and that this prevented the United States from  
4 collecting tax.

5 He encouraged thousands to file these zero returns and  
6 respond with every letter by even a more frivolous letter to  
7 overwhelm the IRS. And you're gonna hear that this prevented  
8 the IRS from determining the taxes Mr. Schiff's customers owed,  
9 the defendant's customers owed, and then from collecting those  
10 taxes.

11 Counts 2 through 16 of the Indictment charge the  
12 defendants with helping individual customers file their own zero  
13 returns. The language in the statute, which you're gonna hear a  
14 lot more on later, is "aiding and assisting in the preparation  
15 of a false income tax return." The false income tax return  
16 being the zero return.

17 And you're gonna hear from these customers, they are  
18 gonna come before you. And they are gonna say that prior --  
19 some of them are going to say prior to meeting the defendants  
20 they reported income the way they were supposed to, the way the  
21 IRS and the government wanted them to. They put whatever their  
22 wages were on line 7, they took whatever their deductions were,  
23 they got credit for whatever was withheld, and they paid  
24 whatever tax or got whatever money they were owed back.

25 Then you're gonna hear they consulted with the

1 defendants. They began buying the products. They followed the  
2 advice. And yet the defendants still told them to file a zero  
3 return despite knowing that they had income, despite knowing  
4 that they had wages. And these customers they range from  
5 firefighters, like I alluded to, to doctors.

6 Count 17 of the Indictment deals with the steps taken  
7 by Defendant Schiff in preventing the IRS from collecting that  
8 old tax liability I was talking about. It's called the evasion  
9 of payment of tax. The using a nominee -- placing the car in  
10 the name of a nominee or somebody else's name, the -- the  
11 shifting the money to different bank accounts, the sending the  
12 money offshore -- that's Count 17. With regard to Count 17,  
13 you're gonna hear that the Defendant Schiff knew that he owed  
14 the money and he knew that the IRS was trying to collect it and  
15 therefore he took steps to prevent that collection.

16 Counts 18 through 23 charge Defendant Schiff with  
17 filing his own zero returns, his own false returns. Despite  
18 selling millions of dollars of products where it said "business  
19 income" the amount he wrote down, zero.

20 And you're gonna hear from -- at the conclusion of this  
21 trial -- of the Government's case from Revenue Agent Clinton  
22 Lowder, sitting over here. He's going to be paying attention  
23 and taking note of -- as to what comes into evidence. And he's  
24 already reviewed some of the evidence the Government anticipates  
25 will come in and he's going to reconstruct to the -- as

1 conservatively as -- as he can what Defendant Schiff's income  
2 was in years 1998 through 2002, I believe.

3 He looked at the checks, he looked at deposits, looked  
4 at bank statements, and he's gonna testify that Defendant Schiff  
5 had income in excess of zero. And Defendant Schiff knew he had  
6 income in excess of zero, yet he still filed a zero return.

7 Counts 24 and 25 of the Indictment charge Defendant  
8 Neun with helping Mr. Schiff file his own zero returns. She  
9 signed them as preparer for years 2000 and 2001.

10 Counts 26 through 29 charge Defendant Neun with not  
11 filing any returns at all. You're gonna hear that she was  
12 working. You're gonna hear that she was paid cash weekly.  
13 You're gonna even hear that she had her expenses paid out of the  
14 business accounts. Her rent, her utilities, everything paid out  
15 of Freedom Books. You're also gonna hear that there's no paper  
16 trail. There are no checks. She has -- you're gonna hear she  
17 doesn't even have a banking account. And she did this, as I  
18 said earlier, for the two reasons, the tax and the Social  
19 Security.

20 With regard to the tax, you're gonna hear from Revenue  
21 Agent Lowder that Defendant Neun had expenses in each of these  
22 years. So, therefore, she had to have some income. Can't  
23 figure out how much income she had because there was no paper  
24 trail. But she had enough income that required her to file a  
25 tax return and she failed to do it.

1           Counts 30 and 31 of the Indictment deal with Defendant  
2 Neun's Social Security fraud and theft to government property.  
3 You're gonna hear from Social Security Administration employee  
4 Gail Loschen who is gonna tell you that Ms. Neun was provided  
5 information that she needed to keep Social Security informed as  
6 to her employment and that if she became employed those benefits  
7 that she was receiving, the \$600 a month, would most likely  
8 stop.

9           Gail Loschen questioned Defendant Neun about her  
10 employment at Freedom Books, and Defendant Neun lied to Gail  
11 Loschen. She told her that she was volunteering at Freedom  
12 Books. Gail Loschen will tell you that Defendant Neun didn't  
13 tell her about the expenses being paid out of her account -- on  
14 her behalf out of the Freedom Books's account, didn't tell her  
15 about the weekly cash, didn't tell her about representing all of  
16 these people at the IRS for a hundred and three hundred dollars,  
17 didn't tell her about the countless hours she spent at Freedom  
18 Books. The Government will prove that Defendant Neun knew if  
19 she told the truth the benefits would stop. And that's Counts  
20 30 and 31.

21           The main issue in this case is: What were the  
22 defendants aware of -- God bless you -- and what were they told?  
23 Were they aware that the Government had rejected their position?  
24 Were they aware that the customer -- their customers were being  
25 fined? Were they aware that their customers were being

1 penalized? Were they aware that their customers were sometimes  
2 even being prosecuted? Were they aware that the courts were  
3 throwing out all of their lawsuits? The Government will present  
4 evidence that will show yes to all those questions.

5 Defendant Schiff has been told repeatedly what the law  
6 is. He even had documents, you're gonna hear, in his office, in  
7 his own office at Freedom Books, put out by the government  
8 rejecting his very positions. He was aware of what the law was.  
9 He chose not to follow it.

10 Mr. Schiff, as I alluded to also earlier, had his own  
11 personal dealings back 30 years with the government. And you're  
12 gonna hear that he was told time and time again during that  
13 process what the law is. He is aware what the law -- what the  
14 law is and has chosen to violate it, has chosen to disagree with  
15 it.

16 Defendant Neun and Defendant Cohen were also aware what  
17 the law is. They were not only aware of Defendant Schiff's  
18 dealings, but they were aware of the countless customers --  
19 problems their customers were encountering. Defendant Neun was  
20 told time and time again at all these hearings what the law was.

21 You're even gonna hear Defendant Cohen tell an  
22 undercover agent not to attach the two-page letter that  
23 Mr. Schiff wants you to attach to the zero return because it's a  
24 red flag; the IRS will know about it. He knew that these were  
25 being rejected. Yet they continued to sell; yet they continued

1 to follow it.

2 Defendant Cohen even received his own frivolous letter,  
3 his own letter rejecting his zero return, in June of 2000 right  
4 about the time he started working there. He knew what the law  
5 was.

6 Nobody like to pay taxes, but that's not what this case  
7 is about. The defendants all knew that the law requires taxes  
8 to be paid and they chose not to follow it.

9 The United States can only introduce -- or can only  
10 call one witness at a time. We can only introduce one piece of  
11 evidence at a time. But the United States is confident that at  
12 the end of this trial the pieces will all come together and you  
13 will be able to find the defendants guilty beyond a reasonable  
14 doubt of all charges in the Indictment.

15 Thank you very much for your time.

16 THE COURT: Unless the first opening statement is going  
17 to be brief, I'm going to take a recess. How much time do you  
18 anticipate --

19 MR. CRISTALLI: Your Honor --

20 THE COURT: -- Mr. Cristalli?

21 MR. CRISTALLI: -- I believe Mr. Schiff is going to --

22 THE COURT: He's going to lead out?

23 How much time to you intend to take, Mr. Schiff?

24 MR. SCHIFF: Well, I had prepared --

25 THE COURT: How much time, 15 minutes or more?

1 MR. SCHIFF: I didn't know what an opening brief was  
2 like. I had prepared 10 minutes or 15. But, after hearing the  
3 U.S. Attorney continually lie about --

4 THE COURT: Wait a minute.

5 MR. SCHIFF: -- what my book said, I'm gonna need --

6 THE COURT: Yeah.

7 MR. SCHIFF: -- probably as much time as he took.

8 THE COURT: Okay. Well, we'll take a recess.

9 We'll be in recess for 15 minutes. Please do not  
10 discuss the case among yourselves or form any conclusions until  
11 you have heard all of the evidence.

12 (Jury leaves the courtroom at 10:46 a.m.)

13 MR. BOWERS: Your Honor, couple of brief issues. Could  
14 I have your attention at sidebar?

15 THE COURT: Yes.

16 MR. BOWERS: There's one issue that will require a  
17 sidebar. We can address them both or come back for the other.

18 THE COURT: Sidebar.

19 (Sidebar conference was held as follows:)

20 MR. BOWERS: Do we have everyone?

21 THE COURT: We do.

22 MR. BOWERS: The first issue, and the reason I  
23 requested a sidebar, is it's come to my attention that there's a  
24 member in the gallery who may be someone who could cause a  
25 disturbance or otherwise. And I don't know what the Court wants

1 to do, if anything. But I wanted to bring it to your  
2 attention --

3 THE COURT: Okay.

4 MR. BOWERS: -- affirmatively because he's not  
5 associated with me and has nothing to do with me and I don't  
6 want that to happen.

7 THE COURT: Do you know who it is or what --

8 MR. SCHIFF: Who is --

9 THE REPORTER: I'm sorry. Mr. Cohen.

10 Mr. Schiff, I didn't hear you.

11 MR. BOWERS: His name is Steven something.

12 MR. SCHIFF: Oh, jeez.

13 MR. BOWERS: He hasn't done anything wrong. But I  
14 don't want to be in a position where we have this red flannel  
15 hat thing reflecting poorly on my client again or that I somehow  
16 did something to further this.

17 THE COURT: Do you know someone named Steven?

18 MR. SCHIFF: I know -- he doesn't even come to my  
19 office. He doesn't even speak --

20 MR. BOWERS: Steven --

21 MR. SCHIFF: -- to me. Steve --

22 THE REPORTER: I'm sorry. I can't hear the two of you  
23 at the same time.

24 MR. SCHIFF: I'm sorry.

25 Steve Dempsey was working for a guy who sued me.

1 MR. BOWERS: I don't know all that. I just know  
2 he's -- he's -- I've been told that he could be a problem and I  
3 don't want to be associated.

4 THE COURT: I mean, what kind of a problem? Is he a  
5 security risk? Is he --

6 MR. BOWERS: No. I believe -- from my limited  
7 information, he -- he could potentially be the kind of person  
8 who might jump up and say anything to --

9 MR. SCHIFF: I know --

10 MR. BOWERS: -- sort of like we had yesterday.

11 MR. SCHIFF: Now, I'll tell you about Steve Dempsey.  
12 He told me he went to law school. He thinks he knows the law.  
13 He -- he goes to a lot of trials, not only this one. He spends  
14 a lot of time in court.

15 THE COURT: Has he jumped up in other court  
16 proceedings?

17 MR. SCHIFF: I don't think he'll do that.

18 MR. BOWERS: And he may not. I --

19 MR. SCHIFF: I don't think he'll do that.

20 THE COURT: Okay.

21 MR. BOWERS: All right.

22 The second, maybe more substantive issue -- and we can  
23 do this in open court or here; it doesn't matter -- is we're --  
24 is defendants trying work on some joint defense issues. We're  
25 unsure if -- what the Court's position is. Our position would

1 be that here in opening, closing, uh, in order of presentation  
2 of our cases in chief as long as we're able to agree on it we  
3 could mix that -- that order up.

4 MR. SCHIFF: If you --

5 THE COURT: Just among yourselves?

6 MR. BOWERS: Amongst ourselves.

7 MR. SCHIFF: If you want --

8 MR. BOWERS: If we don't, we can come to you and say --

9 THE COURT: No.

10 MR. BOWERS: -- Judge, we can't agree.

11 THE COURT: The only problem I have -- and I pointed it  
12 out to Mr. Cristalli -- is I don't want like jack-in-the-box  
13 jumping up every one of --

14 MR. SCHIFF: If you would like --

15 MR. BOWERS: No. But --

16 THE COURT: One at a time.

17 MR. SCHIFF: Okay.

18 MR. BOWERS: Please, Irwin.

19 THE COURT: You will each be given a time to --

20 MR. BOWERS: Okay. Please, Irwin.

21 THE COURT: -- say what --

22 MR. SCHIFF: Okay.

23 MR. BOWERS: Please, Irwin. Okay?

24 MR. SCHIFF: I'm sorry.

25 THE COURT: -- you want to say. But I don't want any

1 of you jumping up while someone else is talking --

2 MR. BOWERS: I -- I --

3 THE COURT: -- unless -- unless it is some unusual  
4 situation where, you know, we can't wait like, you know, your  
5 robe is on fire, you know. Okay?

6 MR. CRISTALLI: Your Honor, just --

7 MR. BOWERS: So with --

8 MR. CRISTALLI: -- but the only reason I did that was  
9 just to make sure the Court was aware that I wanted to present  
10 something. And I didn't --

11 THE COURT: I'll give you an opportunity.

12 MR. CRISTALLI: -- speak --

13 THE COURT: I don't try to move that fast.

14 MR. CRISTALLI: Right.

15 THE COURT: But I don't want people jumpin' up because  
16 it distracts me from listening to what is being said.

17 MR. CRISTALLI: Yes, sir.

18 MR. SCHIFF: The reason I interjected -- and I think I  
19 can solve the problem by telling Steve --

20 THE COURT: Yeah. But --

21 MR. SCHIFF: -- Steve, will you just sit ruly and don't  
22 make a commotion.

23 THE COURT: Yeah.

24 MR. SCHIFF: I mean, I know the man.

25 MR. BOWERS: Which he has been, but I just don't want

1 him touchin' my client.

2 THE COURT: You know, I don't want you jumpin' up and  
3 saying somebody is lying or has lied. That is --

4 MR. SCHIFF: I'm sorry.

5 THE COURT: -- an attorney wouldn't do that. Someone  
6 skilled in the law wouldn't do that.

7 MR. SCHIFF: But he did.

8 THE COURT: Well, whether he did or not -- you know,  
9 I'm not gonna allow him to jump up during your argument and call  
10 you a liar.

11 MR. SCHIFF: I didn't -- I didn't jump up during his  
12 argument.

13 THE COURT: I know. But --

14 MR. SCHIFF: I let him go on and on. But he said  
15 things --

16 THE COURT: But you said it --

17 MR. SCHIFF: -- that were not true.

18 THE COURT: -- in front of the jury. And --

19 MR. SCHIFF: Well, all right. I'm sorry.

20 THE COURT: -- you know, you can demonstrate that in  
21 your case.

22 MR. SCHIFF: I'm sorry. I'm sorry. It won't happen  
23 again.

24 MR. BOWERS: So as long as we can all agree we can do  
25 what we need in order.

1 THE COURT: That's not --

2 MR. BOWERS: Thank you.

3 THE COURT: I'm not that tight.

4 MR. BOWERS: And, again, I don't know what to do about  
5 Dempsey.

6 MR. SCHIFF: I'll speak to Steve Dempsey.

7 THE COURT: Well, whoever -- you gotta be careful that,  
8 you know, you don't get yourself into a position where you're  
9 directing these people because you may have to take  
10 responsibility for the bad acts as well as the good ones.

11 MR. SCHIFF: He doesn't even come into my office  
12 anymore.

13 THE COURT: All right.

14 MR. SCHIFF: I refuse to talk to him.

15 (Sidebar conference concluded and the  
16 following is held in open court:)

17 (Recess taken from 10:51 a.m. to 11:10 a.m.)

18 THE CLERK: All rise.

19 THE COURT: Do we have a request for a sidebar?

20 MR. NEIMAN: We could do it in open court, your Honor.

21 THE COURT: Okay.

22 MR. NEIMAN: The Government is just a little concerned,  
23 seeing Mr. Schiff pulling documents out and getting ready to put  
24 stuff on the ELMO. The Government has no problem with  
25 Mr. Schiff saying I'm going to testify or you're gonna hear

1 evidence A, B, C, D, or E. The Government would object to  
2 Mr. Schiff, however, reading from the books; putting any of this  
3 stuff in front of the jury as irrelevant and self-serving  
4 hearsay, I guess.

5 THE COURT: Well, the purpose of the opening is to  
6 allow the parties to say what they expect the evidence will  
7 show. And I'm -- I allow quite a bit of leeway on that.  
8 However, if he is -- if you're attempting to get evidence in  
9 during opening, that would be improper.

10 MR. SCHIFF: Can I respond to that?

11 THE COURT: You can.

12 MR. SCHIFF: I'm gonna read what was -- I intended to  
13 read, first, my opening remarks. However, the Government went  
14 into my books. The Government suggested that I was hiding from  
15 these people the fact that I went to jail. The Government was  
16 saying that these people --

17 THE COURT: No. The Government didn't mention that you  
18 went to jail.

19 MR. SCHIFF: But -- but he mentioned I hid the fact  
20 that the trouble they could get into. My book is loaded with --  
21 with -- they -- they took a hundred and fifty thousand from  
22 Simon & Scheuster. There's a whole chapter in my book about my  
23 prosecution.

24 As a matter of fact, let me just read one thing that --

25 THE COURT: No. Don't --

1 MR. SCHIFF: -- my book says.

2 THE COURT: -- read it to me. I don't want to read  
3 your book.

4 MR. SCHIFF: Well, the point -- I'm saying the -- I  
5 couldn't write fast enough. The implication is that I hid from  
6 these people the fact that, uh -- that, uh -- that there was any  
7 problem; that we're gonna get their money back.

8 And let me tell ya what we -- what I told people is  
9 that they're entitled to the refund; however, chances are they  
10 are not gonna get it. I said, consider it -- now, everyone who  
11 got a refund -- the government never went back -- 41K Cal got  
12 41,000 bucks. If he -- if he filed for a refund based on fraud,  
13 like he used somebody's Social Security number, he used -- they  
14 would go after him. The government has never gone after anybody  
15 who got a refund. And the fact of the matter is I didn't tell  
16 people they were gonna get a refund. I said chances are you're  
17 not gonna get a refund. You're entitled to the refund.

18 THE COURT: Well, here's -- here's where you're --  
19 you're trying to get evidence in now.

20 MR. SCHIFF: Well --

21 THE COURT: And what you need to do is you need to say  
22 I believe the evidence will show --

23 MR. SCHIFF: All right.

24 THE COURT: -- so-and-so.

25 MR. SCHIFF: Let me go over what I was going to say.

1 And then I want to counteract some of the things the Government  
2 said. I couldn't write fast enough.

3 For instance, let me give you an example. He  
4 mentioned, uh, Cindy Neun and the money that, uh, she collected.  
5 You know they are taking a hundred percent on our Social  
6 Security, a hundred percent, and the --

7 THE COURT: Mr. -- hold on.

8 MR. SCHIFF: -- statute only allows 'em 15.

9 THE COURT: We have an objection. Go ahead.

10 MR. CRISTALLI: Your Honor, I would just want  
11 Mr. Schiff, if he could, just preclude from making any arguments  
12 as it relates to Cindy. I --

13 MR. SCHIFF: All right.

14 MR. CRISTALLI: -- that's why I'm here.

15 THE COURT: Right.

16 MR. CRISTALLI: Last time I checked I was her -- I was  
17 her lawyer and, uh, he needs to worry about his own defense in  
18 this --

19 MR. SCHIFF: What I'm --

20 MR. CRISTALLI: -- particular matter.

21 MR. SCHIFF: -- if you're talking about fraud, the  
22 government is taking a hundred percent of my Social Security;  
23 the statute only permits 15 percent.

24 THE COURT: That's not an issue in this case, so --

25 MR. SCHIFF: All right. All I'm saying is this: And

1 he says Schiff had income. Therefore, he had to pay taxes.  
2 What he doesn't know is 60 percent of U.S. corporations have  
3 income, but they don't pay taxes. I mean, one --

4 MR. LEVENTHAL: Court's indulgence.

5 MR. SCHIFF: I'm sorry.

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

8 MR. SCHIFF: Let me just do my prepared statement and  
9 then I'll --

10 THE COURT: Have you had an opportunity to look over  
11 that, Mr. Leventhal?

12 MR. LEVENTHAL: Briefly I have, yes.

13 THE COURT: All right.

14 MR. LEVENTHAL: I don't know. And that was the written  
15 statement that was written. I believe he's going to --

16 MR. SCHIFF: Also let me say this --

17 MR. LEVENTHAL: -- discuss some of the arguments that  
18 the U.S. Attorney brought up in his opening as well.

19 MR. SCHIFF: Also -- can I make the following  
20 comment? -- he told the jury that the evidence will show that  
21 these documents were false. The -- the Government accused me  
22 not only they were false or fraudulent but I believed they were  
23 false. He didn't say false or fraudulent. I didn't hear him  
24 say fraudulent. But the jury has to know that not only does the  
25 Government have to prove that the information was false but I

1 believed it was false. He left that out.

2 All right. What --

3 THE COURT: Well --

4 MR. SCHIFF: -- I'm gonna do, your Honor -- and,  
5 incidentally, I believe income is a legal conclusion. He -- he  
6 conveyed to the jury that I told these people put zeroes, put  
7 zeroes, just put zeroes. Like there was no basis for my claim  
8 to put zeroes. There was a basis.

9 In my book when I show the zero, all right, there's a  
10 statement. And these people can read the statement. And the  
11 reason that they put zeroes -- right here on the attachment said  
12 the Supreme Court in Merchant's Loan & Trust Co. said the income  
13 means the same thing in all -- the Income Tax Act of Congress --  
14 in the Tax Act --

15 MR. LEVENTHAL: Court's indulgence.

16 MR. SCHIFF: -- and they believed that they had no  
17 income.

18 MR. LEVENTHAL: Excuse me.

19 MR. SCHIFF: All right.

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

22 MR. SCHIFF: All I'm saying...

23 THE COURT: Just a second, Mr. Bowers.

24 MR. BOWERS: All right.

25 MR. SCHIFF: All I'm saying is -- I will. I said I

1 wasn't gonna get into my book because I didn't think the  
2 Government was gonna make a case.

3 Look. I'm gonna read my opening statement. After that  
4 I'll -- I'll just try to cover --

5 THE COURT: Let's start with that.

6 MR. SCHIFF: -- some of the things. And, if you want  
7 to stop me, stop me.

8 THE COURT: Mr. Bowers.

9 MR. BOWERS: I'm just gonna say it. Irwin can do what  
10 he wants. But, your Honor, basically what's been requested here  
11 is that the Government's asked Irwin to give his opening so we  
12 can sort of preview this and have you rule on it. The  
13 Government's perfectly capable of making objections as Irwin  
14 goes along and the Court's perfectly capable of ruling on those.  
15 There's no -- there's no reason we're gonna have some sort of  
16 paraphrase or synopsis of Irwin's opening argument here and then  
17 do it again. I --

18 THE COURT: I'm not going to go through his opening.

19 MR. SCHIFF: Okay. I'll just do my --

20 THE COURT: I'm gonna see what happens. I'm going to  
21 let him stick with the script for --

22 MR. SCHIFF: One other thing.

23 THE COURT: -- as long as he can --

24 MR. SCHIFF: When I --

25 THE COURT: -- and then we're going to rule on

1 objections. But I will alert the Government and all of you that  
2 I'm, you know, pretty liberal in what comes in in opening and  
3 closing statements. I don't like interruptions. However, if --  
4 if the proceeding does become one where evidence is introduced  
5 in an opening that is subject to -- to rules of admissibility,  
6 uh, I'm going to -- I'm going to sustain an objection.

7 Do we have any -- any further commentary?

8 MR. SCHIFF: Well, I'll make one comment. When I  
9 showed Mr. Rosenthal [sic] my opening, I didn't put anything  
10 about my background. I didn't think that you do that in opening  
11 state -- just what the evidence will show. He said go ahead and  
12 tell the jury --

13 THE COURT: Tell them what you think the evidence will  
14 show but without -- without putting evidence in.

15 MR. SCHIFF: I'll do what --

16 THE COURT: That's the rule.

17 MR. SCHIFF: -- I have to do. I'll do --

18 THE COURT: That should be pretty simple.

19 MR. SCHIFF: Let me --

20 THE COURT: -- concept to follow.

21 MR. SCHIFF: Let me -- let me find where I'm going.  
22 I'm gonna abandon some of things that I said.

23 THE COURT: Any other matters before we bring in the  
24 jury in?

25 MR. IGNALL: No, your Honor.

1 THE COURT: Thank you.

2 MR. CRISTALLI: No, sir.

3 THE COURT: Mr. Cristalli?

4 Mr. Bowers?

5 MR. BOWERS: No. Thank you, your Honor.

6 THE COURT: All right. Thank you.

7 (Pause in the proceedings.)

8 THE CLERK: Ready?

9 THE COURT: Yes.

10 (Jury enters the courtroom at 11:19 a.m.)

11 THE COURT: Please be seated.

12 Will counsel stipulate to the presence of the jury?

13 MR. NEIMAN: Yes, your Honor.

14 THE COURT: Mr. Cristalli, will you stipulate to  
15 presence of the jury? Mr. Cristalli --

16 MR. CRISTALLI: Yes, sir.

17 THE COURT: -- will you stipulate to the presence of  
18 the jury?

19 MR. CRISTALLI: Yes, your Honor.

20 THE COURT: Mr. Bowers?

21 MR. BOWERS: Of course I'll stipulate, your Honor.

22 THE COURT: Mr. Schiff? Mr. Schiff --

23 MR. SCHIFF: Yes.

24 THE COURT: -- do you stipulate to the presence of the  
25 jury?

1 MR. SCHIFF: Yes, I will.

2 THE COURT: Thank you.

3 MR. SCHIFF: I know they are there. I can hear them  
4 breathing.

5 THE COURT: Okay. Go ahead with your opening.

6

7 DEFENDANT SCHIFF'S OPENING STATEMENT

8 MR. SCHIFF: Ladies and gentlemen of the jury, by now  
9 you are aware that I'm Irwin Schiff, one of the defendants in  
10 this case, and I'm representing myself. So I hope you'll be  
11 patient with me while I fumble along trying to be a lawyer.

12 Now, frankly, I wasn't too understanding of what you're  
13 supposed to say in an opening argument. So I prepared some  
14 remarks, and then I heard the Government say a lot of false  
15 things about what I do and what I represent to people. So,  
16 after reading what I hoped I -- was gonna be my opening  
17 statement, I'm gonna address a few of the issues that they  
18 brought up.

19 Let me say this: I -- in 1946, '47, 48 -- I'm sorry --  
20 1974/'75, I ran an insurance and investment business in  
21 New Haven, Connecticut. And my biggest client was the  
22 Connecticut State Medical Society. I sold them group medical  
23 plans of insurance. So I had a lot of doctor clients and  
24 businessman.

25 And, during the '60s, tax shelters were very big.

1 People were investing in drilling programs, in cattle. You  
2 could -- you could invest 10,000 and write it off. So instead  
3 of putting money in their businesses people would invest in  
4 these tax shelters where they could write it off. And most of  
5 these tax shelters turned out to be scams; they lost their  
6 money.

7 I knew people that were trying to have a baby in  
8 December so they could get the deductions. I'm a pretty good  
9 economist. And I believed then that the government's tax  
10 structure, the income tax, was destroying American's economic  
11 base.

12 As a matter of fact, in 1968, I testified in front of  
13 the Senate Committee of Money and Banking --

14 THE COURT: Mr. Schiff --

15 MR. SCHIFF: What?

16 THE COURT: What I'd like you to do is tell what you  
17 expect the evidence to show --

18 MR. SCHIFF: All right. I'll tell --

19 THE COURT: -- in this case --

20 MR. SCHIFF: -- you what the evidence --

21 THE COURT: -- not testifying.

22 MR. SCHIFF: -- will show. But I wanted to give you  
23 some of my background.

24 Let me point out one thing in my first book, which sold  
25 about a hundred thousand copies in hard cover. When this book

1 came out, Howard Ruff, who was the --

2 MR. IGNALL: Objection, your Honor.

3 MR. SCHIFF: -- the single most important --

4 THE COURT: Again, Mr. Schiff --

5 MR. SCHIFF: All right.

6 THE COURT: -- you're testifying not --

7 MR. SCHIFF: All right.

8 THE COURT: -- not introducing your --

9 MR. SCHIFF: Okay.

10 THE COURT: -- your --

11 MR. SCHIFF: Okay.

12 THE COURT: -- anticipated evidence.

13 MR. SCHIFF: All right. Okay.

14 Now, I'm charged -- let me -- let me -- I'm charged  
15 with the alleged crime of failing to pay income taxes and filing  
16 false and fraudulent returns. I understood the Government to  
17 say that I'm charged with filing false returns. No, not only  
18 were they false, the Government's claiming, but they were also  
19 fraudulent; that I didn't believe what I wrote in all my books.  
20 So the Government has to prove that not only was I -- is this  
21 information false but I didn't believe it.

22 He would have you believe that I misled accountants and  
23 doctors and businessmen. They read my book and suddenly they  
24 believed they didn't have to pay income tax because I told 'em.

25 In this book, I cite no less than a hundred statutes, a

1 hundred court decisions. People bought this book and they  
2 checked out the law. What person would buy a book and then stop  
3 paying income taxes because I told 'em to do so?

4 He -- he led you to believe, for example, that the IRS  
5 is lily white -- where's that -- I have -- sorry. I have that  
6 book, The Power to Destroy.

7 Did someone see that book, The Power to -- here it is.

8 MR. NEIMAN: Objection, your Honor.

9 MR. SCHIFF: I'm not gonna -- I'm just gonna say what  
10 we did.

11 In this book, The Power to Destroy, written by William  
12 Roth -- some of you might have seen the television hearings  
13 involving the IRS in 1997. Roth wrote in his book, How the  
14 IRS --

15 MR. NEWMAN: Objection.

16 THE COURT: Okay. Hold on. You're getting into --

17 MR. SCHIFF: All right. I won't do it.

18 THE COURT: -- getting into testimony --

19 MR. SCHIFF: All right. People came --

20 THE COURT: -- and admitting evidence.

21 MR. SCHIFF: -- to us because they were being abused by  
22 the IRS. They had no place to go. In this book, Roth says,  
23 one-third of all IRS seizures were done in violation --

24 THE COURT: Okay. Now, that --

25 MR. SCHIFF: -- of their rules --

1 THE COURT: -- again, that's --

2 MR. SCHIFF: All right.

3 THE COURT. -- evidentiary. You're --

4 MR. SCHIFF: All right.

5 THE COURT: -- not --

6 MR. SCHIFF: Okay. All right.

7 THE COURT: -- following my instruction.

8 THE REPORTER: Mr. Schiff, would you please wait. One  
9 at a time.

10 MR. SCHIFF: Okay. Okay. Now -- however, the evidence  
11 will show that not only was all the evidence, all the  
12 information in my books 100 percent accurate but I believed it  
13 was a hundred percent accurate.

14 And, another thing, I was -- I have -- I have a sign in  
15 front of my building, "Why pay income tax when no law says you  
16 have to?" I went on radio. I said, "I don't pay income taxes."

17 One of -- one of the Government's own witnesses will  
18 testify that he heard me call the U.S. Attorney's Office and  
19 offer \$5,000 if he could cite a law that says you had to pay  
20 income taxes and they hang up.

21 I did a radio show. Every week the IRS heard the show.  
22 The IRS knew I was on the show. They could have called my show  
23 that cited the law that said you had to pay income taxes and  
24 they would have won 5,000 bucks.

25 I lectured at law schools. I lectured Crossfire, Larry

1 King. And every place I went I said, "I don't pay income  
2 taxes." If a person believes he's breaking the law, does he  
3 go -- does he say, yeah, I robbed a bank yesterday? The  
4 government knew what I was doing; I didn't make a secret of it.

5 The point is: Essential to this trial is belief. See,  
6 an income tax trial is a little different than a normal criminal  
7 trial. Normally a criminal trial is: Did he rob the bank? Did  
8 he do what he's charged with doing? Did he do it? Income tax  
9 is a little different.

10 If a man walked off the boat from Thailand, the minute  
11 he landed in the United States he knew he couldn't rob, he  
12 couldn't steal, he couldn't rape. These are universal crimes.  
13 But suppose the next day he started to sell fortune cookies off  
14 a fish cart. Would he know you had to pay income taxes on it?  
15 No. So, in order for him to be guilty of a tax crime, the  
16 Government has to prove not only didn't he pay taxes but he knew  
17 he had an obligation to pay taxes. And it's what he knew, not  
18 what everybody else knew. It's what he knew. It's what I know.  
19 And I know I don't have to pay income taxes. I've told that to  
20 the government for -- I've asked judges to show me the law, as  
21 the evidence will show. They won't tell me the law that says  
22 you're liable to pay income taxes, the government won't tell me  
23 the law that requires me to pay income taxes.

24 I sell the Internal Revenue Code. And, if the  
25 Government will even show me any statute in this Code that says

1 I have to pay income taxes or I gotta keep books and records for  
2 income tax purposes, I'll plead guilty right now and I'll save  
3 the court the expense of the trial.

4 Now, for about 30 years -- I'll be taking the witness  
5 stand. What the Government has to prove, what the Government is  
6 saying to you people is that businessmen, doctors, hundreds of  
7 people stopped paying income tax because I told 'em. Does that  
8 make sense to anybody? If I told 'em to rob a bank, if I told  
9 them they can distill whiskey, would they suddenly do that?

10 Suppose I had a sign in front of my building that says  
11 I sell cigarettes cheap because I don't pay tobacco taxes? How  
12 long do you think they'd let me stay in business? Well, I have  
13 a sign in front of my building: Hey. Why pay income taxes? No  
14 law says you have to. Come on in and we'll show you why you  
15 don't have to pay. And you don't have to pay because it's  
16 voluntary in my view.

17 And I've had people -- and I had a radio show. We  
18 don't screen our calls. Anybody could call my show and  
19 challenge what I said. I think I'll -- I'll get the engineer  
20 from KLAV. And, in four or five years, we didn't have one call,  
21 people calling saying I followed your advice and I had trouble.

22 If you go to my Web site, we had letters from people  
23 who said I'm not paying income tax because I followed your  
24 advice. And all those refund checks that people got, I never  
25 told 'em that they were gonna get refund checks. I told 'em

1 they were entitled to the refund checks and the evidence will  
2 show that they were entitled to the refund checks. But chances  
3 are they weren't gonna get 'em. I said it's like getting a  
4 lottery ticket.

5 And, if the zero return was fraudulent -- you'll --  
6 you'll hear -- they referred to him in the Grand Jury testimony  
7 as "41K Cal." A fellow by the name of Calvin Border from  
8 Las Vegas got a check, a refund check, of 41,000. Government  
9 knows this. Suppose he got his refund check because he used  
10 false Social Security numbers or the name of a dead person or  
11 used fraud to get it? Why don't they go after Calvin Border and  
12 try to get their money back? Because they know it's not  
13 fraudulent.

14 And I knew -- I knew there's a law, Section 7608, that  
15 makes it a crime to give false information to somebody and to  
16 interfere with the government's collection of taxes.

17 Would I tell somebody how to avoid tobacco taxes? No,  
18 because you gotta pay tobacco taxes.

19 Would I tell somebody how to avoid paying liquor taxes?  
20 No.

21 But, since in my view, there's no law that says -- and  
22 you're gonna find out from this trial that there's no law -- in  
23 my view, the evidence will show that not only am I not required  
24 to pay income taxes but neither are you. But that doesn't mean  
25 you don't have to pay. If you want to pay it, pay it

1 voluntarily.

2 Now, for 30 years starting in 1976 I have researched  
3 the law and filed income tax. I have written five books on the  
4 subject that have sold over 500,000 copies. For a  
5 self-published author, that's not bad.

6 This book was a best seller. Sold approximately  
7 200,000 copies. Look at the title. It was reported in Time  
8 Magazine as a best seller. Look at the title, How Anyone Could  
9 Stop Paying Income Taxes. That is as improbable a title as How  
10 to Flap Your Wings -- How to Flap Your Arms and Fly or Eat as  
11 Much Food as You Want and Grow Thin.

12 Suppose somebody walked into Walden or any bookstore  
13 and bought this book and they thought, well, gee, it didn't do  
14 that at all. Wouldn't they bring it back to Walden and Dalton  
15 and give 'em their money back? And, if five or six people did  
16 that, they wouldn't buy the book. But Walden and Dalton sold  
17 about 15,000 copies of this book apiece.

18 Simon & Scheuster, one of the nation's leading  
19 publishers, saw that my book in the -- in the charts were ahead  
20 of their nonfiction book. So they came to me, knowing that I  
21 was self-published --

22 THE COURT: Again --

23 MR. SCHIFF: I'm sorry.

24 THE COURT: -- and again you're testifying.

25 MR. SCHIFF: All right.

1           This is another book I wrote, How Anybody Can Stop  
2     Paying Income Taxes.

3           Then I wrote a book called, The Great Income Hoax.

4           Then I wrote a book called, The Social Security Swindle  
5     which is nothing but a ponzi scheme. That's a chain letter  
6     that's running outta chain.

7           And then my last book -- well, last book -- I wrote  
8     other books on economics, How an Economy Grows and Why It  
9     Doesn't.

10          But my last book is called, The Federal Mafia: How  
11     [the Government] Illegally Imposes and Unlawfully Collects  
12     Income Taxes. I wrote this book, 1980. Sold it. It's in a lot  
13     of libraries. And I'll get to this book. The Government has  
14     banned this book now. You think there's a First Amendment --  
15     the government has banned me from selling this book. They call  
16     it a taxes shelter. It's only a book. It only provides  
17     information, information that the government doesn't want you to  
18     have.

19          So they throw the First Amendment out the window 'cuz  
20     they also publish the Constitution. They haven't banned that  
21     yet. I'm waiting for the -- to get an injunction where I can't  
22     sell the Constitution, which is dead anyway.

23          The point is: For 30 years, I have researched the law  
24     and filed income taxes. I've written five books. I've been  
25     interviewed by Larry King, by Crossfire three times, Hannity &

1 Colmes. I can't tell you -- hundreds -- hundreds of radio shows  
2 I've gusted on. A lot of shows I've been back two and three  
3 times. Tom Snyder. Caused a riot when I was on his show. They  
4 got more calls after my appearance on his show, they said, than  
5 anybody else.

6 Now, and would you know that in 30 years of research I  
7 never found a law that says I have to pay income taxes.

8 THE COURT: Mr. Schiff --

9 MR. SCHIFF: Now, I'm not saying there is no such law.

10 THE COURT: Mr. Schiff, you are testifying --

11 MR. SCHIFF: Okay.

12 THE COURT: -- and you are commenting on the law which  
13 is the prerogative of this Court.

14 MR. SCHIFF: I --

15 THE COURT: The law of this case has already been  
16 established. And, if you continue, I'm going to -- I'm going to  
17 reprimand you.

18 MR. SCHIFF: Your Honor, I didn't say there's no law; I  
19 said I can't find it. I didn't say there's no law. There can  
20 very well be a law.

21 THE COURT: You're testifying. You're testifying.

22 MR. SCHIFF: If the Government -- well, when I take the  
23 stand, if the Government shows me a law that I haven't been able  
24 to find in 30 years I'll immediately plead guilty to all  
25 charges. I'm not saying there's no law.

1 I only have one eye, incidentally. I'm blind in my  
2 right eye. Maybe that's why I can't find the law. If they can  
3 find it -- maybe they'll find it and show it to me.

4 Now, in addition to that, in addition to that you've  
5 heard stories about the dreaded IRS: how the IRS seizes  
6 paychecks, bank accounts, houses, audits people. I haven't been  
7 able to find a law that allows the IRS to do any of these  
8 things. Now, maybe there is such a law. I'm not saying there's  
9 no law. I'm just saying I can't find it.

10 But, when I take the stand, if the IRS shows me any  
11 law -- you -- you heard the Government say that, um, I -- the --  
12 the -- the Indictment charges me -- the Indictment charges me,  
13 Cindy -- it charges me with impeding, obstruction, and  
14 impairing, and defeating [sic] the IRS from ascertaining,  
15 computing, assessing, and collecting taxes.

16 Now, if the IRS -- when -- if the Government while I'm  
17 on the witness stand shows me any law that is -- allows the IRS  
18 to ascertain my tax, to compute my tax --

19 MR. NEIMAN: Objection, your Honor.

20 MR. SCHIFF: -- assess my tax --

21 THE COURT: Yeah.

22 MR. SCHIFF: -- I'll plead guilty. It's that simple.

23 THE COURT: Well, that's -- again, is not an opening  
24 statement in the -- in the proper sense.

25 MR. SCHIFF: Your Honor, the Government kept saying

1 that I'm impeding the -- the Government said I'm interfering  
2 with the IRS collection of taxes. I've simply told the jury --

3 THE COURT: Tell me -- tell the jury and myself --

4 MR. SCHIFF: All right.

5 THE COURT: -- what you expect --

6 MR. SCHIFF: All right.

7 THE COURT: -- the evidence --

8 MR. SCHIFF: Okay. The --

9 THE COURT: -- to show.

10 MR. SCHIFF: The evidence will show that the IRS has no  
11 authority to assess, collect, to do any of those things.

12 THE COURT: Well --

13 MR. NEIMAN: Objection, your Honor.

14 THE COURT: -- that is -- that is --

15 MR. SCHIFF: The evidence will show it.

16 THE COURT: That's a legal conclusion.

17 MR. SCHIFF: So is --

18 THE COURT: That is a legal conclusion. And the Court  
19 has already ruled on the issues of law in this case.

20 MR. SCHIFF: But it's willfulness, your Honor. I have  
21 to believe it. I --

22 THE COURT: Well, then talk about --

23 MR. SCHIFF: Okay.

24 THE COURT: -- willfulness.

25 MR. SCHIFF: Okay.

1 THE COURT: Talk about that and not about what the law  
2 is.

3 MR. SCHIFF: Okay. Anyway, I'll take the stand. And I  
4 promise you that I'll plead guilty, regardless of what the Court  
5 says -- the Court, I'm sure, is right in what it says -- I'm not  
6 saying there's no law that allows the IRS to do these things.  
7 I'm simply saying that I can't find the law. Maybe they'll show  
8 it to me when I'm on the witness stand. Maybe there is such a  
9 law. I'll plead guilty and you can all go home. You don't have  
10 to listen to me anymore.

11 But what the Government -- the Government keeps telling  
12 you how I misled the public about that they thought they were  
13 gonna get money back. I don't know -- I don't know if I can  
14 talk about this book because the Government has banned it. It  
15 makes it a crime.

16 In this book, I start out and I -- and I warn the  
17 public. I say, "There is always an element of risk" --

18 THE COURT: Now, again --

19 MR. SCHIFF: All right.

20 THE COURT: -- you're reading evidence.

21 MR. SCHIFF: All right. All right. All right.

22 THE COURT: What comes in --

23 MR. SCHIFF: All right. All right.

24 THE COURT: We need general --

25 MR. SCHIFF: All right.

1 THE COURT: -- generalities about what you expect.

2 MR. SCHIFF: Over and over in this book I tell people  
3 I'm going to jail. The one -- can I just say -- in this book  
4 you'll see something, if I can show it to you, if it can come  
5 in --

6 THE COURT: No. It's not time for evidence.

7 MR. SCHIFF: All right.

8 THE COURT: It's not time for evidence.

9 MR. SCHIFF: All right.

10 THE COURT: The procedure now --

11 MR. SCHIFF: One-third of this book I wrote while I was  
12 in jail. People know that. So anybody who followed or adopted  
13 my advice -- and throughout the book I say how the Government  
14 seizes my property. They took a hundred and fifty thousand just  
15 from Simon & Scheuster alone. You can see the -- the letters.

16 So anybody who followed supposedly my advise knows I  
17 went to jail for not paying taxes, knows that the government  
18 seized all kinds of my property.

19 Here's a cite, "Back in jail. Schiff" --

20 MR. NEIMAN: Objection, your Honor.

21 MR. SCHIFF: Sorry. All right.

22 THE COURT: Sustained.

23 MR. SCHIFF: All right. Back in jail.

24 I mean, if anybody let the public know that he got into  
25 all kinds of trouble -- you know, when I got out of jail the

1 last time after -- I went four years in jail, four years on  
2 parole and probation -- my son Peter said to me: Dad, look.  
3 You're too old. They are not gonna let -- why don't you just --  
4 you're an author. You can travel. You're not gonna pay too  
5 much in taxes anyway. So I should just go back to paying.

6 I said, Peter, I can't pay a tax that I believe I don't  
7 owe. It's just not in me. It's extortion. I can't do it.

8 THE COURT: Mr. Schiff --

9 MR. SCHIFF: All right. So anyway --

10 THE COURT: -- again, you're testifying to --

11 MR. SCHIFF: All right.

12 THE COURT: -- to evidentiary matters.

13 MR. SCHIFF: Well, what the Government -- I'm sorry --  
14 what the Government is then saying to you: that I lied to the  
15 hundreds of thousands of people who purchased my books, that I  
16 lied to all of the people who attended my seminars in  
17 practically every major city in the United States, that I lied  
18 to my family, to my friends, even to my children I lied 'cuz I  
19 really believe you had to pay income taxes, but I told me kids  
20 you don't have to pay. Does that make sense to anybody?

21 I said for about 30 years I researched the law. As the  
22 evidence will show -- the evidence will show that I asked the  
23 judges before whom I appeared -- the government says, well --  
24 government told me, the judges told me that I had to pay income  
25 taxes. I asked them to show me the law, the evidence will show.

1 They said: You've asked that question for 15 years, Mr. Schiff.  
2 You're not gonna get an answer. That's an answer?

3 The Government in discovery said when I asked them --  
4 evidence will show that when I asked them to show me the law  
5 that said you had to pay income taxes, you had to keep books and  
6 records, their response was: That's an embarrassing question.  
7 We're not going to answer it. I'll show you their answer.

8 Not even the prosecutors, the evidence will show, can  
9 produce a law that says I got to pay income taxes, though I can  
10 produce all kinds of laws.

11 MR. NEIMAN: Objection, your Honor. This is --

12 MR. SCHIFF: All right.

13 MR. NEIMAN: -- invading the province of the Court.

14 THE COURT: Sustained.

15 MR. SCHIFF: Now, I've -- I've already said that Count  
16 One -- I'm not gonna go through all the counts. Every one of  
17 their counts involved my belief that I gotta pay income taxes.  
18 Even if everything I said was wrong as a matter of law, how  
19 could they say I don't -- who writes a book containing  
20 information that they don't believe? People when they write  
21 criticisms of books they can say his logic was ridiculous, the  
22 facts are all wrong. But whoever -- whoever writes a review and  
23 say he doesn't believe that stuff?

24 Incidentally, this book has sold about a hundred  
25 thousand copies. This -- how anybody -- this sold about a

1 hundred thousand copies. That's pretty good. Do people keep  
2 buying books that are full of false information? Try writing a  
3 book. And I published it myself. I had that insurance agency.  
4 I bought the rights back. This -- this book was originally  
5 published in hard cover by Arlington House, but they didn't do a  
6 very good job of promoting it. People want --

7 MR. NEIMAN: Objection, again, your Honor.

8 MR. SCHIFF: All right.

9 THE COURT: Sustained.

10 MR. SCHIFF: Now, all the -- none of these have --  
11 okay.

12 Now, I want to thank you. There's not much more I can  
13 say. Oh, incidentally, I was nominated for president --

14 THE COURT: Sustained.

15 MR. SCHIFF: -- of the United States. I feel very  
16 proud. First Jew to ever be nominated for president of the  
17 United States.

18 THE COURT: Mr. Schiff, again, the objection to your  
19 testifying has been sustained over and over again. You are now  
20 testifying.

21 MR. SCHIFF: I thought the Government was testifying.

22 Anyway, maybe we can put the tape of the debate that  
23 took place in the 1964 Libertarian Party convention where my  
24 name was placed -- I didn't get the nomination. We just placed  
25 the nomination.

1 MR. NEIMAN: Objection. Relevance.

2 MR. SCHIFF: All right.

3 THE COURT: It's irrelevant. Sustained.

4 MR. SCHIFF: So I want to thank you in any case. I'll  
5 be taking the stand. As you can tell, I don't really know what  
6 I'm -- what I'm doing.

7 The reason I have to represent myself is that when I've  
8 had lawyers in the past they tell me, look, we can't argue the  
9 merits of your appeal -- oh, incidentally, there'll be lawyers  
10 that I'll have as witnesses. I've used a number of lawyers over  
11 the years, not for me necessarily but some of the people whom  
12 I -- have used my information. And you'll -- you'll hear why,  
13 and I had to retain lawyers for them. And these lawyers will  
14 say that even though they may not agree with my beliefs there's  
15 no question in their mind that I believe what I say I believe  
16 despite the Government trying --

17 MR. NEIMAN: Objection, your Honor.

18 MR. SCHIFF: -- to claim -- all right.

19 THE COURT: Sustained.

20 MR. SCHIFF: So I want to thank you for giving up your  
21 valuable time in order to sit here as a jurist in this trial.  
22 But you will be rewarded, hopefully, by seeing unravel before  
23 your very eyes what has to be the greatest hoax ever perpetrated  
24 by a government against its own people. The hoax being that the  
25 dreaded IRS is legally authorized to enforce the payment of

1 income tax.

2 MR. NEIMAN: Objection, your Honor.

3 THE COURT: Sustained.

4 MR. SCHIFF: So fasten your seatbelts. I hope you  
5 enjoy the ride.

6 THE COURT: Who will be going next?

7 MR. CRISTALLI: Your Honor, I will be going next on  
8 behalf of Cindy Neun.

9 THE COURT: Okay.

10 (Pause in the proceedings.)

11

12 DEFENDANT NEUN'S OPENING STATEMENT

13 MR. CRISTALLI: Your Honor, may it please the Court --

14 THE COURT: You may.

15 MR. CRISTALLI: -- ladies and gentlemen of the jury,  
16 counsel for the Government, counsel for Larry, Irwin, Cindy.

17 Ladies and gentlemen, I wanted to go after Irwin  
18 because certainly I could not express to you his beliefs or,  
19 therefore, I cannot specifically express to you Cindy's beliefs.  
20 All that will come out during the course of this trial.

21 I do not have to sit here and tell you that you will  
22 hear evidence from our side that I'm going to try to convince  
23 you that the belief system for which Irwin has created is a true  
24 belief system. I do not have to sit here and argue and convince  
25 you that the belief system for which Irwin has created is not a

1 legitimate system.

2           The essence of this case is whether or not Cynthia Neun  
3 believes in her heart that the essence of the teachings were  
4 legitimate. And it doesn't have to be that I believe it,  
5 Mr. Modafferi believes it, the Government believes it, you as  
6 jurors believe it, and it doesn't even matter whether or not you  
7 think it's not a legitimate belief. If you believe that she  
8 believes it, you will not be able to convict her. So the  
9 evidence in this case is going to demonstrate that Cindy  
10 sincerely does not believe that the Government has legal  
11 authority to collect personal income tax.

12           What is the basis for the belief? Is it just that, as  
13 Irwin has indicated, I got up here and said -- said nobody has  
14 to pay income tax and that's the end of the story? Or is the  
15 basis of the belief built upon a foundation? The evidence in  
16 this case will demonstrate to you that it is. Whether or not  
17 the foundation is a legitimate foundation, whether or not the  
18 foundation's an illegitimate foundation is not relevant. The  
19 fact that there is a foundation goes to her good-faith belief.

20           What is used to rely on their basis? Well, they rely  
21 on the IRS Code. And -- and you will see -- uh, this is Cindy's  
22 IRS Code. And you will hear testimony that she treats this as a  
23 bible; she doesn't go anywhere without it. It's used and abused  
24 as you can see. As Irwin had made reference to his book, The  
25 Federal Mafia, this is Cindy's copy. Once again, she doesn't go

1 anywhere without it. She uses and abuses this book as well.

2           What other things do they rely on, does the movement  
3 rely on, in support of their position? They use the United  
4 States Constitution, as Irwin had come up here and waived around  
5 to you. They use United States Supreme Court decisions. So  
6 their belief, whether or not legitimate or not legitimate, is  
7 founded upon fund- -- fundamental, legal basis.

8           Now, the big thing is, as the Government indicated,  
9 well, it is a belief that is a false belief and it's a false  
10 belief because Irwin just wanted to generate a lot of money.  
11 Well, that's not true as far as Cindy is concerned. There will  
12 be no evidence to demonstrate that Cindy profited from her  
13 beliefs. In fact, what the evidence and what the testimony is  
14 going to demonstrate is that her belief system ruined her life,  
15 financially, physically, emotionally, mentally. She's broke,  
16 she's out of business, and that's what the evidence will  
17 demonstrate.

18           Before she met Irwin in 1998, she was collecting  
19 disability. There's no question that she's disabled. The  
20 Government is not going to dispute the fact that Cindy, uh, is  
21 disabled. She got in a bad accident, car accident, and she  
22 suffered, uh, an extreme injury to her back which caused her to  
23 have surgery and then, uh, subsequent to that prevented her from  
24 working. She was disabled.

25           The Government says, well, she believed -- she wouldn't

1 pay taxes prior to her meeting Irwin and, therefore, she held  
2 some type of antigovernmental tax belief prior to her meeting  
3 Irwin. That's not true. She didn't report certain taxes  
4 because she wasn't even making any money; she was collecting her  
5 disability. And what is her disability? Her disability is  
6 about \$700 a week [sic]. By the way, the Government has  
7 stripped her of her disability benefits. She receives no money  
8 right now as a result of her beliefs, her teachings, and, um,  
9 this prosecution.

10 So \$700 a month. What's that? Two hundred and -- I'm  
11 not a mathematician; I'm a lawyer -- \$200 a week? Not a lot of  
12 money. Okay? That's what she was making.

13 She's become physically sick. You'll hear about her  
14 ailments. Her ailments are directly related to the stress  
15 involved in the government prosecution, the things that -- the  
16 battle that she's been undergoing with regard to her beliefs for  
17 the last three years.

18 She's lost her family. You're gonna hear her sister --  
19 excuse me -- her daughter testify for the Government against her  
20 in this particular case. She's been estranged from her family.  
21 She has suffered depression as a result of her belief structure.

22 So is that a person -- will the evidence demonstrate is  
23 that a person who is profiting from her beliefs or is it a  
24 person who believes in what she believes?

25 Now, Cindy met Irwin in 1998 and she became a student

1 of his movement. She was never involved in any tax movement  
2 prior to her meeting, uh, Irwin in 1998. Um, Irwin was her  
3 teacher. Um, she read his material. Uh, she believed in not  
4 only the person but she believed in the movement and the study.  
5 She fell in love with Irwin. They -- she -- she became his  
6 boyfriend [sic], his confidant.

7 But the Government has to establish in this particular  
8 case that she was making money at Freedom Books in order to  
9 establish the dis- -- the disability fraud that she didn't  
10 report to Disability what she was makin' at Freedom Books.

11 The reality is, though -- and you'll hear through the  
12 testimony of the witnesses -- that she was volunteering at  
13 Freedom Books. The money that she received from Irwin was the  
14 money she received from Irwin, you know, whether or not it was  
15 because she's his boyfriend [sic]. Um, but that's -- that's the  
16 reality.

17 There's -- the Government referenced that she goes to  
18 these hearings, these due process hearings, and makes money as a  
19 result of it. That's not true. She doesn't make any money.  
20 The evidence is not gonna support the fact that she makes money  
21 as a result of going to these, uh -- these -- these hearings.  
22 She goes to the hearings because she believes in the movement  
23 and she helps individuals.

24 She have receives -- she received money from Freedom --  
25 from Irwin, but she was not an employee of Freedom Books. In

1 fact, her own daughter will testify that she is incapable of  
2 handling the financial aspects of the business. And that's why  
3 her daughter was the one that was put in charge with regard to  
4 that; she wasn't.

5 Now Irwin's tax beliefs. Now, Irwin came up here and  
6 he basically gave you an outline of what he believes, okay, and  
7 what the basis of the movement's beliefs are and what they rely  
8 on. And, as I've indicated, the reliance on -- on United States  
9 Supreme -- Supreme Court decisions; United States Constitution;  
10 the IRS Code. He's written and published numerous books. I  
11 thought it was seven, but he has indicated that it's five.

12 The books contain extensive research and documentation  
13 to demonstrate how he came to these -- these conclusions. He's  
14 been on radio and television as he has expounded on when he was  
15 up here and he's conducted thousands of seminars.

16 And I'm not bringin' that point up to demonstrate to  
17 you that his beliefs are legitimate. The point I'm bringin' up  
18 to you with regard to that is the evidence will show that he  
19 held these beliefs in good faith; that my client, Cindy, held  
20 these beliefs in good faith; that she relied on this man as the  
21 father of this movement in that she believes in these positions.

22 Irwin does not believe that his teachings violate any  
23 laws. That's what he told you here today; that's his belief.  
24 Doesn't matter whether or not it's a legitimate belief as far as  
25 you're concerned or not a legitimate belief. It's whether or

1 not she believed it. And it doesn't make a difference whether  
2 or not her belief is reasonable or unreasonable. If you  
3 believed she believed it, you can't convict her.

4 She followed his beliefs. Okay? She read his  
5 material; she developed her own, uh, feelings about it; and she  
6 became a teacher.

7 What separates Cindy -- what -- what evidence will you  
8 see here that is going to separate Cindy from the thousands and  
9 thousands of other people that prescribe to his beliefs, that  
10 prescribe to the movement?

11 You're gonna see witness after witness after witness  
12 come up and testify that did the same thing as she did, that  
13 went to hearings to represent other individuals; that went to  
14 due process hearings to represent other individuals; that worked  
15 at Freedom Books; that taught people how to file zero tax  
16 returns. You will hear every witness that they bring up who  
17 prescribed to this movement at one particular time did exactly  
18 what she did. So why is she there and they are there?

19 MR. NEIMAN: Objection, your Honor.

20 THE COURT: Sustained.

21 MR. NEIMAN: And if we'd take -- we'd also ask that  
22 this one slide be removed or at least taken off.

23 THE COURT: Yes. It is -- it is improper in that  
24 aspect.

25 MR. CRISTALLI: The central issue in this case is

1 whether or not the evidence will show that Cindy's beliefs are  
2 not held in good faith. It's their burden. I don't have to do  
3 anything in this case. I could sit there and not do one single  
4 thing throughout the course of this trial. It's their burden of  
5 proof beyond a reasonable doubt to prove that Cindy Neun does  
6 not believe in good faith that there is no income tax -- or  
7 there is no law requiring you to pay income tax. That's the  
8 reality.

9           And it's not, as I indicated before, just her espousing  
10 this belief without any support for her position. You're going  
11 to see thousands upon thousands upon thousands of documents  
12 which support the fact that she believes in this: her IRS book,  
13 her Federal Mafia book, the fact that she's represented  
14 thousands of people, the fact that she sacrificed her life for  
15 this belief, the fact that she has been in now financial ruin,  
16 the fact that she is physically and emotionally destroyed.

17           Ladies and gentlemen, the Government is not going to be  
18 able to prove to you beyond a reasonable doubt that she doesn't  
19 believe in this.

20           And what's the other important things I need to  
21 emphasize? She believes in it. She still believes in it.  
22 Okay? But you will hear that she's done. She is not going to  
23 continue to espouse a zero tax return belief. She is not going  
24 to represent anybody else at future due process hearings. She  
25 is not going to file herself zero tax returns anymore. She is

1 going to comply. It doesn't mean she doesn't believe in it  
2 anymore; she just doesn't have any fight left in her, that she  
3 has nothing left.

4 So, after all the evidence is in, you're gonna have to  
5 make a determination as to whether or not the Government has  
6 proved their case beyond a reasonable doubt; has proved that she  
7 doesn't hold her beliefs in good faith. That's the issue. And  
8 they won't be able to do it, and you must find her not guilty.

9 Thank you.

10 THE COURT: Thank you, Mr. Cristalli.

11 MR. CRISTALLI: Thank you, your Honor.

12 MR. BOWERS: Court's indulgence for just a moment.

13 THE COURT: Would you like the lights back on?

14 MR. BOWERS: No. I'm gonna -- no. No, thank you, your  
15 Honor.

16 THE COURT: Let me inquire of the jury whether anyone  
17 needs to leave right at noon.

18 How long do you anticipate your opening?

19 MR. BOWERS: I'll be very brief, your Honor. But I  
20 don't want to inconvenience the jury. For some reason --

21 THE CLERK: It's because I have the jury video off.

22 MR. BOWERS: Oh. Thank you. Sorry.

23 THE COURT: If anyone has a problem with what, 15  
24 minutes?

25 MR. BOWERS: Yeah, your Honor. As a matter of fact, I

1 guarantee -- I request you cut me off if I go over.

2 THE COURT: Okay. So we'll go ahead. Thank you.

3

4 DEFENDANT COHEN'S OPENING STATEMENT

5 MR. BOWERS: Ladies and gentlemen, my name is Chad  
6 Bowers. I'm -- I'm the attorney representing Larry Cohen here  
7 today.

8 Peggie.

9 THE CLERK: I turned the PC on.

10 MR. BOWERS: It's not on, huh? Um...

11 THE CLERK: Check your connection, please. Ensure that  
12 the connection is, um...

13 MR. BOWERS: Well, your Honor, I -- this is rather  
14 embarrassing. We've tested this and it works. I -- I know this  
15 connection over here has worked. Yeah. Maybe -- do you want to  
16 send the jury to lunch and I'll get this wired or do you want to  
17 take a quick recess?

18 THE COURT: See if you can figure it out right now by  
19 changing...

20 (Pause in the proceedings.)

21 MR. BOWERS: Is it switched over to me?

22 THE CLERK: It is, yes. And the jury video is on.

23 (Pause in the proceedings.)

24 MR. BOWERS: Did you move it to the other table?

25 THE CLERK: You are now on Defense PC. So, in a

1 perfect world, it would work.

2 MR. BOWERS: Your Honor, I hate --

3 THE COURT: Okay. Look --

4 MR. BOWERS: -- I mean, I guess we need technical  
5 people.

6 THE COURT: Looks like you need a few minutes.

7 MR. BOWERS: Yeah, I'm sorry.

8 THE COURT: We'll take our afternoon break.

9 Do we have anything at 1:00 o'clock?

10 THE CLERK: No, your Honor.

11 THE COURT: How many of you need the full hour and a  
12 half? Raise your hand. (No hands raised.)

13 How many can come back at 1:00? All of you? (Hands  
14 raised.)

15 All right. We'll resume at 1:00 p.m. with -- with your  
16 opening, Mr. Bowers.

17 MR. BOWERS: Thank you, your Honor. I apologize.

18 THE COURT: Thank you.

19 We're in recess. The Court instructs the jury not to  
20 discuss the case among themselves or with others.

21 (Jury leaves the courtroom at 12:04 p.m.)

22 THE COURT: Go ahead. We're in recess.

23 (Lunch break, 12:05 p.m. to 1:09 p.m.)

24 THE CLERK: All rise.

25 I thought Mr. Cristalli was in here --

1 THE COURT: Okay.

2 THE CLERK: -- but he's not.

3 (Pause in the proceedings.)

4 THE COURT: Go ahead and be seated. I'm sorry.

5 (Pause in the proceedings.)

6 THE CLERK: He's not in the hallway.

7 THE COURT: Okay.

8 (Pause in the proceedings.)

9 THE CLERK: She says he's already left --

10 THE COURT: Okay.

11 THE CLERK: -- and they are just down the block.

12 THE COURT: Would you make a copy of the jury seating  
13 chart for me?

14 THE CLERK: Let me hand over the copy.

15 THE COURT: See if the Government has its proposed  
16 order on the immunity.

17 THE CLERK: Do you have a proposed order?

18 MR. IGNALL: We filed a proposed order yesterday with  
19 our motion.

20 THE CLERK: With the motion?

21 MR. IGNALL: We could get you another one.

22 THE CLERK: If you would, please.

23 THE COURT: I don't see it here. It could be that it's  
24 in chambers.

25 THE CLERK: Oh. You know what happened is I took the

1 motion downstairs --

2 THE COURT: Oh.

3 THE CLERK: -- for it to be docketed.

4 THE COURT: Oh, okay.

5 THE CLERK: And so that's why the proposed order --

6 MR. IGNALL: Do you need another copy of the motion?

7 THE COURT: No. I read it. I just wondered if we  
8 needed to have a hearing on it, but...

9 We'll wait for Mr. Cristalli to arrive.

10 (Pause in the proceedings.)

11 THE COURT: Okay.

12 MR. CRISTALLI: Your Honor, I apologize. I thought we  
13 were supposed to be back at 1:30. I missed that directive by  
14 the Court.

15 THE COURT: Thank you.

16 We have one issue which is an order of use immunity for  
17 trial testimony. The Court has read the moving papers and is  
18 inclined to -- to grant the request. However, I will hear any  
19 commentary.

20 MR. BOWERS: I'm sorry, your Honor. Are you referring  
21 to the Government's request to give Ms. Mitchell immunity?

22 THE COURT: Yes.

23 (Discussion off the record.)

24 THE COURT: Any input?

25 MR. CRISTALLI: No, your Honor. I have no objection.

1 THE COURT: Okay.

2 MR. SCHIFF: What is that?

3 (Attorney-client discussion.)

4 MR. SCHIFF: I have no objection to that, your Honor.

5 THE COURT: All right. Thank you.

6 No objection having been made, the order is approved.

7 Do I need to canvass Ms. Mitchell before she testifies?

8 MR. NEIMAN: I think, your Honor, it probably would be  
9 a good idea just to tell her she's been given immunity and --

10 THE COURT: I will.

11 MR. NEIMAN: -- preferably, obviously, outside the  
12 presence of the jury.

13 THE COURT: Not knowing what the scope of your  
14 discussions have been with her, I will canvass her.

15 MR. NEIMAN: Thank you.

16 THE COURT: Are we ready to bring the jury in?

17 MR. BOWERS: Yes, your Honor.

18 THE COURT: We're ready? Okay.

19 MR. NEIMAN: We have one other issue. I'm not sure  
20 when the Court wants to address it. Now maybe or we could do it  
21 after closings.

22 THE COURT: Tell me what it is.

23 MR. NEIMAN: The United States have given the  
24 defendants notice of their intention to introduce evidence  
25 pursuant to 902(11) certifications, uh, saying that they're

1 business records. They've been provided copies of all notices  
2 and all the documents which the Government wants to introduce.

3 As a procedural matter, the Government wanted to kind  
4 of just move those exhibits into evidence once the trial began.  
5 Uh, I don't know if the defense would object or...

6 MR. CRISTALLI: Your Honor, I have no objection to  
7 that.

8 THE COURT: Okay. They're duly -- duly authenticated  
9 and certified?

10 MR. NEIMAN: Yes.

11 MR. BOWERS: That's fine for the record. I don't care.

12 THE COURT: Okay.

13 MR. SCHIFF: My only objection would be that the people  
14 who took those records had no authority to take it. So I -- I  
15 think I would put that objection in.

16 MR. BOWERS: Well, your Honor, I guess just for the  
17 record, obviously there's search warrant stuff and appellate  
18 issues the way it goes. But I think they are talking about  
19 records totally unrelated to that. But --

20 MR. SCHIFF: No, all the records that they got from  
21 banks were secured by agents who had no authority in my view.  
22 And I would be derelict if I simply agreed.

23 THE COURT: Well, okay. Your objection is noted.  
24 However, the rules provide for certification and -- by  
25 custodians. And, even though those custodians were not the

1 people who actually kept the records or collected the records,  
2 the certification is enough to get it in. So the Government  
3 will be permitted to introduce business records under Rule 902.

4 MR. NEIMAN: Thank you, your Honor.

5 THE COURT: Okay. Let's -- let's bring the jury in.

6 (Pause in the proceedings.)

7 THE CLERK: All right. Come on in, please.

8 (Jury enters the courtroom at 1:22 p.m.)

9 THE COURT: Please be seated.

10 Will counsel stipulate to the presence of the jury?

11 MR. NEIMAN: Yes, your Honor.

12 MR. CRISTALLI: Yes, your Honor.

13 THE COURT: Did I hear...

14 MR. BOWERS: So stipulated.

15 MR. LEVENTHAL: For Mr. Schiff, yes.

16 MR. SCHIFF: Yes.

17 THE COURT: All right.

18 Mr. Bower, you may proceed with your opening statement.

19 MR. BOWERS: Thank you.

20

21 DEFENDANT COHEN'S OPENING STATEMENT (Continued)

22 MR. BOWERS: My name is Chad Bowers. I represent Larry  
23 Cohen. I apologize for the technical problems. I didn't  
24 anticipate that and it tried out.

25 The Government made -- made a comment that -- that he

1 had evidence that no one likes to pay taxes. And that's  
2 absolutely right. But that's not what this case is about. What  
3 this case is about is what Mr. Cohen believed, at least as it  
4 relates to my client. Okay?

5 Um, Mr. Cristalli talked about a movement. I -- I  
6 don't really like that. I have the phrase "subculture." But  
7 the point is that there is a group of people out there that have  
8 certain beliefs about taxation. My client, Larry Cohen, has  
9 some beliefs about taxation.

10 Some of the Government's witnesses that they are gonna  
11 call in this case to this day will profess to have those same  
12 beliefs. Uh, what their actions are about those beliefs, uh,  
13 might be different, but they -- they have those same beliefs.  
14 And it's gonna be important to note when these witnesses are  
15 called when they made their decisions about how to act on these  
16 beliefs.

17 Um, the real issue here is what Larry's understanding  
18 of the law is. Now, the Government says: Look. Larry's a  
19 salesman for Mr. Cohen [sic]. They pushed more product, more  
20 tapes, more packets, more of Irwin Schiff's ideas. Um, in --  
21 in -- even the Government acknowledges the evidence isn't clear  
22 on whatever the theory is. The Government thought maybe it's to  
23 make money, change the law, overwhelm the IRS. But, in Larry  
24 Cohen's case, this is an exercise of his beliefs for which he's  
25 paying an extremely heavy price, the process of which we're here

1 now.

2 Um, Larry -- the evidence is gonna show that Larry's  
3 acted in good faith on his understanding about what his  
4 obligations were with respect to the income tax. There's not  
5 gonna be any evidence presented at any point in this trial  
6 that -- that Larry believed that what he was doing was wrong or  
7 in disagreement with the law. He followed his beliefs. He  
8 studied the Tax Code; he studied about what others said about  
9 it. He read opinions from attorneys, elected officials, other  
10 people. And -- and his only intent was to follow the law as he  
11 understands it.

12 Now, it needs to be clear that the question isn't what  
13 the law is. That -- that -- that's the judge -- judge's  
14 province to tell the jury what the law is. That's not what the  
15 discussion is. The discussion is what did Larry believe about  
16 the law.

17 One of the things I need to point out is, is that Larry  
18 is different from the other defendants in the following way.  
19 He's -- he's obviously not Cindy and Irwin. But the Indictment,  
20 which is -- which is the document that starts this action,  
21 alleges that Larry did separate things than Cindy and Neun [sic]  
22 except for one count. That -- that document says there are --  
23 there are five things that Larry did that constituted crimes,  
24 one of which was the conspiracy involving Ms. Cohen [sic] -- or  
25 Ms. Neun and Mr. Schiff. And I'll talk about that momentarily.

1           The other one, four things, involve helping people  
2 prepare tax returns with either "zero" or "not liable" on them.  
3 Larry's not charged here -- the Government doesn't allege that  
4 he evaded or attempted to defeat or avoid personal taxes. Larry  
5 has nothing to do -- it's not charged that he stole from the  
6 government in the way they've alleged Ms. Neun has done or -- or  
7 that he received Social Security benefits or anything else.  
8 It's very simple. Five -- five things wrong: conspiracy,  
9 helping others prepare tax returns that weren't accurate.  
10 That's the extent of the allegations. Now, that doesn't mean  
11 the theory as -- as to why he did what he did was simple. But  
12 that's -- that's what he's -- he's accused of doing.

13           It's important to remember that Larry is not alleged to  
14 have shared in the profits of this venture. You're -- you're  
15 going to hear a substantial amount of evidence from different  
16 witnesses called by the Government. Mr. Neiman for the  
17 Government, Government's attorney, referenced the fact that  
18 Clint Lowder can show Irwin knows -- owes "X" amount of money or  
19 Cynthia had access to "X" amount of money. You're not gonna  
20 hear that same evidence with respect to Larry Cohen.

21           I talked briefly about the fact that -- the  
22 Government's alleged the evidence is gonna show that this plan  
23 and that these defendants' actions were -- were designed to --  
24 to overwhelm the IRS, to make money, to eliminate the income  
25 tax. We're all gonna get to see that evidence together. I --

1 I'm not sure exactly what it is, but we'll have our opportunity.

2 That isn't gonna be presented for Larry Cohen. There's  
3 not gonna be any evidence in this case that Larry Cohen was --  
4 was trying to overwhelm the IRS. It's not gonna happen.  
5 You're -- you're gonna get to make your own decisions based on  
6 what you see, and I'm just telling you.

7 Uh, even -- the Government's gonna enter -- or intends  
8 to enter a series of tape-recorded conversations involving  
9 Mr. Cohen and various government agents in various situations.  
10 Uh, the -- those tapes, the very documents that they intend to  
11 use against Larry, as well as the witnesses that we'll talk  
12 about momentarily that Larry was involved with, uh, show that  
13 Larry genuinely believes this. There's never a comment anywhere  
14 in the evidence of any kind that says: Well, this is a great  
15 way to make money. I don't believe this. This is a scam. It's  
16 not here.

17 Look at these boxes. These are documents the  
18 Government has spent years compiling to introduce against these  
19 people. This is not a short trial. This is not a spur-of-the-  
20 moment thing. This is a systematic multi-year investigation  
21 involving substantial resources of our federal government. And  
22 they can't find that. It will not be produced. It's just not  
23 gonna show up.

24 Just a word about who Larry is. Larry's a regular guy.  
25 He's a father. He has three grandchildren. The woman he's

1 married to has three grandchildren; they are his step  
2 grandchildren.

3 He's a husband. Larry's never made a lot of money.  
4 He -- he never did particularly well in school. He's worked  
5 hard all his life. He moved to Las Vegas in 1998 -- 1989 -- I  
6 apologize -- where he started driving a cab. He drove a cab for  
7 10 years here.

8 Now, in 1999 he hurts himself putting some luggage in  
9 the cab, hurts his arm. Can't drive cab. So he starts working  
10 for a telemarketing company. And -- and that work didn't really  
11 suit him. He had concerns about the company; he left. He's  
12 looking for work.

13 Um, because of his arm injury, he can't drive anymore;  
14 he's not in telemarketing. And then begins this story that you  
15 will hear from the witnesses that the Government is gonna put in  
16 front of you -- whether they have immunity, whether they -- they  
17 paid their taxes, regardless of what they believe -- there is a  
18 story you're gonna hear again and again and again and again by  
19 the people called for the Government. Cindy's gonna tell ya the  
20 same story. Whether -- whether they are true believers today or  
21 whether they have given up their beliefs, it's the same story.  
22 And this is what it is.

23 You hear about Irwin on the radio somewhere or you see  
24 Irwin's sign. And Irwin is professing an idea that people wanna  
25 hear. It would be wonderful to believe that you didn't have to

1 pay the income tax. No one wants to pay their taxes. It's a  
2 lot of money. It would be wonderful to be able to keep that.

3 And Irwin -- you're gonna see -- they are gonna  
4 introduce a sign that Irwin has out in front of his building for  
5 years. It's only recently that -- in a civil action, which --  
6 which you're also gonna hear about. The Government's gonna  
7 admit some of that evidence in. But the Government finally gets  
8 Irwin to cover up this sign, like within the last year or two.  
9 This sign's been up for years. And you'll see a picture of it.  
10 And it says you don't have to pay income taxes. That's a  
11 seductive idea. It -- it may not seem -- seem a little  
12 irrational, but it -- but it's appealing.

13 One of -- one of the fundamental tenets that you're  
14 gonna hear about what goes into this subculture, as I call it,  
15 or this subgroup's theories about taxation is that there's not a  
16 law that anyone can find to pay -- that requires the payment of  
17 income tax. Now, again, it's not important if that's the case  
18 or not. That -- that's not what it's about.

19 And time and again -- Mr. Schiff offered to plead  
20 guilty this morning if you can show the law. They are gonna  
21 introduce a number of tapes where Cindy offers to plead guilty  
22 to any offense or will pay the tax if someone will just show her  
23 the law. And -- and the IRS -- or these witnesses that are  
24 involved in these discussions that you're gonna hear about in  
25 the evidence doesn't answer that question.

1           Now, that -- that doesn't mean there's not a law that  
2 requires you to pay income tax. That -- that's -- that's a  
3 decision made by somebody in the IRS or the -- the government or  
4 who knows. But the failure to answer that question fuels these  
5 beliefs that -- that there is no law that requires you to pay  
6 income tax.

7           I -- I -- I neglected this, which is why I have this  
8 little display.

9           But one of the other things that Irwin does that  
10 promotes this idea that you'll hear from witnesses that if -- if  
11 what Irwin was doing was illegal and couldn't be so public about  
12 it and -- and that is he has these seminars. So Irwin has  
13 seminars that he advertises on various radio stations. Irwin  
14 has a great big sign out on the road that says you don't have to  
15 pay income taxes. And Irwin, uh, is very public about this.  
16 And witness after witness called by the Government -- not called  
17 by me, not my witnesses -- the Government's witnesses are gonna  
18 say this led me to believe that if someone can operate in this  
19 fashion so publicly that what they are doing is not illegal.

20           I -- I have to take you back for a minute focusing back  
21 on my client, Larry Cohen, because that's all I can really talk  
22 about because that's the only person I represent.

23           Prior to 1999, every year Larry filed his taxes.  
24 There's no allegation that Larry didn't file his taxes. The  
25 evidence will show he filed an honest tax return. There's not a

1 zero. There's no liability. There's not a failure to file.  
2 There -- there's none of this. He files his tax every year  
3 like -- like most people do. I -- I gave you a little  
4 highlight, sort of, of Larry's involvement because it -- it  
5 starts with his involvement with Schiff.

6 Now, you heard from Mr. Schiff this morning. And I'm  
7 not gonna comment on whether that was a persuasive statement he  
8 gave or not. But, again, Government witness after Government  
9 witness is gonna tell you that Irwin is a persuasive person.  
10 Maybe this isn't the forum to best demonstrate it, maybe it is.  
11 I don't know. But, in other forums, Irwin is extremely  
12 persuasive.

13 He has a good command of this material. And you'll --  
14 you'll see that his command of the material is excellent. I'm  
15 not gonna comment on his presentation, but you're gonna see that  
16 he has a very elaborate theory. He is very knowledgeable about  
17 what he perceives to be the law. And, as a result of that, he  
18 has an ability to persuade people.

19 The Government itself has identified -- and I've seen  
20 different numbers. So I'll be honest with you. I don't know  
21 what the final one's gonna be -- but somewhere between at least  
22 3,500, maybe 4,000 people that they've identified as having  
23 filed returns based on Irwin's advice. The Government has ample  
24 evidence about the millions of dollars he made selling this  
25 product to people. You don't do that if you're not persuasive.

1           The other thing is you don't do that if you're not  
2 selling a desirable message. It's a message that people wanna  
3 hear. And, if you're a persuasive guy with a message that  
4 people wanna hear, people believe you. So getting back to the  
5 story of how you're gonna hear that people get involved with  
6 assembling this series of beliefs.

7           We talked about how Irwin's very public. And, in many  
8 instances -- you'll hear this again and again from Government  
9 witnesses. Someone maybe attends a seminar or hears about  
10 something. And ultimately what ends up happening is they either  
11 go to Freedom Books and check it out or -- or they buy The  
12 Federal Mafia or they buy one of Irwin's publications and they  
13 read it and think maybe there's something here. Again, it's a  
14 desirable message persuasively presented. That's what Larry  
15 does.

16           There's an opening at Freedom Books. Larry starts  
17 there initially as a volunteer; he ends up as a paid employee.

18           While Larry's at Freedom Books -- and this is roughly  
19 about 2001 -- uh, 2000, 2001 -- Larry from that point on becomes  
20 very immersed and not that he wasn't before, but he starts to  
21 study his own -- own material. And he ultimately develops his  
22 own theories about taxation. Now, some of them are very similar  
23 to Irwin's, some aren't. But -- but, you know, they are  
24 different.

25           Um, we've talked about how Larry paid his taxes prior

1 to his involvement with Irwin. We've talked about how only  
2 after meeting Schiff and becoming familiar with his ideas on  
3 taxation does Larry begin to develop a different perspective of  
4 taxation.

5 This is an important thing. This case is not a civil  
6 action to collect money from any of these defendants. And  
7 it's -- it's particularly not a civil action to collect money  
8 from Larry Cohen. It's -- it's not even alleged here that  
9 that's the issue. That -- that's a separate proceeding. If --  
10 if this were about collecting money, the IRS has other ways to  
11 do it. And they haven't instigated those against my client.

12 This is a criminal prosecution. The Government is  
13 trying to convict my client of felony charges. And, as I talked  
14 about before, there's five of 'em. These are what they are:

15 He's charged with conspir- -- conspiracy to impede and  
16 impair the IRS. That means he's trying to stop the IRS from  
17 collecting money. Okay? Uh, Larry, Cindy, and Irwin, they  
18 allege and agreed to prevent the IRS from collecting income tax.  
19 That's the substance of their allegation. I'm not gonna talk to  
20 you about the law because the judge is gonna instruct you on  
21 that and we get to talk about that at closing.

22 But one of the things that's important to acknowledge  
23 there is -- is the law in this charge doesn't make you guilty  
24 for -- for hanging out with people with bad ideas. The -- one  
25 of the elements of that charge is to show that there is an

1 agreement between people.

2 The other thing that Larry's alleged to have done --  
3 again, there are four things which are all related -- is helping  
4 a woman name Virginia Olen and -- and a couple named Amy and  
5 Jason Cardiff to file zero and not liable returns.

6 The Government's gonna say, well -- they are gonna  
7 present some evidence that Mr. Cardiff paid \$2,000 for Larry's  
8 services and so he's trying to profit from this is the -- is the  
9 inference that's supposed to follow. You'll get to hear from  
10 Jason Cardiff in some detail. And he and Larry spoke a number  
11 of times. \$2,000 does seem like quite a bit of money. Larry  
12 had agreed as part of that agreement to take care of and try to  
13 help Mr. Cardiff with his tax problems.

14 See, Mr. Cardiff doesn't pay his taxes and then decides  
15 he doesn't like it. Mr. Cardiff, uh, sends in a false tax  
16 return before he ever hears of any of these people. He works at  
17 a car dealership and gets the idea that it would be a good idea  
18 to tell the government more money has been withheld from his  
19 taxes than really has, despite the fact that, you know,  
20 presumably his employer is also gonna tell the government what's  
21 withheld, and then ask for a bigger refund. This is not a  
22 particularly sophisticated way to avoid one's taxes. And Jason  
23 is concerned this is gonna be a problem.

24 The Government referenced the fact that Mr. Cardiff had  
25 to pay some \$300,000 in taxes. I want you to understand

1 Mr. Cardiff is not a victim. Mr. Cardiff is not the average  
2 person Larry helped. Mr. Cardiff committed a crime and then  
3 Larry tried to help him honestly resolve it in the way Larry  
4 understood the law.

5 Now, I don't really have a problem with the fact that  
6 Mr. Cardiff has been given immunity or Mr. Cardiff's  
7 credibility. It doesn't bother me because Mr. Cardiff isn't  
8 even gonna allege that Larry ever told him he didn't believe  
9 this, which is all we're really here for. But the Government's  
10 sort of smoothed over the fact that -- I think the exact phrase  
11 was "immunity of sorts." These witnesses are gonna get immunity  
12 of sorts. Well, it's not of sorts. It's complete and total  
13 immunity as long as you don't lie here again today.

14 And Mr. Cardiff testified before a Grand Jury; sat on  
15 the stand; I swear to tell the truth, the whole truth, and  
16 nothing but the truth; and proceeded not to tell the whole truth  
17 and nothing but the truth. And the Government's not gonna deny  
18 that. Mr. Cardiff signed a tax return under penalty of perjury,  
19 uh, that didn't the whole truth and nothing but the truth. And  
20 Mr. Cardiff spoke to government agents on at least one and  
21 probably multiple occasions where he didn't tell the whole truth  
22 and nothing but the truth.

23 Again, I didn't think -- what I think isn't important.

24 The evidence as Mr. Cardiff presents it doesn't change  
25 how -- the Government isn't gonna be able to show that Larry

1 didn't believe this. But you need to keep that in mind as  
2 you're listening to these witnesses.

3 Ms. Mitchell's been given immunity. She's gonna -- she  
4 may be here this afternoon. Um, it's not an immunity of sorts.  
5 It's -- it's immunity that prevents them from being charged with  
6 a crime if they are truthful. And I have no reason to believe  
7 Ms. Mitchell wasn't truthful, but I do have reason to believe  
8 Mr. Cardiff wasn't.

9 Larry has never indicated a disagreement with the law.  
10 Larry has an understanding of tax law that may appear  
11 convoluted, may appear wrong, may appear irrational. But that's  
12 not a crime.

13 I talked to you briefly about how there's this idea  
14 of -- of show me the law and the -- and the Government doesn't  
15 really answer that and that creates some problems. These rebate  
16 checks also create some problems because it's external  
17 enforcement for people who believe in this that it works.

18 Now, the Government presents this -- the evidence is  
19 gonna show that they used these refund checks to bait people  
20 into subscribing to their program. The evidence is also gonna  
21 show that they used these refund checks to believe that their  
22 program works, to believe that there's not an obligation to pay  
23 an income tax. Because when you send a document into the IRS  
24 that says I'm not liable for taxes, give me my refund back, and  
25 the refund comes, people believe that they are entitled to it.

1 These are some of the issues that go into how their theories  
2 have developed.

3 But, again, the fundamental issue is that Larry never  
4 intended to break the law or argue with the law. Now, there's  
5 not gonna be any evidence to show that that's the case.

6 There will be evidence that Larry never shared the  
7 profits of Freedom Books with Irwin and Cindy. If Larry is a  
8 top seller, there'll be -- which I'm agreeing to. But the  
9 Government says that they're gonna show that, so let's see if  
10 they do. That's not really important again because Larry's  
11 salary, commission, benefits aren't tied to that.

12 There's a brief time -- Larry works at Freedom Books  
13 for almost two and a half years. And there's a brief time for a  
14 few months where Irwin offers \$5 a package. And I don't think  
15 there's gonna be any evidence to show that Larry sold enough  
16 packages to make that a material number.

17 Larry never lived a lavish lifestyle. He never got  
18 rich from his involvement with Freedom Books. There's not any  
19 evidence of any of this.

20 The -- the P.I.L.L., the P-I-L, Prosper League -- this  
21 is Irwin's alleged offshore banking account and where he has the  
22 credit card and sends the money and he can charge all this  
23 stuff. And -- and I'm not commenting on that one way or the  
24 other. What I am telling you is there's nothing like that in  
25 connection with my client. Period. Not -- not the P.I.L.L.,

1 not the lavish lifestyle. He's got a house and car titled in  
2 his name or his wife's name. He's not running from anybody.  
3 He's doing this out in the open. There's no evidence he's  
4 avoiding any efforts on behalf of the government to collect any  
5 tax from him.

6 The evidence is gonna show that Larry's acts are  
7 consistent with the law. I talked to you about how -- the  
8 recordings, the witnesses, nothing -- nothing the Government's  
9 gonna produce is gonna show that he didn't fervently believe  
10 this.

11 And this is it: Larry has a good-faith belief in his  
12 understanding of the law regarding income tax. Whether it's  
13 crazy, whether it's irrational, whether it's what a reasonable  
14 person believes, a judge believes, a lawyer believes that's not  
15 important. What's important is that he's sincere.

16 And -- and everything the Government will present in  
17 this trial will support that that's how Larry feels. And  
18 there'll be nothing presented by the Government to show that  
19 that's not how Larry feels.

20 I think I went longer than I wanted to. Thank you for  
21 your attention.

22 THE COURT: Is the Government ready to call its first  
23 witness?

24 MR. NEIMAN: Yes, your Honor, we are.

25 THE COURT: Okay.

1 MR. NEIMAN: United States would call Toni Mitchell to  
2 the stand.

3 Your Honor, if we could approach at sidebar real  
4 quickly prior --

5 THE COURT: You may.

6 (Sidebar conference was held as follows:)

7 THE COURT: Okay.

8 MR. IGNALL: Ms. Mitchell is obviously a witness --

9 THE COURT: Yeah.

10 MR. NEIMAN: -- who has been granted immunity. I don't  
11 know if you want to do that outside the presence or --

12 THE COURT: I think we'll just bring her over here and  
13 I'll canvass her here.

14 MR. IGNALL: All right.

15 MR. NEIMAN: All right.

16 MR. IGNALL: Sorry about that. That was the only basis  
17 for the sidebar.

18 THE COURT: Oh. Bring her over here and I'll canvass  
19 her outside the presence of the jury.

20 (Pause in the proceedings.)

21 THE COURT: Peggie -- where's Peggie?

22 (Pause in the proceedings.)

23 THE COURT: Okay. Come up here.

24 Are you Toni Mitchell?

25 MS. MITCHELL: Yes, I am.

1 THE COURT: Or Antoinette --

2 MS. MITCHELL: Antoinette Mitchell.

3 THE COURT: -- Mitchell. Okay.

4 You've been offered immunity by the Government --

5 MS. MITCHELL: Yes.

6 THE COURT: -- is that correct?

7 Have you had any legal advice that you wanted to  
8 obtain? If you wanted an attorney...

9 MS. MITCHELL: No, not at this time.

10 THE COURT: All right.

11 And are you aware that if you testify falsely the  
12 immunity doesn't cover that?

13 MS. MITCHELL: Yes.

14 THE COURT: Or otherwise failing to comply with an  
15 order of the Court?

16 MS. MITCHELL: Yes.

17 THE COURT: Okay.

18 And is your testimony voluntary, then, given -- given  
19 this offer of immunity?

20 MS. MITCHELL: Yes, it is.

21 THE COURT: All right.

22 Do you wish the Court to make any further inquiry?

23 MR. NEIMAN: No, your Honor.

24 THE COURT: All right. Anyone? All right. Thank you.

25 MR. NEIMAN: Thank you, your Honor.

1 THE COURT: Go ahead and just follow the clerk and  
2 she'll show you where to go.

3 (Sidebar conference concluded and the  
4 following is held in open court:)  
5 (Antoinette Mitchell takes the witness  
6 stand.)

7 THE CLERK: Would you put your purse down and remain  
8 standing and raise your right hand.

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

12 THE WITNESS: I do.

13 THE CLERK: Thank you. Please be seated.

14 Please state for the record your full name and spell  
15 your last name.

16 THE WITNESS: Antoinette Mitchell, M-i-t-c-h-e-l-l.

17

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

21

22 THE COURT: You may proceed.

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

24 Is it appropriate to try and remove this or should I  
25 just --

1 THE COURT: You are absolutely welcome to turn it  
2 around --

3 THE CLERK: Oh. Um...

4 THE COURT: -- if you can do so.

5 THE CLERK: Oh. That's good. Just push it this way.

6 MR. NEIMAN: That's easier than I thought.

7 THE CLERK: You're fine.

8 MR. NEIMAN: All right. Good. Thank you.

9

10 DIRECT EXAMINATION

11 BY MR. NEIMAN:

12 Q. Good afternoon, Ms. Mitchell.

13 A. Good afternoon.

14 Q. I'm gonna ask that you speak loudly and clearly into the  
15 microphone so that the court reporter can hear you as well as  
16 the jury.

17 A. Absolutely.

18 Q. Thank you.

19 Ms. Mitchell, where do you currently reside?

20 A. Here in Las Vegas, Nevada.

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

22 A. Approximately 22 years.

23 Q. And are you employed?

24 A. Yes, I am.

25 Q. How are you currently employed?

1 A. I'm a banquet food server at The Monte Carlo Hotel.

2 Q. And for how long have you been a banquet food server at The  
3 Monte Carlo?

4 A. Almost nine and a half years.

5 Q. Prior to this day, have you met Irwin Schiff?

6 A. Yes, I have.

7 Q. Approximately when did you first hear of Irwin Schiff?

8 A. I first heard of Irwin Schiff back in 1996 through my  
9 husband, who was my boyfriend at the time. He's a truck driver  
10 and heard Irwin on the radio and told me to listen to the radio  
11 show.

12 Q. And did you listen to Mr. Schiff's radio show?

13 A. I did.

14 Q. And what did you hear Mr. Schiff talking about on his radio  
15 show?

16 A. I heard him talk about how there's no law that requires us  
17 to pay an income tax and that he had a procedure that would  
18 allow you to stop paying income taxes and request a refund of  
19 all the money you paid in the previous year, if any.

20 Q. Ms. Mitchell, did you over time begin to follow the advice  
21 of Mr. Schiff?

22 A. Yes, I did.

23 Q. Did you also at some point ever work for Mr. Schiff?

24 A. I did.

25 Q. And when did you begin working for Mr. Schiff?

1 A. I believe I started as a volunteer in his office around, um,  
2 April of 2000, somewhere in there.

3 Q. And what's Mr. Schiff's business called?

4 A. It's called "Freedom Books."

5 Q. And where is that located?

6 A. Um, originally -- the first time I was there was in 1996 and  
7 it was on South 11th Street here in Las Vegas and then on two  
8 offices on Sahara.

9 Q. Do you know the addresses of both of those --

10 A. 444 --

11 Q. -- offices?

12 A. -- East Sahara I believe was the first one.

13 Q. Do you know the address of the second office on Sahara?

14 A. 544, just down the street.

15 Q. Do you see Mr. Schiff in the courtroom here today?

16 A. Yes, I do.

17 Q. Can you please identify Mr. Schiff by an article of clothing  
18 he's wearing?

19 A. There he is right there wearing the -- like an olive green  
20 type suit -- guy wavin' at me -- gray hair.

21 MR. NEIMAN: May the record reflect that she's  
22 identified Mr. Schiff?

23 THE COURT: It will.

24 BY MR. NEIMAN:

25 Q. Ms. Mitchell, while working at Freedom Books, did you ever

1 meet an individual by the name of Ms. Neun?

2 A. Yes, I did.

3 Q. Who was Ms. Neun?

4 A. She was at the office at the time. And I later found out  
5 she was, like, his girlfriend and seemed to be organizing things  
6 at the office.

7 Q. Do you see Ms. Neun in the courtroom here today?

8 A. I do.

9 Q. And can you please identify her by what she's wearing?

10 A. I think it's -- is that green or black?

11 Q. Is she the one standing up?

12 A. Standing up, uh-huh. Blonde hair.

13 Q. All right.

14 MR. NEIMAN: May the record please reflect that the  
15 witness has identified Ms. Neun?

16 THE COURT: Yes.

17 BY MR. NEIMAN:

18 Q. While working at Freedom Books, did you encounter an  
19 individual by the name of Lawrence Cohen?

20 A. Yes, I did.

21 Q. What was Mr. Cohen's role or job at Freedom Books?

22 A. Um, Larry was there answering telephones and taking orders.

23 Q. And do you see Mr. Cohen here in the courtroom today?

24 A. I do.

25 Q. Can you please identify him for the record?

1 A. He's wearing a suit there wavin' at me with the glasses,  
2 bald head.

3 MR. NEIMAN: May the record --

4 THE WITNESS: No offense.

5 MR. NEIMAN: May the record please reflect that she's  
6 identified Mr. Cohen.

7 THE COURT: Yes.

8 MR. NEIMAN: Thank you, your Honor.

9 BY MR. NEIMAN:

10 Q. If I could direct your attention back to 1996, you've just  
11 testified that you heard Mr. Schiff on the radio. Do you  
12 remember what station he was on?

13 A. I believe it was AM 1230.

14 Q. And do you know whether or not Mr. Schiff was on the radio a  
15 lot or once or...

16 A. It was once or twice a week, I believe.

17 Q. And do you know whether or not Mr. -- how Mr. Schiff got on  
18 the radio?

19 A. How he got on the radio?

20 Q. Yeah.

21 A. I...

22 Q. Was he asked as a guest? Did he pay for his time? Do you  
23 know anything --

24 A. Oh, no. He paid for his time, I believe. I didn't know  
25 then, but...

1 Q. After hearing Mr. Schiff on the radio, what -- what did  
2 you -- what actions did you take?

3 A. I went down to the office on 11th Street to purchase The  
4 Federal Mafia.

5 Q. And what is The Federal Mafia.

6 A. That's a book that Irwin advertised on the radio show.

7 Q. And what did he tell you on the radio show about The Federal  
8 Mafia?

9 A. That The Federal Mafia would show us why there's no law that  
10 requires us to pay an income tax and how to file a zero tax  
11 return where you're gonna claim a refund of all the money you  
12 paid in the previous year.

13 Q. All right. Now, when you went to Freedom Books to purchase  
14 The Federal Mafia, can you describe what the premises, I guess,  
15 or what the business looked like?

16 A. Uh, the office was an older office down -- down on 11th  
17 Street. It was, you know, a little bit disheveled. Um, and I  
18 first met a lady named "Linda" there who was --

19 Q. Who is Linda?

20 A. She was a receptionist, I believe, or the secretary.

21 Q. Okay. And what did you see going on at the office?

22 A. Um, there was a couple people walking around and, you know,  
23 there were some books on display.

24 Q. What books were on display?

25 A. The Federal Mafia was really what I had focused on. And

1 then there was also some cassette tapes and, um, different other  
2 publications there.

3 Q. Did you make any purchases while you were at the Freedom  
4 Books store?

5 A. I did. I believe I purchased The Federal Mafia that day.

6 Q. And did you have to pay for this or was it free? How -- how  
7 did this work?

8 A. I paid for it. It was the older cover of The Federal Mafia  
9 and it was -- it didn't have the latest update in it. So it was  
10 a little cheaper than the price now, which is \$38.

11 Q. And what was the price when you paid for it then?

12 A. I'm not positive, but I believe it was like 28.

13 Q. And did you ask anybody any questions or -- or talk to  
14 anybody at Freedom Books while you were there?

15 A. At that time not really. I just purchased the book and  
16 kinda left.

17 Q. Did you read the book?

18 A. I did.

19 Q. Did you read the entire book?

20 A. Yes.

21 Q. If you could just summarize, I guess, what you learned -- or  
22 what Mr. Schiff was saying in the book.

23 A. Um, the book showed, um, you know, excerpts from the  
24 Internal Revenue Code, things like that, um, proving  
25 Mr. Schiff's claim that there was no law that required us to pay

1 the income tax. Um, he showed us how to file an exempt W-4 with  
2 the employer.

3 Q. Okay. We'll get to that in a minute.

4 A. And, um, how to file your zero return. There was a sample  
5 zero return in the book.

6 Q. What is a zero return?

7 A. A zero return is -- is your 1040 form, basically, where you,  
8 um, will claim having zero income on the line where normal  
9 people would put their wages or salaries or anything like that.

10 Q. Did Mr. Schiff in the book discuss his own dealings with the  
11 Internal Revenue Service and the federal government?

12 A. He did.

13 Q. What did he say about those dealings?

14 A. He had said in the book that he was actually writing a book  
15 from prison and that he, um, had gone to jail for failure to  
16 file a tax return.

17 Q. And did he explain why to file the zero return?

18 A. He -- he said that he developed the procedure of filing a  
19 zero tax return to prevent being prosecuted for failure to file.

20 Q. Did you ever file a zero return?

21 A. Yes, I did.

22 Q. For what years did you file a zero return?

23 A. I filed a zero return for 1996, 1997, and I believe 2000.

24 Q. Ms. Mitchell, did you have wages or income that year?

25 Were -- from The Monte Carlo?

1 A. I had -- I had wages from The Monte Carlo in all of those  
2 years.

3 Q. In years '96, '97 --

4 A. I started at The Monte Carlo in '96. Um-hum.

5 Q. Ms. Mitchell, you have been given immunity to testify today.  
6 Isn't that your understanding?

7 A. Yes.

8 Q. And is it your understanding of this immunity that no  
9 truthful statements you make today could be used against you?

10 A. Yes.

11 Q. After filing the zero return -- or if I -- maybe --

12 MR. NEIMAN: If I may have a moment --

13 THE COURT: You may.

14 MR. NEIMAN: -- indulgence, please.

15 BY MR. NEIMAN:

16 Q. Did you prepare your own zero returns?

17 A. Yes, I did.

18 Q. And where did you learn or how did you know what information  
19 to put where?

20 A. Um, there's a sample of what a zero return looks like in The  
21 Federal Mafia.

22 Q. And, once you prepared your zero return, did you pay taxes  
23 or did you seek a refund?

24 A. I seeked [sic] a refund of what -- what I paid in, what The  
25 Monte Carlo withheld from me in 1996.

1 Q. And under whose direction was it to seek a refund?

2 A. From The Federal Mafia, Irwin Schiff.

3 Q. I guess I probably haven't asked this question. Who wrote  
4 The Federal Mafia?

5 A. Irwin Schiff.

6 Q. During this time where you were trying to get your refund,  
7 you alluded to earlier that you began working at Freedom Books;  
8 is that correct?

9 A. Yes.

10 Q. What year was that?

11 A. It was around 2000.

12 Q. And why did you start working at Freedom Books?

13 A. I went in actually to volunteer because I wanted to be close  
14 to what was going on. You know, it was basically for the cause  
15 and wanting to...

16 Q. Who hired you?

17 A. Um, at that time there was a lady by the name of Sammy in  
18 the office and, um, she basically hired me later. I started as  
19 a volunteer -- just helping out, answering phones -- and then,  
20 um, Cindy kind of gave me my responsibilities and duties.

21 Q. And that would be Ms. Neun?

22 A. Yes.

23 Q. How many other people worked at Freedom Books while you were  
24 working there?

25 A. After I came in?

1 Q. After you came in.

2 A. Um, I don't know how many were employees because volunteers  
3 came in and out. But there were approximately five to six  
4 people there every day.

5 Q. Can you name who those people are, please?

6 A. Um, there was Larry and Cindy and Irwin and a guy named  
7 Woody and then there was a shipper and a guy who did tapes, who  
8 dubbed tapes.

9 Q. When you say "dubbed tapes," what do you mean?

10 A. He would, you know, take the tapes and make copies of them  
11 for sale.

12 Q. How many days a week did you work at Freedom Books?

13 A. Um, anywhere from one to three, four. I was just part time,  
14 so in and out depending on the hours at The Monte Carlo.

15 Q. Once you came on full time, were you paid for your  
16 employment at Freedom Books?

17 A. I was never full time, but I was paid for part-time work.

18 Q. Okay. How were you paid?

19 A. Cash.

20 Q. Who paid you cash?

21 A. Irwin did.

22 Q. How much were you paid a week?

23 A. It was approximately \$10 an hour. So anywhere -- like maybe  
24 20 hours max.

25 Q. Explain to me exactly -- or explain to us all how exactly it

1 came that you were paid? Who was it that actually handed you  
2 the money?

3 A. Irwin did.

4 Q. Okay. And were other employees paid?

5 A. I believe so.

6 Q. Did you see other employees get paid?

7 MR. CRISTALLI: Objection as to employees. Foundation.

8 THE COURT: Sustained.

9 THE WITNESS: Um, I saw --

10 BY MR. NEIMAN:

11 Q. You can't answer the question --

12 A. Oh, okay.

13 Q. -- if the judge --

14 A. Sorry.

15 Q. -- sustains the question.

16 Did you ever observe other employees -- or other people  
17 at Freedom Books gettin' handed money by Mr. Schiff?

18 A. Um, yes, on -- yes, on occasion.

19 Q. Who -- who else did you see get handed money?

20 A. Um, it was usually in an envelope. So I'm assuming it was  
21 money.

22 Q. Okay. Were -- were taxes taken out of your --

23 MR. CRISTALLI: Objection. Calls for speculation.

24 Move to strike.

25 THE COURT: On taxes?

1 MR. CRISTALLI: No. On not knowing what was in the  
2 envelopes. She said she assumed it was money.

3 MR. NEIMAN: I can clear it up, your Honor.

4 THE COURT: All right.

5 BY MR. NEIMAN:

6 Q. Did you receive a similar envelope?

7 A. On occasion, yes.

8 Q. And what was inside your envelope?

9 A. Cash.

10 Q. Okay. Were taxes taken out of your salary or what you were  
11 paid?

12 A. No.

13 Q. At the end of the year, was a W-2 ever filed or given to  
14 you?

15 A. No.

16 Q. How -- how about a Form 1099?

17 A. No.

18 Q. Do you know what a Form 1099 is?

19 A. Yes, I do.

20 Q. What is the Form 1099?

21 A. A 1099 is where some, um, people that hire, say, an  
22 independent contractor or something like that, somebody who  
23 works private, the company will issue a 1099 to the IRS and to  
24 the employee showing what they paid them for that year.

25 Q. Were Social Security taxes taken out of your pay?

1 A. No.

2 Q. How about employment taxes?

3 A. No.

4 MR. CRISTALLI: Objection. Relevancy.

5 THE COURT: What is the relevance?

6 MR. NEIMAN: The defendant's charged with obstructing  
7 and impeding the IRS collection of taxes.

8 MR. BOWERS: The Indictment doesn't allege anything  
9 about employment taxes.

10 THE COURT: I don't think -- I mean, are you talking  
11 about state employment taxes?

12 MR. NEIMAN: Federal employment taxes.

13 MR. SCHIFF: Well --

14 MR. BOWERS: That's not charged, your Honor. That's my  
15 objection.

16 MR. NEIMAN: Question withdrawn.

17 MR. SCHIFF: Let me have an objection here then.

18 THE COURT: The question is withdrawn.

19 MR. SCHIFF: I'm sorry?

20 THE COURT: The question has been withdrawn.

21 MR. SCHIFF: All right. Well, can I raise another one?

22 The suggestion here is that there's a law requiring me  
23 to withhold. Now, I wish the Government puts in the statute  
24 that requires me to withhold and which I violated because the  
25 jury's getting the impression that there's a statute requiring

1 employees [sic] to withhold when there is no such statute. So  
2 why don't you put in the statute that required me to withhold?

3 THE COURT: Is that your objection is that they haven't  
4 put the statute in yet?

5 MR. SCHIFF: Pardon me?

6 THE COURT: Your objection is they haven't put the  
7 statute in yet?

8 MR. SCHIFF: Yes. They haven't established the fact  
9 that --

10 THE COURT: Your objection's overruled.

11 MR. SCHIFF: -- I'm required to --

12 THE COURT: Go ahead.

13 MR. NEIMAN: Thank you.

14 BY MR. NEIMAN:

15 Q. Was there ever a problem or did you ever encounter any  
16 difficulties in getting paid?

17 A. Um, on occasion I would have to wait the weekend, you know,  
18 until the next Monday after for whatever reason.

19 Q. And would you be paid, then, on Monday?

20 A. Yes.

21 Q. What were you hired at Freedom Books to do?

22 A. Um, originally it was to, um, answer the phones and take  
23 orders and then later responsibilities included, um, creating  
24 documents.

25 Q. What type of documents did you create?

1 A. I, um, did letters and response letters for clients. Things  
2 like that.

3 Q. Was there a fee for the preparation of these --

4 A. Yes.

5 Q. -- letters?

6 You also mentioned you answered phones. What -- can  
7 you elaborate what your responsibilities were there?

8 A. Basically answering the phones. If people had questions, we  
9 would answer the questions and tell them about the materials,  
10 books. If they already had books and were having problems, then  
11 they would need to know what -- they would want to know what to  
12 do next.

13 Q. And were you given instructions as to what to tell them to  
14 do next?

15 A. I pretty much knew, but there was instruction. Yes.

16 Q. And who gave you that instruction?

17 A. Um, Cindy had created a Desk Book that would show you where  
18 to point the people to what material.

19 Q. All right. Well, while you're answering the phones, can you  
20 describe what the volume of calls was like?

21 A. Um, it was different on a daily basis. It could have been  
22 anywhere from 30 to 50 calls a day, sometimes more depending.

23 Q. And do you know if Mr. Schiff had a telephone number or what  
24 was the phone number people called, if you know?

25 A. It was 1-800TAXNOMO.

1 THE COURT: I'm sorry?

2 THE WITNESS: TAXNOMO.

3 BY MR. NEIMAN:

4 Q. You can spell that?

5 A. T-A-X-N-O-M-O.

6 MR. NEIMAN: Your Honor, if I may provide the witness  
7 with an exhibit?

8 THE COURT: You may.

9 BY MR. NEIMAN:

10 Q. Ms. Mitchell, I'm handing you what's been marked as  
11 Government's Exhibit 1. Do you recognize this exhibit?

12 A. Yes.

13 Q. How do you recognize this exhibit?

14 A. This is the Desk Book.

15 Q. This is -- and who prepared this Desk Book?

16 A. It was Cindy.

17 Q. And where did you use this Desk Book?

18 MR. CRISTALLI: Objection. Foundation.

19 THE COURT: As to where she used the Desk Book?

20 MR. CRISTALLI: Who -- who prepared the Desk Book.

21 THE COURT: Oh. Well, you're -- you're a little bit  
22 slow on the objection. But I'll -- I'll allow further  
23 foundation and then entertain a motion to strike if...

24 MR. CRISTALLI: I'm sorry, your Honor.

25

1 BY MR. NEIMAN:

2 Q. Where would you use this Desk Book?

3 A. The Desk Books were basically at the desks where people  
4 answered phones.

5 Q. The desk at which -- at Freedom Books?

6 A. At Freedom Books.

7 Q. And who provided you with your Desk Book?

8 A. Cindy.

9 Q. And did you see who prepared this Desk Book?

10 A. Cindy did.

11 MR. NEIMAN: Your Honor, at this time the United States  
12 would move Government's Exhibit 1 into evidence.

13 MR. CRISTALLI: No objection.

14 THE COURT: No objection?

15 MR. BOWERS: I don't have any objection, your Honor.

16 THE COURT: Mr. Schiff, any objection?

17 (Attorney-client discussion.)

18 MR. SCHIFF: No objection.

19 THE COURT: Thank you. 1 is received.

20 MR. NEIMAN: Thank you, your Honor.

21 (Government's Exhibit No. 1, received into  
22 evidence.)

23 MR. NEIMAN: If we could maybe dim the lights so we  
24 could display Government Exhibit 1, hopefully, to the jury.

25

1 (Document displayed in open court.)

2 BY MR. NEIMAN:

3 Q. Ms. Mitchell, looking at the manual, I guess, in front of  
4 you as well, what are -- what are we looking at here on the  
5 screen?

6 A. This is the cover to the Desk Book.

7 Q. If -- if I could direct your attention to the handwriting at  
8 the top of the Desk Book --

9 A. Um-hum.

10 Q. -- do you see -- or do you recognize that handwriting?

11 A. Yes. That's Cindy's handwriting.

12 Q. How do you know that that's Ms. Neun's handwriting?

13 A. It's very distinct. I've seen her write.

14 MR. NEIMAN: If we could turn to the first page of the  
15 manual, page 2, I believe, for computer purposes. If we could  
16 blow up the top third, please.

17 (Document displayed in open court.)

18 BY MR. NEIMAN:

19 Q. If you could please read, I guess, what the Desk Manual --  
20 or what this -- this memo says.

21 A. From the yellow highlighted portion?

22 Q. Well, first, what's the date of the memo?

23 A. It's May 18th of 2001.

24 Q. And were you working at Freedom Books on May 18th of 2001?

25 A. Yes, I was.

1 Q. And who was this memo to?

2 A. To the Freedom Books employees.

3 Q. And who was it from?

4 A. From Cindy and Irwin.

5 Q. Okay. If you could read for the first -- the first  
6 paragraph, please.

7 A. It says, "THESE DESK REFERENCE BOOKS ARE INTENDED TO BRING  
8 STRUCTURE AND CLARIFICATION TO OUR PROCEDURES, DUTIES AND  
9 RESPONSIBILITIES AT FREEDOM BOOKS. THESE BOOKS WILL END THE  
10 PROBLEM OF CUSTOMERS CALLING THE STORE TWO AND THREE TIMES IN  
11 ONE DAY TO SPEAK WITH SEVERAL DIFFERENT EMPLOYEES OF FREEDOM  
12 BOOKS BECAUSE WE ARE ALL GIVING ALL DIFFERENT FORMS OF ADVICE  
13 AND TIPS."

14 Q. What did you use this Desk Manual for?

15 A. To be honest, I didn't use it too much.

16 Q. Okay. Why not?

17 A. Because I knew the information so well that I didn't need  
18 to.

19 Q. Were you ever present when Ms. Neun or Mr. Schiff or anybody  
20 else at Freedom Books gave instructions as to what to do with  
21 this Desk Book?

22 A. Uh, yeah, I was there.

23 Q. Okay. And did you ever -- who did you hear give these  
24 instructions?

25 A. Uh, when Cindy handed them out, she pretty much gave

1 instruction --

2 Q. And what was --

3 A. -- people were talking too long on the phone.

4 Q. Okay. But -- I'm sorry. I probably over -- I spoke over  
5 you.

6 What was that?

7 A. Well, people were talking quite a bit -- quite long on the  
8 phone, so the point of the book was to limit the conversation.

9 Q. If we could turn your attention to the back of the first  
10 page -- and this I have a feeling will be very difficult to read  
11 up there. Can we blow up the top third, if possible?

12 (Document displayed in open court.)

13 BY MR. NEIMAN:

14 Q. Do you recognize this page of the Desk Manual?

15 A. Yes.

16 Q. When was this -- what was this page for and what was this  
17 used for? And don't even bother looking at the screen.

18 A. Well, this was basically for, um, you know, people that came  
19 in to answer the phones that didn't know too much of how to, you  
20 know, talk about The Federal Mafia when people called wanting to  
21 know that had never called before. So this told everybody where  
22 to start with The Federal Mafia to get the information.

23 Q. All right. Since we can't read this page, can you please  
24 read, I guess, beginning -- at the beginning what this says?

25 A. It says:

1 "There are over a million people using Irwin Schiff's  
2 materials, his research and applications to set themselves free  
3 from the oppressive 'income tax.' Listen to Irwin Schiff speak  
4 every Thursday 4[to]6p.m. Pacific Time on his Freedom Now Radio  
5 Show. You may listen to the" -- "listen at the website,  
6 paynoincometax.com or at www.klav1230am.com. You will hear the  
7 voices of people all across America who have set themselves free  
8 from the income tax scam.

9 "We all get started with the book, The Federal Mafia.  
10 It is good for you if you also get a Seminar, either live, or on  
11 cassette, or on video. It is your 'class'. The Seminars come  
12 with documents and exhibits that are not found in the book, so  
13 they help to update your Mafia, and they are great study tools.  
14 But, if you like to read, many people do this with just the  
15 book. The book shows you how to file the zero return, stop your  
16 wage withholding and, explains the basics."

17 Keep going?

18 Q. I think we're good.

19 You mentioned something about some Schiff Reports?

20 A. Yes.

21 Q. Do you know what Schiff Reports are?

22 A. The Schiff Reports are, um, how Irwin updated the book.  
23 Rather than re-updating the book every time he would make  
24 reports, um, on cassette tapes and include documents with  
25 response letters to anything people get from the IRS, they would

1 have a response.

2 Q. And were these Schiff Reports -- how were they available or  
3 made available to -- to customers?

4 A. They were for sale.

5 Q. Okay. Do you know how much Mr. Schiff charged for these  
6 Schiff Reports?

7 A. Um, anywhere from 60 to 85, I believe.

8 Q. In addition to Schiff Reports, was there anything else  
9 available for sale at Freedom Books?

10 A. There were other books that Irwin wrote and, um, the  
11 Internal Revenue Code itself, Title 26. Uh, there was a Code of  
12 Federal Regulations, and, um, a book by Senator William Roth.

13 Q. All right. If I could direct your attention to the next  
14 page of the Desk Manual.

15 A. Um-hum.

16 Q. If we could blow up the top third.

17 (Document displayed in open court.)

18 BY MR. NEIMAN:

19 Q. Do you recognize this document?

20 A. Yes.

21 Q. How do you recognize this document? What did you use this  
22 document for?

23 A. This is a list of some of the, uh, materials and the prices  
24 of those materials that were available at Freedom Books. And  
25 this sheet usually got included with an order.

1 Q. What do you mean "included with an order"?

2 A. If somebody ordered a Federal Mafia, let's say, this sheet  
3 would be included with it so that they knew what else was  
4 available to them.

5 Q. Okay. The first section is titled "Books." Do you know who  
6 wrote these books?

7 A. Yes. These were all written by Irwin Schiff.

8 Q. Okay. If we could blow up the bottom -- or the middle -- or  
9 bottom third, I guess; bottom half. Sorry.

10 The next -- if you could just explain, I guess, what  
11 the next set of products listed on this price list are.

12 A. Um, these are the video seminars and the cassette seminars  
13 and the, um, Schiff audio reports that we just discussed.

14 Q. Okay. Looking at the, uh -- I guess the first line,  
15 "Secrets to Living an Income Tax Free Life," how much did that  
16 cost?

17 A. Oh, it's a hundred and fifty-one on this sheet. And, if you  
18 got The Federal Mafia with it, it was 175.

19 Q. If we can go to the next page of the Desk Manual.

20 (Document displayed in open court.)

21 BY MR. NEIMAN:

22 Q. Are these additional products offered for sale at Freedom  
23 Books?

24 A. Yes, they are.

25 Q. If we could blow up the top half.

1           What are these products on display right here?

2   A.   Um, there's the Lien & Levy Packet, the Audit Packet, W-4  
3   Packet, and I think you have the letters disk up there.

4   Q.   And what is the price of these documents or how much do  
5   these cost?

6   A.   \$55, 25, a hundred.

7   Q.   How did people, um, pay for these products, if they -- if  
8   they came in or ordered over the phone or however they ordered?

9   A.   If they came in, well, they would pay cash, credit card. On  
10   the phone, they would do credit cards mostly.

11   Q.   And the bottom half of this document, are -- are these  
12   additional products offered for sale?

13   A.   Yes.

14   Q.   If I could direct your attention to the next page of the  
15   Desk Manual.

16                   (Document displayed in open court.)

17   BY MR. NEIMAN:

18   Q.   Do you recognize this document?

19   A.   Yes, this is the order form.

20   Q.   What -- what is an order form or when would you use this  
21   order form?

22   A.   This is when you would -- when we answered the calls, we  
23   would take orders on this form circling what they wanted and...

24   Q.   Do you recognize the handwriting at -- at the top?

25   A.   Yes. It's Cindy's.

1 Q. Whose handwriting is it?

2 A. It's Cindy's.

3 Q. Did you ever fill out any of these order forms?

4 A. Yes, I did.

5 Q. When would you fill out these order forms, just by way of  
6 example, I guess?

7 A. Well, if somebody ordered, let's say, a Federal Mafia or --  
8 or a Schiff Report or something, you circle what they wanted;  
9 put up their information; and take down their credit card  
10 number.

11 Q. How many of these order forms did you fill out?

12 A. I couldn't give you an exact number. But, like I say, I  
13 didn't answer phones too long. So maybe the time I was there 40  
14 or 50.

15 Q. Whose primary job was it to answer telephone -- the  
16 telephones?

17 A. There were actually two people --

18 Q. And what were their names?

19 A. -- at the time.

20           There was Woody and Larry.

21           MR. NEIMAN: Your Honor, if I may approach with another  
22 exhibit?

23           THE COURT: You may.

24           MR. NEIMAN: Thank you.

25

1 (Pause in the proceedings.)

2 MR. NEIMAN: Your Honor, maybe it would be easier  
3 for -- I guess I could -- never mind.

4 BY MR. NEIMAN:

5 Q. Ms. Mitchell, I'm gonna hand you what's been marked as  
6 Government's Exhibit 2. If you could take a look at  
7 Government's Exhibit 2.

8 THE COURT: Do you want her to take all of those out?

9 BY MR. NEIMAN:

10 Q. You don't need -- you can just -- have you reviewed  
11 Government's Exhibit 2 before?

12 A. Yes.

13 Q. Do you recognize Government's Exhibit 2?

14 A. Yes.

15 Q. What is Government's Exhibit 2?

16 A. These are the books that the order forms were stored in.

17 Q. Stored in where?

18 A. In the office.

19 Q. "The office" being Freedom Books?

20 A. Freedom Books. Um-hum.

21 Q. And so, after you filled out an order form, what would you  
22 do with it?

23 A. You would give it to the -- to the shipper.

24 Q. Okay.

25 A. Actually, you ran the credit card first and then gave it to

1 the shipper.

2 Q. All right. And where were these binders located?

3 A. I believe they were back in the shipper's area.

4 Q. "The shipper" being within the Freedom Books?

5 A. Yes.

6 Q. Okay.

7 MR. NEIMAN: Your Honor, at this time the United States  
8 would move in Government's Exhibit 2.

9 MR. CRISTALLI: Your Honor, we have no objection on  
10 behalf of Ms. Neun. In fact, if there's additional  
11 documentation consistent with this, we would probably stipulate  
12 to it.

13 THE COURT: Okay. Well, let's --

14 MR. CRISTALLI: I think we're agreeable to stipulate up  
15 to Exhibit 59, if I'm not mistaken.

16 THE COURT: Okay.

17 Mr. Bower [sic].

18 MR. BOWERS: I certainly don't have any objection to  
19 the introduction of this document.

20 THE COURT: Do you stipulate up to 59?

21 MR. BOWERS: Could you give me just a moment, your  
22 Honor? Maybe if you could ask Mr. Schiff.

23 THE COURT: Mr. Schiff, do you object to --

24 MR. SCHIFF: I have no objection.

25 THE COURT: -- No. 2? All right.

1 MR. BOWERS: Is that up through 59, Mr. Schiff?

2 THE COURT: Well, let's --

3 MR. BOWERS: Mr. Schiff is not --

4 THE COURT: You don't object to 2?

5 MR. BOWERS: No, not at all.

6 THE COURT: 2 is received.

7 MR. BOWERS: But if we could get 'em all done, I'll --

8 MR. NEIMAN: We'll move 2 through 59 in right now if  
9 your Honor --

10 THE COURT: Well, let's see if they are willing to  
11 agree.

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

14 MR. SCHIFF: I don't see that exhibit here. Is that in  
15 this book?

16 MR. NEIMAN: Exhibit 2, no, Mr. Schiff.

17 THE COURT: 2 is here. 2 are the order forms.

18 MR. NEIMAN: With the Court's permission --

19 MR. SCHIFF: If it's an order form, then I have no  
20 objection.

21 (Government's Exhibit No. 2, received into  
22 evidence.)

23 THE COURT: All right. Let's see if we can get the  
24 others out of the way, 3 through 59 now.

25 MR. BOWERS: That's fine by me, your Honor.

1 THE COURT: All right. So we have one who stipulates  
2 to --

3 MR. SCHIFF: I have no objection to any of these  
4 exhibits.

5 THE COURT: All right. 3 through -- 3 through 59 will  
6 be received, no object --

7 MR. SCHIFF: These are fine.

8 THE COURT: -- no objection having been made.

9 (Government's Exhibit Nos. 3 through 59,  
10 received into evidence.)

11 THE COURT: Okay. Go ahead.

12 MR. SCHIFF: Can I -- okay. Okay.

13 BY MR. NEIMAN:

14 Q. If I could direct your attention, Ms. Mitchell, back to your  
15 personal situation, did Mr. Schiff ever give you any advice with  
16 regards to a W-4 form?

17 A. Yes. On the -- in The Federal Mafia he has an example of  
18 how to fill out a W-4 form with your employer.

19 Q. Well, first, what is a Form W-4?

20 A. The Form W-4 is the form that the IRS provides to employers  
21 so that the employees can fill out, uh, allowances, how much  
22 money they would like to be withheld, applied toward --

23 MR. SCHIFF: Oh, no, no, no.

24 THE WITNESS: -- later applied toward income taxes.

25

1 BY MR. NEIMAN:

2 Q. And, Ms. Mitchell, what was Mr. Schiff's advice with regards  
3 to what to do on the W-4?

4 A. He said to put "exempt" on line 7 so that the employer would  
5 not hold anything to apply to withholding.

6 Q. And did you file an exempt W-4 with The Monte Carlo?

7 A. Yes, I did.

8 Q. What was the effect on, I guess, your take-home pay each  
9 time you got paid?

10 A. It was significantly more without federal withholding coming  
11 out.

12 Q. Approximately how much more did you get a paycheck?

13 A. Well, my income varied. So it could have been anywhere from  
14 three, five hundred every two weeks.

15 Q. Did you ever hear Mr. Schiff talk about this increase in  
16 pay?

17 A. Yes.

18 Q. What did he say about it?

19 A. He called it "an immediate raise."

20 Q. Where did you hear him say this?

21 A. On the radio show.

22 MR. NEIMAN: And, of course, just as the lights go on,  
23 we're back to the...

24 THE CLERK: Need to use them again.

25

1 (Document displayed in open court.)

2 BY MR. NEIMAN:

3 Q. If I can direct your attention to --

4 MR. SCHIFF: Excuse me. I must apologize. I just  
5 wanted to clarify because I wasn't sure.

6 Did I just say I have no objection to my returns going  
7 in?

8 THE COURT: Are those in the --

9 MR. SCHIFF: Were my returns included?

10 MR. NEIMAN: Yes, he did.

11 MR. SCHIFF: I do have an objection.

12 MR. NEIMAN: We're not gonna address them with this  
13 witness.

14 THE COURT: Okay.

15 What numbers are those exhibits?

16 MR. NEIMAN: 22 through, I believe --

17 MR. SCHIFF: As a matter of fact...

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

20 MR. NEIMAN: 22 through 57. So it's...

21 THE COURT: Oh, okay.

22 MR. SCHIFF: Okay. Um, since it's the Government's  
23 claim that I'm required to file, then those returns are  
24 compelled. And, obviously, you can't compel me to file a  
25 document and then use that document against me. I have all

1 kinds of -- so --

2 THE COURT: We'll address those one by one when they  
3 come up.

4 MR. SCHIFF: Pardon me?

5 THE COURT: We will address your tax returns one by one  
6 when they come up as --

7 MR. SCHIFF: Okay.

8 THE COURT: -- as proposed exhibits.

9 MR. SCHIFF: Okay. Because I have an objection to  
10 them.

11 BY MR. NEIMAN:

12 Q. If -- Ms. Mitchell -- I'm sorry -- if I could direct your  
13 attention back to the Desk Manual to the tab labeled "W-4," page  
14 36, I believe. If we could blow up the bottom third.

15 Did you ever use this page of the Desk -- what's that?  
16 I'm sorry.

17 A. I'll just look at it on this one.

18 Q. Did you ever use this page or this tab on the Desk Manual?

19 A. I personally did not, but I have seen it.

20 Q. Okay. Looking at the screen, what do we see up there?

21 A. Well, what is written on there or...

22 Q. What is it that we're looking at?

23 A. Oh, this is a sample of a W-4, how to fill out, um, your  
24 exempt status on the W-4.

25 Q. All right. And what's the name of this taxpayer on the

1 sample W-4?

2 A. That would be Ima Freeman.

3 Q. And the handwriting right above the W-4, is that Ms. Neun's  
4 handwriting?

5 A. Yes, it is.

6 Q. Can you please read when that says?

7 A. It says -- um, on the back we write, "I am not filing this  
8 form voluntarily. If I didn't file it, I wouldn't get paid."

9 Q. Where did that advice come from?

10 A. That came from Irwin Schiff.

11 Q. And looking at, uh, the highlighted portion of -- of the W-4  
12 where is it says "exempt," is that how you filed your W-4?

13 A. Yes, it is.

14 Q. While working at Freedom Books, did you ever receive any  
15 phone calls from people asking about the W-4?

16 A. Yes.

17 Q. Were you given instructions on how to respond?

18 A. Uh, yes. Basically I knew how to respond. They were to --  
19 usually people were calling because their employer was having a  
20 problem accepting an exempt W-4.

21 Q. Okay. And what would you tell someone who --

22 A. I would tell them --

23 Q. -- got that phone call or posed that question?

24 A. Well, Irwin had a W-4 Packet available.

25 Q. And how was that available? Was that --

1 A. For sale.

2 Q. Do you know how much the W-4 Packet cost?

3 A. Um, \$25.

4 Q. And were you told to refer people to the W-4 Packet?

5 A. Yes.

6 Q. Who were you told to refer to the W-4 Packet by?

7 A. Well, that's contained in the Desk Book. But, like I said,  
8 I knew this information. So, if people had problems with, um,  
9 you know, filing their W-4's, that the W-4 Packet had cassette  
10 tapes and some documents and sample letters on who to write to  
11 and how to object to the employer not accepting that W-4.

12 Q. And who were these letters supposed to be sent to?

13 A. I believe in the packet they were sent to the employer.  
14 And, um, if they had problems from the IRS, there were letters  
15 on how to send letters to the IRS.

16 Q. Was that contained within the same packet or was there  
17 another W-4 Packet for the IRS?

18 A. No, it was in the same packet. I'm pretty sure it was.

19 Q. You mentioned earlier that you filed zero returns for years  
20 '96, '97, and 2000. If I can show you on this screen what I  
21 believe is already admitted into evidence as Government's  
22 Exhibit 5.

23 THE COURT: It is.

24 (Document displayed in open court.)

25

1 BY MR. NEIMAN:

2 Q. Page 2. If you could blow up the top third.

3 What are we looking at here at Government Exhibit 5?

4 A. That's my tax return for 1997.

5 Q. All right. What's the name say?

6 A. That's my maiden name, Antoinette Ahee.

7 Q. All right. And -- and, if we could go back up and highlight  
8 the "income" section of the tax return.

9 Whose advice was it to put down those zeroes?

10 A. That came from Irwin.

11 Q. Where did you see a return like this before?

12 A. In The Federal Mafia.

13 Q. If we can go to the second page of the tax return, blow up  
14 the bottom third.

15 Is that your signature?

16 A. Yes, it is.

17 Q. I know it's hard to read, especially on the screen.

18 MR. NEIMAN: Your Honor, if I may approach the witness  
19 with Government Exhibit 5.

20 THE COURT: You may.

21 THE WITNESS: I have it right here.

22 BY MR. NEIMAN:

23 Q. Can you read the -- what it says above your signature?

24 A. Sure.

25 "Under penalties of perjury, I declare that I ...

1 examined this return..."

2 Q. It's in front of you, Ms. Mitchell. If it's easier.

3 A. That's pretty small on there. Oh.

4 "... I have examined this return and accompanying  
5 schedules and statements, and to the best of my knowledge and  
6 belief, they are true, correct, and complete. Declaration of  
7 preparer ... is based on ... information ... which preparer has  
8 any knowledge."

9 Q. Did you prepare this return yourself or did you have a  
10 return prepared?

11 A. I prepared it.

12 Q. Did you have W-2 wages in excess of zero that year?

13 A. No. I had wages that year.

14 Q. In excess of zero.

15 A. Oh, yes, I did.

16 Q. How much in wages did you have that year?

17 A. I believe it was something like 50-something thousand, 55  
18 thousand.

19 Q. I would direct your attention to Government Exhibit 5 which  
20 I believe contains your --

21 A. Oh.

22 Q. -- W-2.

23 A. Oh. 58 -- 58,892. It was a good year.

24 Q. Did you attach anything to your tax return?

25 A. I did. I had a two-page attachment.

1 Q. Where did you get this two-page attachment?

2 A. I received that from the Freedom Books with The Federal  
3 Mafia.

4 Q. And what was the instruction in The Federal Mafia with  
5 regards to what to do with this two-page attachment?

6 A. We were supposed to attach the two pages to the zero return  
7 and send it in.

8 Q. What does this two-page attachment say?

9 A. It explains why you're reporting your income as zero knowing  
10 that the IRS is gonna get the W-2.

11 Q. What authority, if any, does it cite in this attachment?

12 A. There's some court cases. There's, um, I believe some  
13 Internal Revenue Code sections.

14 Q. Did you ever read any of these cases?

15 A. The cases themselves? Not all of them, no.

16 Q. When you say "not all of them," did you read portions?

17 A. Portions of them.

18 Q. Where are the portions of the cases that you read?

19 A. Some are in The Federal Mafia and then some are included in  
20 the Schiff Reports and Irwin would talk about them.

21 Q. Did this two-page attachment ever cite to any cases  
22 rejecting the defendant's position?

23 A. No.

24 Q. Does The Federal Mafia talk about any cases which talk  
25 negatively or reject the, uh, zero return?

1 A. The zero return itself? No.

2 Q. Does The Federal Mafia discuss anything about fines or  
3 penalties people having encountered or may encounter for filing  
4 zero return?

5 A. I don't believe so. Not in The Mafia.

6 Q. Based upon your reading of The Federal Mafia, did it talk  
7 about anyone being prosecuted for filing a zero return.

8 A. Not in The Federal Mafia.

9 Q. When you filed your zero return -- we saw that you sought a  
10 refund. What was your impression or understanding with this  
11 refund?

12 A. Well, I thought I was gonna get a refund initially just from  
13 reading The Federal Mafia.

14 Q. Well, if you can elaborate a little on what the process or  
15 what you thought, how it would work out.

16 A. Well, on the radio show, I had heard people that called in  
17 that had received refund checks from the IRS after filing a zero  
18 return. So I believed that I had a good chance of receiving one  
19 as well.

20 MR. CRISTALLI: Your Honor, I'm sorry. If the  
21 Government could, or someone could, remove Exhibit 2 in front of  
22 the witness because I can't see her.

23 THE COURT: Okay.

24 MR. CRISTALLI: Sorry.

25 THE COURT: Are we through with 2?

1 MR. NEIMAN: Yes, your Honor.

2 THE COURT: Okay.

3 Here's a little bit more of it, Counsel. Just lay it  
4 in there.

5 (Pause in the proceedings.)

6 BY MR. NEIMAN:

7 Q. Did you ever hear Mr. Schiff talk about any cases he may  
8 have had against the United States?

9 A. Um, in The Federal Mafia he talks about the case that, you  
10 know, he was serving time for.

11 Q. Okay. What does he say he was serving time for exactly?

12 A. For, I believe it was, failure to file a tax return.

13 Q. If I could direct your attention back to the Desk Manual. I  
14 believe there's a -- are there tabs in the Desk Manual?

15 A. Yes.

16 Q. Can you explain to us what it is that is tabbed and what the  
17 Desk Manual itself looks like?

18 A. Well, the tabs are, you know, talking about the different  
19 services provided at Freedom Books and, um, different letters  
20 people may call in saying they've received so that who's ever  
21 answering the phone would know where to direct the person, to  
22 what material.

23 Q. All right. If we could turn to the tab labeled "ZERO  
24 RETURN." Page 82.

25

1 (Document displayed in open court.)

2 BY MR. NEIMAN:

3 Q. And, ignoring the handwriting for the time being, does it  
4 look like the zero return you filed?

5 A. Yes.

6 Q. And whose handwriting is that that we see on this?

7 A. That would be Cindy's.

8 Q. At Freedom Books, would you prepare zero returns for  
9 customers?

10 A. Yes, sometimes.

11 Q. And can you explain how that process worked?

12 A. Um, people would have to have had The Federal Mafia already  
13 before we would do that for them. And most of the time it was  
14 people that were here locally in Las Vegas that wanted that  
15 done.

16 Q. And was there a charge for this service?

17 A. I believe it was \$50.

18 Q. How many zero returns did you prepare while working at  
19 Freedom Books?

20 A. Um, maybe anywhere from 20 to 40.

21 Q. Were there other documents that were prepared at Freedom  
22 Books --

23 A. There --

24 Q. -- or you prepared at Freedom Books?

25 A. Yes. There were response letters. People would get letters

1 from the IRS and want us to prepare the response. And, as long  
2 as they had the Schiff Report already that contained the  
3 response, we would do it for them for a fee.

4 Q. Was it ever explained to you why they had to have the Schiff  
5 Report prior to you making -- preparing the response?

6 A. So they would have the information. They would understand  
7 why it was that they were answering the way they were.

8 Q. And was there a charge for the preparation of these letters?

9 A. Yes. Most standard letters were \$50.

10 Q. If I could direct your attention to the Desk Manual, uh, tab  
11 titled "LETTER SERVICE," page 15.

12 (Document displayed in open court.)

13 MR. NEIMAN: If we blow up and get rid of the white  
14 space, please.

15 BY MR. NEIMAN:

16 Q. Do you recognize this document?

17 A. Yes.

18 Q. Are these the prices that you would charge or Freedom Books  
19 would charge for the preparation of various letters?

20 A. Yes, they are.

21 Q. If you could read, I guess, how -- how much was a charge for  
22 a petition, a motion, or a memorandum to Tax Court.

23 A. Uh, that was \$300 and the rush jobs were 500.

24 Q. What was a rush job?

25 A. Let's say the person's deadline was, you know, in a couple

1 of days.

2 Q. And did you prepare such documents?

3 A. Yes.

4 Q. How would you prepare them or...

5 A. There was a CD of letters that we actually sold in the  
6 office and on that CD contained, um, you know, the way that --  
7 the responses. And we would just personalize them to fit the  
8 person.

9 Q. Okay. How -- like, explain how much work there was in  
10 personalizing them to fit the person.

11 A. Um, it depended on the person's particular case. But you  
12 would just put in their information basically and put in dates  
13 and different things.

14 Q. What types of information would you put in?

15 A. Um, their personal information.

16 Q. The name? Address?

17 A. Right. Name, address.

18 Q. This -- this -- if you could read this bottom paragraph on  
19 the price list.

20 A. "If customers want documents to be prepared for them, they  
21 must bring by, fax, or mail us the appropriate personal  
22 documents that pertain to what they want done. All out of city  
23 customers must prepay, in city may pay when they pick up the  
24 documents, of course we do [not] encourage prepayment. Please  
25 take order on order form" -- "on order form under 'special

1 instructions'. Order to be ran on Credit card and forwarded to  
2 Joel for recording, place a copy [in] the order ... the  
3 documents the customer wants ... to respond [into] Toni's inbox.  
4 Any questions about preparing documents, please divert to Toni  
5 or Cindy."

6 Q. Are you Toni?

7 A. I am.

8 Q. Explain to me what your inbox was like.

9 A. There were, you know, folders in there with, you know,  
10 people's names that wanted different letters or documents  
11 prepared.

12 Q. And how many documents or how many letters would be in there  
13 a day or a week?

14 A. It depends on how often I came in there 'cuz I was part  
15 time. So, um, there could be anywhere from two to ten in the  
16 box at one time.

17 Q. Did you ever collect money for the payment of services here  
18 or the preparation of documents?

19 A. Yes.

20 Q. How were you paid most of the time for services?

21 A. Most of the time was credit cards --

22 Q. Okay.

23 A. -- or checks.

24 Q. And --

25 A. Sometimes cash.

1 Q. What would you do with the checks or cash that would come  
2 in?

3 A. There was a register there. You ran the credit cards on the  
4 credit card machine --

5 Q. And --

6 A. -- and then logged it.

7 Q. Excuse me?

8 A. Logged the -- the, um, preparation and the amount that was  
9 paid.

10 Q. Where would you log it?

11 A. There was a book there, like a green book where you logged  
12 it.

13 Q. If I could direct your attention back to your personal  
14 situation: After you filed your -- your zero return, did you  
15 get a refund?

16 A. No, I didn't.

17 Q. Uh, what -- what, if anything, did you get from the IRS?

18 A. Um, for '96 I believe I received a "we've changed your  
19 return" letter.

20 Q. What is a "we changed your return" letter?

21 A. It's the 30-day letter where the IRS says, you know, we  
22 don't like what you put and we're changing it and we're  
23 including your W-2 wages as income and not taking any  
24 deductions.

25 Q. All right. And did you receive another letter shortly

1 thereafter for that year or a different tax year?

2 A. Um, for '96, they basically just went ahead and changed it  
3 and applied what I paid in to taxes. For '97, I received a  
4 frivolous return letter.

5 Q. What is a frivolous return letter?

6 A. Oh, they declared that my return for 1997 was frivolous and,  
7 um, charged a \$500 penalty.

8 Q. What did you do once you received these letters?

9 A. Um, at that time I had already gone down, when I didn't  
10 receive a refund, and I picked up a couple of the Schiff Reports  
11 so that I knew what to expect and how to respond.

12 Q. And the Schiff Reports are the audiotapes we're talking  
13 about?

14 A. The audiotapes and the documents, the letters that show you  
15 how to respond to the letters that I was receiving.

16 Q. All right. These letters that you were to respond with, who  
17 were they addressed to?

18 A. The Internal Revenue Service.

19 Q. All right. Did the IRS respond to these letters?

20 A. Um, no.

21 Q. Did you get other letters from the IRS?

22 A. They basically sent bills and then eventually sent a  
23 deficiency notice.

24 Q. All right. We'll get down that road in a minute.

25 After you received these frivolous letters or the

1 "change your return" letter, did you ever call Irwin at the  
2 radio station?

3 A. I did call him at the radio station.

4 Q. All right. What did you say to Irwin when you spoke to him?

5 A. I had told him about the letter I received. He asked me if  
6 I had the Schiff Report that the letter -- response letter was  
7 contained in. And I did. He instructed me --

8 MR. SCHIFF: I can't hear you.

9 THE WITNESS: He instructed me to respond to the -- to  
10 the letters.

11 MR. SCHIFF: Excuse me, your Honor. I'm having trouble  
12 hearing. Can I go someplace where I can either --

13 THE COURT: You won't hear any better in --

14 MR. SCHIFF: I'm gonna try to have my hearing aids  
15 adjusted, but they are closed during the day [sic]. I'm try to  
16 make an appointment.

17 THE COURT: I'll ask witness to speak --

18 MR. SCHIFF: Pardon?

19 THE COURT: I'll ask witness to speak a little louder.

20 MR. SCHIFF: Okay. Can you do that for me, Toni?

21 THE WITNESS: Sure.

22 MR. SCHIFF: Okay.

23 BY MR. NEIMAN:

24 Q. I believe you were saying you called after getting the  
25 letters. What did Mr. Schiff tell you?

1 A. I spoke to him on the radio and he said that -- you know, to  
2 send in the response letter that I had contained in the Schiff  
3 Report.

4 Q. And the Schiff Report is available how?

5 A. For sale.

6 Q. While working at Freedom Books, did you ever get questions  
7 or -- about the frivolous letter that we just talked about?

8 A. Yes.

9 Q. And is the frivolous letter mentioned in the Desk Manual?

10 A. Yes, it is.

11 Q. Is there a tab for it?

12 A. I'm sure.

13 Q. If I can direct your attention to the tab labeled  
14 "FRIVOLOUS," page 39.

15 (Document displayed in open court.)

16 MR. NEIMAN: If we can blow up the body of the letter.

17 MR. BOWERS: This is the frivolous letter?

18 MR. NEIMAN: Yes.

19 MR. BOWERS: Can you identify it for us?

20 MR. NEIMAN: Frivolous letter.

21 THE COURT: Page 39.

22 MR. NEIMAN: Page 39 of Exhibit 1.

23 BY MR. NEIMAN:

24 Q. If you can please read what this frivolous letter says,  
25 ignoring the handwriting.

1 A. It says:

2 "Dear Taxpayer...:

3 "We have determined that the information you sent is  
4 frivolous and your position has no basis in law. Claims, such  
5 as yours, have been considered and rejected repeatedly as  
6 without merit by the federal courts – including the Supreme  
7 Court of the United States. Therefore, we will not respond to  
8 future correspondence concerning these issues."

9 Keep going?

10 Q. Yeah. Please read the next paragraph.

11 A. "In answering your tax questions, we encourage you to seek  
12 advice from competent tax counsel or an attorney qualified to  
13 practice in your state."

14 Q. All right. Did you seek professional -- did you seek advice  
15 from competent tax counsel --

16 A. That would be -- well, my opinion at the time was yes.

17 Q. -- who did you seek advice from?

18 A. Irwin Schiff.

19 Q. And what's -- the rest of the letter assesses a penalty,  
20 does it not?

21 A. Yes.

22 Q. And how much is that penalty for?

23 A. It's a \$500 penalty.

24 Q. Did you receive a \$500 penalty for filing your zero return?

25 A. Yes, I did.

1 Q. Did you receive just one \$500 penalty or did you receive one  
2 for every year that you filed a zero return?

3 A. I believe the only time I got the penalty was for '97.

4 Q. Okay.

5 A. I'm not sure about 2000.

6 Q. Were you ever instructed by the defendants, Ms. Neun or  
7 Mr. Schiff, as to how to respond when you got -- when you got  
8 inquiries about this frivolous letter?

9 A. I actually knew how to respond. But the Desk Book does tell  
10 you.

11 Q. What does the Desk Book -- how does the Desk Book and how  
12 did you respond when you got such inquiries?

13 A. You directed the -- the clients to Schiff Report Series 5 --

14 Q. Okay.

15 A. -- where it contained a response to this letter.

16 Q. And was this response letter also discussed on other tape  
17 series as well?

18 A. It's also in, um, Series 6.

19 Q. And are Series 5 and Series 6 sold together or are they sold  
20 separately?

21 A. They were sold separately at the time.

22 Q. Did you ever file responses or type responses in your  
23 preparation, uh, side of the -- of the business?

24 A. Yes, I did.

25 Q. Approximately how many of these response letters would you

1 send -- or did you prepare?

2 A. Um, I couldn't tell you. But between, like, the three  
3 different letter responses, it had to have been over a hundred.

4 Q. And who were these all addressed to?

5 A. They were addressed to the -- to the IRS.

6 Q. This second letter that you mentioned -- or the first  
7 letter, actually, we talked about earlier was a "change your  
8 return" letter. Is there a tab in the book how to respond to  
9 that or what to do when you got that letter?

10 A. Yes.

11 Q. If you could turn to that tab at page 27.

12 A. (Complies.)

13 (Document displayed in open court.)

14 BY MR. NEIMAN:

15 Q. Was the frivolous letter mentioned in The Federal Mafia?

16 A. I don't believe it was.

17 Q. How about the "change your return" letter, was that  
18 mentioned in The Federal Mafia?

19 A. I don't believe so.

20 Q. Looking at page 27 of Exhibit 1 -- and I realize these are  
21 impossible to read -- if you can, I guess, just explain, uh,  
22 what this letter does or what this letter says.

23 A. The IRS basically gives the taxpayer 30 days to respond and  
24 says that the IRS intends on changing the tax return to reflect  
25 their wages that were --

1 Q. How would the IRS know what wages they've received or the  
2 taxpayer received?

3 A. Because the employer sends the IRS the W-2 which reports  
4 what they paid them.

5 Q. What were you told or what products were you told to refer  
6 to customers after they received this letter?

7 A. This was -- the answer to this letter was in Schiff Report  
8 Series 5.

9 Q. Okay. Was it in -- discussed in any other Schiff Reports?

10 A. Um, any time you received a letter like this from the IRS  
11 Irwin recommended that you file a request for an appeals review  
12 conference with the IRS. And that was contained in Schiff  
13 Report Series 6 on how to request that conference.

14 Q. And, once you got that conference, was there additional  
15 products available for sale as to what to -- what to do next?

16 A. Uh, I believe for the appeals review it was discussed in  
17 Series 6 on how to -- how to conduct yourself. Later for a  
18 collection due process hearing there was a different --

19 Q. Okay. We'll get to those in a minute.

20 A. -- procedure.

21 Q. After getting the frivolous letter and the "we changed your  
22 return" letter, did you receive any other correspondences from  
23 the IRS?

24 A. After the 30-day letter, this -- this "change your return"  
25 letter, you usually got a deficiency notice.

1 Q. Now, did you ever discuss with any of the defendants that  
2 you were receiving these letters?

3 A. No, because basically the information was contained in the  
4 Schiff Reports already.

5 Q. All right. How --

6 A. I discussed the fact that I responded to them and things  
7 like that, yeah.

8 Q. Now about when you were working there, did you ever discuss  
9 the fact that people were receiving all these correspondences  
10 from the IRS?

11 A. Yes.

12 Q. Who did you discuss it with?

13 A. Well, we talked about it in the office: how people were  
14 responding, if they were gettin' responses back.

15 Q. This Notice of Deficiency, which you just talked about, is  
16 there another name for this letter?

17 A. The deficiency notice --

18 Q. Yeah.

19 A. -- is a 90-day letter.

20 Q. Okay. I may have jumped the gun.

21 Did you receive a 90-day letter?

22 A. Yes, I did.

23 Q. If I could direct your attention to the tab labeled "NOTICE  
24 OF DEFICIENCY," page 50 of Exhibit 1.

25 A. (Complies.)

1 MR. SCHIFF: Where is the deficiency?

2 (Document displayed in open court.)

3 BY MR. NEIMAN:

4 Q. Looking at the body of this letter, what does this letter,  
5 in essence, say to the taxpayer or to the person receiving it?

6 MR. SCHIFF: Could you have -- what exhibit -- pardon  
7 me -- what exhibit is the deficiency notice? Do we have a hard  
8 copy of it?

9 MR. NEIMAN: Your Honor, it's page 50 --

10 THE COURT: Page 50.

11 MR. NEIMAN: -- of Exhibit 1.

12 THE COURT: Page 50, Exhibit 1, is the document being  
13 discussed.

14 MR. SCHIFF: It's numbered differently for us.

15 (Discussion between the parties.)

16 MR. NEIMAN: The Bates numbers on the bottom right-hand  
17 corner.

18 MR. LEVENTHAL: What number is that, 785?

19 MR. NEIMAN: 785.

20 MR. LEVENTHAL: Thank you.

21 BY MR. NEIMAN:

22 Q. The Notice of Deficiency, explain what this letter is.

23 A. This is a -- where the IRS gives the taxpayer 90 days to,  
24 uh, petition Tax Court if they want to refute the deficiency or  
25 challenge the amounts.

1 Q. All right. Uh, did Mr. -- ever talk to Mr. Schiff about Tax  
2 Court?

3 A. Um, he always instructed people not to go to Tax Court on a  
4 deficiency notice.

5 Q. Did he explain why?

6 A. Because when you go to Tax Court, you can't argue the law.  
7 You can't -- you can't discuss whether you have a liability for  
8 the tax; you can only discuss it -- discuss the -- the amount of  
9 the tax.

10 Q. Did Mr. Schiff ever express to you his opinions of Tax  
11 Court?

12 A. He believed it wasn't really a court.

13 Q. What would he say about Tax Court?

14 A. Um, basically not to go to Tax Court.

15 Q. All right. Did Mr. Schiff -- or did you ever discuss with  
16 Mr. Schiff his own personal dealings at Tax Court?

17 A. Um, not specifically.

18 Q. What products were you told to refer customers to after  
19 receiving a Notice of Deficiency?

20 A. Um, there's the appeals review form, like I mentioned  
21 before, in Series 6 and then Series 5 I believe contained the  
22 deficiency notice response.

23 Q. All right. And we also see a reference to seminars. What  
24 types of seminars did Mr. Schiff have?

25 A. Um...

1 Q. If you look at the screen, it may be easier to see where I'm  
2 referring.

3 A. Oh. Well, he talks about the deficiency notice in the  
4 seminars is what it says.

5 Q. What type of seminars would Mr. Schiff conduct?

6 A. Well, he has a video seminar and the cassette seminar. And,  
7 when he does live seminars, he always talks about the deficiency  
8 notice.

9 Q. Okay. Is there a charge for this live seminar?

10 A. Yes.

11 Q. Do you know how much it costs to go to a live seminar?

12 A. The prices varied. It was like a hundred and twenty-five  
13 dollars, I believe; hundred and fifty if you went as a couple.  
14 And you could bring your tax attorney or accountant for free.

15 Q. Was there -- did Mr. Schiff have a response letter for the  
16 Notice of Deficiency that was available for purchase?

17 A. Yes, he did.

18 Q. And do you know approximately how much it cost -- did you  
19 ever prepare any of these response letters?

20 A. Yes.

21 Q. And how much did you charge to prepare these response  
22 letters?

23 A. I believe it was \$50.

24 Q. Looking at, um, the red handwriting at the top, it says, "CC  
25 to O'Neil & Rossotti."

1 A. Um-hum.

2 Q. Do you know who O'Neil and Rossotti are?

3 A. At the time it was the Commissioner of Internal Revenue and  
4 the Secretary of Treasury.

5 Q. The response letters in the Notice of Deficiency were to be  
6 sent to them according to Mr. Schiff?

7 A. There were specific letters that were sent to them with a  
8 copy of it.

9 Q. All right. At the -- if we could go to the second page, I  
10 believe, of the Notice of Deficiency. It should be page 53.  
11 Maybe 54. Maybe... Page 53. There we go.

12 (Document displayed in open court.)

13 BY MR. NEIMAN:

14 Q. Looking up at the top we have, "Use [of] Freedom of  
15 Information Act Request to get certain documents -- 6-4&5 & the  
16 CD."

17 What does that all mean, if you know?

18 A. Um, at this time they would recommend that you got, you  
19 know, documents. You request documents under the Freedom of  
20 Information Act. And there was a letter contained in -- in  
21 here, in Series 6, on how you could ask for those documents.

22 Q. All right. Series 6?

23 A. Um-hum.

24 Q. And was that sold together with Series 4 and 5 or was that  
25 sold separately?

1 A. No. That was separate.

2 Q. Uh, and we also see the mention of a CD. What is the CD  
3 we're talking about?

4 A. The CD contained all of the letters that were contained in  
5 all of the Schiff Reports.

6 Q. And was that available for sale?

7 A. Yes.

8 Q. How much was that?

9 A. I think it was a hundred dollars.

10 Q. All right. Looking down at the bottom, we have "Series 6 &  
11 Backyard Role-Play." What is a Backyard Role Play?

12 A. Backyard Role Play, um, instructed an individual on how  
13 to -- how to conduct themselves at a collection due process  
14 hearing.

15 Q. All right. Was this Backyard Role Play, uh, free or how --  
16 how did that work?

17 A. Well, it was conducted live and then recorded and then sold  
18 as a -- as a tape.

19 Q. Okay. But you also see on the right side a reference to a  
20 Lien & Levy Packet. What was that?

21 A. Uh, if people had problems with levies or liens filed  
22 against them by the IRS, this packet told them how to respond to  
23 the IRS and their employer; to tell the employer that they  
24 didn't have to honor it or tell the bank that they didn't have  
25 to honor it.

1 Q. And do you know how much the Lien & Levy Packet cost?

2 A. Oh, I think it was -- what? -- 50.

3 Q. \$50?

4 A. Something like that. I can look on the sheet.

5 Q. If you need to, go ahead.

6 A. I don't remember all the prices. (Reviewing document.)

7 Oh, it upped. I guess it's 95 on this sheet.

8 Q. \$95?

9 A. Yeah.

10 Q. You also mentioned something about a collection due process  
11 hearing just a few questions ago.

12 A. Um-hum.

13 Q. What is a collection due process hearing?

14 A. Um, taxpayers have a right to a collection due process  
15 hearing when they receive a Notice of Intent to Levy or Notice  
16 of Intent to Lien or a Notice of Lien Filing. There's a form  
17 that they can fill out to request a hearing.

18 Q. What was the advice that -- were you given advice as to  
19 whether or not to request this hearing?

20 A. We were to request the hearing.

21 Q. And who gave you that advice?

22 A. Irwin did.

23 MR. SCHIFF: What did she say? I didn't hear that.

24 MR. BOWERS: She said Irwin --

25 THE WITNESS: We needed to request a hearing when we

1 got the collection due process hearing --

2 MR. SCHIFF: Right.

3 THE WITNESS: -- when we got a Notice of Intent to  
4 Levy.

5 BY MR. NEIMAN:

6 Q. The, uh -- this Notice of Intent to Levy or Lien, what's a  
7 levy?

8 A. A levy is when the IRS will, um, instruct the employer to  
9 turn over a portion of their wages or to instruct the bank to  
10 turn over a portion of their savings or bank accounts.

11 Q. And what's a lien?

12 A. A lien is filed usually with the County Recorder against  
13 property that you own so that you -- it would prevent you from  
14 selling your property without first paying your debt to the IRS.

15 Q. Did you ever receive a Notice of Intent to Lien or Levy?

16 A. Yes.

17 Q. Prior to receiving the Notice of Intent to Lien or Levy --  
18 Lien or Levy -- first of all, I guess, which one did you  
19 receive?

20 A. Notice of Lien Filing.

21 Q. All right. Prior to receiving the Notice of Intent to  
22 Lien --

23 A. Um-hum.

24 Q. -- did you receive anything from the IRS as far as  
25 collection options?

1 A. Uh, they sent bills and, um, you know, contact us  
2 immediately. Stuff like that.

3 Q. And did you respond to any of those letters?

4 A. I usually responded to the letters that typically Irwin had  
5 responses to. I did not respond to every bill.

6 Q. Was a lien eventually placed on your house?

7 A. Yes.

8 Q. How much was that lien placed on your house in the amount  
9 of?

10 A. I believe it was somewhere along the lines of \$17,000.

11 Q. Is that lien still on your house?

12 A. It is.

13 THE COURT: I think we'll take a break now. We're mid  
14 afternoon. So we'll be in recess for 15 minutes.

15 The jury is instructed to not discuss the case among  
16 themselves or to form any conclusions until the case is formerly  
17 submitted to you for deliberation.

18 (Jury leaves the courtroom at 2:58 p.m.)

19 THE COURT: Okay. We are in recess.

20 (Recess from 2:59 p.m. to 3:24 p.m.)

21 THE CLERK: All rise.

22 THE COURT: Please bring in the jury.

23 (Jury enters the courtroom at 3:25 p.m.)

24 THE COURT: Please be seated.

25 Will counsel stipulate to the presence of the jury?

1 MR. NEIMAN: Yes, your Honor.

2 THE COURT: Where's Mr. Bower? We're missing  
3 Mr. Bower.

4 MR. SCHIFF: I stipulate.

5 THE COURT: Thank you.

6 Mr. Cristalli, do you stipulate to the presence of the  
7 jury?

8 MR. CRISTALLI: Yes, your Honor.

9 THE COURT: Mr. Bower?

10 MR. BOWERS: Yes, sir.

11 THE COURT: You may resume your examination of the  
12 witness.

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

14 BY MR. NEIMAN:

15 Q. Ms. Mitchell, right before we went on break you were talking  
16 about a lien which had been placed on your house. Did you ever  
17 speak to customers or get phone calls from customers who  
18 inquired about what to do after getting a lien on their house?

19 A. Yes.

20 Q. And what were you -- what advice or what were you told or  
21 how did you respond to them?

22 A. As long as they initially had The Federal Mafia and the  
23 other materials, they were directed to the Lien & Levy Packet.

24 Q. Okay. And if I could -- excuse me -- if I could direct your  
25 attention back to the Desk Manual to the tab labeled "[IRS]

1 Notice of Intent to Lien" -- or "[IRS] Notice of Lien," page 65.

2 In the highlighted section, is this consistent with  
3 what you were told to respond when people received this notice,  
4 the Notice of Intent to Lien?

5 A. Okay. Yeah. The Notice of Intent to Lien, they were  
6 instructed to request a collection due process hearing. And  
7 that information was contained in Series 5 and Series 6. The  
8 Lien & Levy Packet and then the Backyard Role Play would tell  
9 them how to conduct themselves at the hearing.

10 Q. At the collection due process hearing?

11 A. Yes.

12 Q. All right. We'll talk about those in a minute.

13 It says on the bottom, it says, "If possible, have a  
14 consult with Mr. Schiff." Did Mr. Schiff have consultations?

15 A. Yes, he did.

16 Q. And did Mr. Schiff charge for these consultations?

17 A. Yes.

18 Q. How much did Mr. Schiff charge for these consultations?

19 A. Uh, he had at one time a 900 line where they could pay per  
20 minute on the phone.

21 Q. What -- a 900 line?

22 A. Um-hum.

23 Q. Do you happen to know the 900 line number?

24 A. I know it's in this book.

25 Q. Okay. Well, why don't we refer to the page in the book

1 which references the 900 line, which I believe is page 10 of the  
2 manual.

3 A. The 1-900-786-7477.

4 Q. And does that spell anything out?

5 A. That's a different page that I'm lookin' at.

6 Q. Well, if we look at --

7 A. Oh, here we go.

8 Q. "Mr. Schiff answers questions at: 900.786" --

9 A. Wait. "Stop IRS." Yeah.

10 Q. Okay. What was the cost of this consultation or this 900  
11 number?

12 A. \$4 per minute.

13 Q. Okay. We're gonna come back to this page in a -- in a  
14 minute. If we can go back to the consultations that Mr. Schiff  
15 had without the 900 number. Did you ever have any in the store?

16 A. He did have consultations in the office.

17 Q. And did he have any while you were present in the office?

18 A. Yes.

19 Q. Approximately how many consultations would you see  
20 Mr. Schiff have while you were in the office a week?

21 A. Um, not -- didn't have consultations every week. But I  
22 think maybe I'd seen him have 10 the whole time I was there.

23 Q. Okay. And how long were you there total?

24 A. Um, less than a year.

25 Q. Do you know if Mr. Schiff charged for these consultations?

1 A. He did.

2 Q. Do you know how much Mr. Schiff charged?

3 A. That I'm not positive. I know there was a fee. But he --  
4 he would, you know, specialize the charges to -- to the problem  
5 or the people too. So...

6 Q. I'm sorry. What?

7 A. He would -- he would make up the -- you know, the prices.  
8 Maybe it wasn't a really big consultation. It was depending on  
9 how long the consultation was. Sometimes it was per hour.

10 Q. All right. If we can go back to that page 10. Or, I guess,  
11 we're there.

12 (Document displayed in open court.)

13 MR. NEIMAN: If we could, I guess, read or blow up the  
14 top third or -- that's fine from where you are down -- all the  
15 way down to where it says "Tabs" -- by the tabs. Keep going.  
16 There you go. That's good.

17 BY MR. NEIMAN:

18 Q. Were there specific questions which you were to refer to the  
19 900 line?

20 A. Specifically the 900 line? Um, if -- if people wanted to  
21 have a consultation, if they were asking questions without --  
22 you know, asking our advice, so to speak. When we answered the  
23 phone we weren't to do that, we were to direct them to a  
24 consultation or to Irwin's 900 line at that time.

25 Q. And who gave you this advice that you're referring to? You

1 say "they." Or you suggested --

2 A. Well, it was from Irwin and Cindy. They didn't want us  
3 giving advice on the phone.

4 Q. Was it explained to you why they didn't want you to give  
5 advice on the phone?

6 A. Well, depending on who was there answering the phones, it  
7 could be that they weren't giving the correct advice or they  
8 weren't following the -- the material all the way. They would  
9 talk too long.

10 Q. And what would the effect be if be somebody talked too long?  
11 I guess, what was the --

12 A. Well, it was an 800 number. So there were charges.

13 Q. Who incurred those charges?

14 A. Irwin did.

15 Q. Were there specific phone calls that you were -- were you  
16 ever told to refer specific phone calls to Mr. Schiff?

17 A. Anything about the P.I.L.L. trust.

18 Q. What is a P.I.L.L. trust?

19 A. Um, I'm not really familiar with it. I just know that I was  
20 to refer him the calls. It was somethin' to do with an  
21 off-shore account or offshore trust.

22 Q. And what other types of calls, if any, were you told to  
23 refer to Mr. Schiff directly?

24 A. If somebody had a significant tax problem; there was a  
25 significant amount of money; they were a business owner, you

1 know, they were dealing with a lot of money --

2 Q. And you were --

3 A. -- we would direct the call to Irwin.

4 Q. If I could direct your attention to the tab labeled "Final  
5 Notice," page 59 of the manual -- 794 is the Bate number -- did  
6 you ever receive a final notice?

7 A. I'm not sure whether I got one, but an intent to levy. Not  
8 positive on that.

9 Q. Are you familiar with what a final notice is? Is that --

10 A. Yes.

11 Q. -- what you're referring to?

12 A. Um-hum.

13 Q. What is a final notice?

14 A. Final notice is where the IRS will give the taxpayer a  
15 right -- their right to the collection due process hearing.  
16 They'll tell them that they were intending on levying their  
17 wages or levying their bank account and that they will need to  
18 solve their tax matter. And they can request a hearing with the  
19 IRS.

20 Q. And according to the -- were you ever given -- were you  
21 given advice as to whether or not to request that hearing or  
22 encourage others to request that hearing?

23 A. Yes. We were supposed to request the hearing.

24 Q. Explain to me what a collection due process hearing is.

25 A. From the IRS standpoint, it was a place where the taxpayers

1 could go in and discuss collection alternatives, payment plans,  
2 things like that. If they had any challenges to the amounts.  
3 That's -- that's what they were given the opportunity to go.

4 But for us it was your opportunity to challenge the  
5 law, ask the IRS agents to show you the law that required you to  
6 pay the tax and you would pay it.

7 Q. And were you given -- did you have a collection due process  
8 hearing?

9 A. Yes, I did.

10 Q. And, prior to going to your collection due process hearing,  
11 did you seek any advice as to what to say --

12 A. Um-hum.

13 Q. -- at this hearing?

14 A. We had the Backyard Role Plays. And I actually participated  
15 in a Backyard Role Play and, um, you know, kinda got an idea of  
16 what I was gonna say when I got there.

17 Q. Okay. What advice were you given or what were you told at  
18 this Backyard Role Play, what to say?

19 A. To challenge the law that required me to pay the tax, pull  
20 out your checkbook, say you're gonna pay it right now if the --  
21 if the IRS agent would just show you the law that requires you  
22 to pay the tax and, um, put the Code book on the table. Here's  
23 the Code book. Show me the section and I'll pay it.

24 Q. Did Mr. Schiff or anyone else at Freedom Books ever have  
25 advice as to whether or not to bring a witness to this

1 collection due process hearing?

2 A. Yes.

3 Q. What was their --

4 A. They were supposed --

5 Q. -- advice?

6 A. Their advice was to record the meeting and to take a witness  
7 or a court reporter.

8 Q. And did you bring a witness to your collection due  
9 process --

10 A. I did. I had a court reporter and I believe I had a witness  
11 as well.

12 Q. Do you know whether or not Freedom Books offered the service  
13 of providing a witness for these various hearings or these  
14 collection due process hearings?

15 A. Yes.

16 Q. What service did Freedom Books provide?

17 A. Well, Cindy would go as a witness for people that were  
18 having hearings. It use be to be she could speak at the  
19 meetings, then the IRS told her she couldn't speak anymore. So  
20 then the fees went down for witness fees.

21 Q. Well, you're referencing fees. What were her witness fees  
22 initially when she was allowed to speak, if you know?

23 A. I think it was anywhere from a hundred to three hundred  
24 dollars if Irwin went and, um -- but that was when they could  
25 speak.

1 Q. All right. Did you ever hear Mr. -- Mr. Schiff or Ms. Neun  
2 discuss why they were no longer able to speak?

3 A. Uh, yeah, because...

4 Q. What did they say?

5 A. Well, they said that the IRS wouldn't let 'em speak,  
6 basically told 'em they couldn't talk or they would be kicked  
7 out because they weren't, um, you know, representatives of the  
8 taxpayer, so to speak.

9 Q. Did you ever see or -- Ms. Neun leave Freedom Books and say  
10 she was going to the IRS?

11 A. Yes.

12 Q. How often would you see this happen or hear this happen?

13 A. There was a period of time where there was probably two or  
14 three a week.

15 Q. If I can direct your attention to page 11 of the Desk  
16 Manual, the top page is "When Customers Want Representation."  
17 It's -- 744 is the Bate number. If we could blow up the top  
18 paragraph.

19 (Document displayed in open court.)

20 BY MR. NEIMAN:

21 Q. Can you read this paragraph to us?

22 A. "Mr. Schiff charges \$300.00 to send Cindy to represent you  
23 on appeals. Mr. Schiff will go over your case with her from  
24 front to back as they make a study tape for your case. You will  
25 need to come by the office or otherwise arrange to get a power

1 of attorney form signed and sent to Ogden, Utah. If you do this  
2 at Freedom Books, we will fax the form over to you."

3 Q. What's in Ogden, Utah, if you know?

4 A. The IRS Service Center.

5 Q. When you had your collection due process hearing, how long  
6 did this hearing last?

7 A. Maybe seven minutes.

8 Q. Did you prevail or did the IRS agree with your position at  
9 this collection due process hearing?

10 A. No. I got a determination letter that said they did not  
11 agree with my position.

12 Q. Did you discuss this with anybody at Freedom Books?

13 A. Yeah, I'm sure I did.

14 Q. Who did you discuss it with?

15 A. Anybody who was there that day, Larry, Cindy.

16 Q. Did you discuss this letter that you got that rejected your  
17 position with them?

18 A. Yeah. But it looked like every other determination letter.

19 Q. When you say "every other," what do you -- do you know  
20 whether or not other people received these determination  
21 letters?

22 A. Yes, they did.

23 Q. How do you know this?

24 A. Because they would call or come in saying that they -- this  
25 was the determination that they received.

1 Q. How many of these phone calls would you receive or -- or  
2 people coming in regarding determination?

3 A. It's hard to say an exact number, but the same amount of  
4 people that would get the notices, you know, to -- to go to the  
5 hearing.

6 Q. Were you aware of anyone actually prevailing at these  
7 hearings?

8 A. Only -- well, I think a couple people prevailed because  
9 they -- they -- the IRS had the wrong address for them and they  
10 never received any correspondence.

11 Q. Did they ever --

12 A. Other than that, no.

13 Q. -- did they ever prevail on the merits of whatever it was  
14 you're saying at the meeting?

15 A. Um, no.

16 Q. Were you given advice as to what to do after you received  
17 this determination letter from the IRS?

18 A. You could appeal the determination to the appropriate court.

19 Q. What court was that?

20 A. If it was a tax issue, it was to the Tax Court. And if it  
21 was a, um, penalty, it was to the District Court.

22 Q. By "penalty," are you referencing to the \$500 penalty --

23 A. Yes.

24 Q. -- that we saw with the frivolous return?

25 A. Yes.

1 Q. Okay. Who gave you that advice?

2 A. Irwin did.

3 Q. Did you follow it?

4 A. Yes.

5 Q. What did you do?

6 A. I, uh, had a frivolous penalty that I went to the hearing  
7 for, for '97 and I appealed the decision in this court, District  
8 Court.

9 Q. The District Court of the United States?

10 A. Yes.

11 Q. Did you file any sort of, uh, petition or pleading in order  
12 to initiate that action?

13 A. Yes.

14 Q. Who prepared that?

15 A. I prepared it off of the sample that Irwin had prepared and  
16 put in the letters CD --

17 Q. What --

18 A. -- and on the Tax Court Tool Kit.

19 Q. Okay. You referenced the Tax Court Tool Kit. What is the  
20 Tax Court tool kit?

21 A. It was the documents that talked about how to appeal or  
22 petition to the -- to the appropriate court when you got a  
23 determination from the IRS.

24 Q. All right. And that contains the petition that you filed  
25 where you use the United States?

1 A. Yes.

2 Q. How much did the Tax Court Tool Kit cost?

3 A. I think it was a hundred and twenty-five or -- I'm not  
4 positive.

5 Q. If you need to look, you may look in order to confirm.

6 A. I think it was 125.

7 Q. While you were working at Freedom Books, did you ever  
8 prepare any of these -- these legal documents?

9 A. Yes.

10 Q. And about how many of these did you prepare while working  
11 there?

12 A. Um, anywhere from 20 to 40.

13 Q. And was there a charge for these?

14 A. Yes.

15 Q. Are you an attorney?

16 A. No.

17 Q. Are you an accountant?

18 A. No.

19 Q. When you filed your own complaint against the United States  
20 in District Court, did you prevail?

21 A. No.

22 Q. What happened?

23 A. The judge dismissed the case.

24 Q. Did Mr. Schiff know that he had dismissed the case?

25 A. Yes.

1 Q. Did you discuss it with either Ms. Neun or Mr. Cohen?

2 A. Yes, I probably did.

3 Q. And were they aware that --

4 MR. CRISTALLI: Objection. Calls for speculation,  
5 foundation.

6 THE COURT: The question was:

7 "Did you discuss the case with either Ms. Neun or  
8 Mr. Cohen?"

9 She says, "Yes, I probably did."

10 MR. BOWERS: Your Honor, he's about to ask her the  
11 substance of that conversation and she doesn't even know what  
12 she said. She said probably did. So she doesn't even know if  
13 she had it.

14 THE COURT: Well, I'll sustain the foundational  
15 objection given the fact that she's answered she probably did.  
16 Her answer is equivocal.

17 BY MR. NEIMAN:

18 Q. Was it practice in the office to discuss the results of  
19 hearings, at -- at Freedom Books?

20 A. Yes.

21 Q. And did you just have these conversations with Ms. Neun and  
22 Mr. Cohen?

23 A. Yes.

24 Q. Were other people -- were you aware of other people who had  
25 filed similar lawsuits against the United States?

1 A. Yes.

2 Q. Did any of them prevail?

3 A. Um, only the ones that didn't get a hearing at all.

4 Q. The ones that -- excuse me -- didn't...

5 A. Didn't get a hearing at all. Sometimes they would receive a  
6 determination from the IRS without even getting a hearing.

7 Q. Did any of them prevail on the merits?

8 A. No.

9 Q. And did you discuss this with Ms. Neun and Mr. Cohen and  
10 Mr. Schiff?

11 A. Specifically the merits, not in...

12 Q. The fact that the lawsuits were being thrown out.

13 A. Yes.

14 Q. You discussed that with them?

15 A. Um-hum.

16 Q. You mention the Tax Court Tool Kit. Let's turn to page 85  
17 and the tab labeled "Tax Court [Tool Kit]" in the Desk Manual  
18 and if I could see the Bate number I would give it to you.

19 (Document displayed in open court.)

20 BY MR. NEIMAN:

21 Q. Is this what you were talking about?

22 A. Yes.

23 Q. If you could read the bottom, what it says.

24 A. Under the "Tax Court Tool Kit"?

25 Q. Yeah. Right underneath that.

1 A. "INCLUDES ABOUT 70 DOCUMENTS FOR THE TAX COURT & THE  
2 DISTRICT COURT. YOU WILL HAVE THE MOTIONS, MEMORANDUMS,  
3 INTERROGATORIES, ADMISSIONS, DISCOVERY, WITH COVER SHEETS AND  
4 COURT RULES.

5 "ALSO INCLUDED, THE NEWLY EXPANDED REQUEST FOR  
6 COLLECTION DUE PROCESS HEARING THAT YOU MAY USE IN ORAL ARGUMENT  
7 AT THE COURT. PRESENTLY, THE TOOL KIT COMES WITH DOCUMENTS AND  
8 3 DIGITALLY MASTERED CASSETTE TAPES AND A FLOPPY DISK. THE KIT  
9 SELLS FOR \$[A HUNDRED AND TWENTY-FIVE]."

10 Q. It mentions something about oral argument. Were you given  
11 an oral argument before a United States District Court judge?

12 A. No. The case got dismissed. Never went to trial.

13 Q. Dismissed without a hearing?

14 A. It -- yeah.

15 Q. Was it dismissed without a hearing?

16 A. Yes.

17 Q. Did you discuss the fact that the case was dismissed with  
18 Mr. Schiff? I think we've --

19 A. Yes.

20 Q. What did Mr. Schiff say in response, if anything, about  
21 United States courts?

22 A. Well, when -- when the cases were being thrown out, the --  
23 we knew we had the right to appeal to the Ninth Circuit and he  
24 said you had the right to appeal to the Ninth Circuit.

25 Q. All right. And did you appeal to the Ninth Circuit?

1 A. No, I did not.

2 Q. Why didn't you appeal to the Ninth Circuit?

3 A. Because there was no Ninth Circuit tool kit.

4 Q. Did you ever hear Mr. Schiff discuss on radio, in his book,  
5 or in person his position or his feelings about the United  
6 States courts?

7 A. Yes.

8 Q. What would he say about the United States courts in general?

9 A. Well, basically that we weren't getting fair trials in the  
10 courts and that the courts were criminal -- were the problem,  
11 that the law didn't matter. It just depended on what the judges  
12 ruled.

13 Q. Did you ever have any discussions at Freedom Books about  
14 sales and sales etiquette, so to speak?

15 A. Sales etiquette?

16 Q. Yeah.

17 A. Meaning...

18 Q. How to be a better salesperson.

19 A. Not me personally. I don't -- just -- just this Desk Book  
20 is the only --

21 Q. Are sales tips referenced in the Desk Book?

22 A. Yeah.

23 Q. Okay. If I could direct your attention to a tab -- excuse  
24 me.

25 MR. NEIMAN: If I may approach, your Honor?

1 THE COURT: You may.

2 (Pause in the proceedings.)

3 MR. NEIMAN: Now for the fun. I'm sorry.

4 THE CLERK: That's okay. Go ahead. Just go ahead.

5 (Discussion between Mr. Neiman and the  
6 clerk.)

7 THE CLERK: Let me turn over the control.

8 (Document displayed in open court.)

9 BY MR. NEIMAN:

10 Q. If I could direct your attention to the tab labeled "TO BE  
11 TOPS!" which is displayed on the screen --

12 A. Um-hum.

13 Q. -- do you recognize the handwriting here "TO BE TOPS!"?

14 A. Yeah. That's Cindy.

15 Q. And is this Ms. Neun's handwriting on the bottom part of the  
16 side of this page as well?

17 A. Yes.

18 Q. If I could figure out how to zoom out. There we go.

19 Did you ever read this article about sales?

20 A. To be honest, no, I didn't read the article.

21 Q. Okay. But were you aware that it was in the -- in the  
22 manual?

23 A. Yes.

24 Q. Do you know whether or not your phone calls could be  
25 monitored while you were working at Freedom Books?

1 A. Yes, they could be.

2 Q. Who could they be monitored by?

3 A. Irwin's phone. He could -- he could tap into anybody's  
4 conversation.

5 Q. And -- and hear --

6 A. And hear what -- yeah, what they're talking to people about.

7 Q. Did you ever hear Mr. Schiff talk about one's performance on  
8 the phones with an employee of Freedom Books?

9 A. Uh, I know he talked to some employees, but I -- I didn't  
10 witness the conversation.

11 Q. Did you ever have any discussions with any of the defendants  
12 about the amount of time you were spending on the telephone?

13 A. Uh, I heard the reason for Cindy puttin' this book together  
14 was basically people were talking too long on the phone and they  
15 were getting off -- on their conversations off of, you know, the  
16 material that Irwin had. So --

17 Q. If I could direct your attention to page 8 of the Desk  
18 Manual. There's an interoffice memo titled "Telephone  
19 Etiquette." If we could blow up the third and fourth  
20 paragraphs. I'm sorry. Uh, the -- yeah, there you go.

21 (Document displayed in open court.)

22 BY MR. NEIMAN:

23 Q. Can you read what the, uh, third and fourth paragraphs say?

24 A. "Freedom Books Sales Calls should last an average of 6 to 10  
25 minutes, depending upon the circumstances. We are seeing many

1 30 and 40 minute calls on the 800 number. These are not sales  
2 calls... They are lectures, ... they will not be tolerated.  
3 Mr. Schiff is the author and the lecturer. Mr. Schiff is  
4 available on his 900 line for consultations, or the customer may  
5 book an hour on the telephone or in person for more in-depth  
6 questions. Our job is to take orders and to answer the basic  
7 questions regarding [the] materials as outlined in our DESK  
8 BOOKS. Beyond that, we send the customers to him. See your  
9 DESK BOOK."

10 MR. CRISTALLI: Your Honor, I'm just going to assert an  
11 objection to the witness reading the exhibit. The exhibit  
12 speaks for itself. Certainly the Government can ask questions  
13 as it to relates to the exhibit.

14 THE COURT: They are not having the entire exhibit read  
15 and it is difficult to read. I can't read it from here. So the  
16 objection is overruled.

17 BY MR. NEIMAN:

18 Q. Ms. Mitchell, do you know what the Freedom Foundation is?

19 A. The Freedom Foundation was -- is a foundation people could  
20 join and donate money to for the cause --

21 Q. Who --

22 A. -- of eliminating the income tax.

23 Q. Who started the Freedom Foundation?

24 A. I believe that was Irwin Schiff.

25 Q. Can I turn your attention to a tab labeled "Foundation,"

1 page 81 of the Desk Manual?

2 (Document displayed in open court.)

3 BY MR. NEIMAN:

4 Q. Do you recognize this form?

5 A. Yes.

6 Q. Where was this form given or made available, if you know?

7 A. This was made available at the office and it was sent out  
8 with orders.

9 Q. "Orders" being...

10 A. Any orders for books or materials, there was a copy of this  
11 there.

12 Q. If you could read what -- do you recognize that handwriting  
13 on the right?

14 A. Yes.

15 Q. Whose handwriting is that?

16 A. That's still Cindy's.

17 Q. If you could read what that handwriting says.

18 A. "WHEN ACCEPTING DONATIONS TO THE FREEDOM FOUNDATION -- WRITE  
19 THE PERTINENT INFORMATION ON THIS FORM - ATTACH THE CHECK CASH  
20 OR [MONEY ORDER] TO THE APPLICATION AND PROCESS THROUGH  
21 BOOKKEEPERS OFFICE."

22 Q. Did you ever receive any donations with regard to the  
23 Freedom Foundation?

24 A. I may have received one or two but not a lot.

25 Q. Do you know who -- who was in charge of this practice or who

1 really orchestrated the Freedom Foundation?

2 A. I believe it was Irwin.

3 Q. Do you know whether or not Mr. Schiff ever put on seminars  
4 across the country?

5 A. Yes, he did.

6 Q. What do you know about these seminars?

7 A. He would have seminars, um, at different cities around the  
8 country and seminars here locally.

9 Q. Did you ever attend any of these seminars?

10 A. The local ones, yes.

11 Q. Is there a charge to attend these seminars?

12 A. Yes.

13 Q. How do you know Mr. Schiff traveled around the country?

14 A. Because they would advertise the seminars on the Internet  
15 and in the shipments and he would go.

16 Q. Did -- did you ever see Mr. Schiff on any -- on any  
17 television show?

18 A. Uh, I recall him on Hannity & Colmes.

19 Q. All right. After Mr. Schiff appeared on Hannity & Colmes,  
20 did you see an increase or decrease in the call volume?

21 A. An increase.

22 Q. Well, you mentioned a little bit earlier about P.I.L.L. Uh,  
23 do you know whether or not Mr. Schiff utilized the services  
24 of -- of an off-shore Belize trust?

25 A. I don't know that information personally.

1 Q. Did you ever hear Mr. Schiff talk about an off-shore Belize  
2 trust?

3 A. Yes, he did in Schiff Report Series 3, I believe.

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

5 THE COURT: You may.

6 MR. NEIMAN: Your Honor, I'm handing the Government --  
7 the witness what's been marked as Government's Exhibit 237.

8 BY MR. NEIMAN:

9 Q. Do you recognize Government Exhibit 237?

10 A. (Reviewing exhibit.) Sales training?

11 Q. Gave you the wrong tape.

12 A. Wrong exhibit?

13 Q. I apologize.

14 A. It's not Series 3.

15 MR. NEIMAN: I'm sorry, your Honor. It's 237A.

16 BY MR. NEIMAN:

17 Q. Do you recognize Government's Exhibit 237A?

18 A. (Reviewing exhibit.) Yes.

19 Q. How do you recognize Government's Exhibit 237A?

20 A. This is Schiff Report Series 3, tape 1 and 2.

21 Q. And have you listened to that specific tape?

22 A. Yes.

23 Q. Do you recognize the voice on the tape?

24 A. Yes.

25 Q. Whose voice is it?

1 A. It's Irwin's.

2 Q. Have you reviewed a transcript on the computer with regard  
3 to this tape?

4 A. Yes.

5 Q. And does that tape -- or does that transcript fairly and  
6 accurately depict what is being said on the tape?

7 A. Yes, it does.

8 MR. SCHIFF: Question: Do I have a copy of that tape?

9 MR. NEIMAN: It's Schiff Report --

10 MR. SCHIFF: Oh, it's a --

11 MR. NEIMAN: Your Honor, a portion of Schiff Report  
12 Series 3.

13 MR. SCHIFF: Oh, it's a Schiff Report.

14 THE COURT: It is.

15 MR. SCHIFF: What Schiff Report?

16 THE COURT: Series 3.

17 MR. SCHIFF: Series 3. What tape of Series 3?

18 THE COURT: Tape 1 and 2.

19 MR. SCHIFF: 3 dash what? I want to listen to it  
20 tonight. I just don't know what it was.

21 MR. NEIMAN: Your Honor, at this time the Government  
22 would move Government Exhibit 237A into evidence.

23 THE COURT: Any objection?

24 MR. CRISTALLI: No, your Honor, not on behalf of  
25 Ms. Neun.

1 MR. BOWERS: Larry has no objection, your Honor.

2 THE COURT: Thank you.

3 Any objection, Mr. Schiff?

4 MR. SCHIFF: Of putting in one of my tapes?

5 THE COURT: Yes.

6 MR. SCHIFF: No, I have no objection to any of my tapes  
7 going in.

8 THE COURT: 237A is received.

9 MR. SCHIFF: But tell me the tape you're using,  
10 Series 3 --

11 (Government's Exhibit No. 237A, received into  
12 evidence.)

13 BY MR. NEIMAN:

14 Q. Ms. Mitchell, which series tapes are we talking about here?

15 A. Schiff Report Series 3, tapes 1 and 2.

16 Q. Thank you.

17 MR. SCHIFF: Tape 1 and 2. Okay.

18 MR. NEIMAN: Your Honor, with permission of the Court,  
19 I would like to play a portion of Government's Exhibit 237A with  
20 the transcript.

21 THE COURT: You may.

22 MR. NEIMAN: Thank you.

23 MR. SCHIFF: I -- I may have an objection to taking a  
24 portion. I would rather have you play the whole tape --

25 THE COURT: Well --

1 MR. SCHIFF: -- and its contents.

2 THE COURT: -- you can play other portions if you wish  
3 during your case. But the Government has the right to put in  
4 whatever portion it wants now. And you can cross-examine the  
5 witness with respect to other portions or present other portions  
6 on your own -- in your own case.

7 MR. SCHIFF: Okay.

8 MR. NEIMAN: May we please play the tape.

9 (Audiotape played in open court.)

10 MR. NEIMAN: We could bring the lights back up.

11 BY MR. NEIMAN:

12 Q. Ms. Mitchell, when Mr. Schiff referenced "drop out," do you  
13 know what that meant or what that means?

14 A. Yes. That means to stop paying income taxes.

15 Q. And -- and do you know whether or not Mr. Schiff received  
16 any money for referring people to these P.I.L.L. trusts -- or to  
17 these Belize trusts?

18 A. I do not know that.

19 Q. After -- directing your attention now back to your personal  
20 situation, after you filed suit against the United States and  
21 lost, what action did you take next with regards to your, I  
22 guess, tax liabilities?

23 A. Uh, at that point I made the decision that because I had so  
24 many other financial problems with credit cards and -- and  
25 whatnot I needed to file bankruptcy and I filed a Chapter 13.

1 Q. Okay. You said "Chapter 13." Is that a type of bankruptcy?

2 A. Yes.

3 Q. Uh, prior to filing bankrupt -- your bankruptcy, did you  
4 ever discuss with Mr. Schiff, uh, his thoughts about filing for  
5 bankruptcy?

6 A. Yeah. He -- he -- he had said a couple of times that you  
7 could always file bankruptcy, you know, to -- to abolish the  
8 debt.

9 Q. But --

10 A. But what he left out is the part where you have to file tax  
11 returns. You had to have what the IRS called legitimate or  
12 traditional tax returns, was his term.

13 Q. When you say "traditional tax returns" --

14 A. "Traditional" meaning you reported your wages and salaries  
15 as income.

16 Q. And is that how Mr. Schiff refers to traditional --

17 A. Traditional tax returns. Um-hum.

18 Q. And are you still making payments on your Chapter 13  
19 bankruptcy?

20 A. Yes. I have a five-year plan.

21 Q. Do you still follow the advice with Mr. Schiff when it comes  
22 to filing income taxes?

23 A. No, I -- I -- I don't. I can't.

24 Q. And when did you stop working at Freedom Books?

25 A. It was, um, right before the raid. I don't remember the

1 date there.

2 Q. All right. Was Mr. Cohen still working there when you left?

3 A. I believe he was.

4 Q. What -- what year are we talking about, if you have any  
5 idea?

6 A. Wasn't it '01, I think, or '02? I'm not positive.

7 Q. Was Ms. Neun still working there?

8 MR. CRISTALLI: Objection. Foundation.

9 THE COURT: The foundation is when -- when did she stop  
10 working there; she said she couldn't remember. She --

11 MR. CRISTALLI: Your Honor, it's --

12 THE COURT: She's guessing. Sustained.

13 MR. CRISTALLI: Thank you.

14 BY MR. NEIMAN:

15 Q. Was Ms. Neun still at the office when you were at Freedom  
16 Books?

17 A. She was in and out. She wasn't there very often in the last  
18 couple of months I was there.

19 Q. Ms. Mitchell, based upon your, uh, calculation, how much in  
20 fines, penalties, and interest did you incur as a result of  
21 following the advice of the defendants at Freedom Books?

22 A. Well, the, um -- I couldn't give you an exact amount on the  
23 penalties and interest but --

24 MR. CRISTALLI: Objection. Foundation as to her  
25 following defendants' advice.

1 THE COURT: Sustained.

2 BY MR. NEIMAN:

3 Q. Following the advice of Defendant Schiff.

4 A. I couldn't tell you exactly the amounts. But I had -- I had  
5 made, you know, the -- the -- based on the budget and what --  
6 what my husband and I's income is that's what the Chapter 13 is  
7 based on. So I had to pay for the last three priority tax years  
8 and file traditional tax returns for all of the years that I had  
9 zero returns or had not filed.

10 Q. So the fines, the penalties, and the interest are condensed  
11 into this Chapter 13 --

12 A. Yes.

13 Q. -- program?

14 A. Um-hum.

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

16 THE COURT: Cross-examination. Who is going first?

17 MR. CRISTALLI: Your Honor, I believe Mr. Schiff is  
18 going to go first.

19 THE COURT: Okay.

20 MR. SCHIFF: Yes.

21 (Pause in the proceedings.)

22 MR. SCHIFF: Can you give me a moment, your Honor?

23 THE COURT: Yes.

24 (Pause in the proceedings.)

25

1 CROSS-EXAMINATION

2 BY MR. SCHIFF:

3 Q. Hi, Toni. Toni, the prosecutor covered so much material  
4 that I told him he's going to force me to put on a whole  
5 seminar. I couldn't write as fast as the questions he asked  
6 you. So I'm just gonna go in order that I was able to write  
7 those.

8 First of all, you indicated that initially you were a  
9 volunteer; is that right?

10 A. Yes.

11 Q. Okay. You also noticed we had a number of volunteers apart  
12 from you. People -- the -- the Public Alert Team were  
13 volunteers.

14 A. Yes.

15 Q. We had a lot of volunteers.

16 A. Yes.

17 Q. Why do you think all these people volunteered -- oh, excuse  
18 me a moment.

19 (Pause in the proceedings.)

20 BY MR. SCHIFF:

21 Q. Why, Toni, did you volunteer and you saw so many volunteers  
22 at Freedom Books?

23 A. I --

24 MR. NEIMAN: Objection. Compound question.

25 MR. SCHIFF: I'm sorry. I'm sorry.

1 THE COURT: Break it down. Sustained.

2 BY MR. SCHIFF:

3 Q. While you were at Freedom Books, you were a volunteer for a  
4 while?

5 A. Yes.

6 Q. And you saw other people who were volunteers?

7 A. Yes, I did.

8 Q. We had the Public Alert Team when you were there.

9 A. Yes.

10 Q. What was the Public Alert Team?

11 A. The Public Alert Team would stand on the corner during the  
12 radio show and, um, try to get people to tune into your show.

13 Q. About how many people were on the Public Alert Team?

14 A. Um, anywhere from four or five to ten at a time --

15 Q. Ten.

16 A. -- on a corner.

17 Q. These are people who volunteered to come down and hold up  
18 signs saying, "Tune into KLAV"?

19 A. Yes.

20 Q. And they didn't get paid.

21 A. No.

22 Q. But they did it.

23 A. Yes, that's correct.

24 Q. Now, just asking you for a reference, a perception, why did  
25 these people volunteer?

1 MR. NEIMAN: Objection. Speculation.

2 MR. SCHIFF: Pardon me?

3 THE COURT: Sustained.

4 MR. SCHIFF: Pardon me? Sustained.

5 According to the Section 701, your Honor, I can ask a  
6 witness a question rationally based on the perception of the  
7 witness --

8 THE COURT: Yeah. But she --

9 MR. SCHIFF: -- as long as it's helpful for the clear  
10 understanding of her testimony.

11 THE COURT: But you're not asking for her perception;  
12 you're asking for why others volunteered and she doesn't know.

13 MR. SCHIFF: Well, what was her perception is --

14 THE COURT: She'd have to speculate. You can ask her  
15 why she volunteered.

16 MR. SCHIFF: I can't ask her why so many other people  
17 volunteered?

18 THE COURT: You can ask her why she volunteered. She  
19 doesn't know why others volunteered.

20 MR. SCHIFF: Well --

21 MR. LEVENTHAL: Judge, may --

22 BY MR. SCHIFF:

23 Q. Okay. Why did you volunteer --

24 MR. LEVENTHAL: Excuse me.

25

1 BY MR. SCHIFF:

2 Q. -- Toni?

3 MR. LEVENTHAL: May we have a sidebar just briefly?

4 (Sidebar conference was held as follows:)

5 MR. LEVENTHAL: I know I'm advisory counsel here and I  
6 don't know if you want me to help him while he's up there or  
7 if --

8 THE COURT: You're welcome to.

9 MR. LEVENTHAL: -- it's like -- would you mind if I  
10 then went up to him and said this is how I would think you'd get  
11 this in or he can come to me? If he's having trouble, he can  
12 come to me at the table. How's that?

13 THE COURT: All right.

14 MR. LEVENTHAL: Thank you, your Honor. I didn't want  
15 to do it in front of the jury.

16 THE COURT: I'd rather you did it than I have to sit up  
17 there and tell him how to ask the questions.

18 MR. BOWERS: Just for the record, I -- I think it would  
19 be nice if Todd can go up and help him do whatever because it  
20 reflects on all of us. That's his role here.

21 MR. IGNALL: I don't have an objection.

22 MR. BOWERS: Doesn't make any sense for her to struggle  
23 through this question.

24 MR. LEVENTHAL: I don't stand next to him. I don't  
25 want to give this hybrid representation. I don't think that's

1 fair.

2 THE COURT: Right.

3 MR. LEVENTHAL: I've been here for four days.

4 THE COURT: Right.

5 MR. BOWERS: If you get an objection and you have a  
6 problem --

7 MR. LEVENTHAL: If there's something evidentiary, I'll  
8 help him --

9 MR. BOWERS: -- like you do right now, you --

10 THE COURT: All right.

11 MR. SCHIFF: Okay.

12 MR. BOWERS: And the judge will --

13 MR. SCHIFF: Okay.

14 MR. LEVENTHAL: Okay. If that's okay with everybody.

15 THE COURT: Okay.

16 (Sidebar conference concluded and the  
17 following is held in open court:)

18 BY MR. SCHIFF:

19 Q. Okay. But you were aware that a lot of people came into our  
20 office and simply volunteered to do work, to clean up --

21 A. Yes.

22 Q. -- to do the backyard, to do the windows --

23 A. Yes.

24 Q. -- to hold up posters --

25 A. Um-hum.

1 Q. -- and they didn't get paid?

2 A. That's correct.

3 Q. Okay. The, um, prosecutor asked you if you heard my radio  
4 show.

5 A. Yes.

6 Q. And isn't it a fact that every week that I did my radio show  
7 I offered to pay \$5,000 to anybody who would call the show and  
8 cite any statute that required people to pay income taxes?

9 A. That's correct.

10 Q. I did that almost every week.

11 A. Yes.

12 Q. Also, I don't know how many radio shows you heard. But did  
13 you hear people calling in and complain about material they got  
14 from Freedom Books?

15 A. No.

16 Q. What was the nature of the call -- strike that.

17 Were you aware that I didn't screen my calls?

18 A. Yes.

19 Q. In other words, they would call; we'd put 'em on?

20 A. Yes.

21 Q. We didn't ask 'em -- I had no screener to ask 'em what  
22 questions they were gonna ask me.

23 A. That's correct.

24 Q. They could come on and say: I bought your material. I got  
25 into all kinds of trouble. If they wanted, they could say that,

1 couldn't they?

2 A. Yes.

3 Q. Did you ever hear anybody say that?

4 A. No, I didn't.

5 Q. Did you hear any of the calls that I made to the U.S.  
6 Attorney's Office?

7 A. Yes.

8 Q. And, when I call the attorney's office, didn't I say, "This  
9 is Irwin Schiff on KLAV"?

10 MR. IGNALL: Objection. Relevance.

11 THE COURT: What is the relevance?

12 MR. SCHIFF: Pardon me?

13 THE COURT: What is the relevance?

14 MR. SCHIFF: The relevance is I said I don't want to  
15 mislead my listeners. If I'm telling them to do something  
16 that's not legal, tell them the law that requires people to pay  
17 income taxes.

18 THE COURT: They don't have to -- they don't have to be  
19 an answering service to you or anyone that calls on the phone.  
20 That's -- they are not there to --

21 MR. SCHIFF: Well --

22 THE COURT: -- play into you.

23 MR. SCHIFF: All right.

24 THE COURT: Objection is sustained.

25

1 BY MR. SCHIFF:

2 Q. Well, I even -- well, I said to the sec- -- did you hear me  
3 say to the secretary who called?

4 THE COURT: Objection is sustained.

5 MR. SCHIFF: All right.

6 THE COURT: It's not relevant. It's the same as if  
7 someone --

8 MR. SCHIFF: All right.

9 THE COURT: -- calls me up and asks for legal advice.  
10 They are not getting it.

11 MR. SCHIFF: Okay.

12 BY MR. SCHIFF:

13 Q. Did you hear me call the IRS?

14 MR. IGNALL: Objection to the same line of -- the whole  
15 line of questioning.

16 THE COURT: Sustained.

17 BY MR. SCHIFF:

18 Q. Now, based on the fact that the Government is putting in  
19 tapes of my show, it's obvious -- well, sorry.

20 Were you aware that the IRS was probably listening to  
21 my radio show?

22 MR. NEIMAN: Objection. Speculation and relevancy.

23 MR. SCHIFF: All right. All right. Forget it.

24 THE COURT: Sustained.

25 MR. SCHIFF: Okay.

1 BY MR. SCHIFF:

2 Q. Now, Toni, I just saw a copy of your zero -- zero return.  
3 The Government has -- now, when you -- when you wrote zero  
4 returns [sic] on here, there're about 30 legal citings on your  
5 return. 30. There's at least 10 Code sections.

6 We have Codes in the office; is that correct?

7 A. Yes.

8 Q. Did you check these Code sections --

9 A. I did.

10 Q. -- against the Code sections that we have?

11 A. Yes, I did.

12 Q. Did you find that all the Code sections were accurate?

13 A. Yes.

14 Q. Okay. Let me read from your return. The first thing you --  
15 you put on the zero return is: One, you said -- well, let me  
16 read from the beginning -- you say:

17 "I['m] submitting this as part of my 1997 income tax  
18 return even though I know that no section of the Internal  
19 Revenue Code:

20 "Establishes an income tax 'liability.'"

21 So you say "even though I know that no section ...  
22 Establishes an income tax 'liability.'" How did you know that?  
23 What -- what -- what made you say that no section of the  
24 Internal Revenue Code establishes an income tax liability?

25 A. Because I read your book and I researched the Code sections

1 and didn't find one.

2 Q. Would -- would it -- did you go to the index of the Code?  
3 For example, there is a -- are you aware that I sold Internal  
4 Revenue Codes?

5 A. Yes.

6 Q. And, when I sold the Code, we tabbed the Code and we  
7 highlighted it --

8 A. That's correct.

9 Q. -- so that people could use it. This is the law. And I  
10 sold the law. Is that correct?

11 A. That's correct.

12 Q. Okay. Now, one of the tabs in this Code in the index showed  
13 "Liability for Tax"; is that correct?

14 A. That's true.

15 Q. And, when you went to the section of the Code that showed  
16 liability -- and I covered this in my seminar -- could you find  
17 any provision in the index showing -- there was liability for  
18 diesel fuel taxes, for distilled spirits, estate taxes, firearms  
19 taxes, highway maintenance tax, tobacco products -- could you  
20 find any section that said there's a liability for income tax?

21 MR. NEIMAN: Objection. Relevance.

22 MR. SCHIFF: Well, it's on her return -- it's on the  
23 return that she submitted. Why -- I just asked her why she  
24 concluded she had no liability.

25 THE COURT: She can answer the question.

1 BY MR. SCHIFF:

2 Q. She -- you -- you checked the Code; is that correct?

3 A. Yes, I did.

4 Q. As a matter of fact, you were aware, were you not, that the  
5 Privacy Act on the 1040 booklet referred you to three sections,  
6 Section 6001, 6011, and 6012 and it said that you had to file  
7 and pay tax for any tax you were liable for. Is that correct?

8 A. That's correct.

9 Q. So you knew that the government said you only had to file  
10 and pay a tax if you were liable for it. Now, they didn't tell  
11 you what section made you liable --

12 A. No.

13 Q. -- like the wagering tax return, which referred people.

14 But, in any case, so you read the Privacy Act Notice --  
15 is that correct?

16 A. That's true.

17 Q. -- in which the government told you you only had to file and  
18 pay a tax for any tax you were liable for. You went to the  
19 Code, you looked up liability for tax, and the income tax wasn't  
20 there. You probably also, if I'm not mistaken -- because  
21 they're tabbed here, the little pink tabs.

22 MR. NEIMAN: The defendant's testifying -- or there's  
23 no question.

24 THE COURT: Yeah. You really are.

25 MR. SCHIFF: I'm sorry.

1 THE COURT: You're testifying.

2 BY MR. SCHIFF:

3 Q. All right. Did you check other sections of the index -- did  
4 you try to find a section of the Code that made you liable for  
5 income tax?

6 A. Yes, I did.

7 Q. Did you check other taxes to see if persons were made liable  
8 for say, let's say, a tobacco tax?

9 A. Yes, I did.

10 Q. As a matter of fact, your zero return on the attachment  
11 said -- I'm sorry -- okay. So you said:

12 "... I know that no section of the Internal Revenue  
13 Code:

14 "Establishe[d] an income tax 'liability' as, for  
15 example, Code Sections 4401, 5005, and 5702" -- "5703 do with  
16 respect to wagering, alcohol, and tobacco taxes."

17 So I assume you checked those sections and found that  
18 in each of those sections there was a liability for wagering,  
19 alcohol, and tobacco taxes.

20 A. Yes, I did check those sections.

21 Q. Okay. So the first statement in your zero return was  
22 correct; is that right?

23 A. Yes.

24 Q. Okay. Now, paragraph 2 of your zero return stated that also  
25 you're aware that no statute provides that income taxes have to

1 be paid on the basis of a return. That no -- how did you -- how  
2 did you conclude that there was no section that required the  
3 payment of income taxes?

4 A. I got the information from your book.

5 Q. Pardon me?

6 A. I got the information from your book and I looked up the  
7 sections.

8 Q. On the Code. In other words, in the Internal Revenue Code  
9 there is an index page [sic] that says "Payment of Tax" and it  
10 lists employment taxes, fire insurance taxes, gasoline taxes,  
11 manufacturer's excise taxes, alcohol taxes.

12 A. That's correct.

13 Q. So, when you looked up "Payment of Tax," as I understand it,  
14 you couldn't find any section that said "income taxes."

15 A. I couldn't.

16 Q. However, you then continued with your attachment stating,  
17 "However, Code Sections 4374, 4401" --

18 THE COURT: Is there an objection?

19 MR. NEIMAN: Objection, your Honor. He's testifying.  
20 There's --

21 MR. SCHIFF: I'm reading from -- I'm reading from  
22 her -- I wanna find out why she said these things.

23 THE COURT: She's already answered and that was that  
24 it's in your book.

25 MR. SCHIFF: No, no.

1 THE COURT: But you are testifying when you --

2 MR. SCHIFF: I'm --

3 THE COURT: -- when you rattle off a question that is  
4 two or three paragraphs long, you are testifying.

5 MR. SCHIFF: Your Honor, I'm going over her zero  
6 return.

7 Mr. Bower.

8 MR. BOWERS: I'm sorry, your Honor, I -- never mind. I  
9 apologize for interrupting the Court.

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

12 MR. SCHIFF: May I approach the witness, your Honor?

13 THE COURT: You may.

14 BY MR. SCHIFF:

15 Q. Toni, I wanna give you the return -- oh, you have a copy.

16 A. I have a copy.

17 Q. Now, you signed this?

18 A. That's correct.

19 Q. I didn't help you prepare it. You only sent this in because  
20 you believe -- you believed it was accurate?

21 A. That's correct.

22 Q. You wanna read paragraph 2?

23 A. Paragraph 2, "Provides that income taxes 'have to be paid on  
24 the basis of a return' - as for example, Code Sections 4374,  
25 4401(c), 5601(a) and 5703(b) do with respect to other taxes."

1 Q. Can I -- so you checked those Code sections and found there  
2 was a provision for paying taxes in all those Code sections?

3 A. That's correct.

4 Q. So you couldn't find any statute that made you liable for  
5 tax or required you to pay the tax; is that correct?

6 A. That's correct.

7 Q. So continue what you said.

8 A. The same paragraph?

9 Q. "I['m] filing anyway."

10 A. Oh.

11 "I['m] filing anyway, because I know the government has  
12 prosecuted others for failing to file income tax returns by  
13 (erroneously) invoking Code section 7201 and 7203."

14 Q. Stop right there.

15 So you were aware that people get prosecuted for not  
16 filing; is that correct?

17 A. Yes.

18 Q. So in order to avoid pros- -- you knew I was prosecuted for  
19 failing to file?

20 A. Yes.

21 Q. Twice at least.

22 So, in order for you not to be prosecuted, you were  
23 filing.

24 A. That's correct.

25 Q. Okay. Continue.

1 A. "Therefore, this return is not being filed voluntarily, but  
2 is being filed out of fear that if I did not file this return, I  
3 could also be (illegally) prosecuted for failing to file an  
4 income tax return for the year 1997."

5 Q. Okay. Continue. Now, paragraph 3 states what?

6 A. "In addition to the above, I am filing even though the  
7 'Privacy Act Notice' as contained in a 1040 booklet clearly  
8 informs me that I am not required to file. It does so in at  
9 least two places.

10 " ... In one place, it states that I need only file a  
11 return for 'any tax' that I may be 'liable' for" --

12 Q. Stop there and continue. Yes. Continue. I'm sorry.

13 A. "Since no Code Section makes me 'liable' for income taxes,  
14 this provision notifies me that I do not have to file an income  
15 tax return."

16 Q. Stay right there.

17 So it's not that I told you you didn't have to file.  
18 Your understanding is the government told you you didn't have to  
19 file.

20 A. After researching the information, that's correct.

21 Q. The government said -- on the Privacy Act, they specifically  
22 told you that you only have to file a return for any tax you  
23 were liable for. You tried to find where you were liable for  
24 the tax; you couldn't find it. So you interpreted that as the  
25 government's notifying you that you weren't required to file.

1 Continue.

2 A. That's true.

3 MR. NEIMAN: Objection, your Honor.

4 THE COURT: Testifying. Sustained.

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

6 BY MR. SCHIFF:

7 Q. Continue, Toni. Paragraph b).

8 A. "In another place, it directs me to Code Section 6001. This  
9 section provides, in relevant part, that, 'Whenever in judgement  
10 [sic] of the Secretary it is necessary, he may require any  
11 person by notice served upon such person; or by regulations, to  
12 make such returns, render such statements, or keep such records,  
13 as the Secretary deems sufficient to show whether or not such  
14 person is liable for tax under this title. Since the Secretary  
15 of the Treasury did not 'serve' me with any such 'notice' and  
16 since no legislative regulation exists requiring anyone to file  
17 an income tax return, I am again informed by the 'Privacy Act  
18 Notice' that I am not required to file an income tax return."

19 MR. SCHIFF: I want -- I want to get a 1040, frankly.  
20 I want to show -- I have a 1040 here.

21 (Pause in the proceedings.)

22 MR. SCHIFF: Oh, okay.

23 BY MR. SCHIFF:

24 Q. Just so the jury will know what we're talking about, in the  
25 1040 booklet there is called a "Disclosure and Privacy Act and

1 Paperwork Production Act Notice." This is where the  
2 government --

3 MR. NEIMAN: Objection --

4 THE COURT: Objection --

5 MR. SCHIFF: Pardon me?

6 THE COURT: Make your objection.

7 MR. NEIMAN: Objection, your Honor.

8 THE COURT: Sustained.

9 MR. SCHIFF: Oh, I'm sorry.

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

12 BY MR. SCHIFF:

13 Q. When you referred, Toni, to the Privacy Act, you're talking  
14 about this provision in the 1040 --

15 A. In the --

16 Q. -- booklet?

17 A. 1040 booklet. That's correct.

18 Q. Which probably nobody ever reads because it's in small type  
19 and people think it's not important. Okay.

20 MR. NEIMAN: Objection.

21 MR. SCHIFF: So --

22 MR. IGNALL: He's still testifying.

23 THE COURT: He is.

24 MR. SCHIFF: All right.

25 THE COURT: And I don't know --

1 MR. SCHIFF: I'm sorry again.

2 THE COURT: -- what I can do to stop him of it other  
3 than to sustain the objection.

4 MR. SCHIFF: I'm sorry.

5 BY MR. SCHIFF:

6 Q. So -- so you thought you were complying with the directions  
7 of the government?

8 A. That's correct.

9 Q. Okay. Now, let's go to paragraph 4. Do you want to read  
10 paragraph 4, please?

11 A. "Section 6103(h) and (l)" -- or (i) -- "provides that all  
12 return information can be used against me to" -- "to determine  
13 and impose both civil and criminal fines. Therefore, I do not  
14 see how any law can compel me to provide information to the  
15 government that can be used against me in this matter,  
16 consistent with my Fifth Amendment right not to be compelled to  
17 be a witness against myself. Fifth Amendment protection applies  
18 to any proceeding; civil or criminal, administrative or  
19 judicial, and [may] be invoked in connection with regards to  
20 Federal Income Taxes." And it cites two cases.

21 Q. Okay. Now, you refer to Section 6103. Did you check out  
22 Section 6103?

23 A. I did check out all the sections listed here.

24 Q. And Section 6103 says that they can take the information  
25 that you put in a 1040 --

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

3 BY MR. SCHIFF:

4 Q. What -- what --

5 THE COURT: Do you request to approach?

6 MR. SCHIFF: May I approach the witness, your Honor?

7 THE COURT: You may.

8 BY MR. SCHIFF:

9 Q. What -- okay. What did you conclude after reading --

10 MR. NEIMAN: Objection as to the relevance of what she  
11 concluded.

12 MR. SCHIFF: But she put it on her return. The  
13 relevance is that, your Honor, she put -- she writes --

14 THE COURT: I'll allow her to testify what she  
15 concluded subject to -- subject to reexamination as to why --

16 MR. SCHIFF: Well, all right.

17 THE COURT: -- she concluded it.

18 BY MR. SCHIFF:

19 Q. Apart -- apart from that, Toni, uh, did you -- did you -- in  
20 reading the Privacy Act -- and I referred to this in the book --  
21 pointed out that all information you put on the return can be  
22 used against you and even be given to foreign governments so  
23 they can use it against you. Did you -- tell us what you  
24 concluded from the Privacy Act Notice about how the information  
25 you put on the return can be used against you.

1 A. Do you want me to answer regarding this Code Section?

2 Q. Well, either that or from the Privacy Act Notice.

3 A. It says in the Code section that the -- that the information  
4 you put -- or you disclose to a federal agency can be used  
5 against you. That's correct.

6 Q. So did you believe that there was a conflict between the  
7 Fifth Amendment -- an alleged requirement that you had to give  
8 the government information that they can use against you?

9 MR. NEIMAN: Objection, your Honor. Relevance.

10 MR. BOWERS: Well, your Honor, I need to respond to  
11 this objection because it also affects my client. And  
12 Mr. Schiff's ability to properly respond to the question [sic]  
13 affects everybody here.

14 And I -- I would respond to the following way: What  
15 Ms. Mitchell's beliefs were at the time she was engaged in  
16 Mr. Schiff's office is absolutely relevant to what we're doing  
17 here.

18 THE COURT: Well, she's -- she's -- she's walking a  
19 fine line because obviously what her opinions were are based  
20 upon what she had read by Mr. Schiff who has prepared the  
21 document that he's now referring to that cites all of the Code  
22 sections.

23 Let me ask you this: Have you ever read the entire Tax  
24 Code?

25 THE WITNESS: Not from cover to cover, no.

1 THE COURT: Have you read -- are you an accountant or a  
2 lawyer?

3 THE WITNESS: No.

4 THE COURT: So you got your information about what's  
5 lawful and unlawful from Mr. Schiff; is that right? Your legal  
6 advice.

7 THE WITNESS: That's correct to a point, yes.

8 THE COURT: Okay.

9 MR. SCHIFF: Um...

10 THE COURT: And then you checked out what he told you  
11 and found some support in various sections scattered throughout  
12 that book?

13 THE WITNESS: That is true.

14 MR. SCHIFF: Now --

15 MR. BOWERS: Wait one second.

16 BY MR. SCHIFF:

17 Q. Now, Toni, in paragraph --

18 THE COURT: Hold on. Hold on a minute. We still have  
19 a comment.

20 MR. BOWERS: I think we're still trying to deal with  
21 this objection. And, your Honor, I understand what you're doing  
22 there. I would respectfully submit the inquiry doesn't end  
23 there. The inquiry --

24 THE COURT: Well, you can inquire when it's your  
25 opportunity to inquire.

1 MR. BOWERS: Okay. And I'm not trying to argue with  
2 the Court. It's just this impacts all of us here --

3 THE COURT: Well --

4 MR. BOWERS: -- what's going --

5 THE COURT: -- you'll get a chance to --

6 MR. BOWERS: Okay. That's fair.

7 THE COURT: -- to cross-examine --

8 MR. BOWERS: Thank you, your Honor.

9 THE COURT: -- her as well as Mr. Schiff --

10 MR. BOWERS: Thank you, Judge.

11 THE COURT: -- and Mr. Cristalli. I think it's  
12 probably a good time to take our evening break. It's 4:30.

13 MR. SCHIFF: Okay.

14 THE COURT: So what do we have tomorrow morning,  
15 Ms. Clerk? Anything?

16 (Discussion between the clerk and the Court.)

17 THE COURT: We'll be here -- we'll start very close to  
18 9:00 o'clock. I have one matter that shouldn't take very long  
19 at all. So we'll plan on seeing you at 9:00 a.m.

20 I remind you not to discuss the case among yourselves  
21 or with others or watch any media accounts or read any media  
22 accounts or listen to and not to form any conclusions until the  
23 case is formally submitted to you for deliberation.

24 Thank you very much.

25

1 (Jury leaves the courtroom at 4:30 p.m.)

2 THE COURT: Any housekeeping matters before we recess  
3 for the evening?

4 MR. BOWERS: Yes, your Honor.

5 Um, unfortunately, at some level, whatever happens here  
6 affects my client. Uh, I think it's, at a very basic level,  
7 only fair. Clearly, Mr. Leventhal is gonna do more than just  
8 sit here --

9 MR. IGNALL: Excuse me. Your Honor?

10 MR. BOWERS: -- if we have any --

11 MR. IGNALL: Excuse me.

12 Your Honor, should we excuse the witness before we  
13 address this?

14 THE COURT: Go ahead. You can leave. You'll need you  
15 back here tomorrow morning at 9:00.

16 (Witness leaves the courtroom at 4:31 p.m.)

17 MR. BOWERS: Judge, I think there's some benefit in  
18 trying to explain who Mr. Leventhal is, I mean, to the jury.

19 THE COURT: To the jury? I can -- I can consider that.

20 MR. BOWERS: I don't want to force that. But, I mean,  
21 it's sort of obvious. He's here and --

22 THE COURT: We've kind of already explained it. We've  
23 said in the introduction he's advisory counsel and --

24 MR. BOWERS: Well, maybe -- maybe I'm wrong then. I  
25 don't know.

1 THE COURT: It's already been said.

2 MR. BOWERS: Okay.

3 THE COURT: He introduced himself, as I recall, as  
4 advisory counsel.

5 Is that correct?

6 MR. LEVENTHAL: I would -- personally I think that  
7 would be enough. I did explain myself as advisory counsel.

8 THE COURT: I thought so.

9 MR. LEVENTHAL: I think that my role here is pretty  
10 self-explanatory. I haven't argued anything yet.

11 MR. BOWERS: I'll withdraw my request. That's fine.

12 THE COURT: Any other matters?

13 MR. IGNALL: There's one other thing, your Honor.

14 Pursuant to the agreement we came to earlier today that  
15 the documents can be admitted by certification --

16 THE COURT: Yes.

17 MR. IGNALL: -- I'd like to formally move the following  
18 documents into evidence --

19 MR. NEIMAN: Should we do this with the jury?

20 MR. IGNALL: Do we need to do it before the jury or  
21 just between us in open court now?

22 THE COURT: Let's see if we have a dispute. We'll have  
23 to do it in front of the jury. But let's see if we have a  
24 dispute.

25 MR. IGNALL: Okay. Let me read the numbers and then

1 see.

2 MR. BOWERS: The exhibit numbers?

3 MR. IGNALL: Exhibit numbers --

4 THE COURT: We have a stipulation already of 1 through  
5 22 and then 50 -- 58 [sic].

6 THE CLERK: 59.

7 MR. IGNALL: I think Mr. Schiff left with -- objected  
8 to everything above No. 22.

9 THE COURT: No. He just objected to -- to his personal  
10 tax returns, which were 20 -- 27 on up to the next number, 50 --  
11 58 -- 57 was -- 22 through 57 are his tax returns.

12 MR. IGNALL: 58 --

13 THE COURT: So 58 and 59 are in and 3 -- 1 through 22  
14 are in.

15 MR. IGNALL: Okay.

16 THE COURT: And the only objection is to -- is a legal  
17 objection to, uh -- to the admissibility of those returns which  
18 is going to be overruled. I'm going to admit them all. But  
19 I'll do it -- if Mr. Schiff makes me, I'll do it one by one, 22  
20 through 57, till he figures out, you know, that I'm gonna do it  
21 all. Okay?

22 MR. IGNALL: All right. I'll talk to counsel about  
23 those numbers and --

24 THE COURT: All right.

25 MR. IGNALL: -- we can address that in the morning.

1 THE COURT: See if you can get him to agree. They are  
2 coming in -- if that's his only objection, they are coming in.

3 Okay. Any other business or housekeeping matters?  
4 We're in recess.

5 MR. BOWERS: What time tomorrow morning?

6 THE CLERK: 9:00.

7 THE COURT: 9:00 a.m.

8 MR. BOWERS: Thank you, your Honor.

9 (Proceedings adjourned at 4:34 p.m.)

10 --oOo--

11 I hereby certify that pursuant to Section 753, Title 28, United  
12 States Code, the foregoing is a true and correct transcript of  
13 the stenographically reported proceedings held in the  
14 above-entitled matter.

15

16 DATED:

FELICIA RENE ZABIN, RPR, CCR NO. 478

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