

1 IN THE DISTRICT COURT OF THE UNITED STATES  
2 FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

3 UNITED STATES OF AMERICA, )  
 )  
4 Plaintiff, ) Judge Wells  
 ) Cleveland, Ohio  
5 vs. )  
 ) Criminal Action  
6 JAMES A. TRAFICANT, JR., ) Number 4:01CR207  
 )  
7 Defendant. )

8 - - - - -  
9 TRANSCRIPT OF PROCEEDINGS HAD BEFORE  
10 THE HONORABLE LESLEY WELLS  
11 JUDGE OF SAID COURT,  
12 ON FRIDAY, FEBRUARY 22, 2002  
13 Jury Trial  
14 Volume 7  
15 - - - - -

16 APPEARANCES:  
17 For the Government: CRAIG S. MORFORD,  
BERNARD SMITH,  
18 MATTHEW KALL,  
Assistant U.S. Attorneys  
19 1800 Bank One Center  
20 600 Superior Avenue, East  
Cleveland, Ohio 44114-2600  
(216) 622-3600  
21  
For the Defendant: Pro Se  
22  
Official Court Reporter: Shirle M. Perkins, RDR, CRR  
23 U.S. District Court - Room 539  
201 Superior Avenue  
24 Cleveland, Ohio 44114-1201  
(216) 241-5622  
25 Proceedings recorded by mechanical stenography; transcript  
produced by computer-aided transcription.

Marcone - Direct

1 Friday Session, February 22, 2002, at 9:15 A.M.

2 THE COURT: Ladies and gentlemen, you see  
3 Heidi Geizer here. I gave you her name a long while ago.  
4 She's one of our court reporters, and she's with us today.  
5 And so I just wanted you to make the connection with her.

6 You're still under oath, sir.

7 THE WITNESS: Yes.

8 THE COURT: Very well. Mr. Morford.

9 MR. MORFORD: Thank you, your Honor.

10 DIRECT EXAMINATION OF PAUL MARCONE (Resumed)

11 BY MR. MORFORD:

12 Q. Good morning, Jim.

13 A. Good morning.

14 Q. Go ahead get, your water, Paul.

15 When we left off yesterday, I had just asked you a  
16 series of questions regarding the duties and salaries of  
17 Henry DiBlasio and Allen Sinclair. Do you recall that?

18 A. Yes.

19 Q. And I just want to finish up a few questions about  
20 that before I move into a new area. Who was it who  
21 determined the actual duties that would need to be  
22 performed and not performed by Henry DiBlasio and Allen  
23 Sinclair?

24 A. The Congressman.

25 Q. And who was the only person who supervised the work

Marcone - Direct

1 of these two staff members?

2 A. The Congressman.

3 Q. Did Henry DiBlasio have to account to anyone besides  
4 Congressman Traficant as to how he spent his time?

5 A. No.

6 Q. How about Allen Sinclair?

7 A. No.

8 Q. Did you personally have any way of knowing how hard  
9 Henry DiBlasio was working or not working?

10 A. I had no direct way of knowing since I was in  
11 Washington and he was in Ohio. However, because of my  
12 interaction with Henry, I can get an idea for some of the  
13 work he was doing.

14 Q. As I understand your testimony, you know he'd been  
15 out to a meeting and told somebody to call you. My  
16 question is, did you have any way of knowing how hard he  
17 was actually working, how hard he was working?

18 A. No, I was not his direct supervisor and I wasn't  
19 there, no.

20 Q. So independent of what Congressman Traficant might  
21 have told you, you had no way of knowing how hard he was  
22 working?

23 A. That is correct.

24 Q. What was Congressman Traficant's demeanor and  
25 reaction when you questioned him regarding the complaints

Marcone - Direct

1 you were receiving about Henry DiBlasio's work habits and  
2 salary?

3 A. He just simply said, "Henry works very hard, and you  
4 worry about the Washington office and I'll worry about the  
5 district office."

6 Q. I understand. What was his demeanor?

7 A. He was somewhat upset that I raised that issue, and  
8 by his demeanor made it clear that really wasn't an area  
9 that I should be venturing into.

10 Q. I'd like to ask you some questions regarding your  
11 first appearance as a witness before the Grand Jury back on  
12 April 26, 2000. Okay?

13 A. Yes.

14 Q. What if any conversation did you have with  
15 Congressman Traficant about your upcoming Grand Jury  
16 testimony between the time that you first received notice  
17 that you had to come to Cleveland and testify and the time  
18 you actually came and testified?

19 A. I had -- I had a brief conversation with him letting  
20 him know I was going to testify, and then I had a  
21 conversation out in the hallway by the elevators, a very  
22 brief one.

23 Q. Why did you have a conversation in the hallway?

24 A. I assume the Congressman was concerned that his  
25 office might be bugged.

Marcone - Direct

1 Q. What made you assume that?

2 A. Something that he had discussed with me over a period  
3 of the years.

4 Q. By saying that, did he ask you to come out in the  
5 hall so he can talk to you about this?

6 A. Yes.

7 Q. And did he suggest to you in any way how you should  
8 ask -- how you should answer certain questions that might  
9 be asked of you in the Grand Jury?

10 A. No, he didn't suggest how I should answer questions.  
11 He -- I don't really recall the exact wording what he said,  
12 but he said something to the effect that, you know, Henry  
13 DiBlasio worked very hard and Allen did work on the  
14 economic development issue, and he had worked hard as well.

15 Q. How does that topic come up? "Oh, by the way"?

16 A. Well, he was bringing me out in the hallway. It was  
17 obvious that he wanted to say something about my pending  
18 testimony.

19 Q. But what did he say as he brought up how you should  
20 answer questions that you were asked about? What did he  
21 say? I mean, how does that come up?

22 A. I think he just simply said, "You know Henry worked  
23 very hard, and Allen worked in the economic development  
24 issue." That's basically what he said.

25 Q. Was that in the context if the Grand Jury asked you?

Marcone - Direct

1 A. No, I don't think he used those terms. He just  
2 simply stated those two things about Henry and Allen.

3 Q. Do you recall testifying at that Grand Jury session,  
4 saying he said if they asked you about Henry, tell them  
5 that Henry worked very, very hard and was a good employee,  
6 and if they ask you about Allen, say Allen was hired to  
7 work on the Regional Economic Development Authority, and  
8 that I had only intended to hire him for a year, and that's  
9 what he was working on?

10 A. Right.

11 Q. And that he worked very hard? You recall that?

12 A. At the time I was testifying that conversation  
13 happened less than a week earlier, so it was fresh in my  
14 mind. That sounds about right.

15 Q. So he's saying to you if they ask you about Henry,  
16 say this, and if they ask you about Allen, say that?

17 A. Um-hum.

18 Q. And was that true to the best of your knowledge, what  
19 he was telling you to say about Allen?

20 A. I think I told him in the hallway I wasn't Henry's  
21 supervisor, I don't know how hard he worked, and I don't  
22 know what Allen did.

23 Q. Did it bother you that Congressman Traficant had  
24 taken you out into the hallway and was telling you if the  
25 Grand Jury asks you about Henry DiBlasio, say this, and if

Marcone - Direct

1 they ask you about Allen Sinclair, say that?

2 A. It bothered me in the sense that what I wanted him to  
3 tell me was just go in there and tell the truth.

4 Q. When and how did you first learn that there was a  
5 Grand Jury looking into allegations of impropriety  
6 involving Congressman Traficant?

7 A. It was in December of 1999, I got a phone call from  
8 the House counsel indicating that our office records had  
9 been subpoenaed by the U.S. Attorney's Office.

10 Q. I'm sorry, when was that approximately?

11 A. I believe December of '99.

12 Q. And when you received that call, did you discuss it  
13 with anyone?

14 A. I immediately called the Congressman, who was in Ohio  
15 at the time.

16 Q. And what did you inform him?

17 A. I passed on the information that I had received from  
18 the U.S. Attorney's Office and I believe you -- what I  
19 received from the House counsel, and I believe the House  
20 counsel informed me of what the deadline was, and what  
21 needed to be done to comply.

22 I explained to the Congressman that I would go to the  
23 House counsel and personally review the boxes of documents  
24 with them so that we were familiar with what we were  
25 turning over, and then it was at the Congressman's

Marcone - Direct

1 discretion whether or not he wanted to turn over the  
2 documents. I believe that the Congressman decided to turn  
3 over the documents since many of the documents were public  
4 records.

5 Q. Now, at the time that you conducted a review of  
6 documents that had been subpoenaed from the custodian of  
7 the office of Congressman Traficant, what was your actual  
8 position at that time?

9 A. I was Congressman's chief of staff in the Washington  
10 office.

11 Q. By that time had you taken on duties with respect to  
12 the District Office?

13 A. Not at that time, no.

14 Q. Did you review files of not only the Washington  
15 office but the District Office?

16 A. Yes, there were phone records and payroll records.

17 Q. Did there come a later time where you also looked at  
18 case work constituent service files?

19 A. Yes, a broader subpoena that was issued later in the  
20 Year 2000. I went to the House counsel's office, there  
21 were many boxes of documents, and I reviewed many of them  
22 with the House counsel, and some of them had to do with  
23 constituent work. I know that the Youngstown and Trumbull  
24 County offices had done searches of documents based on the  
25 parameters of the second subpoena that was issued.

Marcone - Direct

1 Q. Did you coordinate the compliance for that subpoena?

2 A. Yes, I did.

3 Q. And through that subpoena, were documents provided to  
4 the Government that were part of the records that were made  
5 and maintained through the office of Congressman Traficant?

6 A. Yes, documents were provided.

7 MR. TRAFICANT: Can you repeat the question  
8 for me, please?

9 (Thereupon, the record was read back by the Court  
10 Reporter.)

11 Q. Now some of those documents that you provided relate  
12 to constituent services that were provided for the Buccis?

13 A. Yes.

14 Q. Dave Sugar?

15 A. Yes.

16 Q. Pete Bucheit?

17 A. Yes.

18 Q. J. J. Cafaro?

19 A. Yes.

20 Q. Let me ask you some questions about a man named Tony  
21 Bucci. Are you familiar with a man by the name of Tony  
22 Bucci?

23 A. I'm familiar with the name Bucci, I'm not familiar  
24 with the man.

25 Q. Who is Bucci, as you understood it?

Marcone - Direct

1 A. Bucci was the owner of a contracting company in the  
2 Congressman's district.

3 Q. What was your understanding of what type of contract  
4 work the Buccis did?

5 A. I believe it was pavement work.

6 Q. Do you recall what type of paving work it was?

7 A. Highways.

8 Q. How did you first come to know this name, Bucci?

9 A. I don't recall the exact time frame, but a member of  
10 my staff came into my office and was concerned with the  
11 Congressman and asked them to help a company in the  
12 district by the name of Bucci that had been disbarred from  
13 bidding, I believe, on state contracts, and jobs were at  
14 stake, but he didn't feel comfortable going to bat for the  
15 company because the company had violated some statutes.  
16 I'm not clear what the statutes were, but I do remember he  
17 was upset that he had to help him.

18 Q. Who was upset?

19 A. Jim Welfley, the staff person.

20 Q. And who was directing him to go ahead and help the  
21 Buccis anyway?

22 A. The Congressman asked him to do that. He came to me  
23 because he was -- he had concerns about the Buccis.

24 Q. Who had concerns?

25 A. Jim Welfley did.

Marcone - Direct

1 Q. Did the Congressman have any concerns about the  
2 Buccis?

3 A. I raised the issue with the Congressman, and he  
4 simply said, "Look, these guys jobs have 250 jobs at stake,  
5 they made mistakes, they paid their dues, they're low  
6 bidder on a contract. We just want them to be treated  
7 fairly, and their job is at stake in my district," and sat  
8 Jim down and explained to him. I just asked -- I forget  
9 what agency they were dealing with, whether it was the  
10 Department of Labor, but my --

11 Q. Can I interrupt you a minute? There's two Jims here,  
12 that's why I need you to say when you say "I told Jim this"  
13 or "told Jim that."

14 A. Okay. I'll always refer to the Congressman as "the  
15 Congressman."

16 Q. Okay. When you say "Jim" you're talking about?

17 A. Jim Welfley.

18 Q. Okay.

19 A. I simply said, "Write a letter of that, simply ask  
20 the Government to review the case and treat the company  
21 fairly," and the Congressman was fine with that.

22 Q. Well, when the Congressman is telling you these guys  
23 made a few mistakes, what was your understanding of the  
24 nature of the mistakes?

25 A. Again, I don't recall the details, but it was some

Marcone - Direct

1 violation of state law or federal law, I believe a  
2 withholding benefits. I'm not clear what the violation  
3 was, but I know that Welfley was upset because he thought  
4 the violation was serious and willful, and that we  
5 shouldn't be helping that kind of company.

6 Q. And you conveyed that to Congressman Traficant?

7 A. Yes.

8 Q. Now, you said he told you there are 250 jobs at  
9 stake. Do you know if that was even true?

10 A. There was no way for me to verify that.

11 Q. Another thing when you took his word?

12 A. Yes.

13 Q. I'd like, if you would, if you would turn and take a  
14 look at what's marked Government's Exhibit 2-14 in front of  
15 you there. It's probably the second or third document in  
16 that stack.

17 A. Um-hum.

18 Q. Can you tell us what that is?

19 A. I kept spiral notebooks to keep track of my phone  
20 calls and meetings. That -- I believe that's a memo from  
21 one of the Bucci brothers.

22 Q. Okay. Before you go further, is that your  
23 handwriting?

24 A. That is my handwriting, yes.

25 Q. Was this sort of a little journal, if you will, or

Marcone - Direct

1 notes that you would keep?

2 A. Right, and I believe what I did was I called Tom  
3 Williams at ODOT, just from looking at the --

4 MR. MORFORD: Before you go further, your  
5 Honor, may I put this up on the board?

6 THE COURT: You may, but I want to caution  
7 you that you don't overspeak the witness, okay?

8 Yes, you can put it up.

9 MR. MORFORD: Thank you.

10 BY MR. MORFORD:

11 Q. Let's start with -- let's start with the top half.

12 A. Yes.

13 Q. Can you explain that?

14 A. Again, I don't recall these conversations, but based  
15 on the way I took notes, I would -- I would say that my  
16 conversation with Tom Williams at ODOT, he relayed to me  
17 that the company had some contracting problems. I then  
18 called Cheryl Worley, who I knew at ODOT, who dealt in  
19 legislative affairs, got no answer from her.

20 Q. And if we go to the second half?

21 MR. TRAFICANT: What was the name of that  
22 Cheryl?

23 THE WITNESS: Worley.

24 A. The second is my notes that I took of the  
25 conversation that the Congressman had with Jerry Wray.

Marcone - Direct

1 Q. You say the Congressman had?

2 A. JAT is my -- that's how I refer to the Congressman  
3 when I took notes.

4 Q. And was this a phone conversation or a personal  
5 conversation?

6 A. It's a phone call. It's a phone call between Jerry  
7 Wray, the Congressman below that, regarding the Bucci  
8 brothers.

9 Q. Were you present during that phone conversation?

10 A. Yes, I was.

11 Q. Okay. And basically, what was the topic that was  
12 discussed?

13 A. The Bucci brothers, re Bucci brothers.

14 Q. Okay. It says there, "Problem, Tom Williams, ODOT."  
15 What was the problem with Tom Williams, ODOT?

16 A. Again, I don't recall, but based on the way I took  
17 notes, probably the Congressman relayed to Jerry Wray that  
18 Tom Williams of ODOT was indicating there was a contracting  
19 problem with the Buccis; again, based on my notes, that  
20 Congressman probably mentioned there were 250 jobs at  
21 stake, that he asked Jerry Wray to meet personally with the  
22 Buccis. Jerry Wray then indicated that ODOT does have an  
23 investigation ongoing in the district, but that the  
24 conversation ended where Jerry told the Congressman that he  
25 would call the Buccis at the Congressman's request.

Marcone - Direct

1 Q. Who is Jerry Wray?

2 A. I believe he was the head of ODOT at the time,  
3 somebody I worked very closely with on the federal  
4 transportation.

5 Q. Was he the head of the entire Ohio Department of  
6 Transportation?

7 A. I believe at the time, he was.

8 Q. So he would have been Tom Williams' boss?

9 A. Yes.

10 Q. And from what you're telling us, the Congressman was  
11 requesting that the head of the Ohio Department of  
12 Transportation personally meet with the Buccis at his  
13 request?

14 A. Correct.

15 Q. How typical was it for Congressman Traficant to  
16 personally get involved with a constituent service matter  
17 like this?

18 A. It wasn't unusual, but the majority of constituent  
19 services cases were handled by the staff, but I've seen the  
20 Congressman make phone calls like this on many occasions.

21 Q. What type of factors would cause him to jump in and  
22 personally make the phone call as opposed to leaving it up  
23 to you or Jim Welfley or somebody else?

24 A. It would depend on how strongly he felt about it.

25 Q. Was this one that he seemed to feel strongly about?

Marcone - Direct

1 A. Yes.

2 Q. Turning your attention to Exhibit 2-42.

3 A. Um-hum.

4 Q. Do you recognize that document?

5 A. Yes, it's a memo Jim Welfley wrote to the Department  
6 of Labor.

7 Q. As Mr. Welfley's supervisor, did you play any role in  
8 the drafting of this document before it went out?

9 A. I don't believe I -- I simply asked Jim to give me a  
10 copy of it, but as I mentioned earlier, my instructions to  
11 Jim were simply intervene on behalf of the company in the  
12 sense that we would ask them to review the case and treat  
13 the company fairly.

14 MR. MORFORD: Your Honor, at this time may I  
15 put this on the overhead?

16 THE COURT: Yes

17 BY MR. MORFORD:

18 Q. Do you know who Mark Cohen is?

19 MR. TRAFICANT: What's the number?

20 MR. MORFORD: Sorry, Government's Exhibit  
21 2-42.

22 Q. Do you know who Mark Cohen is?

23 A. No.

24 Q. What's the date of this memo?

25 A. March 27, 1996.

Marcone - Direct

1 Q. And if you could read the body of the memo, please?

2 A. "For defrauding the Department of Transportation, the  
3 DOT debarred Prime Contractors, a highway construction  
4 company owned by Robert and Anthony Bucci in Congressman  
5 Traficant's congressional district, from participating in  
6 any federal government contracting or government approved  
7 subcontracting beginning March 18, 1993.

8 "Although the period for debarment was to last three  
9 years for each of the Buccis, the DOT reduced the debarment  
10 to 18 months for Anthony and six months for Robert. In  
11 October, 1993, the Department of Labor offered the Buccis a  
12 hearing, as the transgression against the DOT also involved  
13 the transgression of the Davis-Bacon Act. The Buccis did  
14 not testify, and the DOL debarred the Buccis for three  
15 years, starting March, 1994.

16 "Given the leniency the Buccis were given by the DOT,  
17 the Buccis hope the DOL may, too, see the transgressions  
18 did not merit a three-year debarment. As the bidding for  
19 the 1996 federal highway contracts reaches a fever pitch,  
20 it is imperative the Buccis be removed from the debarment  
21 list. If the Buccis do not win contracts this year they  
22 will go under and, with them, 250 hard-working Ohioans. I  
23 have spoken with Timothy Helm of the DOL's Government  
24 Contracts Enforcement Team. He has been very helpful and  
25 has given me the necessary information to aid the Buccis in

Marcone - Direct

1 removing themselves from the debarment list via Section  
2 5.12(a) of the Davis-Bacon Act. Although following the  
3 procedure detailed in Section 5.12(a) may be the answer, it  
4 may also take up to 60 days. The Congressman would like  
5 the secretary to know that 60 days will devastate the  
6 Buccis, Prime Contractors, and 250 innocent workers.

7 "The Buccis have paid their fines, and one has even  
8 served time in prison. They are ready to go back" -- "to  
9 get back to work. The Congressman hopes the secretary can  
10 help."

11 Q. Okay. Now, the second paragraph you read, "Although  
12 the period of debarment was to last three years, the DOT,  
13 Department of Transportation, reduced the debarment to 18  
14 months for Anthony and six months for Robert." Did  
15 Congressman Traficant tell you whether he personally had  
16 been responsible for the DOT reducing that debarment?

17 A. No.

18 Q. He didn't tell you that?

19 A. No.

20 Q. When your office tells the Department of Labor that  
21 if the Buccis do not win contracts this year they will go  
22 under, and with them 250 hard-working Ohioans, again, it  
23 says the Congressman would like the secretary to know that  
24 it will devastate the Buccis and 250 innocent workers, did  
25 you do any independent research to find out if there were

Marcone - Direct

1 even 250 employees of this company?

2 A. Not to my knowledge.

3 Q. That was based on what the Congressman told you?

4 A. Right.

5 Q. Were you aware at the time, Mr. Welfley, under your  
6 direction, was sending this memo to the Department of Labor  
7 on March 27, 1996, and at the time that you were contacting  
8 ODOT, the Ohio Department of Transportation, in June of  
9 1995, were you aware at that time as you're doing that work  
10 that Congressman Traficant had the Buccis out at his farm  
11 doing work?

12 A. Absolutely not, no.

13 Q. As you're discussing with the Congressman Traficant  
14 the concerns that Mr. Welfley has about the Buccis --

15 A. Um-hum.

16 Q. -- he doesn't tell you about that?

17 A. No, he simply reiterated over and over there were  
18 jobs at stake, that the Buccis had paid their dues, and  
19 that if they didn't get back on the list and be able to bid  
20 on these contracts that the company would go under, and 250  
21 people, constituents, would lose their jobs.

22 Q. When was the first time the Congressman Traficant  
23 ever admitted to you that the Buccis had actually been out  
24 to his farm and done work?

25 A. It was in early 2000, the newspaper reports made a

Marcone - Direct

1 big circus about the Grand Jury investigation and about the  
2 fact that the Buccis allegedly had done work at his farm,  
3 and we were getting questions from reporters about that.

4 Q. Prior to that time when the work was actually being  
5 done for the Buccis, it was never mentioned to you?

6 A. That's correct.

7 Q. Now I'd like to ask you some questions about a man  
8 named Pete Bucheit. Do you know a man named Pete Bucheit?

9 A. Yes, I do.

10 Q. How did you come to know Pete Bucheit?

11 A. I came to know Pete Bucheit when I began working  
12 again for the Congressman in '93. I originally met -- my  
13 original contact with Mr. Bucheit had to do with a building  
14 that they owned in Washington, D.C. on A Street that they  
15 were trying to sell to the General Services Administration.

16 Q. How would you describe the extent to which Pete  
17 Bucheit had access to the offices of Congressman Traficant  
18 when he would come to Washington?

19 A. My view of Mr. Bucheit with that was he was a close  
20 friend of the Congressman, that when he came to the office,  
21 he had full access. He could sit in the Congressman's  
22 office, he could use the phones, and he was viewed as a  
23 close friend of the Congressman and was treated  
24 accordingly.

25 Q. Did there ever come a time when you specifically

Marcone - Direct

1 asked Congressman Traficant whether Pete Bucheit had ever  
2 done any work for him?

3 A. No.

4 Q. How about after allegations began to surface. Did  
5 you ever have a conversation with him at that time?

6 A. I might have. I distinctly remember asking the  
7 Congressman about the Buccis doing work on his farm because  
8 that was the nature of the questions I was getting from  
9 reporters. I don't recall if I ever asked him about the  
10 Bucheits. I might have, I just don't specifically remember  
11 asking him about the Bucheits doing work at his farm.

12 Q. Let me ask you this, do you recall this question and  
13 this answer at your April 26, 2000 Grand Jury appearance,  
14 and this would be Page 123, beginning at Line 12.

15 Question: Have you ever talked to Congressman  
16 Traficant about whether or not Bucheit did any work?

17 Answer: I mentioned that a reporter had called  
18 asking about the Bucheits. The only thing he said was we  
19 helped him out in Saudi Arabia, also helped him out with  
20 the investment they had in the Gaza Strip. I asked him  
21 about the work they did on the farm, and he said, no,  
22 that's not true.

23 Question: He said they never did work?

24 Answer: I don't know if he said they never did work,  
25 he just said that's not true.

Marcone - Direct

1 Question: What's not true?

2 Answer: The allegation that they did work on the  
3 farm.

4 A. Again, when I appeared in April, the conversation I  
5 would have had with the Congressman about the Bucheits  
6 would have happened within 60 days, because that was right  
7 around the time that the reporters were calling and  
8 allegations were being made in the press. So that -- that  
9 conversation would have been fresh in my mind.

10 Q. Having heard that now, does that refresh your  
11 recollection as to whether you had that conversation with  
12 Congressman Traficant?

13 A. There were so many conversations, that sounds -- that  
14 sounds like the typical conversation I would have had with  
15 him around that time period.

16 Q. But, you're saying at the time you testified that was  
17 fresh in your mind, correct?

18 A. Correct, because it would have happened within six  
19 weeks.

20 Q. Now, there's two things mentioned. One is Saudi  
21 Arabian assistance. Did you have any role or any  
22 participation in the Saudi Arabian assistance?

23 A. No, that happened during the period I was not working  
24 for the Congressman; in the late 80's, early 90's, I would  
25 assume. So I was not involved with that. I distinctly

Marcone - Direct

1 remember I was -- I was in a supervisory role during the  
2 Gaza Strip investment, so I was very familiar with that,  
3 our role in that.

4 Q. I'd like to show you, have you take a look at what's  
5 been marked Government's Exhibit 7-32.

6 A. Okay.

7 Q. Do you see that?

8 A. Yeah.

9 Q. Do you see a date up in the right-hand corner?

10 A. Yeah, 3-24-93, March 24, 1993.

11 Q. Okay. And whose handwriting was that?

12 A. That is my handwriting.

13 Q. And was this again your notes from your journal?

14 A. Spiral notebook, yes.

15 MR. MORFORD: Your Honor, may I put this up?

16 THE COURT: Yes.

17 BY MR. MORFORD:

18 Q. At the top it says, is that GSA briefing?

19 A. Yes.

20 Q. And then down at the bottom, can you tell us what  
21 that says?

22 A. "Bucheit, GAO has no interest in building at this  
23 time."

24 Q. Okay, what were you doing around March 24, 1993 that  
25 caused to you write these notes, "Bucheit, GAO has no

Marcone - Direct

1 interest in building at this time"?

2 A. As I stated earlier, we were trying to assist the  
3 Bucheits in selling a building they owned on H Street,  
4 Washington, D.C., through General Services Administration  
5 or any entity of the federal government. One of the  
6 entities was the General Accounting Administrative Office,  
7 which was a division of Congress. And based on this note,  
8 from what I can recall, the building did not meet the  
9 federal specifications for occupancy, so even if the  
10 federal government wanted to buy the building, they  
11 couldn't because it didn't meet federal specs.

12 Q. Who was it that directed you to do this for the  
13 Bucheits?

14 A. Congressman asked me to help, and I was working with  
15 the Bucheits on this.

16 Q. Did he ever tell you that at or about the same time  
17 you were placing these calls, the Bucheits were out at the  
18 farm doing work?

19 A. No.

20 Q. Next, if you can turn to Government's Exhibit 7-41.

21 A. Um-hum.

22 Q. Do you recognize that?

23 A. Again, that's my notebook, it's my handwriting.

24 Q. And can you tell us what that says?

25 A. Looks like it's a note of a phone call or

Marcone - Direct

1 conversation I had with either Lisa Bucheit or Pete Bucheit  
2 indicating that Pete Bucheit was very pleased with the Gore  
3 letter.

4 Q. Okay. Who is Lisa Bucheit?

5 A. I believe it's Pete Bucheit's daughter.

6 Q. And what's the date on this?

7 A. 8 -- August 17th. I don't know what year.

8 Q. Okay. Do you recall there being a, quote, Gore  
9 letter?

10 A. I recall that we wrote many letters on behalf of the  
11 Bucheits to Madeline Albright, Secretary of State under  
12 President Clinton, as well as letters to Vice-President  
13 Gore, and the president as well, on behalf of the Bucheits.

14 Q. Keeping that date, 8-17, in mind, could you take a  
15 look at Government's Exhibit 7-40?

16 A. Um-hum.

17 Q. And what is that document?

18 A. That is a letter that the Congressman sent to the  
19 vice-president August 16, 1994, and the letter was drafted  
20 by Jim Welfley.

21 Q. Okay.

22 MR. MORFORD: Your Honor, may I put that  
23 exhibit up? This is again Government's Exhibit 7-40.

24 Q. And who was this letter signed by and who was it sent  
25 to?



Marcone - Direct

1 A. The letter was ultimately signed by the Congressman,  
2 and it was faxed and delivered to Vice-President Gore.

3 Q. And can you go ahead and read the body of the letter,  
4 please?

5 A. "Bucheit International, Inc., a family-owned business  
6 from my congressional district since 1908, has been invited  
7 to open up a manufacturing business in Gaza City.

8 "I respectfully request your help in officially  
9 recognizing the Bucheits as legitimate businessmen in the  
10 Middle East. Bucheit has had an extensive experience in  
11 the Middle East and the owner of exclusive rights to the  
12 state-of-the-art process for the manufacturing and erection  
13 of precast building components. This process, which the  
14 Bucheits will introduce to the region, enable the family to  
15 supply components that are the highest quality, produced  
16 quickly, and cost a fraction of those produced through  
17 usual methods.

18 "Bucheit has agreed to lease the site in Gaza City,  
19 where they will erect their new plant, heretofore operation  
20 in the port at Hedera, Israel. The plant will assist the  
21 developers in both Gaza and Israel in meeting their housing  
22 requirements. Bucheit plans to be in full operation in  
23 Gaza no later than October 15, 1994, and is already  
24 negotiating a contract with the UNWRA to build 25 schools  
25 in the city.

Marcone - Direct

1            "As you can imagine, with an overall investment of  
2            over \$3 million, Bucheit intends to act cautiously. To  
3            help protect this enormous investment against political  
4            acts of terrorism, change in laws, and other pitfalls, the  
5            Bucheits are pursuing insurance from OPIC. In politically  
6            unstable environments, such as Gaza and Israel, I believe  
7            this is wise.

8            "By officially recognizing the Bucheits' presence in  
9            Gaza, you, too, can help minimalize these pitfalls.

10           "Countries with a financial interest in the area are  
11           looking for enterprises like Bucheit to set up operations  
12           in the region and bring with it the windfall of training,  
13           employment, revenue, and infrastructure. Why not help an  
14           American company carry out this bold initiative?

15           "After much consideration, I believe that this could  
16           be a win/win situation for both American business and our  
17           friends in the Middle East. Please help Bucheit in their  
18           quest to freely trade with Israel and Gaza by officially  
19           recognizing their presence in the region.

20           "Thank you in advance for your assistance. I look  
21           forward to your response."

22           MR. TRAFICANT: Can you raise that down, let  
23           me see the signatures?

24           Q. You said this is a letter actually sent by your  
25           office to the vice-president, correct?

Marcone - Direct

1 A. Yes, but I don't know why we -- normally I instruct  
2 our staff to keep signed copies of everything, so I don't  
3 know why we don't have a signed copy of it.

4 Q. The body of the letter talks about OPIC and risk  
5 insurance. Can you explain what that is and what you were  
6 trying to get the vice-president to do for Bucheit?

7 A. Yeah. OPIC, Overseas Private Investment Corporation,  
8 it's a quasi-governmental corporation that provides risk  
9 insurance for American businesses for making investments  
10 overseas, especially in politically unstable regions. The  
11 purpose of OPIC is to encourage American investment in  
12 third world or poor nations, and also provide some  
13 incentive for American companies to invest in those regions  
14 by providing them with risk insurance.

15 Q. In August of 1994 when this letter was prepared, did  
16 Congressman Traficant tell you that he owed the Bucheits  
17 \$30,000 for work they had done on the farm?

18 A. No.

19 Q. To your knowledge, did OPIC, the Overseas Private  
20 Investment Corporation, provide loans and political risk  
21 insurance to the Bucheits?

22 A. Eventually, they did.

23 Q. And did a dispute ever arise regarding that and the  
24 insurance?

25 A. Yes, my recollection is that there was prolonged

Marcone - Direct

1 dispute between the Bucheits, OPIC and the Palestinian  
2 authority that went on for years, and Pete Bucheit was  
3 calling our office continuously. I was not personally  
4 handling it, but Kim Harris on our staff was.

5 My recollection was that Kim brought to my attention  
6 that there were certain things that the Bucheits needed to  
7 do to get the insurance or get the Government to help them  
8 and that they would not come through on that. And I told  
9 Kim, make it very clear to Pete that we couldn't help them  
10 if they didn't follow through on their end of it.  
11 Eventually, the Bucheits did do that. Eventually they were  
12 helped.

13 Q. As your office was talking with OPIC and the State  
14 Department and the Department of Commerce, were they  
15 challenging the position of Pete Bucheit?

16 A. Yes, they were.

17 Q. I'd like you to take a look at Exhibit 7-55.

18 A. Yes.

19 Q. Just the front page of that exhibit. Do you see  
20 that?

21 A. Yeah.

22 Q. And do you recognize that handwriting?

23 A. That's Kim Harris' handwriting, yes.

24 Q. Who was Kim Harris?

25 A. She's our legislative assistant at that time who

Marcone - Direct

1 handled foreign affairs, and was directly handling the  
2 Bucheit case.

3 Q. Who assigned to her the duty of handling the Bucheit  
4 case?

5 A. That would have fallen under her duties as foreign  
6 affairs. I was the one who assigned the case to her.

7 Q. And who supervised her work on the Bucheit matter?

8 A. I did.

9 MR. MORFORD: Your Honor, may I put this up?

10 THE COURT: Yes.

11 Q. Would you go ahead and read that, please?

12 A. "Paul, this is the State/OPIC's response to our  
13 letter. Please read.

14 "How far are we going to go on this thing? Should we  
15 do whatever Bucheit wants to appease him or should I try to  
16 State's recommendations? Please advise."

17 Q. What's the problem she's addressing with you here?

18 A. My recollection is that Kim's an excellent staff  
19 member, very thorough. She had long discussion with people  
20 at the State Department, at OPIC, and they had raised  
21 concerns about the Bucheits. I believe the Bucheits hadn't  
22 paid the full premium on the insurance, and that was Kim's  
23 concern. The way I understood it, from what Kim told me,  
24 it was there were certain things the Bucheits needed to do  
25 to be possible for the Government to fully help them. And

Marcone - Direct

1 this note from Kim, her concern was this case was taking up  
2 the bulk of her time, and that Pete was calling her  
3 continuously.

4 My recollection was that what I instructed Kim to do  
5 was to make it clear to the Bucheits that they needed to  
6 fulfill their end of the bargain, explain what the  
7 Government was saying that they needed -- I forget what it  
8 was, but they had to pay some type of premium -- explain to  
9 them what they needed to do, that we couldn't help them  
10 unless they help themselves in that matter, and then simply  
11 in our letters to the Government, ask the Government to  
12 treat the company fairly. And I think she was fine with  
13 that.

14 Q. When she indicated should we do whatever Bucheit  
15 wants to appease him --

16 A. Pete Bucheit was continually asking us to send  
17 letters and to intervene on his behalf. And again, my  
18 instructions to her were it is no problem to send letters  
19 on behalf of the Bucheits, certainly, asking the Government  
20 to treat them fairly. What I told her was you need to make  
21 Pete -- you need to have Pete understand that we can't help  
22 them unless they do what the Government asked them to do.

23 Q. Why would you even continue to do things or send  
24 things to Government agencies that Pete wanted you to do  
25 even though the Department of State and OPIC were opposed

Marcone - Direct

1 to the actions?

2 A. My understanding was it wasn't that they were opposed  
3 to the actions, it was that they couldn't help out, for  
4 example, Bucheit, until they paid their premium.

5 Q. What was the Congressman telling you he wanted you to  
6 do for Bucheit throughout this time?

7 A. Most of the work we did at this point was between Kim  
8 and I. In my role as chief of staff, the Bucheits were a  
9 company in our district, and we were -- our responsibility  
10 as staffers was to do everything we could to help them and  
11 also to try and help the company help themselves. So I  
12 don't ever recall the Congressman having a conversation  
13 with me saying "You have to help the Bucheits out."

14 Q. Do you ever recall --

15 A. My view was that I like Pete Bucheit, he's a bit of a  
16 pain in the butt, but he seemed like a nice guy, maybe a  
17 bit of a stumbler and bumbler, made bad decisions and  
18 trusted the wrong people, but they basically were good  
19 guys, maybe in over their head, and needed our help.

20 But, we were getting -- Kim and I were getting  
21 frustrated with them because there were certain things we  
22 kept telling them they needed to do, and they were dragging  
23 their feet on it.

24 Q. Were there times Pete Bucheit went over your head to  
25 the Congressman because you hadn't taken action he wanted

Marcone - Direct

1 you to take?

2 A. That happened on several occasions.

3 Q. What would the Congressman say to you?

4 A. He said, "Come on, help these guys out." I explained  
5 to the Congressman what Kim and our concerns were. I said,  
6 "Look, Congressman, these people, the Bucheits, need to do  
7 certain things. We can't -- you can't help them, we can't  
8 help them, unless they do these things." And he said,  
9 "Okay, okay, okay, but Pete's been bothering me, you need  
10 to help them out."

11 And it wasn't that he was annoyed with me. I think  
12 he understood the kind of person Pete Bucheit was, and I  
13 took it as, you know, look, they're constituents, just do  
14 what you can to help them out. And as a staff person, you  
15 never want a constituent to complain to the Congressman  
16 that you're not being responsive to them, so I was very  
17 sensitive to that, as well.

18 Q. Would you have taken it to simply be that he wanted  
19 to appease the constituent if you knew he owed Pete Bucheit  
20 \$30,000 for work at that time?

21 A. Rephrase the question. I didn't --

22 Q. You said you took it to mean he was just trying to  
23 help a constituent.

24 A. I mean, what we were doing for the Bucheits was  
25 typical what our office, what a congressional office does,

Marcone - Direct

1 so it was nothing unusual for the Congressman coming to me  
2 and talking to me about this, "We need your help."

3 Q. Would there be anything unusual if he was doing that  
4 at the same time that he owed Bucheit \$30,000 for  
5 construction work Bucheit had done?

6 A. Of course, yeah, that would have raised a red flag  
7 immediately.

8 Q. Why?

9 A. Because it's illegal.

10 Q. And you're telling us you had no knowledge of that  
11 side of the equation?

12 A. No, I didn't.

13 Q. Turning your attention to what's marked Government's  
14 Exhibit 7-68.

15 A. Yes.

16 Q. Can you tell us what that is?

17 A. That is a letter that I wrote to Madeline Albright.  
18 My recollection was we sent a lot of letters, Pete Bucheit  
19 would fax me letters that he had sent and ask us to forward  
20 them either to Madeline Albright or to Sonny Callahan, who  
21 was the Congressman Callahan, he was chairman of the  
22 Foreign Operations Appropriations Subcommittee, and we did  
23 that. At least this letter took me all of about a minute  
24 to draft. I penned it out, I believe I signed it on behalf  
25 of the Congressman, sent it over to Albright, faxed a copy

Marcone - Direct

1 to Pete. That kept -- that got Pete off my back. There's  
2 nothing wrong with the member of Congress sending a copy of  
3 a letter to a constituent that's drafted to the Secretary  
4 of State or to the chairman of the Foreign Operations  
5 Subcommittee, especially the chairman of the foreign  
6 subcommittee, because the Congressman had been able to get  
7 language put in the appropriations bill.

8 Q. Please, as I instructed you before, I told you we  
9 don't want you to testify about --

10 MR. TRAFICANT: Object.

11 Q. -- anything involving legislation.

12 MR. TRAFICANT: Object.

13 THE COURT: The objection is overruled, but I  
14 do want to caution you not to just give a long story.  
15 Listen to the question and try to answer the question  
16 that's put to you.

17 THE WITNESS: Okay.

18 MR. MORFORD: I would ask the last part of  
19 that answer be stricken from the record as unresponsive.

20 THE COURT: The last two sentences will be  
21 stricken.

22 MR. MORFORD: Thank you, your Honor.

23 BY MR. MORFORD:

24 Q. You testified a moment ago that there was nothing  
25 wrong with the Congressman writing a letter to the

Marcone - Direct

1 Secretary of State?

2 A. Um-hum.

3 Q. Would there be anything wrong with the Congressman  
4 writing a letter to the Secretary of State at the same time  
5 he was receiving something of value from the constituent?

6 A. Yes.

7 MR. MORFORD: Your Honor, may I put the  
8 letter from the Secretary of State up?

9 THE COURT: Yes.

10 Q. The little initials "PM" down at the bottom, what  
11 does that signify?

12 A. Signifies I drafted the letter.

13 Q. And --

14 MR. TRAFICANT: Where is the Exhibit Number?

15 MR. MORFORD: Exhibit 7-68.

16 Q. And can you go ahead and read the letter?

17 A. "Enclosed please find a copy of a letter sent to the  
18 Palestinian Authority by Bucheit International, a  
19 construction company based in my congressional district. I  
20 am sending you this copy as a follow-up to the  
21 correspondence I sent you last month regarding Bucheit's  
22 problems in the Gaza Strip. Thanking you in advance for  
23 your continued cooperation and leadership in ensuring this  
24 situation is resolved in an equitable and expeditious  
25 fashion. As you well know, the success or failure of this

Marcone - Direct

1 venture can have a major impact on the pace of foreign  
2 investment in the Gaza Strip at West Bank."

3 Q. Now, you testified this only took you about a minute  
4 or two to draft and send out --

5 A. Yes.

6 Q. What's the effect of Pete Bucheit sending the letter  
7 to you to have you send it to the Secretary of State  
8 instead of sending his letter directly to the Secretary of  
9 State himself?

10 A. Generally speaking, letters to the Secretary of State  
11 from members of Congress get much closer attention than  
12 letters from private citizens.

13 Q. I'd now like to move to a new area and ask you  
14 questions about a man named Dave Sugar. Do you recognize  
15 the name Dave Sugar?

16 A. Yes, I do.

17 Q. Turning your attention to Exhibit 5-7, you see that  
18 exhibit?

19 A. Yes.

20 Q. And is that your handwriting?

21 A. Yes, it is.

22 Q. And is that another entry from the spiral notebook?

23 A. Yes.

24 MR. MORFORD: Your Honor, may I place 5-7 on  
25 the screen?

Marcone - Direct

1 THE COURT: Yes.

2 BY MR. MORFORD:

3 Q. Could you go ahead and read the notes and then tell  
4 us what this matter was about?

5 A. "Dave Sugar, water project in Columbiana, Old Farm  
6 Village," can't make that out. "Phone number, called him"  
7 circled means I called and left a message.

8 Then I would indicate that he called me back, and  
9 he -- by the arrow, that means he told me that he was a low  
10 bidder on a job, it was a preconstruction meeting, there  
11 was a delay, the paperwork's in place. No agreement yet.  
12 That's all I can make out.

13 Q. Okay. Do you have any recollection of this matter,  
14 how it came to be assigned to you to make this call?

15 A. Yes. The Congressman came back from the district, I  
16 believe it was on a Monday or Tuesday, simply asked me to  
17 call Dave Sugar, that he was having a problem with a  
18 contract, there was a delay and he was losing money, if you  
19 could just call and see what you could do to help him out,  
20 which is what I did.

21 Q. And was Dave Sugar a name that you'd ever heard  
22 before?

23 A. No.

24 Q. Describe the actions you recall taking with regard to  
25 this Old Farm Village project on behalf of Dave Sugar.

Marcone - Direct

1 A. I called Dave Sugar, got his explanation as to what  
2 the problem was. I called the appropriate official, I  
3 don't recall whether the official was a state, county, or  
4 federal official. I believe it was a woman. The person  
5 simply explained to me that there was a routine delay, that  
6 eventually the contract would be let. I passed this  
7 information on to Dave Sugar and to the Congressman. That  
8 was the last I heard of that.

9 Q. And do you recall by any chance when that would  
10 occur, approximately?

11 A. No.

12 Q. Now, at the time that you were placing these calls,  
13 did Congressman Traficant tell you whether or not Dave  
14 Sugar had done any work at his farm?

15 A. No.

16 Q. Turning your attention to Exhibit 5-16, do you see  
17 that?

18 A. Yes.

19 Q. And do you recognize that letter?

20 A. It's a letter that I drafted to the Community  
21 Investment Corporation in Youngstown.

22 Q. And what was the general purpose of this letter?

23 A. The purpose of the letter was to -- was to get the --  
24 the goal was to have the terra-cotta from the old Higbee  
25 building which was going to be demolished somehow

Marcone - Direct

1 transferred to the new federal courthouse building being  
2 built in downtown Youngstown.

3 Q. Let's step back for a minute. First of all, what is  
4 terra-cotta?

5 A. I believe it's some type of surfacing on a building.

6 Q. Okay. And who wanted to have the terra-cotta taken  
7 off the old Higbee building that was about to be demolished  
8 and saved and put on a new federal courthouse being built?

9 A. The Congressman.

10 Q. At the time -- strike that.

11 How close in time to the time that you wrote this  
12 letter was it that the Congressman first raised the issue  
13 of getting the terra-cotta saved from the Higbee demolition  
14 project?

15 A. My recollection, it was several months earlier he had  
16 raised the issue of the terra-cotta, that it was beautiful.  
17 I had seen it. He had told me it was beautiful and looked  
18 really -- it would be a good idea to try to put that on the  
19 new courthouse. The Congressman was concerned, as he  
20 related to me, he didn't want the new courthouse to be kind  
21 of a modern match box building. He wanted it to be  
22 something like this, to reflect the older style of  
23 courthouses, and felt the terra-cotta would help enhance  
24 that effect.

25 Q. Did he tell you at the time he asked you to draft

Marcone - Direct

1 this letter that Dave Sugar was one of the bidders who had  
2 bid to demolish the Higbee building?

3 A. No.

4 Q. Did he tell you that there was an issue with the  
5 demolition building bidding process, that if the  
6 terra-cotta was saved or not saved, it would make a  
7 difference in the bidding?

8 A. My recollection, the only thing that either he told  
9 me or he might have said was that he was concerned, that as  
10 far as the bidding was concerned, that a local  
11 Youngstown -- Youngstown area company be awarded the  
12 contract rather than someone from outside the area.

13 Q. Okay. So at the same time he's asking you to write  
14 this letter to GSA to get them to save the terra-cotta,  
15 he's telling you he has some interest in who gets the  
16 demolition contract?

17 A. Not that he had an interest. He just expressed a  
18 preference that a local company get the bid to keep the  
19 jobs in the area.

20 Q. Did he tell you who the local bidder was or were?

21 A. No.

22 Q. I'd like to ask questions about a man named J. J.  
23 Cafaro. You know a man named J. J. Cafaro?

24 A. Yes, I do.

25 Q. How did you first come to meet J. J. Cafaro?

Marcone - Direct

1 A. I -- I've known J. J. Cafaro since 1985 when I first  
2 started working for the Congressman. I don't believe I met  
3 Mr. Cafaro until probably the mid to late 1990's.

4 Q. And in what context did you meet him?

5 A. He came in to meet with the Congressman about a  
6 company that he either bought or was working with at the  
7 time. The company was named LaserLine, Inc., it was based  
8 in New Jersey, and the company was developing enhanced  
9 vision technologies that could be used in U.S. airports.

10 Q. What was your understanding of the expanding of J. J.  
11 Cafaro and family within the Youngstown business community?

12 A. That they were very well respected, that they were a  
13 very wealthy family and had a lot of influence.

14 Q. Influence in what way?

15 A. In the business community, and also that they were  
16 major contributors to the Republican party.

17 Q. And nationally or locally?

18 A. National.

19 Q. Were their contributions just limited to the  
20 Republican party?

21 A. My understanding was they gave to both parties.

22 Q. Now, are you familiar with a company called the  
23 United States Aerospace Group, also known as USAG?

24 A. Yes, that LaserLine eventually became USAG, and  
25 headquarters moved from New Jersey to Manassas, Virginia.

Marcone - Direct

1 Q. How did you first come to know of USAG?

2 A. When the head of LaserLine had come in and met with  
3 the Congressman and handed him a large loose-leaf binder  
4 about the technology of the company. I was not in on that  
5 initial meeting, but the Congressman handed me the  
6 loose-leaf binder and asked me to look at it, and it was  
7 something that we could do. And I did that. I read the  
8 materials. I think I even called someone from the U.S.  
9 Navy because the material claimed the U.S. Navy was  
10 using --

11 THE COURT: The U.S. Navy was using?

12 THE WITNESS: The Navy was using one of the  
13 types of landing lights on their aircraft carriers for  
14 their pilots. My recollection was that the technology got  
15 rave reviews from the Navy, that the people I spoke to  
16 indicated that it's a legitimate technology, and that it  
17 would save lives if it were used in U.S. airports. So I  
18 passed this on to the Congressman, and the Congressman  
19 said, okay, let's work with them.

20 Q. Okay. Now, did Congressman Traficant bring you into  
21 the USAG matter initially or did you bring him into the  
22 USAG matter initially?

23 A. It was simply a matter of him saying, okay, find out  
24 what they need, and let's try to work with them. At the  
25 time the Congressman was on the Aviation Subcommittee, and

Marcone - Direct

1 I handled all transportation matters for the Congressman,  
2 so it would be natural for me to directly handle that.

3 Q. All right. But my question is, who had the initial  
4 first conversations with J. J. Cafaro?

5 A. The Congressman.

6 Q. So he talked to J. J. Cafaro and then brought you  
7 into it?

8 A. Yes.

9 Q. Without telling us what, if anything, your office  
10 actually did, what was J. J. Cafaro asking the Congressman  
11 Traficant to do for USAG?

12 A. Basically what it boiled down to was they needed  
13 certification for the Federal Aviation Administration in  
14 order to settle their problem with the airports. They had  
15 a pilot. They couldn't settle at the airports because the  
16 airports could not install the landing lights unless the  
17 lights had been approved by the FAA. So they needed  
18 approval and certification from the FAA.

19 Q. And what were they asking your office to do?

20 A. To help us get that certification and approval.

21 Q. Was there also discussion by them regarding whether  
22 or not your office could help them obtain federal funds to  
23 be used by airports to purchase this technology if it was  
24 eventually certified?

25 A. Yes.

Marcone - Direct

1 Q. What was your personal view of the actual merits of  
2 this technology?

3 A. I was very excited about it. As I said before, the  
4 Navy was also using this technology on aircraft carriers.  
5 The U.S. Park Police was using it at several helipads. The  
6 technology I hear was remarkable, would save lives. There  
7 were most of the accidents that occurred with helicopters,  
8 for example, had to do with the fact that the landing  
9 lights reflected back to the pilot's eyes and had glare,  
10 when he looked away he couldn't see. These landing lights  
11 provided no glare, and would save lives with helicopters,  
12 but the remarkable thing about it was if you're flying an  
13 aircraft you could pick up those laser lights as far away  
14 as 20 miles, and as long as you stayed within the two arrow  
15 lights you could land the plane at the same spot in the  
16 runway every single time no matter what the weather was.

17 So I was excited about it. I thought it could save  
18 lives. The Congressman, based on what I briefed him on, he  
19 was excited about it. And also down the road there was the  
20 prospect, if they did get approval and certification, that  
21 they would set up manufacturing operations in the  
22 Youngstown area and create jobs in the Congressman's  
23 district. So it was a win-win for everyone, and I was very  
24 excited, and I was very aggressive in pursuing this.

25 Q. And you felt on the merits, as you're telling us, as

Marcone - Direct

1 did Congressman Traficant, this was a very good thing to go  
2 forward on, correct?

3 A. At the time, yes, and I still feel that way.

4 Q. Now, you mentioned that Congressman Traficant was on  
5 the Aviation Subcommittee at the time?

6 A. Yes.

7 Q. What was the significance of that subcommittee  
8 assignment to J. J. Cafaro and USAG with regard to what  
9 they were trying to do with this technology?

10 A. At the time, the subcommittee was preparing to  
11 re-authorize all federal aviation programs. Major --

12 Q. Again, I want to make sure we don't get into --

13 A. Okay.

14 Q. -- anything your office actually did, I am just  
15 asking the significance of the --

16 A. The significance of it is the subcommittee had full  
17 authority over all aspects of the Federal Aviation  
18 Administration.

19 Q. Who was in charge of funding the FAA budget at that  
20 time?

21 A. The congressional side?

22 Q. Yes.

23 A. It would have been a combination of that subcommittee  
24 and the Appropriations Committee of the Congress.

25 Q. Without getting into whether or not your office

Marcone - Direct

1 actually ever did anything to help USAG, what did  
2 Congressman Traficant promise J. J. Cafaro that he would do  
3 to help USAG? What kinds of things did he tell them you  
4 would be willing to do?

5 A. We would aggressively pursue getting the technology  
6 certified, either through legislative action or through  
7 federal, or simply the FAA could have done it on their own  
8 if they wanted to, but we could also force the FAA to do it  
9 through legislative action and also get funds authorized so  
10 airports could use airport improvement program funds,  
11 formula dollars that airports get through federal  
12 government for improvements at the airport.

13 We could pass legislation that would allow airports  
14 to use the funds to supply the technology.

15 Q. You could do that. Would you basically be  
16 legislating sales for this company in a sense?

17 A. No, because -- that's a good question -- because  
18 initially -- again, I don't want to get -- I don't know how  
19 close it's getting into the speech and debate.

20 Q. Tell me what you're promising to do.

21 A. Initially, we did say that we would pursue  
22 legislation that would require airports to buy this  
23 technology.

24 Q. Let's stop. That's what you're initially telling

25 J. J. Cafaro?

Marcone - Direct

1 A. That's correct.

2 Q. My question is, at the time you're telling him that,  
3 would that be tantamount to promising to obtain sales for  
4 his company?

5 A. Well, if you're telling airports they had to buy the  
6 technology, they're the only company making that product,  
7 that would certainly be a boom to that company.

8 Q. What was J.J. Cafaro telling you about USAG's  
9 potential to make profits with this technology?

10 A. He was very excited about it, about the prospects,  
11 because there are literally hundreds of airports across the  
12 country. If he's in a position to sell the technology if  
13 required by federal law to purchase, he could do very well.

14 Q. Now, when you talk about airports, would these be  
15 large metropolitan airports or private airports?

16 A. My recollection was that we were talking about class  
17 A, class B airports, so major airports and regional  
18 airports, like Akron-Canton.

19 Q. Are you familiar with something called a MEANPALS?

20 A. Yes, I am.

21 Q. And what is a MEANPALS?

22 A. It is a -- I don't know exactly what the words are,  
23 the acronym, but it's a military landing light that a unit  
24 could go in, it comes in a large trunk. You open the  
25 trunk, you set the lights up, in about a minute or two you

Marcone - Direct

1 have these landing lights set up for helicopters.

2 Q. Was this MEANPALS technology something separate and  
3 apart in the marketing sense from the airport landing  
4 technology you just described?

5 A. Yes -- well, there were three types of lights that  
6 USAG was promoting. One was a laser light for the airport  
7 that the pilot could use to go into a runway, there were  
8 cold cathode lights to be used at heliports, and there was  
9 another type of light that I don't recall. The MEANPALS, I  
10 believe, is a cold cathode light system for military  
11 applications.

12 THE COURT: I believe MEANPALS is  
13 M-E-A-N-P-A-L-S. Is that correct?

14 MR. MORFORD: That's correct.

15 THE COURT: For the record. Thank you.

16 MR. TRAFICANT: Thank you.

17 Q. As you understood it in your conversations with the  
18 officials from USAG, who was USAG hoping to sell MEANPALS  
19 technology to?

20 A. The Army.

21 Q. And again, without indicating whether or not you  
22 actually ever took any action or steps, just focusing on  
23 any promises that were made, what was Congressman Traficant  
24 promising Rick Detore and other officials from USAG he  
25 would be willing to do to help them sell the MEANPALS

Marcone - Direct

1 technology to the Army?

2 A. To be honest with you, I can't recall the Congressman  
3 specifically saying we'll do X, Y and Z on MEANPALS. I  
4 recall having many conversations over a period of months  
5 with Mr. Detore and the Congressman where they spoke about  
6 the military application, and the Congressman would turn to  
7 me typically and say, what can we do to help them out with  
8 this. I believe I was the one who pursued --

9 Q. Without telling us what you pursued, what were you  
10 telling them?

11 A. We were telling them we could get funds set aside  
12 that would direct the Pentagon to buy MEANPALS systems.

13 Q. And what kind of money were you talking about?

14 A. It was about \$10 million is what we were trying to  
15 get initially.

16 Q. Okay, now you mentioned someone named Rick Detore.  
17 Who is Rick Detore?

18 A. Richard Detore was, I believe, the chief operating  
19 officer for U.S. Aerospace Group.

20 Q. With respect to the FAA certification issue, just in  
21 terms of any efforts that were done to lobby the FAA  
22 itself, not speaking about legislation at all?

23 A. Right.

24 Q. What, if anything, did your office do to try to  
25 assist USAG with FAA certification?



Marcone - Direct

1 A. We arranged for the head of the Federal Aviation  
2 Administration, Jane Garvey, to go to U.S. Aerospace Group  
3 headquarters in Manassas's airport and actually fly the  
4 plane, and test and see the technology tested. We were  
5 able to arrange that.

6 Q. And what was it that allowed you to arrange to have  
7 Jane Garvey, the head of the FAA, actually come out to USAG  
8 to see a personal demonstration?

9 A. The fact that the Congressman was a senior member of  
10 the Aviation Subcommittee and the fact that I and the  
11 Congressman had a good relationship with Jane Garvey's top  
12 aide, Ed Sullivan, who previously worked with the  
13 Committee.

14 Q. How big of a coup was there for USAG to have the  
15 actual head of the FAA come out and look at their  
16 technology personally?

17 A. I would say it was a very big coup.

18 Q. Going back to this person Rick Detore that you spoke  
19 about a moment ago, how would you describe the relationship  
20 that developed between Congressman Traficant and Rick  
21 Detore during the period 1998 to 2000?

22 A. I think it developed into a general friendship with  
23 great affection for each other.

24 Q. Did they spend a lot of time together?

25 A. Yes, they did.

Marcone - Direct

1 Q. To your knowledge, would Mr. Detore take Congressman  
2 Traficant to dinners?

3 A. It was more of they would meet at a restaurant in  
4 D.C. when the Congressman was done with legislative  
5 business for the day.

6 Q. What was the name of that?

7 A. Greek Taverna.

8 Q. T-A-V-E-R-N-A; is that correct?

9 A. Yes.

10 Q. Do you recall who the head of the FAA was prior to  
11 Jane Garvey?

12 A. It was a man. Clinton.

13 Q. Are you familiar with a man named David Henson?

14 A. Yes, David Henson, correct.

15 Q. Was there ever any contact, to your knowledge,  
16 between Congressman Traficant and David Henson?

17 A. Yes.

18 Q. During the time he was the head of the FAA?

19 A. I believe we had him into our office and the  
20 Congressman had a conversation with Mr. Henson.

21 Q. About what?

22 A. There were two issues that were discussed. One was  
23 certification of these technologies, the second was  
24 increasing the allocation for smaller airports, like the  
25 Youngstown airport, to share federal funding.

Marcone - Direct

1 Q. Through the FAA Zone Regulation Authority, and if  
2 not?

3 A. It was in the context of the FAA making  
4 recommendations for the Congressman.

5 Q. What -- let's leave that there.

6 A. Yeah.

7 Q. But this is a discussion with Mr. Henson, correct?

8 A. Correct. I believe Henson was --

9 THE COURT: Oops, no question. You have to  
10 wait for a question. Thanks.

11 Q. What efforts would Congressman Traficant take to make  
12 sure that J. J. Cafaro was aware of these things that he  
13 was doing to help USAG?

14 A. Well, as a good staff person, whenever you're helping  
15 out a constituent or company-related constituent, whenever  
16 you send a letter or press release, you do anything, you  
17 want a copy of that. That's just good staff work, make  
18 sure they're being fully informed of everything that you're  
19 doing on their behalf.

20 Q. And did you do that on a regular basis?

21 A. As a matter of course with any constituent, that  
22 would have been standard operating procedure for any case  
23 of this nature. We would always copy the constituent.

24 Q. Right. And my question is, did you do that with  
25 respect to J. J. Cafaro on this technology?

Marcone - Direct

1 A. Certainly, yes, we did.

2 Q. I'd like to show you what has been marked  
3 Government's Exhibit 8-4. You see that? You probably have  
4 to take it out of the glassine, I think there's three pages  
5 there.

6 THE COURT: Is anyone else hearing a  
7 high-pitch noise? I think we need to get someone in. I've  
8 been trying to E-mail someone to come in. I believe that's  
9 our sound system, and so I don't know whether you want to  
10 just take the morning break so we can try and take care of  
11 it.

12 MR. MORFORD: That'll be fine, your Honor.

13 THE COURT: It's something. Okay. And it's  
14 distracting. There you go. So we'll take our morning  
15 recess. Take it now, relax and get some refreshment.

16 (Thereupon, a recess was taken.)

17 MR. MORFORD: Thank you, your Honor.

18 BY MR. MORFORD:

19 Q. Mr. Marcone, when we broke, I was asking you to take  
20 a look at Exhibit 8-4. Do you have that in front of you?

21 A. Yes.

22 Q. And can you tell us what this is?

23 A. This is a press release on a letter that the  
24 Congressman sent to the then head of the FAA urging the FAA  
25 to make enhanced visions technology part of the Clinton

Marcone - Direct

1 administration's flight safety agenda.

2 Q. Okay. And --

3 MR. MORFORD: Your Honor, may I put this on  
4 the overhead?

5 THE COURT: Yes.

6 Q. Do you see some handwriting at the top?

7 A. Yes.

8 Q. Left-hand corner of the -- do you recognize the  
9 handwriting?

10 A. Yes.

11 Q. Whose handwriting is that?

12 A. The Congressman's.

13 Q. And what does that say?

14 A. "Grace, send to J. J. Cafaro."

15 Q. And then if you'd take a look at the last page of the  
16 three pages here?

17 A. Um-hum.

18 Q. Do you recognize that handwriting?

19 A. Looks like Grace Yavorsky's handwriting.

20 Q. Would you go ahead and read that?

21 A. "J.J., Jim wanted you to have a copy, Grace."

22 Q. And what was the date of this press release?

23 A. April 14, 1998.

24 Q. And why was it important to you and the Congressman  
25 to make sure that J. J. Cafaro had a copy of this press

Marcone - Direct

1 release wherein the Congressman is publicly stating that he  
2 wants the FAA to pursue this technology?

3 A. My standpoint, simply to let a constituent know we're  
4 continuing to work on their behalf.

5 Q. Okay. I'm going to show you several documents, and  
6 I'd like to do it rather quickly. The first one is 8-3.

7 A. Yes.

8 Q. Do you see that? And whose writing is that?

9 A. That is my handwriting.

10 MR. MORFORD: Your Honor, could I put this up  
11 on the screen?

12 THE COURT: Yes.

13 MR. MORFORD: Thank you.

14 BY MR. MORFORD:

15 Q. And this is a fax from you to whom?

16 A. Richard Detore.

17 Q. And what does it say there under the content message?

18 A. "Please let J.J. know what we're going to move this  
19 forward. Thanks."

20 Q. And what is the date?

21 A. Excuse me?

22 Q. What's the date on this?

23 A. March 26, 1998.

24 Q. And what is it that you're doing to move things  
25 forward?

Marcone - Direct

1 A. I'm --

2 Q. Just in general?

3 A. Probably either legislation that we were working on  
4 or urging the Clinton administration to make enhanced  
5 vision technology part of their agenda.

6 Q. In general, is this something dealing with USAG?

7 A. Of course, yes.

8 Q. And again, as I cautioned you before you came in, and  
9 again, since you and I have been here, all of my questions  
10 relate to either nonlegislative promises, but I don't want  
11 you to testify as to anything you did at any time or didn't  
12 do in regard to legislation, okay?

13 Next I'd like to show you Government's Exhibit 8-34.  
14 Do you recognize the handwriting on that?

15 A. That's my handwriting.

16 Q. And did this relate in some way to USAG?

17 A. It related to the initiative we were working on with  
18 them, yes.

19 Q. And again, what does it say there in the message?

20 A. "FYI, please make sure J. J. sees this. Thanks."

21 Q. Exhibit 8-29, what's the date on that one?

22 A. November 4, 1998.

23 Q. And this is a -- what is this, a fax cover sheet?

24 A. Yes.

25 Q. And it's to whom from whom?

Marcone - Direct

1 A. To Richard Detore from myself.

2 Q. And again, who is Richard Detore?

3 A. He was the chief operating officer at USAG.

4 Q. And again, what does the content message say on this  
5 one?

6 A. "FYI, please make sure J.J. sees this. Thanks."

7 Q. Turning your attention to Government's Exhibit 8-13,  
8 what's the date on this document?

9 A. August 3, 1998.

10 Q. And it's a fax cover sheet to whom from whom?

11 A. To Richard Detore from me.

12 Q. Okay. And could you go ahead and read the content  
13 message line there?

14 A. All right. Getting into --

15 Q. Just read just that line, and I'll ask you the  
16 question.

17 MR. TRAFICANT: Object.

18 THE COURT: Okay.

19 MR. TRAFICANT: Speech and debate.

20 THE COURT: Just hold on here a minute, just  
21 hold on.

22 MR. TRAFICANT: Just for the record. He can  
23 answer it.

24 THE COURT: We're going to have to -- we're  
25 going to have to deal with this later. Just move on to

Marcone - Direct

1 something else.

2 MR. MORFORD: Okay.

3 THE COURT: We'll do this at noon.

4 BY MR. MORFORD:

5 Q. Turning your attention to Exhibit 8-45. Do you  
6 recognize the handwriting -- actually, I am going to ask  
7 you about two exhibits at the same time, 8-45 and 8-51.

8 A. Yeah.

9 Q. Do you see those two exhibits?

10 A. Yes.

11 Q. Do you recognize the handwriting on those exhibits?

12 A. My handwriting.

13 Q. Is this out of the spiral notebook you described?

14 A. Yes.

15 Q. Starting with 8-45?

16 MR. MORFORD: Your Honor, could I put that on  
17 the screen?

18 THE COURT: Yes.

19 Q. If you'd go ahead and read your notes for us, and  
20 then tell us what that dealt with?

21 A. 8-45?

22 Q. Yes.

23 A. This is a meeting that was held in my office with  
24 Richard Detore and Gwen Coddle of the FAA, and in that  
25 meeting, Richard Detore's complaining that Gary Skillicorn

Marcone - Direct

1 of the FAA was very negative on the system, that he's  
2 telling everyone that J. J. is pressing everyone with  
3 money, that they -- there was a -- my recollection was that  
4 Mr. Detore was trying to get the FAA out to test its  
5 technology. Obviously, because it deals with night lights  
6 for landing at night, the optimum time to do the testing  
7 would be at night. They came during the day and tested the  
8 technology during the day and gave the very negative  
9 review, which Richard felt wasn't fair and that they were  
10 setting it up to fail, they really didn't want to move this  
11 forward.

12 He also was complaining that Gary Skillicorn was  
13 calling the Navy's test hearsay, that they were  
14 pooh-poohing the Navy's rave reviews of the technology, and  
15 they simply wanted the FAA to do an honest and fair review.

16 Q. That's what Mr. Detore was telling you, correct?

17 A. Right. And my view was I was -- Gwen, I believe,  
18 worked in the Legislative Affairs Division. I simply was  
19 asked, the purpose of the meeting was to allow Richard to  
20 air concerns to the FAA and respectfully ask the FAA to  
21 review those concerns and just make sure that the company  
22 was treated fairly.

23 Q. And what was the FAA telling you as to their side of  
24 the dispute?

25 A. My recollection was that they admitted the guy,

Marcone - Direct

1 Skillicorn, was sometimes problematic in dealing with it.

2 Q. Was there an issue that ever came up about what they  
3 call a CERL, a testing agreement?

4 A. Yes. The issue was they needed to have some type of  
5 a memorandum of understanding with the company to do  
6 testing and that the company would have to put up some  
7 money for that, and that would be the standard for the FAA,  
8 and that was a holdup.

9 My recollection was, how I left that meeting, I  
10 believe that meeting was held in the spring of '99, was  
11 that FAA would look into that, and USAG on their part would  
12 work hard to try to get a -- I forget the technical wording  
13 of it, some sort of memorandum of understanding completed  
14 with the FAA.

15 Q. Now, with respect to this issue, you just said that  
16 the FAA's position was that the company had to come up with  
17 the money to fund the testing?

18 A. Right.

19 Q. Was that an issue from the company's side? Were they  
20 not forthcoming with the money they needed to come up with  
21 for the testing?

22 A. My understanding was that -- that was a holdup, that  
23 was a problem. The other problem was the FAA couldn't do  
24 the testing until they had a signed agreement, and there  
25 was a lot of paperwork that the FAA -- the company, excuse

Marcone - Direct

1 me -- the company had to come up with a kind of an  
2 executive summary of what they actually would be testing  
3 so the FAA would have the document to look at and say,  
4 okay, this would be the basis for a memorandum of  
5 understanding.

6 And there were a series of questions, I believe, that  
7 the FAA had asked the company, and I'm not clear on the  
8 exact specifics of it, but there was a holdup on two  
9 fronts: The company was not filling out the requisite  
10 paperwork and was not forthcoming with the actual funding.  
11 They had not agreed on what the dollar figure would be.

12 Q. So what you're telling us, therefore, is Mr. Detore,  
13 on behalf of the company, was saying the FAA's dragging  
14 their feet?

15 A. Right.

16 Q. And the FAA was saying USAG is dragging their feet,  
17 is that fair?

18 A. Yeah. The other complaints that Richard had was the  
19 FAA was biased against the technology, and that was the  
20 reason why they were dragging their feet, and they jumped  
21 through all these hoops.

22 Q. According to Mr. Detore?

23 A. Yes.

24 Q. To your understanding, was it actually a fair and  
25 legitimate problem that USAG was not coming up with a

Marcone - Direct

1 memorandum telling the FAA exactly what they were supposed  
2 to test and that they weren't coming up with the money to  
3 do the test?

4 A. Yes, that was a legitimate problem, and we eventually  
5 addressed that.

6 Q. Did they ever come up with this agreement and the  
7 money to do the testing, USAG?

8 A. My understanding is that that never happened.

9 Q. Okay. You said we addressed that concern at the FAA.  
10 How did you address it?

11 A. Through this. I --

12 Q. When you say "this," you're referring to Government's  
13 Exhibit 8-51.

14 A. Yes. It got to the point where they were at  
15 loggerheads, no progress was being made. FAA was saying  
16 one thing, USAG was saying another. I said, time out,  
17 let's get all the principals in the ring together and hash  
18 it all out. The FAA sent all their principals, we had  
19 someone from the Volpe Research Center in Massachusetts  
20 that was going to actually do the testing. I was able to  
21 connect that individual by phone. We brought all the  
22 principals of USAG in and hashed out all the issues.

23 Q. Exhibit 8-51, whose handwriting is that?

24 A. My handwriting's at the top, and if you notice these  
25 individuals, I passed a sheet around, and they filled in

Marcone - Direct

1 their names, and --

2 MR. TRAFICANT: Excuse me. This is 8-45.

3 Are you talking about 8-45 or 8-51?

4 MR. MORFORD: Now talking about 8-51. May I

5 put that on the overhead, your Honor?

6 THE COURT: Go ahead.

7 Q. This document at the top says "September 29, 1999  
8 meeting." Was there, in fact, a meeting on that date?

9 A. Yes.

10 Q. Where was that meeting held?

11 A. In my office.

12 Q. As you understood it on the merits, regardless of  
13 what anyone was arguing, could this process go forward  
14 without USAG coming up with a memorandum to tell the FAA  
15 exactly what they were to test and come up with the money  
16 for the testing?

17 A. No. There was no way they could move forward unless  
18 USAG did those things.

19 Q. Okay. Who attended this meeting on behalf of the  
20 office of Congressman Traficant?

21 A. I did. It was in my office, my name's at the top.

22 Q. On behalf of USAG?

23 A. Richard Detore, Loni Czekalski, and Al Lange.

24 Q. And who was Al Lange?

25 A. He was one of the engineers, Richard Detore's

Marcone - Direct

1 right-hand man.

2 Q. And who attended on behalf of the FAA?

3 A. Dan Salvano, Calvin Miles, Gwen Coddle, Gary  
4 Skillicorn, and Tom Seliga of the Volpe Center. It's in  
5 Massachusetts. He was there via telephone.

6 Q. Did Congressman Traficant participate in this meeting  
7 in any way?

8 A. Yes. My recollection was his office adjoined mine,  
9 and he entered the meeting midway, and I believe he thanked  
10 the FAA folks for coming in and asked them to work this  
11 out, and went back into his office.

12 Q. What was his tone?

13 A. Having worked for the Congressman many, many years,  
14 he can put on some vibrato.

15 Q. Please, sir, that wasn't my question. My question  
16 was, what was his tone?

17 MR. TRAFICANT: Objection.

18 THE COURT: Okay. You can answer the  
19 question. What was his tone?

20 A. His tone was -- I wouldn't say it was threatening,  
21 but it was, "Come on, let's work this out. This is a good  
22 technology. You guys are dragging your feet. Let's move  
23 it forward."

24 Q. You say you wouldn't say it was threatening.  
25 Describe it for us.

Marcone - Direct

1 A. He sounded annoyed, and he raised his voice a little  
2 bit to that.

3 Q. Did he swear?

4 A. I don't recall if he swore, but it wouldn't surprise  
5 me if he did.

6 Q. Who was he yelling at?

7 A. The folks at the FAA.

8 Q. Was he also yelling at Rick Detore and Loni Czekalski  
9 and Al Lange for dragging their feet on the memorandum and  
10 not coming up with funding?

11 A. No.

12 Q. Was that the extent of his participation in the  
13 meeting which you just described?

14 A. Yes.

15 Q. Turning your attention to Exhibit 8-52.

16 A. Yes.

17 Q. And what is this document?

18 A. This is a fax that I had sent to Richard Detore on  
19 October 28 of '99, asking him to keep me posted on his  
20 contacts with the Army and MEANPALS.

21 MR. MORFORD: Your Honor, may I put this on  
22 the board?

23 THE COURT: Yes.

24 BY MR. MORFORD:

25 Q. To what extent had you personally made contacts with

Marcone - Direct

1 the Army on behalf of USAG?

2 A. I talked to two individuals in the Pentagon about the  
3 technology. One individual was providing me with some  
4 guidance and advice because he felt that because of --

5 Q. I prefer that you not go into all that. Just if you  
6 could limit your response to my exact question.

7 A. What was the question?

8 Q. It was, to what extent had you personally made  
9 contacts with the Army on behalf of --

10 A. I had several conversations with two individuals in  
11 the Pentagon.

12 Q. And was the purpose of those conversations to help  
13 USAG have the Army purchase the MEANPALS technology?

14 A. Yes.

15 Q. And I'd like to ask you some questions about the  
16 Congressman's boat. Okay?

17 To your knowledge, did Congressman Traficant have a  
18 boat?

19 A. Yes, he did.

20 Q. And did you actually ever see the boat yourself?

21 A. Yes, I saw it on one occasion, 19 -- December of '92.  
22 I wasn't working for him at the time.

23 Q. And what was the purpose of your going out to the  
24 boat?

25 A. I was looking for a job in Washington, D.C., and I

Marcone - Direct

1 was staying with West Richards, and he'd leave in the  
2 morning and pick the Congressman up at the boat.

3 Q. And how would you describe the boat at that time when  
4 you saw it in 1992, in terms of the shape of the boat?

5 A. It was floating. It seemed to be in -- I don't know  
6 anything about boats. It was floating. We didn't go out  
7 on the boat. I simply walked in and saw the Congressman  
8 and walked out.

9 Q. Did you notice anything about the condition of the  
10 boat?

11 A. It was a lot like the condition of his office, which  
12 was somewhat messy.

13 Q. Did you -- did it smell?

14 A. I recall there was an odor, yeah.

15 Q. Did it appear to be in good repair from what you  
16 could see?

17 A. Other than the fact it was messy, there wasn't any  
18 water leaking into it. I didn't notice that, no. It was  
19 just very messy.

20 Q. Did you testify before the Grand Jury that it was in  
21 rundown shape? Do you recall that?

22 A. I might have said that.

23 Q. What's your best recollection as you sit here today?

24 A. It was messy and somewhat rundown, yeah.

25 Q. Did Congressman Traficant ever discuss problems he

Marcone - Direct

1 was having with the boat with you?

2 A. Several times, he -- yes, the boat was leaking and  
3 needed -- it needed repairs, that he would like to sell the  
4 boat, get it off his hands.

5 Q. Did he ever tell you of anyone to whom he was hoping  
6 to sell the boat to get it off of his hands?

7 A. Yes. He indicated that Al Lange, who worked for  
8 USAG, was very interested in buying the boat and wanted to  
9 buy the boat.

10 Q. Did he ever tell you whether or not he'd ever asked  
11 the Buccis to take the boat off his hands?

12 A. No.

13 Q. Did he ever tell you whether or not he talked to the  
14 Bucheits about taking the boat off his hands?

15 A. He might have mentioned it to me, that Pete Bucheit  
16 might buy his boat.

17 Q. When might he have mentioned that to you and in what  
18 context?

19 A. You know what, I -- it was sometime in the time  
20 period between maybe '94 and '98?

21 Q. Did it concern you that at a time when you knew your  
22 office had done work for Bucheit and was doing work for  
23 Cafaro that he was talking about having either Bucheit or  
24 Cafaro take the boat off his hands?

25 A. No. As long as he -- as long as those individuals

Marcone - Direct

1       paid fair market value for the boat, there wasn't a  
2       problem.

3       Q.     How would you know whether they were doing that or  
4       not?

5       A.     Well, that would have been a requirement, but  
6       according to the ethics rules.

7       Q.     How would you enforce that requirement?

8       A.     How would I enforce it?

9       Q.     Yes.

10      A.     I would simply let the Congressman know what the  
11      rules were and make sure he complied with the ethics rules.

12      Q.     Was there any concern to you as to whether or not he  
13      would do that?

14      A.     No, I had no reason to question his integrity.

15      Q.     Did you have any concerns as his press secretary  
16      about the appearance of impropriety of selling the boat in  
17      this shape to people your office were doing things to help?

18      A.     In my view, if someone went out and assessed the  
19      boat, the good, the bad, the ugly, gave it -- assessed it  
20      and said "This is what this boat is worth in this shape,"  
21      and that's what that individual paid for it, there wasn't a  
22      problem.

23      Q.     And what's the --

24      A.     If they paid more than what it was worth, then I have  
25      got a problem.

Marcone - Direct

1 Q. And what steps did you take to ensure that that was  
2 being done?

3 A. Well, when you say what steps I took, it never got to  
4 the point where he told me X individual was going to buy my  
5 boat. It got to that point with Al Lange.

6 Q. And what steps did you take to ensure that the price  
7 that Al Lange was going to buy the boat for was fair market  
8 value?

9 A. I did not take -- well, the steps I took was the  
10 Congressman specifically asked me to contact the Ethics  
11 Committee of the House to determine whether or not it would  
12 be within the ethics rules of the House for Al Lange to buy  
13 the boat, given the fact that we were working with Al  
14 Lange's company on matters pending before the Congress.

15 Q. And having gotten that opinion, what steps did you  
16 take to make sure that Al Lange was paying fair market  
17 value?

18 A. I didn't take any steps to make sure Al Lange was  
19 paying fair market value other than telling the Congressman  
20 as long as Al Lange pays fair market value for the boat,  
21 there's no problems with the Ethics Committee. I also told  
22 Al Lange in person that, I said, Al, as long as you pay  
23 fair market value for the boat, you're okay, and I think Al  
24 mentioned that he was trying to get a bank loan, and I  
25 indicated to him, "Well, we should be okay then, because

Marcone - Direct

1 the bank is not going to loan you -- the bank's going to go  
2 out and assess the boat before they loan you money, not any  
3 more than what the boat is worth, so you should be okay  
4 with that."

5 Q. Did Al Lange ever tell you, in fact, the money was  
6 actually coming from J. J. Cafaro?

7 A. No.

8 Q. At the time -- strike that.

9 What was it that caused you to contact the Ethics  
10 Committee to get an opinion on whether or not it would be  
11 okay for the Congressman to sell this boat that he had told  
12 you he needed to unload to a person in a company you were  
13 going to bat for?

14 A. The Congressman personally asked me to call the  
15 Ethics Committee.

16 Q. Those kind of opinions by the Ethics Committee, are  
17 they fact-based opinions?

18 A. At the time the Ethics Committee had a hotline that  
19 members of Congress and their staff could call to get  
20 opinions on issues. I simply called the line, got an  
21 attorney on the phone, explained to them what the  
22 Congressman wanted to do, and the attorney explained to me  
23 what the rules were and what could or couldn't be done.

24 Q. My question is, does he explain to you what the rules  
25 are and what you could and couldn't do, based on the facts

Marcone - Direct

1 that you gave him?

2 A. Yes.

3 Q. And what facts did you give him?

4 A. That an employee of a company that we were working  
5 with to getting certified, were working with legislatively,  
6 that an employee wanted to buy the Congressman's boat;  
7 would this be within the ethics rules, would this be okay.  
8 And he explained it was as long as the individual paid fair  
9 market value and wasn't paying them more than what the boat  
10 was worth, wasn't being given any special deals, then  
11 there's nothing wrong with it, according to the ethics  
12 rules.

13 Q. Did you tell --

14 A. The verbal opinion I got.

15 Q. Did you tell him it was an employee of the company or  
16 the owner of the company?

17 A. An employee of the company.

18 Q. And who was it that told you it was an employee of  
19 the company and not the owner of the company that was  
20 buying the boat?

21 A. The Congressman told me "Al Lange wants to buy my  
22 boat."

23 Q. At the time that the Congressman gave you those facts  
24 to get that Ethics Committee opinion or that ethics  
25 opinion, did he ever mention to you that J. J. Cafaro was

Marcone - Direct

1 actually funding the purchase of this boat through Al  
2 Lange?

3 A. No.

4 Q. Did he ever mention to you that J. J. Cafaro at that  
5 time, did he mention to you that J. J. Cafaro had presented  
6 him with a check for \$26,000 for the boat?

7 A. Absolutely not.

8 Q. Did there ever come a time later when he told you  
9 that?

10 A. Yes.

11 Q. And that was after you had gotten the Ethics  
12 Committee opinion, correct?

13 A. This is much, much later.

14 Q. In what context did he tell you much, much later that  
15 J. J. Cafaro had actually come to him with a check for  
16 \$26,000 to buy the boat?

17 A. It was toward the end of my tenure in the office. It  
18 was sometime late in 2000. The way the Congressman  
19 explained it to me was J. J. tried to give him a check for  
20 \$26,000, and the Congressman turned it down and said he  
21 can't do it this way, Al has to buy the boat, and the way  
22 he described it to me was that he was annoyed with J. J.  
23 for trying to do that.

24 Q. Did it bother you that he hadn't told you that at the  
25 time you went to the Ethics Committee?

Marcone - Direct

1 A. Yeah, in the context of everything else that  
2 happened, yeah, I was bothered by it.

3 Q. What, if any, role did you personally play in the  
4 boat transaction?

5 A. Other than what I've described, going to the Ethics  
6 Committee, informing both the Congressman and Al Lange what  
7 the ethics rules were, I believe I called NationsBank to  
8 get a dollar figure of what was remaining on the  
9 Congressman's note on the boat.

10 Q. And approximately what was remaining on the mortgage  
11 of the Congressman's loan on the boat?

12 A. About \$26,000.

13 Q. And what was the purpose -- why did you contact the  
14 bank to find out how much was remaining on the mortgage?

15 A. The Congressman asked me to.

16 Q. For what purpose?

17 A. Because he was going to sell the boat to Al Lange.

18 Q. For that amount?

19 A. I don't know what the amount was, he just wanted to  
20 know what was left of his note.

21 Q. Did you call NationsBank?

22 A. Yes, I did.

23 Q. Did you obtain an amount?

24 A. Yes, I did.

25 Q. And who did you give that amount to?



Marcone - Direct

1 A. I believe I gave it to the Congressman and might have  
2 given it to Al Lange or Richard Detore, as well.

3 Q. So it was either all three of those or at least two  
4 or three of those?

5 A. I know I definitely gave the figures to the  
6 Congressman.

7 Q. Was that the extent of your own personal involvement  
8 with the boat transaction?

9 A. Yes, although I vaguely recall someone from USAG  
10 mentioning that -- it might have been Richard Detore --  
11 that they may want to use the boat for maritime testing.

12 Q. But as far as your personal participation in the boat  
13 transaction --

14 A. That's the extent of it.

15 Q. When did you ultimately leave the office of  
16 Congressman Traficant?

17 A. The end of November of 2000.

18 Q. Why did you leave?

19 A. A number of reasons, but I had a very good offer from  
20 a very good company to do something I thought was very  
21 challenging. I had been with the Congressman for over 12  
22 years. In the beginning of 2000 I had decided that I would  
23 start looking, and if a good offer came, I would take it.  
24 I wanted to make sure it was something that was  
25 challenging.

Marcone - Direct

1 Q. What was it that caused you to decide you wanted to  
2 start looking for other offers?

3 A. I think in my mind, what solidified my mind I  
4 probably needed to move on was August of 2000 when the  
5 Congressman made some accusations on national television  
6 that I disagreed with.

7 Q. Did there come a time you and Congressman Traficant  
8 had some heated arguments?

9 A. Well, we always had heated arguments over certain  
10 issues, but we had a very heated argument over his  
11 appearance on national television in August of 2000.

12 Q. Did Congressman ever -- did there come a time, did  
13 Congressman Traficant ever discuss with you his tactic of  
14 attacking the Government during the course of the  
15 Government's investigation of these charges?

16 A. Yes.

17 Q. How did that conversation arise?

18 A. It was in the course of disagreements I was having  
19 with him about affidavits that he wanted me to make public  
20 through press releases about certain FBI agents and  
21 possible corruption in the Youngstown area.

22 Q. Did he make statements to you about having to go on  
23 the offensive?

24 A. Yes, he made a statement to the  
25 effect, "All you want to do is play defense. My only

Marcone - Cross

1 chance is to stay on the offense."

2 Q. And how big a factor was that in you deciding to  
3 leave the office?

4 A. That was one of the main reasons why I had to leave,  
5 why I felt it was time for me to move on. Another factor  
6 was the Congressman came to me early in 2000 and said,  
7 "Look, you have a wife and family, I don't know what's  
8 going to happen to me, you should look for another job,"  
9 and he said that to me repeatedly. And when your boss  
10 tells you to look for another job, you should take that  
11 seriously if he says it to you several times, and he did.

12 Q. When he told you "You're too concerned about defense,  
13 I have to go on the offense, do you remember him also  
14 adding "because it's the only thing I know how to do"?

15 A. Yes, that sounds like something he would say.

16 MR. MORFORD: May I have a moment, your  
17 Honor?

18 I have no further questions.

19 THE COURT: Thank you.

20 CROSS-EXAMINATION OF PAUL MARCONE

21 BY MR. TRAFICANT:

22 Q. How are you doing, Paul?

23 A. Okay.

24 Q. When I told you you should look for a job, was there  
25 any conversation of why I told you I think you should look

Marcone - Cross

1 for another job?

2 A. Well, because you told me you didn't know what was  
3 going to happen.

4 Q. Did we have any discussion about your family?

5 A. Yes.

6 Q. And what was that?

7 A. Well, that I have a wife and kids, and you didn't  
8 want to be in a situation where I was out of work because  
9 you were forced from office.

10 Q. Over the years you worked for me, did you have  
11 knowledge that many of the federal agencies other than the  
12 military really didn't like me?

13 A. I got that impression, yes.

14 Q. I was pretty close to the military and their people,  
15 wasn't I?

16 A. Um-hum.

17 Q. I notice there were a lot of times you tried to  
18 answer questions fully and you weren't allowed to. I want  
19 you to go ahead and expound as you talk to me, and I want  
20 you to completely answer my questions. Now, they took a  
21 long time with you, and longer than I thought they would.

22 When did we first meet, and where was it?

23 A. We first met in November of 1984, in the Rayburn  
24 Building. You were a Congressman-elect, and I was looking  
25 for a job.

Marcone - Cross

1 Q. And where exactly did we meet?

2 A. It was in the B level of the Rayburn Building. They  
3 put all the Congressmen-elect in a foyer there in cubicles,  
4 and I met you in the cubicle.

5 Q. What, if anything, did you tell me immediately? Do  
6 you remember?

7 A. I think I told you that I was working as a staff  
8 assistant, and I could do the job.

9 Q. Did you talk about your press abilities?

10 A. Yes.

11 Q. Did you talk about any college background?

12 A. Yes, I said I attended Florida University.

13 Q. What else did you tell me about Florida?

14 A. I played football there.

15 Q. Do you know if I played football?

16 A. You mentioned that you were a quarterback at Pitt.

17 Q. To the best of your knowledge, did we more or less  
18 hit it off pretty fast?

19 A. I think we did. We talked about football for awhile,  
20 and then I think you look at me and said "Can you do the  
21 job," and I said "Yes, I can get the job done," and shortly  
22 after that, I was hired.

23 Q. But, you were not the boss?

24 A. No.

25 Q. But, would you say you worked very closely with me,

Marcone - Cross

1 even though you weren't the boss?

2 A. That is correct.

3 Q. Did we come to a time when we had a significant  
4 Federal Building project that became endangered?

5 A. Yes.

6 Q. Could you describe what that endangerment was?

7 A. My understanding was that the funds for the  
8 courthouse in Youngstown were going to be reprogrammed by a  
9 committee of the Congress.

10 Q. Do you know where the funds were going to be sent?

11 A. The LaGuna, California.

12 Q. Do you know if that area had any connection to the  
13 chairman of that committee?

14 A. Yes, I believe it was in the Appropriation  
15 Subcommittee Chairman's district.

16 Q. Did I take any specific action?

17 A. Yes, you did.

18 Q. As a result of that, was there any congressional  
19 action taken?

20 A. I believe you took several actions that resulted in  
21 the funds being appropriated for the new courthouse. You  
22 also secured an agreement from the chief judge in Cleveland  
23 to establish his -- to establish the -- I don't know what  
24 you call it in Youngstown, and that led directly to the  
25 project moving forward.

Marcone - Cross

1 Q. Wasn't it a fact that GSA never moved forward, even  
2 with that?

3 A. GSA continued to drag its feet, yes.

4 Q. Did there come a time when there were some  
5 parliamentary moves made by me that had an effect on this  
6 courthouse on the House floor?

7 A. Yes, but I was not working for you at the time.

8 Q. Do you have any knowledge of what it was?

9 A. Yes.

10 Q. What, to the best of your knowledge, was it?

11 A. I believe you made points of orders against sections  
12 of the Defense Appropriations bill, which had not been  
13 previously authorized, and you basically gutted the entire  
14 bill.

15 Q. And what, if anything, ensued after that?

16 A. Toward the end, consideration of the bill, the House  
17 leaders went to you and asked you if you would withdraw  
18 your points of order, and you agreed only if they would  
19 restore the funding for the courthouse.

20 Q. And you remember it as the Defensive bill though,  
21 right?

22 A. That's the way I remember it.

23 Q. Could it have been the Treasury bill?

24 A. Yes, the Treasury Postal Appropriations bill.

25 Q. Does that now ring a bell?

Marccone - Cross

1 A. Yes.

2 Q. Now, when the Government first started questioning  
3 with you, they had a lot of questions about Henry DiBlasio  
4 and 11 Overhill Avenue, didn't they?

5 A. Yes.

6 Q. And when I was first elected, did you have any  
7 knowledge that Mr. DiBlasio had contacted the respective  
8 committees of Congress relative to the propriety of the  
9 ownership?

10 A. No.

11 Q. But you do know that the -- what do you know about  
12 the 11 Overhill property and whose name it was in?

13 A. My understanding now is that it wasn't, it was in  
14 Henry's name.

15 Q. It was?

16 A. My understanding it was, and he subsequently divested  
17 himself of it.

18 Q. When did he divest himself?

19 A. My understanding of it, it happened early in January  
20 of '85.

21 Q. And when did I take office?

22 A. January of '85.

23 Q. Do you know if after he divested himself his name  
24 appeared anywhere on the lease?

25 A. When I came back to the office in '93, I remembered

Marcone - Cross

1 the name on the lease was Trumbull Land Company or Trumbull  
2 Land Management Company.

3 Q. Yeah. Now, if his name would have appeared on the  
4 lease, would that have been a red flag for you?

5 A. Certainly.

6 Q. If his wife's name would have been on the lease,  
7 would that have been a red flag for you?

8 A. Yes.

9 Q. Even if, for example, they filed separate tax  
10 returns, would that have been a red flag for you?

11 A. Probably, yeah.

12 Q. Would it be considered a wrongdoing for an employee  
13 to inure benefit from the rent of their Congressman?

14 A. My understanding of the ethics rules and federal  
15 statutes is that's a crime.

16 Q. A crime?

17 A. To knowingly rent property to the federal government  
18 when you're an employee of the federal government, yes.

19 Q. If it, in fact, inures to the benefit of the  
20 employee?

21 A. My understanding of the federal statute and ethics  
22 rules, it doesn't matter if it inures to the benefit. He  
23 or she cannot rent property to the federal government.

24 Q. So for example, if Congressman Jones rented an office  
25 building from one of his aides, and that office building

Marcone - Cross

1 was owned by his aide's wife, would that be something that  
2 would be considered a crime under the rules?

3 A. That -- that instance, I don't know, because I'm not  
4 a lawyer. I -- I don't -- I don't know. My  
5 interpretation -- my interpretation of the rules is that  
6 would be a violation. Also, politically it wouldn't look  
7 good either.

8 Q. But, it would sure raise a red flag to you, wouldn't  
9 it?

10 A. Yes.

11 Q. Well, at some point did you come to find out that  
12 Mr. Sinclair's wife was actually KAS Enterprises?

13 A. Yes. It was brought to my attention by our office  
14 manager. He never picked up on it. I never saw the actual  
15 lease being signed, signed signature on the lease, but when  
16 it became an issue in the press, he looked again at the  
17 lease and noticed that it was her signature on it, and  
18 brought it to my attention.

19 Q. Do you remember when you first brought it to my  
20 attention?

21 A. Shortly after that. I don't recall the exact time  
22 frame, probably was some time in the Year 2000.

23 Q. What, if anything, did we discuss?

24 A. My recollection is that's when you made the decision  
25 to get out of that office and move into an office in

Marcone - Cross

1 Canfield.

2 Q. But, I didn't move until almost a year later. Were  
3 you under the impression that Mr. Sinclair changed the  
4 lease around?

5 A. I don't recall what the arrangements were.

6 Q. Would you know if I would have micro managed and  
7 looked into that?

8 A. Probably not.

9 Q. Now, when the FBI investigated you, did they pursue  
10 many questions about --

11 MR. MORFORD: Objection.

12 THE COURT: Sustained.

13 Q. Did the Government ask you any questions about Mr.  
14 DiBlasio's ownership of the building?

15 A. Yes.

16 Q. Did they ask you many questions about KAS?

17 A. They asked questions about Mr. Sinclair.

18 Q. Did they ask any questions about KAS or his wife?

19 A. Yes.

20 Q. Okay. Do you know if Mr. DiBlasio's been indicted?

21 A. Yes, I do.

22 Q. Now, at some particular point, they got into  
23 different contractors. Was one of the major roles of the  
24 D.C. office to help companies in trouble with the federal  
25 government?

## Marccone - Cross

- 1 A. That's a fair statement, yes.
- 2 Q. Did we treat any company much different than anybody  
3 else?
- 4 A. To the most part, no, everyone got treated pretty  
5 much equally.
- 6 Q. And was it a fact that when companies had trouble  
7 with the Government that they really, really pounded on us  
8 for help?
- 9 A. Yes.
- 10 Q. And many times, didn't the Government just -- to put  
11 it right to the point -- give them the shaft?
- 12 A. Oh, yeah.
- 13 Q. Would you consider me to be an aggressive congressman  
14 of those you've seen down here?
- 15 A. Yes.
- 16 Q. Would I interact aggressively?
- 17 A. Yes.
- 18 Q. Would I take the stand on behalf of my constituents?
- 19 A. Yes.
- 20 Q. Was I active in legislation?
- 21 A. Yes.
- 22 Q. Was I one of the most active in legislation?
- 23 A. Most definitely.
- 24 Q. Did we pass nearly all the IRS laws since the last  
25 ten years?

Marcone - Cross

1 A. I would say you were responsible for the passage of  
2 most of the key taxpayer provisions that were enacted in  
3 the law in the last ten years, yes.

4 Q. How long did it take us to do that, Paul?

5 A. 13 or 14 years.

6 Q. Now, in the opening session of Congress, is there  
7 anything special about the opening of a Congress?

8 A. Yes.

9 Q. What happens in an opening session of Congress?

10 A. On even years when the new Congress comes in, all the  
11 members are sworn in, and the Speaker of the House is  
12 elected.

13 Q. Yes, but then once the House starts a session of its  
14 regular business and has a regular schedule and starts at  
15 10:00 A.M., what's the first thing they do?

16 A. Most days, they have one-minute speeches.

17 Q. Was I active in one-minute speeches?

18 A. Yes.

19 Q. Would you say it was fair to say I made one every  
20 day?

21 A. Yes.

22 Q. Would you say over those 12 or 13 years I may have  
23 made two or three speeches a week on IRS changes?

24 A. It's a fair statement.

25 Q. Other than the post office and the military, would

Marcone - Cross

1       you say that I was not too good a friends with other  
2       agencies in Washington?

3       A.     I wouldn't say that.  You got along well with the  
4       Department of Transportation and General Services  
5       Administration.

6       Q.     That's true.  Thank you.  I didn't know they liked me  
7       that much.

8             Now, when you had occasion to call on me, how did you  
9       do so?

10      A.     When you were in -- when you were in Washington?

11      Q.     Yes.

12      A.     I simply walked into your office.

13      Q.     Where was your office?

14      A.     Right next to yours.  My office was here, your office  
15      was here with a door right there, and the door was usually  
16      open.

17      Q.     So not a whole lot of space left in that office, was  
18      there?

19      A.     No, next to it was the staff offices.

20      Q.     And they were more or less compartmentalized, were  
21      they not?

22      A.     Yes.

23      Q.     So you did not have a staff director, did you?

24      A.     I did not have -- no.

25      Q.     It was a small place, right?

Marccone - Cross

1 A. Yes.

2 Q. How many District Offices were there?

3 A. Four.

4 Q. Now, if you had four offices in D.C., do you think it  
5 would have been unusual for the Congressman to have a staff  
6 or district director?

7 A. No.

8 Q. Now, you talked about COLAs. Could you explain what  
9 a COLA is?

10 A. Cost of living increase.

11 Q. And does that occur every year?

12 A. Yes.

13 Q. And everybody gets them, don't they?

14 A. All federal employees get them. Members of Congress  
15 get a COLA added to their overall allocation. And what  
16 most members do is simply if the COLA is 2 and a half  
17 percent, everyone got a 2 and a half percent COLA.

18 Q. Were there not years where there was legislation that  
19 everybody got COLAs, but Congress did not?

20 A. Members of Congress would not, but the staff always  
21 got something.

22 Q. Members didn't, but staff always did?

23 A. That's correct.

24 Q. So if a member had a staff for a long period of time,  
25 wouldn't they have a higher payroll?

Marcone - Cross

- 1 A. If there was low turnover, yes, the overall payroll  
2 would continue to increase.
- 3 Q. Did we have low turnover, Paul?
- 4 A. Yes, we did.
- 5 Q. Very low turnover?
- 6 A. Yes.
- 7 Q. Did at one point Dan Blair leave our employment?
- 8 A. Yes, he did.
- 9 Q. And then did he come back asking to return for  
10 employment?
- 11 A. Yes, he did.
- 12 Q. Isn't it a fact, usually when our employees left they  
13 did so to better themselves?
- 14 A. Yes.
- 15 Q. Do you know of any staff employee that did not want  
16 to work for me or resented working for me in any way?
- 17 A. I can't think of one.
- 18 Q. Did I ever ask you to do anything wrong, Paul?
- 19 A. No.
- 20 Q. Now, when they asked you these questions about when  
21 all these dealings were going on, "Did you know about Jim  
22 Traficant having the so-called business deals on the side,"  
23 you recall those questions?
- 24 A. Yes.
- 25 Q. Did you ever ask me if I ever had any business

Marcone - Cross

1 dealings with these people?

2 A. No, there was no reason for me to.

3 Q. Explain that.

4 A. Well, from my standpoint, the companies who were  
5 helping were no different -- the companies that the  
6 Assistant U.S. Attorney mentioned were no different than  
7 hundreds of other companies who were helping, so there was  
8 no reason for me to have a red flag attached to those  
9 particular projects or companies.

10 Q. Yeah.

11 Now, when you got calls from the district  
12 complaining, in your opinion, why did you get those calls?

13 A. Calls from who? From --

14 Q. People that complained from the district, grumbling,  
15 what you said earlier.

16 A. Staff members?

17 Q. Yeah.

18 A. What I said was that they were jealous of Henry  
19 because he had access to you and because he was their boss,  
20 and --

21 Q. Why would they call you?

22 A. Well, they didn't -- they never called me  
23 specifically to complain about Henry. I would talk to them  
24 all the time on the phone, and it would just come up in  
25 just conversations we were having.

Marcone - Cross

1 Q. Was it not a fact they knew that you and I  
2 communicated eight, ten hours a day?

3 A. I'm sure they knew that we were very close, yes.

4 Q. So your office was right next to mine, right?

5 A. Correct.

6 Q. Do you know where Henry DiBlasio's office was  
7 located?

8 A. I believe his office was on the 11 Overhill Road.

9 Q. Do you know if it was next to mine?

10 A. I believe it was.

11 Q. Were there ever any time sheets, Paul, in the early  
12 90's, mid 90's?

13 A. Sometime in the mid 90's, I had at the recommendation  
14 of the House Administration Office, I started requiring the  
15 staff in Washington to fill out time sheets.

16 Q. In Washington?

17 A. In Washington.

18 Q. Now, didn't the House administration send it out to  
19 all members of Congress?

20 A. It was a recommendation, it wasn't a requirement.

21 Q. So there were no requirements, were there?

22 A. There were no requirements for members of Congress to  
23 have their employees fill out time sheets.

24 Q. How many hours, typically, would you work a week for  
25 me?

Marccone - Cross

1 A. In the -- the first four years I was there, I was  
2 working 70, 80 hours a week, coming in on weekends. When I  
3 came back in '93 and had a family I'd work about 50 hours a  
4 week, 45 or 50 hours a week.

5 Q. Legally, how many hours were you required to work?

6 A. As a full-time employee, I was required to put in at  
7 least 30 hours a week.

8 Q. Now, if you would have come to me and said, "Look,  
9 I'm only supposed to put in 30 hours, guy, and I'm leaving  
10 here at 2:00," did you ever do that?

11 A. No.

12 Q. Did anyone ever do that?

13 A. No.

14 Q. Did I ever micro manage anything dealing with our  
15 staff?

16 A. No.

17 Q. Was I a delegator or a dictator?

18 A. I would say you were a delegator.

19 Q. Was Henry DiBlasio a delegator?

20 A. Yes.

21 Q. Do different administrative assistants have different  
22 styles?

23 A. Yes.

24 Q. Were you a delegator?

25 A. No.

Marcone - Cross

1 Q. Was I known as a congressman that invented a lot of  
2 my own ideas in legislative concepts?

3 A. Um-hum.

4 Q. Was it a fact that I didn't believe -- or do you  
5 believe that we needed more legislative people because of  
6 my legislative program?

7 A. Yes.

8 Q. Do you believe we had one of the biggest legislative  
9 programs in Congress?

10 A. I think the record reflects you introduced more bills  
11 and amendments than any other member year in, year out.

12 Q. Would it reflect I maybe passed more amendments than  
13 anybody in Congress?

14 A. That's a fair statement, yes.

15 Q. Now, what time would you usually get in the office?

16 A. Between 8:00 and 8:30.

17 Q. Would I be there?

18 A. Yes.

19 Q. Would I be dressed?

20 A. Most times, yes.

21 Q. Would I have a one-minute speech prepared or ask you  
22 to help?

23 A. You usually would have already begun to work on your  
24 one-minute speech, yes.

25 Q. And isn't it a fact that Congress would go usually,

Marcone - Cross

1 wouldn't you say, 6:00 or 7:00 on an average day?

2 A. Um-hum.

3 Q. And on some days we would go all the way around the  
4 clock to 4:00 or 5:00 the next morning?

5 A. That's true.

6 Q. Wasn't there a time I offered a defense amendment at  
7 1:15 A.M. on the following day when we started at 10:00 the  
8 preceding day? Do you remember that?

9 A. Yes.

10 Q. By the way, did I pass that amendment?

11 A. Yes.

12 Q. Was it a recorded vote?

13 A. I don't recall if it was recorded.

14 Q. It was.

15 MR. TRAFICANT: Strike that.

16 (Laughter.)

17 Q. That was the one that helped the military, wasn't it?

18 MR. MORFORD: Your Honor, I'm going to object  
19 on grounds of relevance to all this.

20 MR. TRAFICANT: Strike that.

21 THE COURT: Thank you. Objection sustained.

22 Q. Did Henry DiBlasio come to D.C. with me on occasions?

23 A. In the -- from '85 to '88, yes.

24 Q. Did you have knowledge that Henry participated in  
25 settling strikes with me back in the district?

Marcone - Cross

1 A. Yes.

2 Q. Did you have knowledge that these strikes took four  
3 or five days at a time continuous?

4 MR. MORFORD: Your Honor, objection as to  
5 basis of that knowledge.

6 THE COURT: He asked you one question, you  
7 answered it. Now we're going to let him ask you some more  
8 preliminary questions so we know whether you can answer  
9 them.

10 MR. TRAFICANT: Okay. For the record, I  
11 object to that continuous objection.

12 Q. Now let me put it to you this way --

13 THE COURT: Well, as the jury knows, they're  
14 supposed to object if they think it's a legal issue. It  
15 doesn't bother the jury. Thank you.

16 MR. TRAFICANT: Okay

17 BY MR. TRAFICANT:

18 Q. Did you have knowledge that Henry DiBlasio assisted  
19 me in union strikes?

20 A. Other than you telling me that he did, that's the  
21 only knowledge I have.

22 MR. MORFORD: Your Honor, then I would object  
23 and ask that even the original answer be stricken because  
24 it's all hearsay.

25 THE COURT: Thank you. It will be.

Marcone - Cross

1 Disregard this line of questioning. The witness has no  
2 personal knowledge.

3 THE WITNESS: Your Honor, there were several  
4 occasions where I remember Henry calling me and telling me  
5 that he was working on strikes, but I don't know if it was  
6 every single strike.

7 MR. MORFORD: That's hearsay, too.

8 THE COURT: All right. Let's go on. Just go  
9 to something else, Congressman.

10 MR. TRAFICANT: No. I want a ruling whether  
11 or not his answer can be included or not.

12 THE COURT: Well, this answer had no question  
13 preceding it and, therefore, it can't be included.

14 MR. TRAFICANT: Very good.

15 BY MR. TRAFICANT:

16 Q. Did Henry ever call you when we were negotiating  
17 strikes or tell you that we were negotiating strikes?

18 THE COURT: Sustained. I think it may be  
19 time to break. It's almost noon. We'll recess over the  
20 weekend. Okay?

21 I want to just say this: We're a little over two  
22 weeks into this trial. Your part of the Court with me,  
23 together we constitute the Court, and so I want to commend  
24 you for your attention over this period of time.

25 What you do when you do this is to take all those

Marcone - Cross

1 high sounding promises we all learned in civics class about  
2 what we're blessed with in our over 200 year old  
3 Constitution, and you made those promises real. It's a  
4 pleasure to work with you. You've got a weekend now with  
5 your family and friends. I want you to just put all of  
6 this where it should stay in your minds.

7 Remember these rules you have to live under as  
8 jurors, and respect yours in this case. Don't talk about  
9 the case with anyone, don't watch, listen or read about it.  
10 Don't let anyone try to talk to you about the case. You  
11 have a number to call in case anybody puts you under any  
12 feeling of pressure about the case. And don't go out and  
13 investigate anything. We'll see you back here at 9:00 on  
14 Monday morning. And as you remember, we have a short week  
15 on Monday. It's a pleasure to serve.

16 (Proceedings in the absence of the jury:)

17 THE COURT: I need the lawyers to stay  
18 briefly. There was an issue raised about one of the  
19 exhibits that was on the wall. We want to put that to rest  
20 before you leave.

21 We have an issue regarding Exhibit 8-13. I've had an  
22 opportunity to look through the rulings on the speech or  
23 debate clause that were issued by Judge Baughman and by me.  
24 This document is set forth on Page 26 of the report and  
25 recommendation, and it's a fax with redactions.

1           There was a statement by the Magistrate Judge that  
2           "After the redaction, all that's left is what Mark Cohen  
3           gave as a subject of the bill, and the House will vote on  
4           it tomorrow. The fact that a House vote on a bill is  
5           forthcoming without more does not sufficiently indicate a  
6           legislative act on the part of Traficant to invoke the  
7           privilege of the speech or debate clause. The Court  
8           recommends that the motion to suppress this document be  
9           denied."

10           There was no objection filed to that by the  
11           Defendant, and so as it was not objected to at that time  
12           when we put on our order, and the report and recommendation  
13           carries a specific date by which objections had been filed,  
14           we didn't receive any, so we adopted that recommendation,  
15           and the document as redacted does not offend the speech and  
16           debate clause. Okay.

17                   MR. MORFORD: Thank you.

18                   THE COURT: You're welcome.

19                   MR. TRAFICANT: Thank you, your Honor.

20                   THE COURT: Do we have anything else,  
21           gentlemen, or are we finished?

22                   MR. KALL: Your Honor, at the end of the week  
23           we've got a number of exhibits we would like to move to be  
24           admit into evidence.

25                   THE COURT: Very well.



1 MR. KALL: Try to move Exhibit 1-9.

2 THE COURT: Okay. Any objection,  
3 Congressman?

4 MR. TRAFICANT: I don't have the exhibits  
5 with me, but --

6 THE COURT: I do keep telling to you bring  
7 them. It just makes everything take a lot longer.

8 MR. TRAFICANT: I just don't have the U-Haul.  
9 I'm trying to --

10 THE COURT: You really don't need a U-Haul.

11 MR. TRAFICANT: -- deal with the issues they  
12 tell me they're going to deal with during the day.

13 THE COURT: You don't need a U-Haul, but you  
14 really do need to bring these to court. Okay.

15 MR. KALL: Your Honor, if we could, we could  
16 put them on the overhead so it's clear.

17 THE COURT: Why don't you have a seat,  
18 Congressman, and watch them on the monitor.

19 MR. TRAFICANT: Let me inquire of the court,  
20 have they already been discussed as a part of testimony?

21 MR. SMITH: Yeah.

22 MR. TRAFICANT: Then I wouldn't object.

23 THE COURT: I don't know what they're  
24 offering. It's up to --

25 MR. TRAFICANT: If they've all been discussed

1 as a part of previous testimony, I would not object to them  
2 being introduced as evidence.

3 THE COURT: Let's go one by one.

4 MR. KALL: 1-9 was the summary chart that was  
5 discussed by IRS Agent Semesky.

6 THE COURT: Any objection?

7 MR. TRAFICANT: No. I'd like a copy of it.

8 THE COURT: You have a copy in your exhibit  
9 books given to you before trial.

10 MR. TRAFICANT: I know. I'm just making the  
11 request of the Government today, if they have a copy, I  
12 would appreciate it.

13 THE COURT: Where are your exhibit books?  
14 What town are they in?

15 MR. TRAFICANT: That's part of my problem,  
16 back and forth, and what I'm doing and not bringing.

17 THE COURT: The books are not -- the books  
18 are not large. You can just --

19 MR. TRAFICANT: I know.

20 THE COURT: -- put them in your trunk or  
21 something. Anyway, you already have a copy, so if there's  
22 no objection, we'll admit this without objection.

23 MR. KALL: Next, we'd move on Exhibit --  
24 Government's Exhibit 1-11, which was the deed transferring  
25 from Henry and Norma DiBlasio to Richard and Theresa Jeran.

1 THE COURT: Any objection?

2 MR. TRAFICANT: That was --

3 MR. KALL: Exhibit 1-11.

4 MR. TRAFICANT: The first was 1-9 and the  
5 second was 1-11? Is that what you're telling me?

6 MR. KALL: Yes.

7 MR. TRAFICANT: Could you hold one second?  
8 Fine.

9 THE COURT: Any objection, sir?

10 MR. TRAFICANT: I object to all of them.

11 THE COURT: Okay. This will be admitted over  
12 objection.

13 MR. KALL: Next would be Exhibit 1-12. It's  
14 a self-authenticating deed transferring property from  
15 Richard and Theresa Jeran to Trumbull Land Company, that's  
16 been certified by the recorder of Mahoning County at the  
17 bottom.

18 THE COURT: It'll be admitted over objection.

19 MR. KALL: Next would be Exhibit 1-13, which  
20 was a memo from Jackie Bobby to Henry DiBlasio, dated  
21 December 9 of -- excuse me -- December 6 of 1993.

22 THE COURT: Congressman?

23 MR. TRAFICANT: I object.

24 THE COURT: Okay. Over objection, this will  
25 be admitted.

1 MR. KALL: Next we would offer into evidence  
2 Exhibit 1-14, a memorandum to Paul Marccone from Henry  
3 DiBlasio dated December 7 of 1993.

4 THE COURT: Congressman?

5 MR. TRAFICANT: I object.

6 THE COURT: It'll be admitted over objection.

7 MR. KALL: Government next offers  
8 Government's Exhibit 1-15, a memorandum to Henry DiBlasio  
9 from Paul Marccone dated December 7, 1993.

10 THE COURT: This is the one on the District  
11 Office move?

12 MR. KALL: Correct.

13 THE COURT: Any objection?

14 MR. TRAFICANT: I object.

15 THE COURT: Over objection, it'll be  
16 admitted.

17 MR. KALL: Government next offers Exhibit  
18 1-16, a handwritten letter dated 12-9 of 93 to Paul Marccone  
19 from Henry DiBlasio.

20 MR. TRAFICANT: I object.

21 THE COURT: This exhibit will be admitted  
22 over objection.

23 MR. KALL: Next 1-17, a March 15, 1994 letter  
24 to Trumbull Land Company, offered to show that the  
25 president of Trumbull Land Company, Mr. Chuirazzi, never

1 received any such letter, and his inability to identify  
2 such.

3 MR. TRAFICANT: Question here, your Honor,  
4 before this objection. They have been allowed to bring  
5 into evidence documents that have been unsigned.

6 THE COURT: Well, this is the first one I  
7 have seen here. We had testimony about this document from  
8 the witness today, but the witness was not -- it was -- the  
9 testimony was from Paul Marcone and not from the person who  
10 reportedly --

11 MR. TRAFICANT: But, what I'm saying is I've  
12 been held to a strict standard on some of the things that  
13 I've given to the Court that had the wrong date, weren't  
14 signed, or this or that, and they're putting into evidence  
15 these letters that were not signed.

16 THE COURT: This letter I'm not going to  
17 admit over objection.

18 MR. KALL: Your Honor, for the record, this  
19 was a document that was produced by Congressman Traficant's  
20 office as indicated by that Bates number.

21 THE COURT: Right, but that in itself is not  
22 enough for me to accept an unsigned letter that says "James  
23 A. Traficant, Junior" at the bottom when it was Paul  
24 Marcone on the stand who was testifying about this. So it  
25 doesn't --

1                   MR. KALL: Your Honor, I believe that this  
2 document was not covered with Mr. Marcone. That was a  
3 different letter. This document was covered with Nicholas  
4 Chuirazzi, who was the president of Trumbull Land Company,  
5 who testified that even though he was the president of  
6 Trumbull Land Company, he never received any such --

7                   THE COURT: Is this the letter sent to his  
8 home address which he said he never received?

9                   MR. KALL: Yes, your Honor.

10                  MR. TRAFICANT: Your Honor, this is an  
11 unsigned letter.

12                  THE COURT: Not just by that, but he never  
13 received it. So we don't have anybody to testify to this  
14 letter. It's objected to, so I am not going to admit this  
15 letter.

16                  MR. KALL: Okay. The Government next offers  
17 Government's Exhibit 1-25, the summary of U.S. Treasury  
18 salary checks payable to Henry DiBlasio.

19                  THE COURT: All right.

20                  MR. TRAFICANT: Public record, no objection.

21                  THE COURT: It'll be admitted.

22                  MR. KALL: Government next offers  
23 Government's Exhibit 1-26(1), summary of congressional  
24 salaries, 1996 to 1999.

25                  THE COURT: Congressman?

1 MR. TRAFICANT: '96 or '99? Public records,  
2 no objection.

3 THE COURT: Fine, it'll be admitted.

4 MR. KALL: We would next offer Government's  
5 Exhibit 1-27(1), a summary chart of cash deposits to  
6 Congressman Traficant's account at Bank One.

7 MR. TRAFICANT: I object.

8 THE COURT: This will be admitted over  
9 objection.

10 MR. TRAFICANT: Question.

11 THE COURT: Yes, sir.

12 MR. TRAFICANT: Was there a warrant to do  
13 this?

14 THE COURT: There was testimony on the stand  
15 regarding these deposits and there was evidence put on at  
16 that time with deposit slips, and other things.

17 MR. TRAFICANT: But, for the record, I am  
18 asking was there a warrant served to get this information  
19 from the bank?

20 THE COURT: I think it was -- yeah, they can  
21 tell you.

22 MR. SMITH: It was subpoenaed, your Honor.

23 THE COURT: It was subpoenaed.

24 MR. TRAFICANT: Fine. I still object.

25 THE COURT: Okay.

1 MR. KALL: Your Honor, the Government would  
2 next offer Exhibits 1-27(2) through(11) inclusive. These  
3 are bank records from Congressman Traficant.

4 THE COURT: Congressman?

5 MR. TRAFICANT: I object.

6 THE COURT: These will be admitted over  
7 objection.

8 MR. KALL: Your Honor, we would next offer  
9 Government's Exhibit 1-28(1) through (6) inclusive. These  
10 are bank records from Home Savings and Loan regarding Henry  
11 DiBlasio.

12 THE COURT: Congressman?

13 MR. TRAFICANT: I object.

14 THE COURT: These will be admitted over  
15 objection.

16 MR. KALL: Your Honor, we'd next offer  
17 Government's Exhibit 1-30.

18 MR. TRAFICANT: Pardon?

19 MR. KALL: Excuse me, 1-30 (1) through (5),  
20 bank records from Allen Sinclair.

21 MR. TRAFICANT: No objection.

22 THE COURT: Okay. They'll be admitted.

23 MR. KALL: Apologize for disorganization. I  
24 need to go back and move for admission on Government's  
25 Exhibit 1-29, also bank records as to Allen Sinclair.

1 THE COURT: Any objection?

2 MR. TRAFICANT: No objection.

3 THE COURT: They'll be admitted.

4 MR. KALL: 1-31, the certified copy of the  
5 death certificate for Charles O'Nesti.

6 MR. TRAFICANT: Public record, I guess. No  
7 objection.

8 THE COURT: It'll be admitted.

9 MR. KALL: Need to switch to the exhibits  
10 from the 2 series. First move Exhibit 2-14 into evidence,  
11 your Honor. It'll take me a moment just to grab it. 2-14,  
12 Mr. Marccone's notes regarding his conversations with ODOT  
13 regarding the Buccis.

14 THE COURT: Congressman?

15 MR. TRAFICANT: Object.

16 THE COURT: Overruled. These will be  
17 admitted.

18 MR. KALL: Next one, Exhibit 2-42, I think I  
19 gave our copy to the Court Reporter.

20 MR. TRAFICANT: Objection regarding speech  
21 and debate, separation of powers.

22 MR. KALL: Exhibit 2-42, a memorandum from  
23 Jeff Cohen to Jim Welfley regarding the Prime Contractors  
24 case.

25 MR. TRAFICANT: Object, speech and debate.

1 THE COURT: This will be admitted over  
2 objection.

3 MR. KALL: Your Honor, next we would move on  
4 Exhibit 5-7 through 5-16. Just a moment.

5 5-7 was Mr. Marcone's notes regarding telephone  
6 conversations with Dave Sugar.

7 MR. TRAFICANT: Object.

8 THE COURT: Exhibit 5-7 will be admitted over  
9 objection.

10 MR. KALL: Government moves to admit Exhibit  
11 5-16, March 27th letter to Alden Sheldon from Congressman  
12 Traficant. Portions of this document have been redacted.

13 MR. TRAFICANT: Object, relative to redaction  
14 and the reason for such, and speech and debate.

15 THE COURT: Okay.

16 MR. KALL: Your Honor, portions were redacted  
17 for speech or debate.

18 THE COURT: Right, but he's still posing an  
19 objection. Yes.

20 MR. MORFORD: Actually, your Honor, the one  
21 portion that was redacted was a simple sentence that said  
22 Congressman Traficant was relying on them and taking credit  
23 for funding for the building. He brought that out himself  
24 through Mr. Marcone that he had done that. So that  
25 probably doesn't even need to be redacted anymore since the

1 Congressman waived speech or debate to that.

2 MR. TRAFICANT: I raised speech and debate to  
3 the entire document.

4 THE COURT: You didn't hear what -- he's  
5 pointing to something that he said earlier.

6 MR. TRAFICANT: Yes.

7 THE COURT: Okay.

8 MR. TRAFICANT: I wasn't from -- if it's  
9 redacted, I don't know exactly what it is. That's the  
10 reason why I questioned it.

11 THE COURT: Okay. He was just putting in the  
12 record what it was that was redacted.

13 MR. TRAFICANT: I object.

14 THE COURT: Okay.

15 MR. KALL: Your Honor, we'd also state  
16 Congressman Traficant did not object to Magistrate's report  
17 and recommendation on this letter, as well.

18 THE COURT: That's right.

19 MR. TRAFICANT: I do now.

20 THE COURT: Okay. This will be admitted over  
21 objection. Thank you.

22 MR. KALL: Next would be Exhibit 7-2.

23 MR. TRAFICANT: If he'll just explain what  
24 they are, we may not necessarily have to show them, unless  
25 they're unsigned.

1 MR. KALL: Exhibit 7-2 was the letter dated  
2 March 19, 1990 from Congressman Traficant to James Baker.

3 MR. TRAFICANT: Object, speech and debate.

4 THE COURT: This will be admitted over  
5 objection.

6 MR. KALL: Next would be Exhibit 7-6, a  
7 letter dated May 7, 1990, from Pete Bucheit to Vindicator  
8 thanking Congressman Traficant.

9 MR. TRAFICANT: Public record, no objection.

10 THE COURT: Well, this will be admitted  
11 without objection.

12 MR. KALL: Next would be Government's Exhibit  
13 7-29, press release dated December 30, 1992 from  
14 Congressman Traficant regarding Bucheit's Saudi Arabia  
15 dispute.

16 MR. TRAFICANT: Public record, no objections.

17 THE COURT: This will be admitted without  
18 objection. I think public -- public record may be confined  
19 to some other things and not be as broad as you're thinking  
20 it is, so you might want to look into that this weekend.  
21 But in any event, there's no --

22 MR. TRAFICANT: It was printed vaguely.

23 THE COURT: -- no objection.

24 MR. TRAFICANT: The print on the paper is  
25 pretty much public record.

1 MR. KALL: Next offer Government's Exhibit  
2 7-32, handwritten notes from Mr. Marcone regarding Bucheit  
3 and GAO.

4 MR. TRAFICANT: Objection.

5 THE COURT: This was testified to here this  
6 morning. This will be admitted over objection.

7 MR. KALL: Government next offers  
8 Government's Exhibit 7-41, handwritten note from  
9 Mr. Marcone, Pete Bucheit pleased with Gore letter.

10 MR. TRAFICANT: Object.

11 THE COURT: This will be admitted over  
12 objection.

13 MR. KALL: Next is Exhibit 7-40, the August  
14 16, 1994 letter from Congressman Traficant to  
15 Vice-President Gore.

16 MR. TRAFICANT: What date was that?

17 MR. KALL: August 16, 1994.

18 MR. TRAFICANT: Object. It's unsigned.

19 THE COURT: What's the number?

20 MR. KALL: Exhibit 7-40, your Honor.

21 THE COURT: Okay.

22 MR. KALL: Mr. Marcone testified this  
23 document was produced from Congressman Traficant's files.

24 THE COURT: Right. The signed copy would be  
25 with the recipient, we assume, and so with the underlying

1 testimony this was the letter that was sent, you don't need  
2 a signature here --

3 MR. TRAFICANT: Question.

4 THE COURT: -- as long as somebody can  
5 testify to it.

6 MR. TRAFICANT: Are you assuming this was  
7 signed, your Honor? Do you know it was signed? You have  
8 knowledge that it was signed?

9 THE COURT: No, I --

10 MR. TRAFICANT: I object.

11 THE COURT: I wouldn't expect a signed copy  
12 to be in your --

13 MR. TRAFICANT: You would not?

14 THE COURT: -- files. No.

15 MR. TRAFICANT: To the vice-president of the  
16 United States?

17 THE COURT: Well, if you think there's  
18 something special --

19 MR. TRAFICANT: I object. This is an  
20 unsigned letter --

21 THE COURT: Okay.

22 MR. TRAFICANT: -- being admitted into  
23 evidence by the Government, but I certainly will defer to  
24 the judgment of the Court. What is the decision of the  
25 Court?

1                   THE COURT: I'm trying to figure out what's  
2                   happening in the back with this one. We're going to admit  
3                   this.

4                   MR. KALL: Next would be Government's Exhibit  
5                   7-68, your Honor, the February 23, 2000 letter to Madeline  
6                   Albright.

7                   MR. TRAFICANT: What year was that?

8                   MR. KALL: February 23, 2000.

9                   MR. TRAFICANT: I object. It's unsigned,  
10                  speech and debate.

11                  MR. KALL: Your Honor, again, Mr. Marcone  
12                  testified this was produced from the congressional files,  
13                  and it was simply him forwarding a letter from Pete  
14                  Bucheit, and there's nothing in there that indicates a  
15                  legislative act of the Congressman.

16                  MR. TRAFICANT: It's unsigned, your Honor.

17                  THE COURT: The speech and debate privilege  
18                  that you're raising here does not apply to this document.

19                  MR. TRAFICANT: It may not, but I'm just  
20                  raising it for the record, being not an attorney, but it's  
21                  another unsigned document, and I think that we have to have  
22                  Madeline Albright in here to say she received this letter,  
23                  quite frankly, to have it admitted.

24                  THE COURT: Actually, we have the person who  
25                  said that he sent it, and his initials are on it down

1       there, as you see, at the bottom, and he also talked at  
2       some point in his testimony about the fact that what  
3       those -- what PM meant at the bottom. And so we had plenty  
4       of testimony supporting the fact that this letter was sent.

5               The issue here isn't whether or not it was received,  
6       it's whether it was sent. That's what the testimony was.

7               MR. TRAFICANT: Let me just take a minute to  
8       question this logic here.

9               THE COURT: Well, it's --

10              MR. TRAFICANT: The letter being sent from a  
11       member of Congress to Madeline Albright that's unsigned,  
12       does that seem respectful to you?

13              THE COURT: I believe this is the copy that  
14       you or your office retained, according to what we heard  
15       from the witness on the stand, and that doesn't always  
16       carry a signature.

17              MR. KALL: Your Honor, I believe Mr. Marcone  
18       also testified he signed the document.

19              MR. MORFORD: "He" being Mr. Marcone.

20              THE COURT: Right.

21              MR. MORFORD: Signed the Congressman's name.

22              MR. TRAFICANT: I object.

23              THE COURT: I know you do, and your objection  
24       is here on the record. Nonetheless, I'm going to admit  
25       7-68.

1 MR. KALL: The Government would next offer  
2 Exhibit 8-4, press release dated April 14, 1998, with the  
3 handwritten note "Grace sent to J. J. Cafaro."

4 MR. TRAFICANT: No objection.

5 THE COURT: It'll be admitted.

6 MR. TRAFICANT: What number is this?

7 THE COURT: 8-4.

8 MR. TRAFICANT: Oh, that's it.

9 MR. KALL: I'm sorry, I had 8-3 up. Here's  
10 8-4.

11 MR. TRAFICANT: So that was 8-3, the press  
12 release?

13 MR. KALL: 8-4 is the press release.

14 MR. TRAFICANT: Okay. Thank you. No  
15 objection to that, public record.

16 THE COURT: I did admit that.

17 MR. KALL: Okay, sorry. I did not hear, your  
18 Honor. Exhibit 8-3 would be a fax sheet from Congressman  
19 Traficant in Mr. Marcone's handwriting, "Please let J. J.  
20 know what we're doing to move this forward."

21 MR. TRAFICANT: Legislation. I object.  
22 Deals with legislation.

23 MR. KALL: Your Honor, again, this document  
24 has been redacted to remove any reference to legislative  
25 acts. In addition, there was no objection to the

1 Magistrate's report, and --

2 THE COURT: This is covered in the  
3 Magistrate's report, although to make sure, I need to pull  
4 the report out.

5 MR. TRAFICANT: Pardon? I didn't hear that.

6 THE COURT: I just need to make sure -- I  
7 think this was covered in the Magistrate's report, because  
8 I remember it, but I want to make sure.

9 MR. TRAFICANT: This refers directly to  
10 legislation.

11 THE COURT: You've had the opportunity to  
12 read a couple of court decisions on what we have found is  
13 covered or isn't covered by the speech or debate privilege,  
14 and so I just want to refer you back to those if you want  
15 to look at them.

16 MR. TRAFICANT: No, I'm just asking for a  
17 ruling. I objected, period.

18 THE COURT: Okay. We looked at a lot of  
19 documents. You're going to have to be patient while we  
20 find out which one that was.

21 MR. TRAFICANT: My only impression, we're  
22 dealing with 8-3, the one that's now currently on the  
23 screen.

24 MR. KALL: If it will help, it was Cafaro  
25 Bates number 002248.

1 THE COURT: Okay.

2 MR. TRAFICANT: What was that Cafaro number?

3 MR. KALL: 2248.

4 THE COURT: The fax -- this one is set forth  
5 in the chart behind the Magistrate Judge's report as Number  
6 28, which was the number in the system I guess we adopted  
7 for the Defendant. But, in any event, the fax itself,  
8 which is the document we're looking at, it was recommended  
9 it be admitted with redaction, although what was attached  
10 to it was excluded and is excluded here. So this is only  
11 the covering fax, and I adopted that recommendation after  
12 we went over these documents, and you didn't object to it.

13 MR. TRAFICANT: Question.

14 THE COURT: So it was admitted with  
15 redaction; that this accurately reflects the document with  
16 the redaction, and therefore, it'll be admitted over your  
17 objection.

18 MR. TRAFICANT: My question is though, we're  
19 admitting now a document that's now been redacted but had  
20 attachments to it.

21 THE COURT: There is no attachment here  
22 because the attachment was isn't part of it. It's just a  
23 fax. That's not an attachment.

24 MR. TRAFICANT: Fine. For the record, I  
25 object.

1 THE COURT: Okay.

2 MR. KALL: Next, your Honor, would be  
3 Government's Exhibit 8-34, a fax cover sheet, one page,  
4 dated 12-2-98 to Richard Detore from Paul Marccone.

5 MR. TRAFICANT: I object.

6 THE COURT: Okay. This will be admitted over  
7 objection.

8 MR. TRAFICANT: Question, your Honor. Also  
9 on the speech and debate clause, it was discussed early on  
10 that each individual matter, if it had a concern of the  
11 Defendant, could be taken up when that matter became  
12 apparent or offered to the Court. Isn't that correct?

13 THE COURT: We're now dealing with documents  
14 that they wish to offer into evidence, which, as I  
15 understand your objections, as to some of them you're  
16 saying that you don't have to do that because you have --  
17 you enjoy a privilege as a Congressman not to have those be  
18 part of --

19 MR. TRAFICANT: Yes.

20 THE COURT: -- any kind of court  
21 proceedings, but I'm telling you that these so far have  
22 been documents that we have dealt with a couple of times in  
23 prior proceedings here. So yes, you can make your record  
24 for an appeal by objecting, which you're doing.

25 MR. TRAFICANT: The only reason I want to say

1 that was we did talk about the speech and debate. There  
2 was a lot of controversy. I disagreed, everybody  
3 disagreed, but it was understood I had the right on or  
4 about the time when these things became salient factors in  
5 the court process, I could make an objection.

6 THE COURT: Right.

7 MR. TRAFICANT: So I don't want to belabor  
8 you or harass you, but I'm doing that because that was a  
9 right that I supposedly had, period.

10 THE COURT: I assure you, I don't feel  
11 harassed. This is the process we go through in every  
12 trial. I've been doing cases a long time. Next one.

13 MR. KALL: Government's Exhibit 8-13. This  
14 was the one we began to question Mr. Marccone and then moved  
15 on. I'm not sure if we laid a foundation sufficient  
16 because we were told to move on, but that would be  
17 something we would want at least to be able to cover with  
18 him on redirect.

19 MR. TRAFICANT: Did we not see this before?

20 THE COURT: We've gone over this. That was  
21 the way I started this break for evidence, was with ruling  
22 on that one. That one can be admitted. That doesn't --

23 MR. TRAFICANT: That was a memo from --

24 MR. MORFORD: 8-13.

25 MR. KALL: Next would be Government's Exhibit

1 8-45, Mr. Marccone's notes, "Richard Detore meeting with FAA  
2 Gwen Coddle."

3 THE COURT: Congressman?

4 MR. TRAFICANT: I object.

5 THE COURT: This will be admitted over  
6 objection.

7 MR. KALL: Next would be Government's Exhibit  
8 8-51, titled "9-29-99 meeting" which Mr. Marccone testified  
9 to.

10 MR. TRAFICANT: I object.

11 THE COURT: This will be admitted over  
12 objection.

13 MR. KALL: And Government's Exhibit 8-52, the  
14 fax cover sheet dated 10-28-99 to Richard Detore from Paul  
15 Marccone.

16 MR. TRAFICANT: What was the date on that?

17 MR. KALL: 10-28-99.

18 MR. TRAFICANT: I object.

19 THE COURT: This will be admitted over  
20 objection.

21 MR. KALL: Your Honor, those are all the  
22 exhibits that we have at this time.

23 THE COURT: Thank you. Congressman?

24 MR. TRAFICANT: Your Honor, at this point I  
25 offer no exhibits, and conclude my work here today.

1 THE COURT: All right, sir. Have a nice  
2 weekend.

3 MR. TRAFICANT: Thank you.

4 MR. SMITH: Have a good weekend, your Honor.

5 MR. TRAFICANT: Have a good weekend.

6 (Proceedings adjourned.)

7

8 DIRECT EXAMINATION OF PAUL MARCONE..... 1194

9 CROSS-EXAMINATION OF PAUL MARCONE..... 1270

10 C E R T I F I C A T E

11 I certify that the foregoing is a correct  
12 transcript from the record of proceedings in the  
13 above-entitled matter.

14

15

16

17

\_\_\_\_\_  
Shirle M. Perkins, RDR, CRR  
U.S. District Court - Room 539  
201 Superior Avenue  
Cleveland, Ohio 44114-1201  
(216) 241-5622

20

21

22

23

24

25