LAW ENFORCEMENT OFFICIALS PROSECUTED (MASTER LIST)

DATE COMP/IND	NAME	DEPT.	CHARGE	VERDICT	SENTENCE	DOCKET NO.	STILL ON FORCE Y/N
2003	[redacted]	Newbury	Child Rape	GUILTY	7-9 yrs. state prison	[redacted]	N
2004	[redacted]	Probation	Consp. Auto Fraud	GUILTY	2.5 hoc	[redacted]	
2004	[redacted]	Middleton	Domestic A&B	NOT GUILTY		[redacted]	Y
2004	[redacted]	Peabody	A&B over 60	INCOMP		[redacted]	N
2004	[redacted]	Newburyport Court Officer	Sexual Assault	GUILTY	2-3 yrs. H of C, probation	[redacted]	N
2004	[redacted]	Salem	Harassment (Judge)	ADMIT SF	CWOF 2 years	[redacted]	N
2006	[redacted]	Essex Sheriff	Threats (Sheriff)	GUILTY PLEA	2 yrs. Suspended, 3 yrs. probation	[redacted]	N (resigned)
2007	[redacted]	Rockport	A&B DW	GUILTY PLEA	3 yrs. Probation	[redacted]	N
2008	[redacted]	Beverly	MV Homicide	GUILTY	Granted new trial	[redacted]	N
2008	[redacted]	Lawrence	Rape	GUILTY	10-12 yrs. State prison	[redacted]	N
2008	[redacted]	Methuen	Rape	GUILTY	Appeals Overturned, Nol Pros., victim couldn't' go through 2nd trial	[redacted]	N
2009	[redacted]	Georgetown	Domestic A&B, Witness Intim.	DWO-Victim (martial priv) DISMISSED		[redacted]	N
2010	[redacted]	Haverhill	Domestic A&B	DISMISSED		[redacted]	Y
2010	[redacted]	Lynn	A&B, Witness Intim.	GUILTY	Sentence stayed pending appeal, overturned	[redacted]	N
2010	[redacted]	Lawrence	A&B on pregnant woman	GUILTY	1 yr. probation, batter's program	[redacted]	Y

Updated: DFO 7/28/2021

LAW ENFORCEMENT OFFICIALS PROSECUTED (MASTER LIST)

2010	[redacted]	Salem	OUI, steroids, assault	NOT GUILTY		[redacted]	Y
2011	[redacted]	MSP	A&B, soliciting prostitution	CWOF	2 yrs. probation, mental health evaluation	[redacted]	N
2011 2012	[redacted]	MSP	Failure to stop Neg. operation	CWOF CWOF	6 mo. Probation 6 mo. Probation	[redacted]	Y
2011	[redacted]	Newburyport	Perjury	NOT GUILTY		[redacted]	N
2011	[redacted]	Salisbury (Chief)	Larceny	NOT GUILTY		[redacted]	N
2011	[redacted]	Trial Court	Misleading police invest.	GUILTY	2 yrs. Probation	[redacted]	
2012	[redacted]	Methuen	A&B, destruction of property	CWOF – dismissed in 2015	3 yrs. Probation	[redacted]	Y
2012	[redacted]	Manchester-by-the-Sea	Domestic A&B, firearms Firearm, Intox licensee to carry	GUILTY PLEA DISMISSED	2 yrs., 6 mo. TBS	[redacted] [redacted]	N
2012	[redacted]	Peabody	Indecent A&B	NOT GUILTY		[redacted]	N
2012	[redacted]	Salem	Rape, Indecent A&B	NOT GUILTY		[redacted]	Y
2013	[redacted]	Haverhill	Stalking CORI, Disseminate	CWOF GUILTY	4 yrs. Probation 1 yr. H of C, 4 yrs. suspended	[redacted] [redacted]	N (not on roster)
2014	[redacted]	Lowell	OUI/MVH	GUILTY PLEA	4 yrs. State prison	[redacted]	N (resigned)
2014	[redacted]	MSP	OUI causing SBI	GUILTY	Neg. Op., 2 yrs. Probation	[redacted]	Y

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LAW ENFORCEMENT OFFICIALS PROSECUTED (MASTER LIST)

2014	[redacted]	Everett	A&B on child with injury	NOT GUILTY (Jury)		[redacted]	?
2015	[redacted]	Ipswich	A&B, Wit. intim., dest. Property	GUILTY PLEA	2 yrs. Probation	[redacted]	N
2015	[redacted]	Trial Court	Rape, Witness Intim.	NOT GUILTY	Except w/h evidence	[redacted]	
2015	[redacted]	Ipswich	Larceny over $250	CWOF	Ordered to pay $6000 restitution	[redacted]	N
2015	[redacted]	Beverly	OUI 2nd, F/A while intoxicated	CWOF	2 yrs., 90 day LOL, D/A Free	[redacted]	N
2015	[redacted]	Lowell	Leaving scene/prop. Dam	DISMISSED		[redacted]	Y
2015	[redacted]	MSP	A&B HHM, strangulation	Guilty AB		[redacted]	N
2016	[redacted]	Middlesex Sheriff	OUI, open container	CWOF	1 yr., 45 LOL	[redacted]	
2016	[redacted]	Essex Sheriff	AB HHM, ABDW, F/A intox., OUI, Neg. Op	DWO AND CWOF – tx with VA		[redacted]	Y
2016	[redacted]	Everett	A&B HHM, A&N, pregnant, strangulation	DWO – victim would not testify		[redacted]	?
2016	[redacted]	Salem	Rape, indecent A&B	GUILTY – indecent	3.5 -5 yrs. State prison	[redacted]	N
2017	[redacted]	Trial Court	OUI	CWOF	1 yr., 45 days LOL	[redacted]	
2017	[redacted]	Lynn	OUI	CWOF	1 yr.,55 days LOL	[redacted]	Y
2018	[redacted]	Everett	Criminal Harassment	PENDING		[redacted]	N (resigned)
2018	[redacted]	Saugus	OUI, F/A intoxicated	NOT GUILTY		[redacted]	Y (on roster)

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LAW ENFORCEMENT OFFICIALS PROSECUTED (MASTER LIST)

2019	[redacted]	Peabody	Domestic AB strang, 209A	PENDING		[redacted]	term
2019	[redacted]	Lawrence	Rape, Indecent A&B under 14	PENDING		[redacted]	Y (unpaid leave)
2019	[redacted]	Methuen	Domestic AB Strangulation	PENDING		[redacted]	Not on roster
2019	[redacted]	CW Corrections Officer	209A violation	CWOF 1 yr.	Anger management, Mental health eval/treatment, abide by RO.	[redacted]	
2019	[redacted]	Lawrence	ABDW	DLOP		[redacted]	Not a police officer/civilian worker
2019	[redacted]	Newburyport (Dispatcher)	Larceny under $1200	GC	Probation 1 year, restitution, sa/nc w/vic	[redacted]	
2019	[redacted]	CW Corrections Officer	OUI, Reckless Op, Fail to Stop	Guilty – Reckless Op, NG OUI	12 months probation, safe drivers course, 60 days lol. (notice of appeal filed)	[redacted]	
2019	[redacted]	Essex Sheriff	OUI, open container, marked lanes	GUILTY	Probation 18 months, safe drivers course, 90 day lol	[redacted]	
2020	[redacted]	Suffolk Sheriff	Domestic AB Strangulation Intim. Wit.	DLOP (no victim)		[redacted]	
2020	[redacted]	Lynn	AB	CWOF 2 yrs	VA counseling, no employment in LE	[redacted]	Resigned
2020	[redacted]	Danvers	OUI	PENDING		[redacted]	Y (paid leave)
2020	[redacted]	Lawrence Sgt	Domestic AB	DISM	mar. priv.	[redacted]	Y (susp)
2020	[redacted]	Lawrence	Domestic AB	PENDING		[redacted]	Y (susp)
2020	[redacted]	Malden	A&B	PENDING		[redacted]	
2021	[redacted]	Lynn	Domestic AB	PENDING		[redacted]	Retired

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LAW ENFORCEMENT OFFICIALS PROSECUTED (MASTER LIST)

2021	[redacted]	Corrections	OUI 2nd/Marked lanes	PENDING		[redacted]	?
2021	[redacted]	MSP retired	Domestic AB	PENDING		[redacted]	Retired
2021	[redacted]	Peabody	Domestic AB Improper stor. FA	DLOP CWOF		[redacted]	Unpd susp 30 days, susp 1 yr

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE
DISTRICT ATTORNEY FOR THE ESSEX DISTRICT
SALEM NEWBURYPORT LAWRENCE

JONATHAN W. BLODGETT

Ten Federal Street
Salem, Massachusetts 01970

TELEPHONE
VOICE (978)745-6610
FAX (978)741-4971

DISCLOSURE

Pursuant to its obligation to disclose potential impeachment material, this Office discloses that the following officer, who completed a report and/or is an anticipated witness in the below-identified case, is being prosecuted in connection with the following case:

2019 [redacted] Methuen Domestic AB Strangulation PENDING
[redacted] Not on police roster

The docket is available on MassCourts. This information constitutes Criminal Offender Record Information, G.L. c. 6, § 167, subject to the protections set forth in G.L. c. 6, § 178. The disclosure is not a concession that the information is admissible. Admissibility is a fact-dependent inquiry in the Court's discretion. See Mass. G. Evid. §§ 609 and 403 and Notes.

RECEIPT

I hereby certify that I have received this information in connection with the following case

Commonwealth v. _____ Docket no. _____

Defense counsel_____

Date received_____

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE
DISTRICT ATTORNEY FOR THE ESSEX DISTRICT
SALEM NEWBURYPORT LAWRENCE

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DISCLOSURE RE: FORMER SALEM OFFICER TIMOTHY BEAUPRE

This Office has learned the following information concerning the above individual, who prepared a report and/or is an anticipated witness in this case:

A letter dated June 18, 2020 from then Salem Police Chief Mary Butler notified Officer Beaupre, pursuant to G.L. 31, § 41, of a hearing concerning his impending termination. The letter discloses numerous findings of misconduct that followed an internal affairs investigation. The letter is attached, with the names and any information tending to identify witnesses redacted. G.L. c. 4, § 67 cl. 26(f). This Office has been informed that Officer Beaupre resigned in June 2020 and that no termination hearing was ultimately conducted as a result.

This Office discloses the information pursuant to its obligation to disclose potential impeachment material. See In the Matter of Grand A Jury Investigation, 485 Mass. 641 (2020). This disclosure is not a concession that the information is admissible in any given case. See id. at 652.

This Office is not in possession of subsidiary documents concerning the internal affairs investigation that resulted in the findings. Any additional records in the possession of the Salem Police Department may be sought via a Mass. R. Crim P. 17 summons, pursuant to the procedure outlined in Commonwealth v. Wanis, 426 Mass. 639 (1998)(detailing mechanism and showing required to obtain police internal affairs records). Should any order issue, this Office intends to seek an appropriate protective order pursuant to Mass. R. Crim. P. 14(a)(6).

RECEIPT

I hereby certify that I have received this information in connection with the below identified case. I agree to utilize the information only in connection with the defense of the below identified case and to not publicly disseminate the information in accordance with Mass. R. Prof. C. 3.6, Comment 5.

Commonwealth v. _____ Docket no._____ _____
Date received _____
Defense counsel _____

City of Salem, Massachusetts
Police Department Headquarters
95 Margin Street
Salem, Massachusetts 01970
(978) 744-2204

Mary E. Butler
Chief of Police

June 18, 2020

Officer Timothy Beaupre
36 Atkins Street
Lynn, MA 01904

Re: **Disciplinary Hearing Scheduled**

Dear Officer Beaupre:

In accordance with Massachusetts General Laws, Chapter 31, §41, I have a scheduled a hearing before me, your appointing authority, to determine whether or not there is just cause for the termination of your employment with the City of Salem Police Department. The hearing has been scheduled for ***Thursday, June 25, 2020 at 10:30 a.m.*** at the Salem Police Station, 95 Margin Street. You will remain on paid administrative leave through and including the date of the hearing. See the attached letter that placed you on Administrative Leave effective January 16, 2020.

The reason for seeking the termination of your employment stems from your both your actions and your statements regarding several concerning interactions with members of the public, misuse of authority, systems and equipment, misrepresentation of facts, unapproved deviation from your responsibilities and conduct that is beyond the acceptable standards for a Salem Police Officer. All of these incidents occurred between 2018 and 2020 and constitute numerous violations of certain rules and regulations, policies and procedures of the Salem Police Department, Code of Massachusetts Regulations (CMR) and Massachusetts General Laws (MGL).

On November 26, 2019, Captain Kate Stephens, Patrol Division Commander, sent you and Officer Randy an email ordering you both to submit a report to her concerning information that she received regarding you and Officer picking up a female in the cruiser, while on duty, and driving her around. The female in question was In your report, you acknowledge that this did occur after Ms. texted Officer and that you picked her up at the and brought her home and this took no longer than five minutes. You acknowledged that this was done without following proper policy and protocols that required you obtain a supervisor's permission and call in your location and starting/ending mileage when transporting a citizen in the cruiser. This action was in direct violation of the Rules and Regulations of the Department, specifically, I. Department Property and Equipment, s. 7. Transporting Citizens.

During Lt. Bona's interview with she reported that you texted her within minutes of receiving the email from Captain Kate Stephens on November 26, 2019, concerning her order for you and Officer to write a report about driving her around in the cruiser. She advised that you told her that she was going to receive a phone call about driving her around in the cruiser and that you told her to lie. She further reported that you had a sexual relationship with her.

In December of 2019, a complaint was brought to the attention of one of our Superior Officers by the wife of an area Police Officer regarding some concerning behavior involving you and a Ms. of . It was at this time that I requested Detective Lieutenant Stephen Bona to initiate an internal investigation into the alleged incident(s) and any other information that was revealed in the course of this investigation.

It appears that on October 26, 2019, you had cause to respond to a disturbance/loud party at at approximately 02:29am. See attached report, SPD . During this call you were advised by the Street Sergeant to issue a City of Salem Ordinance citation to Ms. who was hosting the party. After taking her MA Driver's License, you proceeded outside to your cruiser to record and then issue Ms. the citation. Through the investigation, she advised Lt. Bona that you "friend requested" her on Facebook within ten minutes of being at the residence. You acknowledged that you did this and that you "know it's inappropriate and it's wrong". She states, she reluctantly accepted because you were a police officer and because you advised her that if anything else happened at her apartment within the next 24 hours she could be arrested. You stated you did not say this. She further advised that "the next day", which was really the same day but later in the early evening hours, about 6:00pm, you sent her a message requesting to stop by.

Ms. said she reluctantly allowed you in and because you are a police officer, she felt compelled to allow you to enter her residence. She advised that you entered the apartment, went to the refrigerator and took out a soda, grabbed a bag of cookies and went into her bedroom and laid on the bed and put on the television while conversing with her. She said you received a call and you left to respond, but advised you would come back. You did come back after the call in which you proceeded to advise her that is was a mental health issue with a transgender person; information she should not have been provided, due to the knowledge of the location of the call when hearing it over the radio when you were dispatched. She told Lt. Bona that she asked you when you first arrived if you were supposed to be out patrolling and you advised her that "Patrol was easy and that you could do whatever you wanted because no one checked on you". Ms. roommate, Ms. confirmed these statements, including how Ms. became nervous every time you texted her because she felt she had to respond.

Ms. advised Lt. Bona that you contacted her several times over the next few weeks advising her that she should go out more often. She stated that you also came around another time and spoke to a roommate, who worked at the She advised that you told this woman that the Salem Police Department wanted nothing else to do but close down the Refer to the investigative report for further details.

I find these actions and statements to be violations of the rules and regulations of the Salem Police Department, specifically, D. Conflict of Interest, s. 8. Use of Official Position; F. Required Conduct, s. 10 Devotion to Duty; s. 12 Reporting for Duty and G. Prohibited Conduct, s. 1. Conduct Unbecoming an Officer; s. 16. Neglect of Duty; s. 19. Personal Business and s. 29. Undue Influence.

Additionally, the manner in which you initiated contact and subsequently developed a relationship with Ms. occurred in the performance of your official duties as a municipal police officer and constitutes a violation of the Massachusetts Conflict of Interest Law (MGL Ch. 268A § 23 – Supplemental Provisions; Standards of Conduct). I note that you had received required training on Conflict of Interest and received a certificate of completion on April 24, 2019.

During the course of the investigation, Lt. Bona also discovered that while you were at the Richdale store at 72 Loring Avenue on or about June 23, 2019, you observed a customer, a young female, inside the store. After leaving the store, you ran the customer's license plate and engaged in a motor vehicle stop, pulling up alongside her. This customer was identified as who told Lt. Bona that you advised her that her registration was expired. Ms. said she advised you she lived right there on Jefferson Avenue, which you knew from running her license plate and you let her go with a verbal warning. Given that you "friend requested" her on Facebook later that night, it appears that your actions were simply to identify the female and attempt to start a relationship with her. Ms. told Lt. Bona that you messaged her to go out for a drink, though she declined and you asked again at another point. She was concerned about upsetting you because you were a police officer and knew where she lived. See the investigative report for further details. I find these actions and statements were a violation of the rules and regulations of the Salem Police Department, specifically, D. Conflict of Interest, s. 8. Use of Official Position; and G. Prohibited Conduct, s. 3. Abuse of Department Property; s. 7. False Information on Reports; s. 11. Incurring Department Liability; s. 19. Personal Business and s. 29. Undue Influence. It is also a violation of the Policies and Procedures of the Department, specifically, Chapter 82.5, Portable Electronics, Cell Phones and Mobile Data Terminals. You are well aware of CJIS access requirements and restrictions, having been trained on the system, and required to abide by the terms of service every time you log into the CJIS system, see enclosures. I find your misuse of the CJIS system to be a violation of 803 CMR 7.09 (Prohibited access to the CJIS).

Lt. Bona also had an opportunity to speak with a Ms. about Ms. Ms. stated that Ms. had asked her for some advice about an issue she had with you. Ms. told Ms. that she spoke to a police officer who advised that Ms. should report the issue to the Police Department. Ms. said she personally knew you through a cousin, but hadn't seen you since you went into the military; however, one recent summer she said you showed up at her house "out of the blue" while in uniform and on duty. She said that you called her to determine if you had the right address and she said she doesn't recall ever giving you the address. She said you came in and stated it was "awkward" and at one point you removed your gun from your holster and put it on the table. After that she said you showed up frequently at the salon where she works complimenting her and asking her out for

drinks. Lt. Bona noted that you ran Ms. personal information through CJIS six times between February 2018 and October 2019. See the investigative report for further details. I find these actions and statements were a violation of the Rules and Regulations of the Salem Police Department, specifically, D. Conflict of Interest, s. 8. Use of Official Position; F. Required Conduct, s. 10 Devotion to Duty; s. 12 Reporting for Duty and s. 14. Care and Security of Firearms and G. Prohibited Conduct, 7. False Information on Records; s. 16. Neglect of Duty; s. 19. Personal Business and s. 29. Undue Influence. It is also a violation of the Policies and Procedures of the Department, specifically, Chapter 82.5, Portable Electronics, Cell Phones and Mobile Data Terminals. Furthermore, I find your misuse of the CJIS system to be a violation of 803 CMR 7.09 (Prohibited access to the CJIS).

During the investigation, it came to Lt. Bona's attention that there was an incident at 74 Lawrence Street involving you and Officer Officer was friendly with one of the residents, a Ms. Ms. invited Officer over for drinks after work and he brought you to the house as Ms. had a friend there too. At some point, Officer reports leaving to get more beer and you remained at the house. When Officer returned approximately 30 minutes later, he advised you were outside sitting on the curb. Officer reports that he went to the house to ask what happened and the two women told him you were trying to have a "threesome with them" and they asked you to leave. See the investigative report for further details.

During the interviews, the name of another woman came up during the investigation, a Ms. and possible information about your relationship with Ms. who was a bartender at the and During the investigation, Lt. Bona spoke with Ms. who related she first met you at in December of 2018 when you went to during work to pick up food and you forgot your credit card. She said that you told her that Officer would call in with his credit card to pay for the food. She said she told you that will take care of it because, "you guys are good to us". Ms. said she received a Facebook request from you later that night or the following day.

Ms. stated it was in January of 2019 when she had the next contact with you when you pulled her over on a motor vehicle stop near her apartment on after she left when her shift ended. She believes you must have run her registration in the past to know who she was. Ms. stated that upon approaching her in the car that you "gave (her) crap" for running three stop signs. She said you let her go without issuing a citation and she drove home. Ms. related that approximately 30 minutes after the stop, you messaged her via Facebook joking about pulling her over and then asked if you could come by the house. She said this was approximately 3:00 a.m. or 4:00 a.m. Ms. said you did come by the apartment and stayed a while until you received a dispatched call for service and had to leave.

It should be noted that according to CJIS records, you ran Ms. registration on January 16, 2019 at 0149 hours and again at 0312 hours.

Ms. then told the investigators that you would know when she was home and would go to her house. At some point, you both became sexually involved. Ms. advised that this occurred about 20 times and these liaisons occurred almost always during a time when you were working. She believes there may have been one time when you were not working. Ms. said you would park the cruiser in front of the house and leave the car running. She said when you were at her apartment and involved in a sexual encounter, you would leave your gun belt on the floor or the table. These occurrences happened between January 2019 and June 2019 at which time things became strained between the two of you. Ms. advised she learned you were married and confronted you and you advised her you were separated from your wife. She recalled an a time when your wife called while you were at her apartment asking when you would be home and when she asked why she would call and ask that if you were separated, you stated it was just to see the kids. She said she also learned that you were involved with other "girls" and you got upset when she brought it up. She said on one occasion, she observed you "hooking up with another girl in the girl's car", just down the street from her apartment. She stated this girl was who she knew from the

Ms. related that she started seeing someone else and you got upset and it was at this time that she also found out that she was pregnant. She stated when she told you, you replied, "it better not be mine". Ms. also stated that you would tell her that you were a police officer and that you "can fuck with her" and "get with anyone". She described you as a narcissist and one that abuses his power. She also stated that you both messaged on Facebook around February 4, 2020. See the investigative report for more details.

I find you in violation of the Rules and Regulations of the Salem Police Department, specifically, D. Conflict of Interest, s. 8. Use of Official Position; F. Required Conduct, s. 10 Devotion to Duty; s. 12 Reporting for Duty and s. 14. Care and Security of Firearms and G. Prohibited Conduct, s. 3. Abuse of Department Property; s. 7. False Information on Reports; s. 10. Incompetence; s. 11. Incurring Department Liability; s. 16. Neglect of Duty; s. 19. Personal Business and s. 29. Undue Influence. It is also a violation of the Policies and Procedures of the Department, specifically, Chapter 82.5, Portable Electronics, Cell Phones and Mobile Data Terminals. I find your misuse of the CJIS system to be a violation of 803 CMR 7.09 (Prohibited access to the CJIS).

Your actions and statements as documented in the attached investigative report regarding all the above described incidents violates the Rules and Regulations, Policies and Procedures of the Salem Police Department, the Code of Massachusetts Regulations (CMR) and Massachusetts General Laws (MGL), in particular, the following:

Rules and Regulations of the Salem Police Department

A. **Introduction** (paragraph 2)

"The delivery of police services to a community is a unique and complex undertaking. It requires police officers who possess a high degree of stability, sound judgment, physical and moral courage, fidelity and personal integrity. It requires that police officers conduct themselves at all times within the limitations of their police authority. They cannot act outside of, above or

beyond their lawful authority and any abuse of their police powers violates the authority entrusted to them".

D. Conflict of Interest

8. Use of Official Position – Officers shall not use their official position, department identification cards or badges: (b) for obtaining privileges not otherwise available to them except in the performance of duty

F. Required Conduct

10. Devotion to Duty: All officers, while on duty, shall devote their full time and attention to the service of the Department and to the citizens of the community. They shall remain awake and alert at all times while on duty.

12. Reporting for Duty: All officers shall report for duty promptly at the time and place required by their assignment or as otherwise directed by the Chief or their commanding officer. They shall be properly uniformed and suitably equipped, ready to immediately assume their duties. While on duty they shall avoid any activities not directly related to their police responsibilities and shall not absent themselves from duty without leave.

14. Care and Security of Firearms: All officers shall maintain their service firearms in good working order at all times and report any damage, loss or unserviceable condition immediately to their commanding officer. All officers shall be personally responsible for the security and safekeeping of their firearms at all times and shall not alter or repair any part of their service firearms without the approval of the Chief or their commanding officer.

G. Prohibited Conduct

1. Conduct Unbecoming an Officer: The commission of any specific act or acts of immoral, improper, disorderly or intemperate personal conduct which reflects discredit upon the officer himself, upon his fellow officers or upon the Department.

3. Abuse of Department Property: Intentionally or negligently abusing, defacing, misusing, damaging or losing Department property or equipment.

5. Department Vehicles, Use of: Officers shall not use any department vehicle without the permission of a Commanding Officer, or drive any department vehicle to which they have not been assigned, except in an emergency. Department vehicles shall not be used for personal business or pleasure.

7. False Information on Records: An officer or employee shall not make or submit any false or inaccurate reports or knowingly enter or cause to be entered into any departmental books, records, or reports any inaccurate, false or improper information.

10. Incompetence: An officer shall maintain sufficient competency to perform his duty and to assume the responsibilities of his position. Incompetence may be demonstrated, but is not limited to the following:

b) An unwillingness or inability to perform assigned tasks;
c) The failure to conform to work standards established for the officer's rank, grade or position;

11. Incurring Department Liability: An officer or employee shall not incur a liability chargeable to the Police Department without the prior knowledge and consent of the Chief.

16. Neglect of Duty: Being absent from assigned duty without leave; leaving post or assignment without being properly relieved; or failing to take suitable and appropriate action when any crime, public disorder or other incident requires police attention or service.

19. Personal Business: Officers while on duty or while in uniform, shall not conduct personal business, purchase any alcoholic beverages or purchase and carry any conspicuous amounts of merchandise, unless required in the performance of duty.

29. Undue Influence: An officer or employee shall not seek or obtain the influence or intervention of any person outside the Department for the purposes of personal preferment, advantage, transfer or advancement.

I. Department Property and Equipment

7. Transporting Citizens: Citizens shall be transported in Department vehicles only when necessary to accomplish a police purpose. Such transportation shall be in conformance with Department policy or at the direction of the Chief, the Commanding Officer or the Street Supervisor.

Salem Police Department Policies and Procedures

Chapter 82.5 Portable Electronics, Cells Phones and Mobile Data Terminals

This policy governs the operation of mobile data computing equipment, portable electronic equipment, Ipads®, lap tops and cellular phones that are both issued by the Salem Police Department and personally owned.

82.5.1 Operation

A. Each mobile user shall be assigned a unique username and password, and shall use only his/her assigned username and password.

B. Each mobile user shall check the mobile data equipment (computer, radio, and modem) at the beginning of each tour of duty and report any problems or damage to a supervisor.

C. All individuals who have access to CORI / CHSB / RMV information must be trained, tested, and certified in accordance with Criminal History Systems Board Policy.

82.5.2 Security and Safety

A. No computer equipment will be left unsecured while logged into the system. All users shall take appropriate security measures to prevent unauthorized access to the system.

B. Access and use of the Department's mobile computing equipment is strictly restricted to official law enforcement purposes.

Code of Massachusetts Regulations (CMR) 7.09 (Prohibited Access to the CJIS):

7.09: Prohibited Access to the CJIS

(1) The CJIS shall not be accessed for any non-criminal justice purpose. The only non-criminal justice purpose for which a user may access the CJIS is training. When using the CJIS for training purposes, users shall use the test records provided by the DCJIS. Users shall not run test records or train with their own personal information or with the personal information of another real individual.

(2) The CJIS shall only be accessed for authorized criminal justice purposes, including: (a) criminal investigations, including motor vehicle and driver's checks; (b) criminal justice employment; (c) arrests or custodial purposes; (d) civilian employment or licensing purposes as authorized by law and approved by the FBI; and (e) research conducted by the CJA.

Massachusetts General Law (Ch. 268A § 23 – Supplemental Provisions; Standards of Conduct):

(3) act in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy his favor in the performance of his official duties, or that he is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person. It shall be unreasonable to so conclude if such officer or employee has disclosed in writing to his appointing authority or, if no appointing authority exists, discloses in a manner which is public in nature, the facts which would otherwise lead to such a conclusion;

In addition to the above violations, your actions demonstrate a disturbing, continual, pattern of behavior that is ethically deficient, as it is not activity that meets the expected standards of an Officer of the Salem Police Department, and, in fact, it places members of the Salem community at risk in multiple ways.

Your prior disciplinary action, though somewhat irrelevant to the current charged violations cited above, occurred on August 28, 2019, a verbal reprimand for violating the rights of one of our Latino residents, as you described because you have poor handwriting. See enclosure.

A copy of the internal investigation report, along with supporting documentation, will be provided to you prior to the scheduled hearing. Attached hereto, you will find the following documents that are referred to in this letter:

- SPD Administrative Leave Letter dated January 16, 2020
- SPD Case # 19-31032
- Certificate of Completion – Conflict of Interest Law dated April 24, 2019
- Certificate of Completion – CJIS and NCIS Training dated February 27, 2019
- CJIS Log-in and Terms of Service
- Verbal Reprimand Documentation dated August 28, 2019
- Mass. General Laws Chapter 31, Sections 41 through 45

Please be advised that you may be represented by an attorney or other union representative and you are entitled to bring any information to the hearing which you believe is appropriate and pertinent to the determination of whether there is just cause to terminate your employment with the City of Salem Police Department. Copies of Mass. General Laws Chapter 31, Sections 41 through 45 are attached, for your review.

Sincerely,

Mary E. Butler
Chief of Police

cc: Kimberley L. Driscoll, Mayor
Lisa Cammarata, Human Resources Director
Victoria Caldwell, Assistant City Solicitor
William Riley, President, Salem Police Patrolmen's Association

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE
DISTRICT ATTORNEY FOR THE ESSEX DISTRICT
SALEM NEWBURYPORT LAWRENCE

JONATHAN W. BLODGETT

Ten Federal Street
Salem, Massachusetts 01970

TELEPHONE
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FAX (978)741-4971

DISCLOSURE

Pursuant to its obligation to disclose potential impeachment material, this Office discloses that the following officer, who completed a report and/or is an anticipated witness in the below-identified case, is being prosecuted in connection with the following case:

2019 [redacted] Newburyport (Dispatcher) Larceny under $1200 GC
Probation 1 year, restitution, sa/nc w/vic [redacted]

The docket is available on MassCourts. This information constitutes Criminal Offender Record Information, G.L. c. 6, § 167, subject to the protections set forth in G.L. c. 6, § 178. The disclosure is not a concession that the information is admissible. Admissibility is a fact-dependent inquiry in the Court's discretion. See Mass. G. Evid. §§ 609 and 403 and Notes.

RECEIPT

I hereby certify that I have received this information in connection with the following case

Commonwealth v. _____ Docket no. _____

Defense counsel_____

Date received_____

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE
DISTRICT ATTORNEY FOR THE ESSEX DISTRICT
SALEM NEWBURYPORT LAWRENCE

JONATHAN W. BLODGETT

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DISCLOSURE

Pursuant to its obligation to disclose potential impeachment material, this Office discloses that Peabody Police Officer [redacted] who prepared a report or is an anticipated witness in this case, was prosecuted in connection with the following case:

Commonwealth v. [redacted]

In the case, [redacted] admitted to sufficient facts on a charge of improper storage of a firearm.

The docket is available on Mass Courts. This information constitutes Criminal Offender Record Information, G.L. c.6, § 167, subject to the protections set forth in G.L. c. 6, § 178. This disclosure is not a concession that the information is admissible. For the purpose of impeachment, a conviction "means a judgment that conclusively establishes guilt after a finding, verdict, or plea of guilty." Forcier v. Hopkins , 329 Mass. 668, 670 (1953), and cases cited. Thus, a case that is continued without a finding, with or without an admission, is not a conviction and may not be used for impeachment . See Commonwealth v. Pon, 469 Mass. 296, 298 (2014); Commonwealth v. Norwell , 423 Mass. 725, 726 (1996); Commonwealth v. Jackson, 45 Mass. App. Ct. 666, 670 (1998). Any information concerning his resultant suspension from the force should be sought via summons under Mass. R. Crim. P. 17.

RECEIPT

I hereby certify that I have received this information in connection with the following case

Commonwealth v. _____ Docket no. _____

_____

Defense counsel

_____

Date received

THE COMMONWEALTH OF MASSACHUSETTS
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DISCLOSURE RE: LYNNFIELD POLICE OFFICER STEPHEN CONLEY

This Office has been provided with the following information related to Lynnfield Police Officer Stephen Conley, a possible witness in this case:

1. A December 18, 2019 internal affairs investigation sustained allegations that Officer Conley a) was untruthful when questioned by his superior about his use of marijuana; and b) violated departmental rules by using marijuana.

2. The District Court in Portsmouth NH issued a restraining order naming Officer Conley as defendant for the time period between August 22, 2019 to August 21, 2020. Case # 670-2019-DV-00046. The plaintiff was his then fiancé, who made allegations of domestic abuse.

Such information is generally not admissible under Massachusetts law, Mass. G. Evid. 608 (b) ("In general, specific instances of misconduct showing the witness to be untruthful are not admissible for the purpose of attacking or supporting the witness's credibility"). This Office nevertheless provides the information in an excess of caution under a broad reading of its obligation to disclose potential impeachment material.

The records themselves may contain information implicating privacy and confidentiality concerns including but not limited to:

- information identifying a domestic violence victim/cooperating witness, G.L. c. 41 § 97D and G.L. c. 4 § 7 c. 26 (f);
- information implicating the privacy interests of the officers and/or third parties, G.L. c. 4 § 7, cl 26 (c);

Records in the possession of the Lynnfield Police may be sought via a Mass. R. Crim P. 17 summons, pursuant to the procedure outlined in Commonwealth v. Wanis, 426 Mass. 639 (1998)(detailing mechanism and showing required to obtain police internal affairs records).

If any order of disclosure issues, this office will seek an appropriate protective order under Mass. R. Crim. P. 14(a)(6).

RECEIPT

I hereby certify that I have received this information in connection with the following case Commonwealth v. _____ Docket no. _____ Date received _____

_____
Defense counsel

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE
DISTRICT ATTORNEY FOR THE ESSEX DISTRICT
SALEM NEWBURYPORT LAWRENCE

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DISCLOSURE RE: FORMER MSP TROOPER [redacted] #[redacted]

This Office has learned the following information concerning the above individual, who prepared a report and/or is an anticipated witness in this case:

An internal affairs investigation sustained charges that former Trooper [redacted], inter alia, 1) used "inappropriate force" during a stop and arrest on February 22, 2019, in particular, a kick to the head of a prone and handcuffed suspect; 2) exhibited "poor weapon handling skills" by "causing the muzzle of his firearm to be pointed at the head and upper body of a prone handcuffed suspect"; and 3) failed to complete a use of force report. See Attached charge sheet and report excerpt.

Tpr. [redacted] retired while the IA case was pending and, as a result, received a dishonorable discharge on June 8, 2021. See Attached Personnel order.

In connection with this incident Tpr. [redacted] was indicted for ABDW (to wit, shod foot). Suffolk Superior Court no. [redacted]

This Office discloses the information pursuant to its obligation to disclose potential impeachment material. See In the Matter of Grand A Jury Investigation, 485 Mass. 641 (2020). This disclosure is not a concession that the information is admissible in any given case. See id. at 652

Additional records in the possession of the Massachusetts State Police related to this internal affairs investigation may be sought from them via a Mass. R. Crim P. 17 summons. Commonwealth v. Wanis, 426 Mass. 639 (1998)(detailing mechanism and showing required to obtain police internal affairs records).

RECEIPT

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Commonwealth v. _____ Docket no._____ _____
Date received _____
Defense counsel _____

Department of State Police

PERSONNEL ORDER

Issue Date: Tuesday, June 08, 2021	**Number:** 21PER349
Subject: RETIREMENT	

In accordance with M. G. L. and the Rules and Regulations governing the Massachusetts State Police, the below-named officer is Dishonorably Discharged by reason of retirement under the provisions of Chapter 32, Section 26, Subdivision 2, Paragraph(a), Clause(i) and Section 94 of the General Laws, as amended, effective as of the close of business on Tuesday, June 08, 2021:

[redacted]. **(ID #** [redacted]**) Trooper**

OFFICIAL:

CHRISTOPHER S. MASON
Colonel/Superintendent

CHARGE SHEET

Charge I

Violation of Article 5.8 of the Rules and Regulations for the governance of the Department of State Police, to wit: **Unsatisfactory Performance**

Specification I

In that Trooper [redacted], Massachusetts State Police, Division of Field Services, SP-Boston (H-4), on or about February 22, 2019, in the city of Boston, did demonstrate an unwillingness or inability to perform an assigned task; and/or failed to conform to work standards established for the member's rank, title, or position; and/or failed to take appropriate action on the occasion of a crime, disorder, or other condition deserving State Police attention. This occurred when Trooper [redacted] exhibited poor weapon-handling skills during the arrest of a subject. This action is in direct violation of Article 5.8.2. This is a Class "A" violation. **(A)**

Specification II

In that Trooper [redacted], Massachusetts State Police, Division of Field Services, SP-Boston (H-4), on or about February 22, 2019, in the city of Boston, did demonstrate an unwillingness or inability to perform an assigned task; and/or failed to conform to work standards established for the member's rank, title, or position; and/or failed to take appropriate action on the occasion of a crime, disorder, or other condition deserving State Police attention. This occurred when Trooper [redacted] used a level of force that was not objectively reasonable during the arrest of a subject. This action is in direct violation of Article 5.8.2. This is a Class "A" violation. **(A)**

Charge II

Violation of Article 5.1 of the Rules and Regulations for the governance of the Department of State Police, to wit: **Violation of Rules**

Specification I

Violation of Policy and Procedure UOF-03 of the written directives for the governance of the Department of State Police, to wit: **Reports**

In that Trooper [redacted], Massachusetts State Police, Division of Field Services, SP-Boston, on or about February 22, 2019, in the city of Boston, did commit an act which constituted a violation of Massachusetts State Police Policy and Procedure. This occurred when Trooper [redacted] failed to submit a SP 376 Use of Force Report subsequent to a reportable use of force incident. This action is in direct violation of Policy and Procedure UOF-03, and therefore Article 5.1. This is a second offense Class "D" violation. **(D)**

[redacted]

RECOMMENDATIONS

138. After a thorough and comprehensive investigation and a review of all available information contained within this report, I respectfully request that Internal Affairs Investigation 2019-0011 be closed with the following findings:

A. Regarding the complaint that Trooper [redacted], #[redacted] during the stop and arrest of [redacted] in the city of Boston on Friday, February 22, 2019, operated his State Police cruiser to make deliberate contact with a suspect vehicle to affect a traffic stop in a manner contrary to Massachusetts State Police Policy and Procedure TRF-04, there is insufficient evidence to prove or disprove the complaint. **NOT SUSTAINED**

B. Trooper [redacted], #[redacted], during the stop and arrest of [redacted] in the city of Boston on Friday, February 22, 2019, exhibited poor weapon-handling skills, causing the muzzle of his firearm to be pointed at the head and upper body of a prone handcuffed subject, the complaint is supported by sufficient evidence to prove employee misconduct. **SUSTAINED**

C. Regarding the complaint Trooper [redacted], #[redacted], during the stop and arrest of [redacted] in the city of Boston on Friday, February 22, 2019, utilized an inappropriate force by delivering a kick to the head of a compliant, handcuffed subject lying face down in the roadway, the complaint or incident is supported by sufficient evidence to prove employee misconduct. **SUSTAINED**

D. Regarding the complaint Trooper [redacted], #[redacted], did not complete and submit a Use Of Force Report as required by Massachusetts State Police Policy and Procedure UOF-03 for the force he employed, specifically a kick to the head of a prone and handcuffed subject, during the arrest of [redacted] in the city of Boston on Friday, February 22, 2019, the complaint or incident is supported by sufficient evidence to prove employee misconduct. **SUSTAINED**

Respectfully submitted,

Captain Daniel G. Richard, #2564
Massachusetts State Police
Office of Professional Integrity and Accountability
Commanding

THE COMMONWEALTH OF MASSACHUSETTS
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DISCLOSURE RE: MASSACHUSETTS STATE POLICE TROOPER MARTIN COOKE

This Office has been notified by Counsel to the Massachusetts State Police, of the following

Trooper Martin Cook on December 27, 2018, in the town of Danvers, did demonstrate an unwillingness or inability to perform an assigned task; and/or failed to conform to work standards established for the member's rank, title or position. This occurred when Trooper Cooke, during an interview with Lieutenant Taliaferro, did not answer correctly to questions about his actions subsequent to receiving the report of a motor vehicle crash.

This Office is not in possession of the Internal Affairs files themselves.

Such information is generally not admissible under Massachusetts law, Mass. G. Evid. 608 (b) ("In general, specific instances of misconduct showing the witness to be untruthful are not admissible for the purpose of attacking or supporting the witness's credibility"). This Office nevertheless provides the information in an excess of caution under a broad reading of its obligation to disclose potential impeachment material.

The records themselves may be obtained by motion pursuant to Commonwealth v. Wanis, 426 Mass. 639 (1998)(detailing showing required to obtain police IA records). If any order of disclosure issues, this office will seek an appropriate protective order under Mass. R. Crim. P. 14(a)(6).

RECEIPT

I hereby certify that I have received this information in connection with the following case
Commonwealth v. _____ Docket no. _____

Date received _____

_____

Defense counsel

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE
DISTRICT ATTORNEY FOR THE ESSEX DISTRICT
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July 28, 2021

DISCLOSURE RE: FORMER LYNN POLICE OFFICER [redacted]

Former Lynn Police Officer [redacted], who prepared report or is a possible witness in this case, was accused in an unrelated case of using excessive force in the course of processing an arrestee in the Lynn Police station cell block on June 16, 2020. On June 25, 2020, while an internal affairs investigation into the matter was ongoing, [redacted] resigned. The arrestee's case, Lynn District Court no. [redacted], has since been nol prossed.

An internal affairs investigation concluded that [redacted] used excessive force against the arrestee and did not act consistently with the Lynn Police Department's Use of Force Policy. It also concluded that [redacted] violated reporting requirements by not including in his supplemental report certain applications of force by him on the arrestee. This Office referred the matter to a special prosecutor, Daniel Bennett, for purposes of an independent review to evaluate possible criminal charges.

As a result of that review, the matter was submitted to a clerk magistrate, and a charge of assault and battery issued against the former officer. [redacted], [redacted]. The case concluded with a 2 year CWOF on July 27, 2021. The docket is available on Mass Courts. This information constitutes Criminal Offender Record Information, G.L. c. 6, § 167, subject to the protections set forth in G.L. c. 6, § 178. The disclosure is not a concession that the information is admissible. Admissibility is a fact-dependent inquiry in the Court's discretion. See Mass. G. Evid. §§ 609 and 403 and Notes.

RECEIPT

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Commonwealth v. _____Docket no. _____

_____
Defense counsel

_____
Date received

THE COMMONWEALTH OF MASSACHUSETTS
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DISCLOSURE RE: FORMER LYNN POLICE OFFICER [redacted]

Former Lynn Police Officer [redacted], who prepared report or is a possible witness in this case, was accused in an unrelated case of using excessive force in the course of processing an arrestee in the Lynn Police station cell block on June 16, 2020. On June 25, 2020, while an internal affairs investigation into the matter was ongoing, [redacted] resigned. The arrestee's case, Lynn District Court no. [redacted], has since been nol prossed.

This Office is in possession of materials pertaining to the the internal affairs investigation into the excessive force allegation, and pertaining to whether [redacted] violated reporting requirements by not including in his supplemental report certain applications of force by him on the arrestee. This Office referred the matter to a special prosecutor, Daniel Bennett, for purposes of an independent review to evaluate possible criminal charges.

As a result of that review, the matter was submitted to a clerk magistrate, and a charge of assault and battery issued against the former officer. [redacted], [redacted]. The docket is available on Mass Courts. This information constitutes Criminal Offender Record Information, G.L. c. 6, § 167, subject to the protections set forth in G.L. c. 6, § 178. The disclosure is not a concession that the information is admissible. Admissibility is a fact-dependent inquiry in the Court's discretion. See Mass. G. Evid. §§ 609 and 403 and Notes.

The internal affairs materials contain information implicating privacy and confidentiality concerns including but not limited to: criminal offender record information concerning unrelated defendants, G.L. c. 6, § 167, et. seq.; information identifying cooperating witnesses, G.L. c. 4 § 7 c. 26 (f); allegations of police misconduct that were not sustained, G.L. c. 4 § 7, cl. 26 (c); and material that would prejudice an ongoing criminal proceeding.

In view of these confidentiality concerns and the ongoing criminal matter, the materials will be disclosed only upon a Court order. See Commonwealth v. Wanis, 426 Mass. 639 (1998)(detailing showing required to obtain police internal affairs records). In connection with any order of disclosure, the Commonwealth intends to seek an appropriate protective order pursuant to Mass. R. Crim. P. 14(a)(6).

RECEIPT

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Commonwealth v. _____Docket no. _____

_____
Defense counsel

_____
Date received

THE COMMONWEALTH OF MASSACHUSETTS
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DISCLOSURE RE: NORTH ANDOVER POLICE OFFICER ADRIAN CUEVAS

This Office has been provided with NAPD Internal Affairs "("IA") records related to Off. Cuevas, who wrote a report or is an anticipated witness in this case, reflecting the following:

1. A February 2020 investigation sustained allegations that he had an improper relationship with a domestic violence victim in a case he investigated in late 2018 and that he was untruthful concerning the timeframe of that relationship and whether he engaged in conduct while on duty.

2. An August 2019 investigation sustained allegations that he was dishonest concerning whether he called a defendant, and violated other NAPD policies including, inter alia, contacting another law enforcement agency without permission and using his personal cell phone for police business.

Such information is generally not admissible under Massachusetts law, Mass. G. Evid. 608 (b) ("In general, specific instances of misconduct showing the witness to be untruthful are not admissible for the purpose of attacking or supporting the witness's credibility"). This Office nevertheless provides the information pursuant to its obligation to disclose potential impeachment material.

The records themselves contain substantial information implicating privacy and confidentiality concerns including but not limited to:

- information identifying a domestic violence victim/cooperating witness, G.L. c. 41 § 97D and G.L. c. 4 § 7 c. 26 (f);
- information implicating the privacy interests of third parties and allegations against Off. Cuevas that were not sustained, see G.L. c. 4 § 7, cl 26 (c);
- criminal offender record information pertaining to unrelated defendants, G.L. c. 6, § 167, et. seq.

Because of this, and doubts concerning its relevance and materiality, the records themselves will be disclosed only upon an order issued pursuant to Mass. R. Crim P. 17 and Commonwealth v. Wanis, 426 Mass. 639 (1998)(detailing proper mechanism to obtain IA records) and pursuant to an appropriate protective order, Mass. R. Crim. P. 14(a)(6).

RECEIPT

I hereby certify that I have received this information in connection with the following case Commonwealth v. _____ Docket no._____
_____ Date received _____
_____

Defense counsel

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE
DISTRICT ATTORNEY FOR THE ESSEX DISTRICT
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DISCLOSURE

Pursuant to its obligation to disclose potential impeachment material, this Office discloses that former MSP Trooper [redacted], who prepared a report or is an anticipated witness in this case, was prosecuted in connection with the following case:

[redacted] [redacted]

The docket is available on Mass Courts. This information constitutes Criminal Offender Record Information, G.L. c.6, § 167, subject to the protections set forth in G.L. c. 6, § 178. This disclosure is not a concession that the information is admissible. Admissibility is a fact dependent inquiry in the Court discretion. See Mass. G. Evid. §§ 609 and 403 and Notes.

RECEIPT

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Defense counsel

_____

Date received

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April 15, 2021

DISCLOSURE RE: MASSACHUSETTS STATE POLICE SERGEANT [redacted]

This Office has been informed by Massachusetts State Police Counsel of the following information concerning the above-named individual, who prepared a report and/or is an anticipated witness in this case:

On January 31, 2021 [redacted] *was charged with the following criminal offenses in Exeter, New Hampshire:*

- *Domestic Violence, Assault (Felony)*
- *Domestic Violence, Assault (Misdemeanor)*
- *Domestic Violence, Obstruct Report of Crime/Inj.*
- *Criminal Tresspass*
- *Disobeying an Officer*
- *Reckless Operation*

See [redacted] *Rockingham Superior Court* [redacted]. *The charges stem from an incident on January 29, 2020.*

On that same date the alleged victim in this matter obtained an emergency order of protection against [redacted]*, which was served to him in hand on January 31, 2021. The Department has also opened an internal affairs investigation into these allegations as well.* [redacted]*'s duty status hearing was held on February 4, 2021. After hearing,* [redacted] *was suspended without pay.*

Press reports indicate that he was indicted and held as dangerous.

[redacted]

[redacted]main-jailed-in-exeter-[redacted]

This Office discloses the information pursuant to its obligation to disclose potential impeachment material. See In the Matter of Grand A Jury Investigation, 485 Mass. 641, 2020 WL 5360068 *7-8 (2020).

Additional records in the possession of the Massachusetts State Police may be sought via a Mass. R. Crim P. 17 summons, pursuant to the procedure outlined in Commonwealth v. Wanis, 426 Mass. 639 (1998)(detailing mechanism and showing required to obtain police internal affairs records).

RECEIPT

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Commonwealth v. _____ Docket no._____ _____ Date received _____

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DISCLOSURE

Pursuant to its obligation to disclose potential impeachment material, this Office discloses that the following officer, who completed a report and/or is an anticipated witness in the below-identified case, is being or has been criminally prosecuted in connection with the following case:

2020 [redacted] Danvers OUI PENDING [redacted] On paid leave

The docket is available on MassCourts. This information constitutes Criminal Offender Record Information, G.L. c. 6, § 167, subject to the protections set forth in G.L. c. 6, § 178. The disclosure is not a concession that the information is admissible. Admissibility is a fact-dependent inquiry in the Court's discretion. See Mass. G. Evid. §§ 609 and 403 and Notes.

RECEIPT

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Commonwealth v. _____ Docket no. _____

Defense counsel_____

Date received_____

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September 28, 2021

DISCLOSURE RE: MARBLEHEAD OFFICER CHRISTOPHER GALLO

This Office has learned the following information concerning the above individual, who prepared a report and/or is an anticipated witness in this case: On September 22, 2021, this Office was provided with a notice of suspension. The notice reflects that an internal affairs investigation ("IA") was initiated following an incident on July 26, 2021 involving Off. Gallo, who was off duty. The incident involved an allegation of domestic abuse against Off. Gallo which was recanted by the person alleging it, and ultimately determined by the internal affairs investigation to be unfounded. However, Off. Gallo was found to have violated several departmental rules and regulations in the course of the incident and the ensuing IA. Specifically:

Conduct unbecoming an officer The IA concluded that Off. Gallo "was not being truthful so as to diminish the seriousness of the situation."

Cooperation with investigations The IA concluded that Off. Gallo "failed to fully cooperate with the investigation by omitting relevant facts that were brought to light by eye witnesses also present during the days event and incident[]."

Falsifying records The IA concluded "[The Chief] assigned Detective Sergeant Sean Brady to conduct an internal affairs investigation, tasked with providing [the Chief] a report of his finding of facts and recommendations. He conducted an interview with [Off. Gallo] on August 12, 2021 at the station, of which his findings were reduced to a report. [Off. Gallo's] omissions, and inconsistent account of the day's events during [his] interview, amount to falsifying an official record."

Off duty use of alcohol The IA concluded that Off. Gallo used alcohol on the date of the incident to the point that it affected his decision-making, in violation of the requirement that "Officers shall not use alcoholic beverages off duty to the extent that their conduct is obnoxious or offensive and discredits them or the department."

Criminal conduct The IA concluded the "Evidence does not support a crime was committed under the criminal court standard, or the discipline standard (which is much lower). *However, [Off. Gallo's] interactions with the female party, and her statements alleging domestic abuse, both during and after the incident, is concerning and puts into question [Off. Gallo's] reputation, and that of the department's. This has become a pattern between yourself and the female party, of which involves violence and disorderly behavior."*

Effective August 23, 2021, Office Gallo was suspended without pay for five days. Upon his return, he was placed on administrative leave with pay until further notice. This Office has been informed that Off. Gallo has appealed the disciplinary action.

This Office discloses the information pursuant to its obligation to disclose potential impeachment material. See In the Matter of Grand A Jury Investigation, 485 Mass. 641 (2020). This disclosure is not a concession that the information is admissible in any given case. See id. at 652

The notice, which amounts to a report of domestic violence protected by G.L c. 41 s. 97D, and references minor witnesses to the incident, will be provided only upon a court order subject to an appropriate protective order. Additional records in the possession of the Marblehead Police Department related to this internal affairs investigation may be sought from them via a Mass. R. Crim P. 17 summons. Commonwealth v. Wanis, 426 Mass. 639 (1998)(detailing mechanism and showing required to obtain police internal affairs records).

RECEIPT

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Commonwealth v. _____ Docket no._____ _____
Date received _____
Defense counsel _____

THE COMMONWEALTH OF MASSACHUSETTS
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FAX (978)741-4971

DISCLOSURE

Pursuant to its obligation to disclose potential impeachment material, this Office discloses that Lawrence Police Office [redacted], who completed a report and/or is an anticipated witness in the below -identified case, is being prosecuted in connection with the following case:

2020 [redacted] Lawrence Domestic AB [redacted]

The docket is available on MassCourts. This information constitutes Criminal Offender Record Information, G.L. c. 6, § 167, subject to the protections set forth in G.L. c. 6, § 178. This disclosure is not a concession that the information is admissible. Admissibility is a fact-dependent inquiry in the Court's discretion. See Mass. G. Evid. §§ 609 and 403 and Notes.

RECEIPT

I hereby certify that I have received this information in connection with the following case

Commonwealth v. _____ Docket no. _____

Defense counsel_____

Date received_____

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE
DISTRICT ATTORNEY FOR THE ESSEX DISTRICT
SALEM NEWBURYPORT LAWRENCE

JONATHAN W. BLODGETT

Ten Federal Street
Salem, Massachusetts 01970

TELEPHONE
VOICE (978)745-6610
FAX (978)741-4971

DISCLOSURE

Pursuant to its obligation to disclose potential impeachment material, this Office discloses that former Lynn Police Lieutenant [redacted] who prepared a report or is an anticipated witness in this case, was prosecuted in connection with the following case:

[redacted]

The docket is available on Mass Courts. This information constitutes Criminal Offender Record Information, G.L. c.6, § 167, subject to the protections set forth in G.L. c. 6, § 178. This disclosure is not a concession that the information is admissible. Admissibility is a fact dependent inquiry in the Court discretion. See Mass. G. Evid. §§ 609 and 403 and Notes.

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Defense counsel

_____

Date received

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DISCLOSURE RE: CRIMINAL CONVICTION OF POLICE OFFICER OR TROOPER

Pursuant to its obligation to disclose potential impeachment material, this Office discloses that the follwing Trooper, who prepared a report or is an anticipated witness in the below identified case, was prosecuted and convicted in the following case:

2014 [redacted] MSP OUI causing SBI GUILTY Neg. Op., 2 yrs. Probation [redacted] Worcester prosecuted

This information constitutes Criminal Offender Record Information, G.L. c. 6, § 167, subject to the protections set forth in G.L. c. 6, § 178. This disclosure is not a concession that the information is admissible. Admissibility is a fact dependent inquiry in the Court's discretion. See Mass. G. Evid. §§ 609 and 403 and Notes.

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Defense counsel

THE COMMONWEALTH OF MASSACHUSETTS
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DISCLOSURE RE: FORMER PROBATIONARY TROOPER COREY LEE

Massachusetts State Police Counsel has informed this Office of the following information concerning the above individual, who prepared a report and/or is an anticipated witness in this case:

> *On or about November 1, 2020, the Department of State Police became aware of video footage containing an interaction between an unidentified individual and probationary Trooper Corey Lee. The video contains footage of Trooper Lee directing racial slurs at the unidentified individual. Trooper Lee was off-duty at the time of the incident. When the Department became aware of the video footage, the Department terminated Trooper Lee's employment. During his time as a probationary Trooper, Trooper Lee was assigned to State Police Barracks A-6 (Danvers).*

This Office is not in possession of the video footage or any further information regarding this incident.

This Office discloses the information pursuant to its obligation to disclose potential impeachment material. See In the Matter of Grand A Jury Investigation, 485 Mass. 641, 2020 WL 5360068 *7-8 (2020).

Additional records in the possession of the Massachusetts State Police may be sought via a Mass. R. Crim P. 17 summons, pursuant to the procedure outlined in Commonwealth v. Wanis, 426 Mass. 639 (1998)(detailing mechanism and showing required to obtain police internal affairs records).

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APRIL 26, 2021

DISCLOSURE REGARDING INITIATION OF INVESTIGATION INTO MEMBERS OF THE LYNN POLICE DEPARTMENT

On December 3, 2020, a complaint issued charging a Lynn Police officer with assault and battery on a pregnant victim, domestic assault and battery, and threats. Salem District Court no. [redacted]. Following a review of materials obtained in the course of the investigation, this Office determined that it did not have sufficient credible evidence to prove the criminal case at trial, and therefore could not ethically proceed with the prosecution. Accordingly, on April 12, 2021, the Commonwealth entered a nolle prosequi in the case.

In the course of its investigation into that matter, this Office uncovered possible evidence of unrelated misconduct by certain Lynn Police officers. On April 13, 2021, this Office provided this information to the Lynn Police Department, which promptly initiated an internal investigation into the matter. The LPD has informed this office that, effective Thursday, April 15, 2021, seven officers were placed on administrative leave pending an investigation by Professional Standards:

- Officer John Clem III
- Officer Jonathan Mills
- Officer Shane Melisi
- Officer Dante Vinciarelli
- Officer Michael Chalmers
- Officer Joseph Ricupero
- Officer Joseph Plessas

To date, this Office is aware that the investigation includes allegations of use of inappropriate language in a private text conversation among two of the officers and use of illegal drugs by the officers. See attached release.

The LPD's investigation remains active and ongoing and is expected to take several weeks at a minimum. The LPD will promptly advise this Office of the results of its investigation, and, in turn, this Office will make any necessary disclosures in criminal cases in which the officer(s) prepared report(s) or are potential witnesses. Matter of Grand Jury Investigation, 485 Mass. 641, 658 (2020).

RECEIPT

I hereby certify that I have received this information in connection with
Commonwealth v. _____ Docket no._____ _____
Date received _____
Defense counsel _____

City of Lynn Police Department

300 Washington Street, Lynn, Massachusetts 01902-4718 (781) 595-2000 Fax (781) 477-7069

Leonard E. Desmarais
Deputy Chief of Police

Elizabeth A. Polonsky
Confidential Assistant

Michael P. Vail
Deputy Chief of Police

For immediate release:

The Lynn Police Department recently received information from another law enforcement agency regarding allegations of inappropriate conduct by several officers. These officers were placed on administrative leave and an investigation was immediately opened. The Lynn Police Department Professional Standards Division is conducting the investigation which includes the use of inappropriate language used by two officers in a private text conversation. The media reports that seven officers are being investigated for the intended violence towards Black people is not accurate. There has been no evidence discovered at this point in the investigation to support the media reports of intended violence against any racial group. The Lynn Police Department has spoken to the Essex County District Attorney's Office regarding the matter and will conduct a transparent investigation into the conduct.

THE COMMONWEALTH OF MASSACHUSETTS
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DISCLOSURE

Pursuant to its obligation to disclose potential impeachment material, this Office discloses that the following officer, who completed a report and/or is an anticipated witness in the below-identified case, is being prosecuted in connection with the following case:

2019 [redacted] Peabody Domestic AB strang, 209A PENDING
[redacted], [redacted], [redacted] terminated from police force

The docket is available on MassCourts. This information constitutes Criminal Offender Record Information, G.L. c. 6, § 167, subject to the protections set forth in G.L. c. 6, § 178. The disclosure is not a concession that the information is admissible. Admissibility is a fact-dependent inquiry in the Court's discretion. See Mass. G. Evid. §§ 609 and 403 and Notes.

RECEIPT

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Defense counsel_____

Date received_____

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DISCLOSURE RE: HAVERHILL POLICE OFFICER CHRISTOPHER PAGLIUCA

This Office has been informed by the Haverhill Police Department of the following information concerning Off. Pagliuca, who prepared a report or is an anticipated witness in this case. An Internal Affairs investigation reflect that he responded to a single vehicle crash on March 24, 2012. In connection with this incident, he was suspended for five days based upon findings that he violated three departmental rules:

1. Rule 130 Departmental Reports – "Reports submitted shall be truthful and complete"

2. Rule 111- Unsatisfactory Performance - "Officer shall perform their duties in a manner that will maintain the highest standards of efficiency"

3. Cannon of Police Ethics Article X – "They shall ascertain what constitutes evidence"

Such information is generally not admissible under Massachusetts law, Mass. G. Evid. 608 (b) ("In general, specific instances of misconduct showing the witness to be untruthful are not admissible for the purpose of attacking or supporting the witness's credibility"). This Office nevertheless provides the information under a broad reading of its obligation to disclose potential impeachment material. See In the Matter of Grand A Jury Investigation, 485 Mass. 641, 2020 WL 5360068 *7-8 (2020).

The records themselves contain information implicating confidentiality concerns including but not limited to:

- criminal offender record information pertaining to an unrelated defendant, G.L. c. 6, § 167, et. seq.
- information whose public release may impair the ability of police departments to conduct these critical investigations. Worcester Telegram & Gazette Corp. v. Chief of Police of Worcester, 58 Mass. App. Ct. 1, 11 n. 10 (2003); Globe Newspaper Co. v. Police Comm'r, 419 Mass. 852, 859 (1995)
- information that may qualify as personnel files or information, G.L. c. 4 § cl. 26 (c).

The IA records themselves should be sought from the police department via a summons under Mass. R. Crim. P. 17 and Commonwealth v. Wanis, 426 Mass. 639 (1998)(detailing proper mechanism and showing required to obtain IA records). Should any order of disclosure issue, the Commonwealth will seek an appropriate protective order, Mass. R. Crim. P. 14(a)(6).

RECEIPT

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Date received _____
Defense counsel _____

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SALEM NEWBURYPORT LAWRENCE

JONATHAN W. BLODGETT

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DISCLOSURE RE: TROOPER [redacted]

Pursuant to its obligation to disclose potential impeachment material, this Office discloses that the below Police Officer or Trooper, an anticipated witness in this case, was prosecuted in the following case:

[redacted] **LEWD, WANTON & LASCIVIOUS CONDUCT c272 §53**

The charge was dismissed on November 8, 2019. This office is in possession of police reports in the criminal matter and internal affairs records pertaining to the allegations that were the basis of the above criminal complaint. Dismissed criminal charges are generally not admissible. This Office nevertheless provides the information in an excess of caution under a broad reading of its obligation to disclose potential impeachment material.

The records themselves contain substantial information implicating privacy and confidentiality concerns including but not limited to:

• personal information concerning cooperating witnesses, G.L. c. 4 § 7 c. 26 (f);

• information implicating the privacy interests of third parties and Tpr. [redacted], see G.L. c. 4 § 7, cl 26 (c);

Because of this, and doubts concerning its relevance and materiality, the records themselves will be disclosed only upon an order issued pursuant to Mass. R. Crim P. 17 and Commonwealth v. Wanis, 426 Mass. 639 (1998)(detailing proper mechanism to obtain IA records) and pursuant to an appropriate protective order, Mass. R. Crim. P. 14(a)(6).

RECEIPT

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Commonwealth v. _____ Docket no. _____

Date received _____

_____

Defense counsel

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DISCLOSURE RE: FORMER MSP TROOPER ANDREW PATTERSON

Upon inquiry to MSP counsel, this Office has been provided the following additional information regarding former Tpr. Patterson, who prepared a report and/or is an anticipated witness in the below identified case.

"Andrew Patterson ID No. 3856: Patterson retired before any final determination was issued in his two open IA cases. Preliminary determinations were made by the investigating detective, however he never accepted discipline nor elected to have a trial board. As a result, the cases have been held in abeyance and there is no final finding of guilt/ culpability. . . [T]he following preliminary determinations were made by the IA investigator:

> *IA Case No. 2019-0024 (Las Vegas Incident): Two (2) Charges of General Conduct Violation where Trooper Patterson was publicly intoxicated and ID"ed himself as a State Trooper and when he used profanity and referred to an employee as a "clown". Three (3) violations of Conformance to Laws where Trooper Patterson pushed a woman, knocked the hat off the head of a Casino employee, and caused public annoyance or alarm by using aggressive/ profane language towards a Casino employee while making physical contact with that employee.*
>
> *IA Case No. 2019-0023 (Gillette Stadium Incident): Two (2) violations of general misconduct where Trooper Patterson was publicly intoxicated and acted inappropriately at Gillette Stadium and made a voluntary statement to the media outside of the Wrentham District Court. Two (2) violations of Conformance to Laws where Trooper Patterson exposed himself at Gillette Stadium and failed to notify his supervisor of the incident at Gillette Stadium. One (1) violation of Truthfulness where Trooper Patterson was untruthful when making a public statement to the media outside the Wrentham District Court.*

Such information is generally not admissible under Massachusetts law, Mass. G. Evid. 608 (b) ("In general, specific instances of misconduct showing the witness to be untruthful are not admissible for the purpose of attacking or supporting the witness's credibility"). This Office nevertheless provides the information under a broad reading of its obligation to disclose potential impeachment material. See In the Matter of Grand A Jury Investigation, 485 Mass. 641, 2020 WL 5360068 *7-8 (2020).

Records in the possession of the MSP may be obtained via Mass. R. Crim. p. 17 upon a proper showing. See Commonwealth v. Wanis, 426 Mass. 639 (1998)(detailing proper mechanism and showing required to obtain IA records). To the extent these records are sought and obtained, this Office will seek an appropriate protective order, Mass. R. Crim. P. 14(a)(6).

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THE COMMONWEALTH OF MASSACHUSETTS
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DISCLOSURE RE: FORMER SWAMPSCOTT POLICE OFFICER JOEL PIMENTEL

This Office has learned the following information concerning the above individual, who prepared a report and/or is an anticipated witness in this case:

An internal affairs investigation sustained charges that Officer Pimentel had used illicit narcotics while employed as a Swampscott Police Officer. A charge that Officer Pimental lied to Captain Joe Kable during the investigation of that allegation was determined to be "unfounded." On or about August 12, 2021, Officer Pimental submitted his resignation, effective September 24, 2021.

This Office discloses the information pursuant to its obligation to disclose potential impeachment material. See In the Matter of Grand A Jury Investigation, 485 Mass. 641 (2020). This disclosure is not a concession that the information is admissible in any given case. See id. at 652

Records in the possession of the Swampscott Police related to this internal affairs investigation may be sought from the Swampscott Police via a Mass. R. Crim P. 17 summons. Commonwealth v. Wanis, 426 Mass. 639 (1998)(detailing mechanism and showing required to obtain police internal affairs records).

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DISCLOSURE RE: WEST NEWBURY OFFICER KYLE ROY

This Office has been informed by the West Newbury Police Department of the following information concerning Off. Roy, who prepared a report or is an anticipated witness in this case. An Internal Affairs investigation resulted in a written reprimand related to his conduct in a February 26, 2018 motor vehicle stop. The report summary states:

> *Summary: Officer Kyle Roy handled this situation poorly and his actions have reflected poorly on his judgement and ability to be forthright. I recommend a written letter of reprimand be placed in his file for his handling of this situation. The main issues are;*
>
> *1. Officer Kyle Roy failed to investigate fully the information provided by the R.M.V. regarding the specific make, model and type of vehicle he had stopped verses what was shown on the M.D.T. By scrolling down he could have found the accurate information regarding the vehicle he stopped.*
> *2. Officer Roy towed a vehicle without cause due to the above oversight.*
> *3. Officer Roy failed to report these issues to an immediate supervisor in a timely fashion when he became aware of the mistake he made.*
> *4. Officer Roy did not complete an incident report regarding this incident in a timely fashion, and deleted the arrest report he had initially opened regarding this motor vehicle stop.*

Such information is generally not admissible under Massachusetts law, Mass. G. Evid. 608 (b) ("In general, specific instances of misconduct showing the witness to be untruthful are not admissible for the purpose of attacking or supporting the witness's credibility"). This Office nevertheless provides the information under a broad reading of its obligation to disclose potential impeachment material. See In the Matter of Grand A Jury Investigation, 485 Mass. 641, 2020 WL 5360068 *7-8 (2020).

The IA records themselves should be sought from the WNPD pursuant to Mass. R. Crim P. 17 and Commonwealth v. Wanis, 426 Mass. 639 (1998)(detailing proper mechanism and showing to obtain IA records). Should any order of disclosure issue, the Commonwealth will seek an appropriate protective order, per Mass. R. Crim. P. 14(a)(6).

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Defense counsel _____

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DISCLOSURE RE: ESSEX RESERVE OFFICER JUSTIN SYMONDS

This Office has learned the following information concerning the above individual, who prepared a report and/or is an anticipated witness in this case:

An internal affairs investigation found that

> Officer Symonds did in fact put on his time card and detail slip that he started the ASAP Manchester detail at 2200 hours, when in actuality he did not report to the detail until he cleared his Essex patrol Shift at Midnight. This resulted in Officer Symonds being paid by both the town of Essex as well as the Town of Manchester (National Grid) for two overlapping hours, 2200 hours-0000 hours at $81.00 per hour.
>
> RECOMMENDATION: SUSTAINED

This Office discloses the information pursuant to its obligation to disclose potential impeachment material. See In the Matter of Grand A Jury Investigation, 485 Mass. 641 (2020). This disclosure is not a concession that the information is admissible in any given case. See id. at 652 ("As to whether the prior misconduct is probative of how the officer conducts police investigations, a judge may consider whether the misconduct reflects a willingness to lie to win a conviction or instead involves matters that, although serious, do not bear on the integrity of police investigations, such as taking unauthorized sick time or inflating overtime hours.")

Any additional records in the possession of the Essex Police Department may be sought via a Mass. R. Crim P. 17 summons, pursuant to the procedure outlined in Commonwealth v. Wanis, 426 Mass. 639 (1998)(detailing mechanism and showing required to obtain police internal affairs records).

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District Attorney

Ten Federal Street
Salem, Massachusetts 01970

DISCLOSURE RE: METHUEN POLICE OFFICER [redacted]

This Office has been provided with information showing that

1. Officer [redacted] had a domestic violence order of protection issue against him in New Hampshire on August 27, 2019, No [redacted]. The order, which contains findings on the credibility of Off. [redacted]'s testimony, is attached.

2. Officer [redacted] has been criminally charged with domestic assault in connection with this incident. Rockingham Superior Court NO. [redacted]. A case summary as of March 25, 2021 is attached.

This information may constitute Criminal Offender Record Information, G.L. c. 6, § 167, subject to the protections set forth in G.L. c. 6, § 178. The disclosure is not a concession that the information is admissible. Admissibility is a fact dependent inquiry in the Court's discretion. See Mass. G. Evid. §§ 609 and 403 and Notes.

RECEIPT

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Commonwealth v. _____ Docket no._____
_____ Date received _____

_____
Defense counsel

THE STATE OF NEW HAMPSHIRE

JUDICIAL BRANCH

Tenth Circuit-Family Division-Salem

Docket No. [redacted]

In the Matter of: and [redacted]

ORDER

The parties appeared before the court regarding Plaintiff's Domestic Violence Petition. She was self-represented. Defendant had counsel. Both parties testified. The court also reviewed police reports and Plaintiff's statement to Salem, NH police.

The reliable evidence disclosed the following set of circumstances. Plaintiff testified that she was in a bedroom-not one that the parties shared-watching television. Defendant entered the room and the parties engaged in or continued an argument. Defendant told the Plaintiff to go to another room to watch television. The argument then focused on the dog and whether he needed more water. During the argument, Plaintiff acknowledged that she spit at the Defendant. Defendant pushed the Plaintiff and she apparently fell onto the bed. She righted herself and attempted to run from the room. She nearly tripped over a fan and cut her leg. Defendant struck the Plaintiff in the face and side of her head, causing bruising and a laceration on her nose. She eventually was able to get out of the house. Salem police were summoned and Defendant was arrested.

Defendant testified that he never struck Plaintiff; that she fell over the fan and sustained the injuries described in the previous paragraph. He stated that Plaintiff had several alcoholic drinks and her condition clouded her memory. He alleged that Plaintiff was the aggressor. Salem police found, and this court so finds, that Defendant was the aggressor.

The court specifically finds that Defendant struck the Plaintiff in the face and side of her head causing injury to her.

RECOMMENDED:

See accompanying Domestic Violence Final Order of Protection.

8/23/19
Date

Bruce F. DalPra, Master

I hereby certify that I have read the recommendation and agree that, to the extent that the marital master has made factual findings, he has applied the correct legal standard to the facts determined by the marital master.

So ordered:

8/27/19
Date

Judge
Hon. Robert S. Stephen

ROCKINGHAM SUPERIOR COURT

CASE SUMMARY

CASE NO. [redacted]

State v. [redacted]

§
§

Location: **Rockingham Superior Court**
Judicial Officer: **Honigberg, Martin P**
Filed on: **10/28/2020**
Protective Order Number: [redacted]

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	**Criminal**	
Jurisdiction: **Salem**						
1. DV; Simple Assault; Physical Contact	631:2-b,I(a)	MISDA	07/21/2019	Case Status:	**10/28/2020**	**Pending**

ChargeID: [redacted] ACN: [redacted]
Arrest: 07/21/2019 SALM - Salem Police Department

Related Cases
[redacted] (Transfer from Another Court)

Bonds
Cash $250.00
11/5/2020 Posted
Counts: 1

PARTY INFORMATION

		Attorneys
Defendant	[redacted] *White Male Height 5' 10" Weight 225* *DOB: [redacted] Age: 52* *DL: NH [redacted]*	
Prosecutor	**Rockingham County Attorney** *P.O. Box 1209* *Kingston, NH 03848-1209*	**Peters, Patricia L** *Retained* 603-642-4249(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX
10/28/2020	District Court Appeal *Charges: 1*	*Index #1*
10/28/2020	Complaint *Charges: 1*	*Index #3*
10/28/2020	Other *Paperwork from Salem Circuit Court*	*Index #4*
10/28/2020	Bond *$250.00 cash or corporate surety* *Charges: 1*	*Index #2*
10/30/2020	Criminal Bail Protective Order *Charges: 1*	*Index #5*
10/30/2020	Transmit Protective Order	*Index #6*
10/30/2020	Notice of Appeal from Circuit Court *Env. #1399225 and mailed to defendant*	*Index #7*

Charges: 1

11/13/2020	Appearance Filed by: Prosecutor Rockingham County Attorney *Patricia Peters, ESQ for the State*	*Index #8*
11/23/2020	Withdrawal Filed by: Attorney LaFlamme, Jr., Gerard R., ESQ *Gerard LaFlamme for defendant*	*Index #9*

TARGET DATE	TIME STANDARDS
03/27/2021	DCA Speedy Trial
01/27/2021 ****Overdue****	Felonies First Receipt of Indictment

DATE	FINANCIAL INFORMATION	
	Defendant [redacted] Criminal Cash Bail Balance as of 3/25/2021	**250.00**

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DISCLOSURE RE: FORMER MARBLEHEAD OFFICER TIMOTHY TUFTS

This Office has learned the following information concerning the above individual, who prepared a report and/or is an anticipated witness in this case:

According to a December 23, 2020 press report (link below), Tufts resigned, effective sometime in mid-December 2020, after allegedly carving a swastika into a fellow officer's personal vehicle in late June or early July of 2019. According to the report, Marblehead Police Chief Robert Picarriello promised "an independent administrative review and an outside independent report 'so that we can learn all of the facts of this incident and include it in our training programs.'" See https://jewishjournal.org/2020/12/23/marblehead-police-officer-resigns-after-allegedly-carving-swastika-on-fellow-officers-car/

This Office is not in possession of further records or information regarding this incident.

This Office discloses the information pursuant to its obligation to disclose potential impeachment material. See In the Matter of Grand A Jury Investigation, 485 Mass. 641 (2020). This disclosure is not a concession that the information is admissible in any given case.

Any additional records in the possession of the Marblehead Police may be sought via a Mass. R. Crim P. 17 summons, pursuant to the procedure outlined in Commonwealth v. Wanis, 426 Mass. 639 (1998)(detailing mechanism and showing required to obtain police internal affairs records).

RECEIPT

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DISCLOSURE

Pursuant to its obligation to disclose potential impeachment material, this Office discloses that the following officer, who completed a report and/or is an anticipated witness in the below-identified case, is being prosecuted in connection with the following case:

2019 [redacted] Rape, Indecent A&B under 14 PENDING

The docket is available on MassCourts. This information constitutes Criminal Offender Record Information, G.L. c. 6, § 167, subject to the protections set forth in G.L. c. 6, § 178. The disclosure is not a concession that the information is admissible. Admissibility is a fact-dependent inquiry in the Court's discretion. See Mass. G. Evid. §§ 609 and 403 and Notes.

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Commonwealth v. _____ Docket no. _____

Defense counsel_____

Date received_____

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Criminal Action No. 03-10220-MEL

UNITED STATES OF AMERICA, Plaintiff, v. SEAN BUCCI and CATHERINE BUCCI, Defendants.	Day Six of Jury Trial

BEFORE: The Honorable Morris E. Lasker,
Senior District Judge

John J. Moakley United States Courthouse
Courtroom No. 8
One Courthouse Way
Boston, Massachusetts 02210
Thursday, February 22, 2007
9 a.m.

Marcia G. Patrisso, RPR, CRR
Official Court Reporter
John J. Moakley U.S. Courthouse
One Courthouse Way, Room 3507
Boston, Massachusetts 02210
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Mechanical Steno - Computer-Aided Transcript

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- And -

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I N D E X

	DIRECT	CROSS	REDIRECT	RECROSS
WITNESSES FOR THE GOVERNMENT:				
ERIC CARBONE				
By Mr. Levitt	13		113	
By Ms. Byrne		55		
By Mr. Sinsheimer		92		
LEIGHA A. GENDUSO				
By Mr. Levitt	118/170			
By Ms. Byrne			211	

E X H I B I T S

Government's Exhibit No.	Description	For ID	In Evd.
No. 82	Court order		119
No. 45B	Business cards		179
No. 113	Money order		201
Defendant No. 1 Exhibit No.			
Exhibit F	Letter dated 2/6/07		241
Exhibit G	Letter		244
Defendant No. 2 Exhibit No.			
Exhibit E	T-shirt	99	100

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(The following proceedings were held in open court before the Honorable Morris E. Lasker, United States District Senior Judge, United States District Court, District of Massachusetts, at the John J. Moakley United States Courthouse, One Courthouse Way, Boston, Massachusetts, on February 22, 2007.

The defendants, Sean Bucci and Catherine Bucci, are present with counsel. Assistant U.S. Attorneys Peter K. Levitt and John P. McAdams are present.)

THE CLERK: All rise.

THE COURT: Good morning, everyone.

VOICES: Good morning, your Honor.

THE COURT: Please be seated. I've come in before the jury because I understand the elder Mr. Bucci is here, and I'm ready to proceed with him.

Mr. Bucci, sir, I understand that it's possible that you may take the stand as a witness in this case today?

MR. WILLIAM BUCCI: Correct.

THE COURT: And I want to be sure that you understand what your legal rights are. I also want you to understand, although I assume you do, that any person who testifies falsely subjects himself to the possibility of prosecution and imprisonment on perjury charges.

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MR. WILLIAM BUCCI: Oh, I understand that.

THE COURT: Are you aware of that?

MR. WILLIAM BUCCI: Right.

THE COURT: And in that connection, if you wish me to appoint counsel to advise you as to how to proceed here -- and I'm not suggesting that any testimony of yours won't be correct; you may want to clear it with someone -- I'm prepared to do that. It's entirely up to you.

MR. WILLIAM BUCCI: I don't think it's necessary.

THE COURT: Is anybody else asking me to do anything further?

MR. LEVITT: Yes, your Honor. The issue is not simply that he could be liable -- could be subject to prosecution for perjury. Mr. Bucci is named in the indictment. It is alleged that he committed criminal conduct in the indictment; therefore --

THE COURT: Can you hear this, Mr. Bucci?

MR. WILLIAM BUCCI: Yes, I can.

MR. LEVITT: Therefore, he has direct exposure -- not just for perjury, but direct exposure -- for criminal conduct as alleged in the indictment. It is this issue specifically that we ask the Court to advise Mr. Bucci specifically as to his rights under the

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Fifth Amendment.

THE COURT: What counsel has said is that not only do you risk the possibility of being prosecuted if you don't testify accurately, but you're actually named as a person involved here and that you may be questioned about that, and if you make misstatements about that, you would be subject to prosecution.

MR. WILLIAM BUCCI: I heard that, yes.

THE COURT: Are you satisfied with that?

MR. LEVITT: Again, your Honor, not to belabor the point, but it's not just misstatements. If he testifies truthfully as to conduct that is alleged in the indictment, he could be exposing himself to criminal conduct. That's the point.

THE COURT: According to counsel, they believe that even if you testify truthfully as to what's stated in the indictment against you -- not against you but as to you -- that you may expose yourself as a result of that testimony to prosecution.

Have I got it correct this time?

MR. LEVITT: That's correct, your Honor. So I would just ask that the Court advise him of his Fifth Amendment rights with respect to those issues.

THE COURT: I will advise you of your Fifth Amendment right that you are not obligated to testify.

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Nobody can require you to testify.

Do you understand that?

MR. WILLIAM BUCCI: I do.

THE COURT: I'm satisfied, gentlemen, he's in a clear-minded condition, seems to understand what I'm saying to him, has been advised of his rights. If there is anybody in the room who wants me to ask Mr. Bucci any more questions for his protection, I will do so; otherwise, it's up to him.

MR. SINNIS: No, your Honor.

MR. SINSHEIMER: Thank you, your Honor.

MR. LEVITT: Thank you, your Honor.

THE COURT: Thank you, sir.

MR. WILLIAM BUCCI: Thank you.

THE COURT: Bring in the jury, please.

MR. SINSHEIMER: Judge, before we bring them in may I address very briefly -- I don't know if this is the time you want to do it, but one of the two witnesses today the government -- actually, I think they're calling three -- one of the two witnesses that is not a financial witness is the woman Leigha Genduso.

THE COURT: Yes.

MR. SINSHEIMER: As the Court recalls, we've had a number of motions in limine all in one way or another, I would suggest, having to do with the Bruton issues.

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And I don't recall that the Court has definitively ruled on them. My recollection is that Court stated we'd sort of play it by ear as they came up. But maybe that puts it a bit colloquially.

THE COURT: I thought I had ruled adversely to your position. And it's always subject to review if there's something stated that causes the issue to arise again.

MR. SINSHEIMER: Judge, I really don't recall that. May I have another minute on the issue, at least as to the one statement that my client knew? I don't think you ruled on that.

MR. LEVITT: Well, your Honor, the issue -- there's two different issues here. One is a motion that was filed where Mr. Sinsheimer said that Ms. Genduso should not be able to testify that based on her observations it was obvious that the mother knew. I told Mr. Sinsheimer we wouldn't bring in that kind of evidence. I told the Court that, because she can't testify as to reading somebody's mind.

THE COURT: Right.

MR. LEVITT: The issue that was the subject earlier of the Bruton motion was Ms. Genduso will testify that she had a conversation with Sean Bucci and that she asked him during the course of the

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conspiracy -- she was a co-conspirator -- she asked him, "Do your parents know what you do?"

THE COURT: Yes.

MR. LEVITT: And he said, "Yes, they know and they don't care."

And that's the issue that I agree with the Court; I think the Court has ruled on.

THE COURT: I did. I ruled in favor of the government on that.

MR. SINSHEIMER: Well, I object respectfully. And I'm glad I cleared it up, though, because I didn't think you ruled on it. I thought that you had said you'd wait and see how the evidence came in. And as I -- again, your Honor, I don't want to belabor something that you've already ruled on, but if you'd give me two sentences.

THE COURT: I'm not preventing you from making an objection to a particular question if you think the situation develops in a different way than the way I understand it to be. But as I understand it to be, I'm denying your application.

MR. SINSHEIMER: Thank you.

MR. LEVITT: Your Honor, we have a couple of issues with respect to testimony and exhibits that the defense has indicated he intends to use with respect to

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William Bucci. They don't need to be addressed right now. They will need to be addressed before he testifies.

THE COURT: All right. I don't want to keep the jury.

Madam clerk, will you please bring down the jury.

(There is a pause.)

LAW CLERK: All rise for the jury.

(Jury in at 9:10 a.m.)

THE COURT: Good morning, ladies and gentlemen.

JURORS IN UNISON: Good morning.

THE COURT: You may be seated. We're ready to proceed.

MR. LEVITT: Your Honor, I would start by moving to admit Government Exhibit 1 -- it is a stipulation of the parties as to drug exhibits -- and I would ask to read it to the jury.

THE COURT: All right.

MR. LEVITT: It is dated February 15, 2007 --

THE COURT: Let me explain to the jury what you're about to read.

A stipulation, ladies and gentlemen, is an agreement by all the parties concerned as to certain facts. They don't need to be proved otherwise; you can

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just accept them as facts as described in the stipulation.

MR. LEVITT: This is signed by all the parties. It's dated February 15, 2007. It's entitled "Stipulation of the Parties as to Drug Exhibits."

"The United States of America and the defendants Sean Bucci, Catherine Bucci, through respective counsel, hereby stipulate and agree as follows: One, that the marijuana residue seized by Special Agent Gregg Willoughby during a search of trash obtained from the curb of 23 Marshall Street, North Reading, Massachusetts, on March 28, 2003, and marked as Exhibit 2, was analyzed by the Drug Enforcement Administration's northeast laboratory and found to contain marijuana;

"Two, that the marijuana residue seized by Special Agent Gregg Willoughby during a search of trash obtained from the curb of 23 Marshall Street, North Reading, Massachusetts, on May 2, 2003, and marked as Exhibit 3, was analyzed by the Drug Enforcement Administration's northeast laboratory and found to contain marijuana;

"Three, that the marijuana residue seized by Special Agent Willoughby during a search of trash obtained from the curb of 23 Marshall Street, North Reading, Massachusetts, on May 2, 2003, and marked as

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Exhibit 4, was analyzed by the DEA's northeast laboratory and found to contain marijuana;

"Four, that the marijuana residue seized by Special Agent Willoughby pursuant to a search warrant executed at 23 Marshall Street, North Reading, Massachusetts, on June 4, 2003, and marked as Exhibit 5, was analyzed by the DEA's northeast laboratory and found to contain marijuana;

"Five, that the marijuana residue seized by Special Agent Willoughby pursuant to a search warrant executed at 23 Marshall Street, North Reading, Massachusetts, on June 4, 2003, and marked as Exhibit 6, was analyzed by the DEA's northeast laboratory and found to contain marijuana;

"Six, that the marijuana residue seized by Special Agent Willoughby pursuant to a search warrant executed at 23 Marshall Street, North Reading, Massachusetts, on June 4, 2003, and marked as Exhibit 7, was analyzed by the DEA's northeast laboratory and found to contain marijuana;

"Seven, that the marijuana residue seized by Special Agent Willoughby pursuant to search warrant executed at 23 Marshall Street, North Reading, Massachusetts, on June 4, 2003, and marked as Exhibit 8, was analyzed by the DEA's northeast laboratory and found

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to contain marijuana;

"Eight, that the marijuana residue seized by Special Agent Willoughby" --

THE COURT: How many more of them are there?

MR. LEVITT: There's 12, your Honor.

THE COURT: I don't see any need to read them all out. The exhibit will describe what's covered.

As you can hear, and I assume understood, as I understand it, it establishes without dispute that the various batches of a substance seized at various times and places was tested by the DEA and found to be marijuana.

MR. LEVITT: That's correct, your Honor. Your Honor, the government calls Eric Carbone.

ERIC CARBONE, sworn

DIRECT EXAMINATION

BY MR. LEVITT:

Q. How old are you, Mr. Carbone?

A. Excuse me?

Q. How old are you?

A. Thirty-three, sir.

Q. Where did you grow up?

A. Danvers, Massachusetts.

Q. How far did you go in school?

A. I graduated college.

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Q. From where?
A. Stonehill College.
Q. When?
A. 1995.
Q. You can pull that microphone closer if that's better for you.
What did you get your degree in?
A. Bachelor of Science in business administration.
Q. You live in Massachusetts now?
A. Yes, sir.
Q. Are you married?
A. Yes, sir.
Q. Children?
A. Yes, sir.
Q. What do you do for work?
A. I'm an exhibit technician.
Q. What does that mean?
A. I work for a company that manufactures and sells trade show exhibits, so I put them together and ship them.
Q. How long have you been doing that?
A. It will be two years this June.
Q. Have you had a problem with alcohol in your life?
A. Yes, sir.
Q. Did that lead at some point to you going to

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Alcoholics Anonymous?
A. Yes, sir.
Q. When was that?
A. 1995.
Q. Why did you do that?
A. I was arrested for operating under the influence of alcohol.
Q. When was that?
A. Sometime in 1995.
THE COURT: '95, right?
THE WITNESS: Yes, sir.
THE COURT: Thank you.
BY MR. LEVITT:
Q. You did the AA program as part of that?
A. Yes, sir.
Q. Have you also used drugs?
A. Yes, sir.
Q. What kind?
A. Marijuana.
Q. When did you start?
A. I tried it once at a young age, 13, and then I basically stopped for a while, and then I picked it up during college and after college.
Q. Have you used any other drugs?
A. Mushrooms, hash.

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Q. Is it fair to say that marijuana was the drug you used the most?
A. I'm sorry. I've used Ecstasy before, too.
Q. What's the drug you've used the most?
A. Most would be marijuana, sir.
Q. You said you picked it up after college?
A. Yes.
Q. You resumed using it after college; is that correct?
A. Yes.
Q. For how long?
A. Five or six years or so.
Q. How often were you smoking?
A. Two or three times a week.
Q. When was the last time you smoked marijuana?
A. I have smoked recently, like two or three weeks ago.
Q. And before then?
A. Maybe a year or two ago. I'm not 100 percent sure.
Q. Did you also sell drugs in your life?
A. Yes, I have.
Q. What kind?
A. Marijuana.
Q. Who was your supplier?
A. Sean Bucci.
Q. Do you see Sean Bucci in the courtroom today?
A. I do, sir.

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Q. Can you point him out?
A. (Witness indicates.)
Q. Can you identify what he's wearing?
A. A blue suit, sir.
Q. And can you identify something else about him?
THE COURT: I'm sorry?
MR. LEVITT: I asked him to identify something else about him because his lawyer's wearing a blue suit, too.
THE WITNESS: He's bald.
MR. LEVITT: May the record reflect that the witness has identified the defendant?
THE COURT: Yes.
BY MR. LEVITT:
Q. How long have you known Sean Bucci?
A. For a period of about 15 or 16 years.
Q. What was your relationship with him?
A. Close friends.
Q. Have you ever had any other marijuana supplier?
A. No, sir.
Q. In 2004 you were interviewed by law enforcement in connection with this case; do you remember that?
A. Yes, sir.
Q. And you were asked if you ever held money for Sean Bucci; do you recall that?

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A. Yes, sir.
Q. And what did you say?
A. I said I did not.
Q. Is that the truth?
A. No, sir.
Q. Why did you lie about that?
A. At the time I was scared. I didn't want to self-incriminate myself, and I didn't know my rights, so I just denied it at first.
Q. Did you subsequently get a lawyer?
A. Yes, sir.
Q. Who's that?
A. Mr. Robert Lewin.
Q. And did you subsequently have another interview, or an interview with the government?
A. Yes, sir.
Q. Let me show you what's been marked as Government Exhibit 81, and I'd ask you to take a look at that and tell me if you recognize it.
A. (Witness complies.)
Q. And is that your signature on the last page?
A. Yes, sir.
Q. And what is this?
A. It's a proffer letter protecting me for that one interview.

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Q. And by the way, I think I said that you were --

MS. BYRNE: Your Honor, may we approach for a moment regarding the witness's status?

THE COURT: Regarding what?

MS. BYRNE: The witness's status.

THE COURT: Fine. I'm trusting you to raise a significant point.

(Discussion at sidebar and out of the hearing of the jury:)

MS. BYRNE: Your Honor, I believe that this witness has just testified that he was given a proffer letter by the government that protects him for only the one session that he had with the government. I believe that this witness is going to testify extensively about his criminal involvement in this case. As I see it, he has no protection, apparently; and therefore, he has a Fifth Amendment right.

We just went through all of this with Mr. Bucci. I don't know why the government hasn't raised this at this time, but this guy is in serious danger of incriminating himself without protection now.

MR. LEVITT: Because I've talked to him and talked to his lawyer about it, and he's talked to his lawyer extensively about it. He'll testify that he understands completely he has no protection, he's talked

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to his lawyer about it repeatedly, and he's prepared to go forward.

THE COURT: On those representations, I'll allow it.

(In open court:)

BY MR. LEVITT:

Q. Mr. Carbone, I believe I misspoke when I said you had been approached initially by law enforcement in 2004. Does this letter reflect -- refresh your recollection as to when you were first contacted by law enforcement? I'd ask you to look at the date of this letter.

A. It must have been 2005, I believe.

Q. Is it your recollection that it was shortly before --

A. Yes.

Q. -- you subsequently came in with your lawyer?

A. Yes. Yes.

Q. Mr. Carbone, what's your understanding of this letter, Government Exhibit 81?

A. My understanding was that that was to protect me from -- in that one meeting.

Q. Was it your understanding -- you subsequently testified before the grand jury; is that correct?

A. Yes, sir.

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Q. Is it your understanding that this letter protected you in the grand jury?
A. It does not protect me in the grand jury.
Q. Have you talked to your lawyer about that?
A. Yes.
Q. And have you talked to your lawyer about whether this letter protects you in your testimony here today?
A. Yes.
Q. And what's your understanding?
A. My understanding is that it does not.
Q. And have you made a conscious decision based on your conversations with your lawyer to come in here and testify anyways?
A. Yes, sir.
Q. Do you have any agreement with the government whatsoever?
A. No, sir.
Q. Has anyone from the government made you any promises?
A. No, sir.
Q. When did you start selling marijuana?
A. Approximately '93. 1993, '94.
Q. Who was your supplier?
A. Sean Bucci.
Q. Where were you living at that time?

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A. I was in school. I lived on campus at Stonehill College.
Q. Where was Sean Bucci living?
A. In an apartment in Salem, Massachusetts.
Q. During this period how many customers did you have?
A. Just one.
Q. Who?
A. A gentleman named Chris Deuschnap (ph).
Q. Who was he? How did you know him?
A. He was a boyfriend of my cousin. A cousin of mine's boyfriend.
Q. During this time period how much marijuana did you buy from Bucci?
A. Basically I was picking up quarter pounds to half pounds.
Q. And how many times did you pick up a quarter pound, a half pound from Bucci during this period?
A. I'd say about a dozen times.
THE COURT: Excuse me. How many?
THE WITNESS: Twelve. Around there.
THE COURT: Thank you.
BY MR. LEVITT:
Q. Did you ever purchase more from Sean Bucci during this period?
A. One time I purchased a pound.

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Q. When was that?
A. Right around either '94 or '95.
Q. And what happened to that?
A. I gave it to Chris. And he later told me that he got ripped off and he couldn't repay me, so I basically stopped dealing with him.
Q. During this period how would you get the marijuana from Sean Bucci?
A. I would just call him up and just arrange to pick it up and bring it to Chris.
Q. Where would you pick it up?
A. In Salem. His apartment.
Q. And during this dozen times or so when you called up Sean Bucci, did he ever not have marijuana to sell you?
A. Not to my recollection.
Q. Did you ever have to wait?
A. Not to my recollection.
Q. So what happened after you lost Deuschnap as a customer?
A. I just continued my college education and I stopped dealing. And then I started redealing maybe in 1999.
Q. Well, after you stopped in 1995, did you still socialize with Sean Bucci?
A. Yes, sir.
Q. Where?

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A. In Salem.
Q. And during this period -- did he move at some point?
A. He used -- in Salem he used to have an apartment on the bottom floor, and then he moved upstairs.
Q. And at some point did he move out of Salem?
A. Yes, sir.
Q. When was that?
A. I believe it was in '98.
Q. So during this period after you stopped dealing with Deuschnap, before Sean Bucci moved, did you still get marijuana from Sean Bucci for personal use?
A. Yes. Through other friends, but yes.
Q. What do you mean, "through other friends, but yes"?
A. People that were living in the apartment with him would buy off of Sean and I would smoke their stuff.
Q. Who else was living in the apartment?
A. I believe a man named Jan Jefgood. And I can't remember if Chris Bleicher was living there or not. I'm not 100 percent sure.
Q. Were there other people around that apartment, Sean Bucci's apartment?
A. Yes.
Q. And you hung around there?
A. Yes.
Q. And smoked marijuana?

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A. Yes.
Q. Who else other than Jan Jefgood hung around the area and smoked marijuana?
A. Jason Carnes, Chris Bleicher, a kid named John Madden, a person named Jason Alane (ph), and another person named Bocerri.
Q. And who supplied the marijuana to all these folks?
A. Sean.
Q. Did you ever see other people come to that apartment while you were hanging out there?
A. Yes.
Q. Could you describe what you saw?
A. Sometimes on a weekend night I would be hanging in the living room of his apartment and I would notice just people coming in and out, a lot of people frequently.
Q. And when they came, where would they go?
A. They would walk straight back into his room.
Q. Into whose room?
A. Sean's.
Q. Did they go in there with anyone?
A. Excuse me?
Q. Did they go in there with anyone?
A. I believe Sean was in there. Usually that one person.
Q. Can you describe what you mean? I'm not quite

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following you.
A. I don't understand -- did they go in there with anybody?
Q. Was there anybody else in the room?
A. Oh, yeah. I believe Sean was in there. Yes.
Q. Okay. And then what would happen?
A. I would just see people walk out.
Q. Did any of those people ever stop and hang out with you guys?
A. Yeah, a few people that knew other people in the apartment would sit down and roll up a joint and smoke.
Q. During this time did you see anything in Sean Bucci's bedroom?
A. I saw a safe there.
Q. Did you see anything in it?
A. Notebooks and a small scale.
Q. Did you ever see money?
A. I must have seen money. Not large amounts.
Q. During this time you were hanging out in Sean Bucci's apartment, did you ever see a large amount of marijuana?
A. One time I did, yes.
Q. Where were you?
A. I was in his apartment in his kitchen and he had a blue tote and he opened it up and it was a good size

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bale or whatever you would call it.
Q. Was anybody else in the kitchen with you?
A. Yeah, a friend of mine named Matt Amadeo.
Q. How much marijuana did Sean Bucci show you at that time?
A. If I had to guess, I would say about 20 pounds.
Q. Is that approximation based on your experience with marijuana?
A. Yeah, an approximation. Yes, sir.
Q. Now, you said that you started selling again; is that correct?
A. Yes, sir.
Q. And that was about when?
A. Around in the '99-2000.
Q. And who was your supplier?
A. Sean Bucci.
Q. Where would you pick up the marijuana?
A. At Marshall Street in North Reading.
Q. I show you Government Exhibit 14. Do you recognize that house?
A. Yes, sir.
Q. What house is that?
A. That is, I believe, 23 Marshall Street, North Reading.
Q. Is that where you picked up the marijuana?

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A. Yes, sir.
Q. Is that where Sean was living?
A. Yes, sir.
Q. Let me show you what's been marked as Government Exhibit 43F. What's that?
A. That's the backyard with the pool. There's a cabana house and a bricked-in grill.
Q. And starting in 1999, how long did you sell marijuana for?
A. Right up until we got arrested.
THE COURT: I didn't hear you.
THE WITNESS: I'm sorry, sir.
Right up until we got arrested in 2003.
BY MR. LEVITT:
Q. During this period of 1998 to 2003, what were you doing for work?
A. I owned a coffeehouse in Beverly, Massachusetts.
Q. What's that called?
A. The Northern Grind Coffeehouse.
Q. Did you own it with anyone else?
A. Yes. A gentleman named John Madden.
Q. During this period 1998 to 2003, how many customers did you have? For your marijuana business, not for the Northern Grind.
A. Approximately I had five or six.

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Q. Who?
A. John Madden, a cousin of his named Russ, a kid named Marcus, another kid named Brendan Cruz, another guy named Anthony, and later on my brother-in-law.
Q. What's his name?
A. Vincent.
Q. Approximately how many times a year during this period were you buying marijuana from Sean Bucci?
A. Anywhere from six to eight times a year.
Q. Did it vary over the years?
A. It varied.
Q. And during this period, approximately how much of the time were you buying from Sean Bucci?
A. That varied, too. Between five and ten pounds.
Q. Did you ever buy any more than ten pounds?
A. Yes.
Q. How much?
A. It might have been up to 15.
Q. How many times?
A. Two, maybe three.
Q. Why?
A. Just to stock up. Sometimes a drought would be coming and I'd be forewarned and I would stock up.
Q. How much was Sean Bucci charging you per pound?
A. I can't remember the exact amount. It was between

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1100 and 1300.

THE COURT: Per what?

THE WITNESS: Per pound. I'm sorry, sir. Per pound.

BY MR. LEVITT:

Q. And how would you pay?

A. I would pay cash.

Q. On delivery or was it fronted to him?

A. Always on delivery.

Q. And how much were you selling it for?

A. Basically I marked it up $100 a pound.

Q. Where would you pick up the marijuana from Sean Bucci during this period?

A. North Reading.

Q. At 23 Marshall Street?

A. Yes, sir.

Q. Where specifically?

A. It varied, but usually in that middle room right above the garage. The middle set of three windows.

Q. Over here?

A. Yes, sir.

Q. Where else? You said it varied.

A. I remember one time it was just in one of his kitchen cubbies. It was all in a brown bag, and I just picked it up there. And a couple of times I picked up

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down in his basement.
Q. Could you describe this room above the garage?
A. It was kind of set up like an office. There were a couple of chairs in there, small table with a money counter. I believe there was a safe in there. And then there was a closet. I don't know what was in the closet, though.
Q. Did you ever help Sean Bucci process marijuana during this period?
A. Yes.
Q. How many times?
A. It could have been around three to five times.
Q. Where did you do that?
A. Basically in -- I believe it was in the room right behind the garage. There was a door behind the garage. And it was kind of like the basement.
Q. To the right or left when you walk in?
A. When you walk in to the right behind the garage.
Q. Can you describe what you saw on those occasions?
A. A large amount of marijuana; a big triple beam scale, I guess you would call it; and boxes of Ziploc bags.
Q. How many bales did you see on those occasions?
A. Between ten and 20.
Q. And what did you do?

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A. Well, he would ask me to break it up and just fill the one-gallon Ziploc bag, and he would weigh it out.
Q. Do you know how much each of the bales weighed?
A. No, sir.
Q. Did they have any markings on them?
A. They did have numbers on them, yes, sir.
Q. Do you understand those to be the amounts they weighed?
A. Yes, sir.
Q. Do you recall what those numbers were?
A. Ten jumps out in my head, but I'm not exactly 100 percent sure what the numbers said.
Q. Can you describe how the bales were packaged?
A. They were shrink-wrapped.
Q. Do you know how often Sean Bucci was getting deliveries of marijuana during this time?
A. I believe it was like once a month.
THE COURT: How do you know that?
THE WITNESS: That's what he would tell me.
BY MR. LEVITT:
Q. Who told you that?
A. Sean. I would either call him or he would call me.
Q. Can you describe what you mean?
A. I would call him and say, "How's things going?" And he'd say either it will be this week or next week, but

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it was usually once a month.
Q. So that was an indication from you as to whether there was a shipment coming in?
A. Yes.
Q. Did you guys use any kind of code?
A. Yes. Sometimes he would say "tickets" or "tires" or...
Q. Did you ever go on any trips with Sean Bucci?
A. Yes, sir.
Q. How many?
A. Two.
Q. Where?
A. One to Amsterdam and one to Aruba.
Q. When did you go to Amsterdam?
A. I believe that was at the end of 2000.
Q. Who went?
A. Sean went, I went, Chris Bleicher, Jason Carnes, John Madden, Michael Farrell. I believe that's it.
Q. How long did you go for?
A. I believe it was a long weekend.
Q. What was the occasion?
A. I was getting married that March, so it was kind of like my bachelor party.
Q. How did you get to the airport?
A. We were picked up in a limousine.

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Q. Did they have anything?
A. They had a bottle of Dom Perignon.
Q. Where did you stay in Amsterdam?
A. I think it was called the Golden Tulip. It was a four-star hotel.
THE COURT: You're talking about Amsterdam, Holland?
THE WITNESS: Yes, sir.
BY MR. LEVITT:
Q. When did you go to Aruba?
A. I believe it was 2002.
Q. Who did you go with?
A. Chris Bleicher, Jan Jefgood and Sean.
Q. Why did you go?
A. Sean was thinking about opening up a business out there, and he wanted to take me out there to see what I thought about the area and wanted my opinion. And I also believe he took Jan Jefgood because he was getting married several months after that, so it was kind of a trip for him, too.
Q. Who paid for your ticket?
A. Sean did.
Q. Who paid for your hotel?
A. Sean did.
Q. And how long were you there?

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A. Again, I believe that was another, like, long weekend type of trip.
Q. Do you remember where you stayed?
A. I believe it was called the Costa Linda.
Q. And did you look at places while you were down there with Sean Bucci?
A. Yeah, we drove by a few business areas and residential areas.
Q. Why did you look at residential areas?
A. He told me he was interested in buying a house down there.
Q. Did he tell you how much the houses were going for down there?
A. He showed me one on the website that was right around 350,000.
Q. Did Sean Bucci ever talk to you about opening a nightclub in Aruba?
MS. BYRNE: Objection to leading at this point, your Honor.
THE COURT: Sustained.
BY MR. LEVITT:
Q. Did Sean Bucci ever talk to you about opening anything else in Aruba?
A. I believe he wanted to open, like, a clam shack type of place, a seafood type of restaurant, small takeout.

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Q. Did he talk to you about anything else?
A. I believe he was trying to -- thinking about opening up a nightclub, but I don't know how serious he was. I don't know.
Q. Let me show you what's been marked as Government Exhibit 66A. Do you recognize that?
A. Yeah, that was out in Aruba.
Q. Who's that?
MR. SINSHEIMER: What number is that, Mr. Levitt? I apologize.
MR. LEVITT: 66A.
MR. SINSHEIMER: Thank you, sir.
BY MR. LEVITT:
Q. Who's that?
A. That's Jan Jefgood.
Q. And that?
A. Chris Bleicher.
Q. That?
A. Excuse me. Sean Bucci.
Q. That?
A. Eric Carbone.
Q. That's you?
A. Yes, sir.
Q. And that?
A. J.Z.

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Q. Do you know his real name?
A. I would think his first name is Jason, and I think his last name might have been Zeramby. I'm not 100 percent sure.
Q. I'll show you 66C. Do you recognize this fellow back here?
A. That's Darren Martin.
Q. I show you 66D. Do you recognize these folks?
A. That's me and J.Z. And that guy on the end, I think I might have met him before, but I don't remember his name.
Q. What are you doing in this picture?
A. I believe we're rolling a marijuana joint and smoking.
Q. All these folks that you mentioned in this -- in 66A, any of them marijuana customers of Sean Bucci?
A. I believe they all were at one point.
Q. Did you ever have a conversation with Sean Bucci about this fellow, J.Z.?
A. He told me he was a good guy and a good client.
Q. What did you take that to mean, "good client"?
A. That he always paid? I don't know.
Q. I show you Government Exhibit 40D. Do you recognize that?
A. It looks like a list.

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MS. BYRNE: Objection, your Honor.

THE COURT: Have you seen it before?

BY MR. LEVITT:

Q. Have you seen it before?

A. I saw it in a meeting with you. Have I physically seen that piece of paper before? I can't say.

Q. Well, when you met with me and agents, did we show you this?

A. Yes, you did.

Q. Do you recognize your name there?

A. That is my name, sir.

Q. And do you know what that represents, the 18,600?

A. That would -- to my knowledge, that would have to be money that he collected off of me because I always paid in cash.

Q. That he collected for what?

A. It would have to be for marijuana, sir.

Q. I show you Exhibit 40A. Is that the person you identified as J.Z. in the picture?

A. I would imagine, yes, sir.

Q. Are you aware of Sean Bucci buying any cars or boats?

A. Yes, sir.

Q. What?

A. Well, he usually always had, like, a used car, but I

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can't remember what year he bought a new Avalanche. A Chevy Avalanche.
Q. What other cars did they have at the time that you knew?
A. This was after the Avalanche, he bought like some sort of an antique hotrod car.
Q. What did it look like?
A. From what I remember it was yellow, and it had big tires in the back. And it was like a two-seater roadster.
Q. What happened to that?
A. I believe he sold it.
Q. Did he have anything else?
A. He did buy a boat, but I never saw it. He told me he bought a boat.
Q. Do you know of something called 911 Productions?
A. Yes, sir.
Q. Do you know what that is?
A. That was their dee-jay business.
Q. Whose dee-jay business?
A. I believe it was Sean's, and from what I understood, it was Chris Bleicher's and Jason Carnes' too, and Eric Remens', but I don't know exactly.
Q. Do you know where they dee-jayed?
A. Local bars in Salem and Beverly.

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Q. How often?
A. Anywhere from three or four or five nights, maybe.
Q. Do you know if Bleicher, Carnes and Remins had other jobs, other jobs other than dee-jaying?
A. Yes.
Q. What did they do?
A. I believe Chris Bleicher was a bill collector; Jason Carnes also was collecting bills, and then he was out of work for a while, and then he started just doing odd jobs and stuff, I believe, and then he -- then he was selling mortgages; and Eric Remins, he was just, like -- took on laborer jobs as far as I know.
Q. Did Sean Bucci have any other jobs that you're aware of?
A. Not that I know of, sir.
Q. Have you heard of something called Rocktober Fest?
A. Yes, sir.
Q. What is that?
A. That was the concert that -- outdoor concert in Salem that 911 Productions put on.
Q. Do you remember when that was?
A. I think it was back in '97. I'm not 100 percent sure.
Q. Did you ever talk with Sean Bucci about it?
A. When it was over, yes.

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Q. What did he say about it?
A. He said it cost him about $30,000.
Q. He lost $30,000?
A. Yeah. It wasn't too successful, basically.
Q. Did he ever do it again?
A. Did he? No.
Q. Did you ever have a conversation with Sean Bucci about 23 Marshall Street?
A. Yeah, I've had conversations.
Q. Did you ever have a conversation with him about him buying it?
A. After he bought it he told me --

MR. SINSHEIMER: I object. Can I come to sidebar, please, your Honor?

(Discussion at sidebar and out of the hearing of the jury:)

MR. SINSHEIMER: Judge, I just want to preserve every objection that I've already made with respect to Ms. Genduso: That same type of Bruton objection that anything that Sean Bucci said can arguably come in against Sean Bucci but it can't come in against my client. I would ask for the strongest possible curative instructions as soon as the testimony -- I mean, as soon as the specific statement is made. There's no evidence that this is in furtherance of any conspiracy with my

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client, so if it comes in, it comes in against Sean Bucci alone, and I object to it.

MR. LEVITT: Well, I mean, he's going to say, as far as I know, that he bought it at auction for $297,000.

THE COURT: That's all?

MR. LEVITT: Yeah.

MR. SINSHEIMER: I still want the curative instruction so it doesn't come in against my client, and I think the jury needs to hear that right now.

THE COURT: If he's not referring to her in any way, I'm not going to give an instruction.

MR. LEVITT: My understanding of what he's going to say --

MR. SINSHEIMER: I still object respectfully.

(In open court:)

BY MR. LEVITT:

Q. Can you describe the conversation you had with Sean Bucci about the house?

A. The one I can remember when he bought it, he bought it at auction and he got a real good deal on it.

Q. Do you remember how much he said it cost him?

A. I think he said somewhere around $300,000.

Q. Do you know Sean Bucci's parents?

A. Yes, I do.

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Q. Do you know Catherine Bucci?
A. Yes, I do.
Q. Do you see her in court today?
A. Yes, I do.
MR. SINSHEIMER: Stipulate, your Honor, she's here.
THE COURT: All right.
MR. SINSHEIMER: She's here. She's identified.
THE COURT: All right. I understand. He's entitled to ask that question.
BY MR. LEVITT:
Q. Did you ever see them at 23 Marshall Street?
A. A few times.
Q. For what?
A. Sean would have a Fourth of July party, and a few times I saw them there.
Q. Did Catherine Bucci ever live at 23 Marshall Street?
A. No, sir.
Q. Did Wayne Bucci ever live at 23 Marshall Street?
A. Not to my knowledge, no, sir.
Q. Did you ever talk to Sean Bucci about another house?
A. Yes.
Q. Do you recall when that was?
A. I don't remember the exact date, but I remember he was -- he wanted to try to make some money off of real

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estate. And I tried telling him to buy multi-family houses, and he ended up buying a single-family house in Topsfield.

Q. Did you ever see that house?

A. Yes, I did, sir.

Q. Can you describe it?

A. It was a good-sized house. It was a colonial in a -- a nice colonial-style house in a nice neighborhood.

Q. Did you ever go inside the house?

A. Yes, one time I helped him paint a room in there.

Q. What kind of shape was it in?

A. It needed a lot of work.

Q. And do you know if he did work on the house?

A. I believe he did more exterior work, but I don't know to the extent of what he did on the interior.

Q. Do you know what hydroponic marijuana is?

A. Kind of, yes, sir.

Q. What's your understanding as to what it is?

A. My understanding is it's marijuana grown indoors with certain lights and certain controlled conditions.

Q. Did you ever have a conversation --

MS. BYRNE: Objection. Motion to strike, your Honor, regarding relevance.

THE COURT: Overruled.

BY MR. LEVITT:

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Q. Did you ever have a conversation with Sean Bucci about hydroponic marijuana?

THE COURT: About what?

MR. LEVITT: Hydroponic marijuana.

THE WITNESS: Yes.

BY MR. LEVITT:

Q. Do you recall when that was?

A. Not the exact date, but I just remember him saying that he was thinking about renting a warehouse and growing it.

Q. Have you ever heard of something called WhosARat.com?

A. Yes, sir.

Q. Have you seen it?

A. Yes, sir.

Q. Are you on it?

A. I don't know. Probably after this, but I don't know now.

Q. Is it your understanding that somebody who cooperates with law enforcement is more likely or less likely to end up on WhosARat.com?

MS. BYRNE: Objection, your Honor.

THE COURT: Sustained. He's not an expert, is he?

MR. LEVITT: Well, your Honor, respectfully --

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THE COURT: Besides, the jury's already acquainted with the subject.

MR. LEVITT: That's fine.

BY MR. LEVITT:

Q. Were you working on June 4, 2003?

A. Yes, sir.

Q. Where?

A. Northern Grind Coffeehouse.

Q. Anything memorable happen that day?

THE COURT: When?

MR. LEVITT: June 4, 2003.

THE WITNESS: I believe that was the day he was arrested.

BY MR. LEVITT:

Q. How did you find out about that?

A. I got a phone call from Christian Bleicher.

Q. Anything else happen that day?

A. Yes.

Q. What?

A. Sean's girlfriend came by the coffeehouse distraught.

Q. Who was Sean's girlfriend?

A. Leigha "Genduso" or "Genduso."

Q. Did you have a conversation with her?

A. Yes, sir.

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Q. What did she say?
A. She told me that she made it out of the house with some money, and she was scared and didn't know what to do with it.
Q. And what did you do?
A. Well, she asked me if I could hold on to it. And I said, "I can't do anything for you now, in my place of business. If you want to meet me after, I will take the money."
Q. And at some point did Leigha Genduso give you something to hold?
A. Yes, sir.
Q. What did she give you?
A. It was a box of money.
Q. When was that?
A. I believe it was that same day.
Q. What was in the box?
A. Money.
Q. How was it packaged?
A. It was wrapped up in bricks. I later determined they were $5,000 bricks.
Q. Approximately how much money was in the box?
A. It was a good-sized box. It was a box like a pair of boots would come in -- I believe to be a pair of boots. Like fancy, long boots from a female.

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Q. Two feet, is that what you're indicating?
A. Maybe. Maybe a little bit like 19 or 20 inches by whatever high.
Q. A foot?
A. Maybe a little bit less.
Q. And was it full of money?
A. Yes, sir, it was full of money.
Q. What did you do with the box of money?
A. She gave it to me in the driveway of my house in West Peabody and I put it in the trunk of my car, and the next morning I drove it to Beverly; near my business I rented a garage, a storage garage, and I put it up in the ceiling tile of the loft.
Q. I'm sorry. I didn't hear you.
A. I put it up in the ceiling of the loft so it would be hid.
Q. At some point did Ms. Genduso bring you something else?
A. Yes, sir.
Q. What?
A. She met me later with two safes.
Q. When was that?
A. I'd have to say a month or two after the box of money.
Q. Did she tell you where the safes came from?

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A. She told me two different stories. One time she told me that it came from somewhere near her family's area, which was around Worcester, and another time she told me she got it from a lawyer's office.

THE COURT: And this was about what, we're talking about?

THE WITNESS: I'm sorry?

THE COURT: What was the subject about?

THE WITNESS: Oh, where she got the safes.

THE COURT: Okay.

BY MR. LEVITT:

Q. Did she say where the safes originally came from?

A. She said they were Sean's.

Q. When she brought them to you, where did she bring them to you? Where were you?

A. I met her on the Route 1 approach to Saugus.

Q. Did you have a conversation with her at that time?

A. Yeah.

Q. Describe the conversation.

A. Well, she just said she took a while to get out of Boston. I said something like, "To go through Boston or get out?" And she said, "No, to get out. I came back from the lawyer's office."

Q. Did she say to you what lawyer?

A. I believe it was Gary Zerola.

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Q. Where did you put the safes?
A. I put those in the garage.
THE COURT: Would you show us with your hands how big the safes were.
THE WITNESS: They were like home safes that you would buy in, like, Staples. Maybe like this big --
THE COURT: Okay.
THE WITNESS: -- by this deep.
BY MR. LEVITT:
Q. So you're indicating a foot and a half?
A. Yeah, maybe. Yeah.
Q. And width?
A. Like 20 inches.
Q. Did you ever open the safes?
A. No, sir.
Q. Did you ever have a conversation with Sean Bucci about the safes?
A. Yes, sir.
Q. Where?
A. When he was in prison, sir.
Q. Describe the conversation.
MR. SINSHEIMER: Judge, same objection.
THE COURT: Overruled.
BY MR. LEVITT:
Q. Would you describe the conversation you had with

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Sean Bucci about the safes.
A. He asked me if I could try to open them up because he wanted to know how much money was in one of them. He believed one had a large sum of money in it. I don't know how much.
Q. And did he give you some information to help you try to open them?
A. Yes; he gave me a combination.
Q. And did you try to use it?
A. Yes. I was unsuccessful.
THE COURT: Did you succeed in opening it?
THE WITNESS: No, sir.
BY MR. LEVITT:
Q. Now, the --
THE COURT: You tried?
THE WITNESS: Yeah. There were two different safes, and I didn't know which the combination was for, the one or the other. And the place I had them stored at, it didn't have a lock on the door and I didn't want someone to walk in, and I knew people around the area. So I just tried it once quick, and the next day I would try it again on another safe, and I just gave up.
BY MR. LEVITT:
Q. The box of money, did you ever take money out of that?

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A. Yes, sir.
Q. Why?
A. I was told if Leigha needed money, to give her money.
Q. Who told you that?
A. Sean.
Q. Did you have some sort of arrangement with Ms. Genduso?
A. Yes.
Q. What was that?
A. She would call me and say if she needed one or two, and I understood that to be a brick.
Q. One or two bricks?
A. Yes, sir.
Q. How often was she taking money from the box?
A. Once, maybe twice a month.
Q. Did you ever have any conversations with Sean Bucci about that?
A. One time when I went to visit him I asked him if it was okay just to keep on giving her money because she was going through it pretty quick, and he said he trusted her, so it was okay.
Q. Did you ever pay for anything for Sean Bucci during this time?
A. Yes, sir.

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Q. What?
A. A bank check for a lawyer.
Q. How much?
A. I believe it was $9,000.
Q. How many times?
A. I believe I did that twice.
Q. Same amount?
A. I believe so.
Q. And then did you take any money out of the money box?
A. I reimbursed myself; yes.
Q. Both times?
A. Yes.
Q. Why did you make these payments to the lawyers?
A. He asked me to do him a favor, and I just figured I owed him a favor.
Q. Who asked you?
A. Sean.
Q. Do you remember the lawyers' names?
A. I believe one was Goldstein. I can't remember the other one.
Q. At some point did you have a further conversation with Sean Bucci about the safes?
A. Well, I delivered them to him when he was on house arrest.

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Q. Where?
A. I believe it was in Peabody, at his uncle's house.
Q. Did you deliver the money box as well?
A. Yes, sir.
Q. Did Bucci do anything with the safes at that time?
A. Yes, sir. He opened them.
Q. What was his reaction when he opened them?
A. He was pretty disturbed.
Q. Did he say why?
A. He thought there was money in there and he thought that someone ripped him off.
Q. Was there anything in the safes?
A. I believe one had some personal stuff, but the other one was pretty much empty, the one that I believe he thought had money in it.
Q. During the time that you would visit Sean Bucci in prison, did you ever have a conversation with him about Darren Martin?
A. I may have, but I don't really remember the extent of it.
Q. Do you know who Darren Martin is?
A. Yes, I do.
Q. Did you ever have a conversation with Sean Bucci about a lawyer?
MS. BYRNE: Objection regarding leading again,

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your Honor.

THE COURT: Sustained.

BY MR. LEVITT:

Q. Do you recall talking to Sean Bucci about Darren Martin?

A. Yes, sir.

Q. Do you recall what you talked about?

MS. BYRNE: Objection, your Honor.

THE COURT: Overruled.

THE WITNESS: I think at one time I was talking to him he wasn't worried about Darren, like, testifying against him or anything because I believe that he helped pay for his lawyer. So he wasn't worried about it.

MR. LEVITT: Nothing else.

CROSS-EXAMINATION

BY MS. BYRNE:

Q. Mr. Carbone, you testified that you originally spoke to Agent Harriman, right?

A. I believe that was his name, yes.

Q. And he was -- he identified himself as an agent from the IRS, right?

A. Correct.

Q. A federal agent, right? He worked with the federal government, right?

A. I believe so.

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Q. And he came -- I think he actually came to your home, right?
A. Yes.
Q. And he wanted to talk to you about what you knew about Sean Bucci, right?
A. Yes.
Q. And you agreed to talk to him, right?
A. Yes.
Q. You agreed to meet him, right?
A. Yes.
Q. You went, actually, and met him somewhere else, not your home, right?
A. Yes.
Q. And he asked you questions that made you very nervous, right?
A. Yes.
Q. And you say that you lied to him, right?
A. Yes.
Q. Because you were nervous and you didn't want to incriminate yourself, right?
A. Correct.
Q. So you got yourself an attorney?
A. Correct.
Q. And you told the attorney all your concerns?
A. Correct.

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Q. And that you were concerned that you would -- could be involved in a federal criminal drug case, right?
A. Correct.
Q. And you asked that attorney to help you in your dealings with the government, right?
A. I asked the attorney for advice.
Q. Right. And you were seeking his help, of course.
A. Yes.
Q. And he did help, right?
A. He gave me advice.
Q. Well, he worked out a -- well, he -- you agreed to talk to the prosecutor again -- or talk to the prosecutor and the agent again, right?
A. He advised me to, yes.
Q. Right. But not until you got a letter to protect you, right?
A. Yes.
Q. And you were shown that letter earlier today, and I've just put it up on the screen here. Can you see that?
A. Yes.
Q. You've seen that letter before, right?
A. Yes.
Q. And that's dated August 25, 2005 --
A. Yes.

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Q. -- right?

And that was the day that you met with Mr. Levitt, the prosecutor here, right? The first time you met him?

A. (Nonverbal response.)

Q. And with Agent Harriman, correct?

A. I believe so.

Q. Well, you met with Mr. Levitt on numerous occasions; isn't that right?

A. Since then?

Q. Yes, since then.

A. About four, five times.

Q. Four or five times. To prepare for your testimony in this case, right?

A. Yes.

Q. Now, when you -- but before you spoke to Mr. Levitt and Mister -- and Agent Harriman, your attorney got that letter there from the prosecutor, correct? And there's Mr. Levitt's signature on the bottom, right?

A. Yes.

Q. All right. And the letter says that "No statements made or other information provided by Eric Carbone will be used by the United States directly against him except for purposes of cross-examination and/or impeachment. Should he offer any statements or information different from statements made or information provided by him

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during this proffer or in a prosecution of Eric Carbone based on false statements made or false information provided by Eric Carbone..."

In other words, this letter, to you, meant that whatever you told them was not going to be used against you unless you lied, right? That's the way you understood it.

A. In that meeting.

Q. At that meeting.

A. I knew when I was up before the grand jury that I had no protection.

Q. And who told you that?

A. My lawyer and Mr. Levitt.

Q. All right. But at that meeting, as you said, before you went into the grand jury when you talked to Mr. Levitt you understood that this letter protected you; is that right?

A. At the meeting; yes.

Q. Okay. And in your view you were going to say the same thing at the meeting as you were going to say at the grand jury, right?

A. Yes.

Q. And you are concerned about your criminal exposure, aren't you, Mr. Carbone?

A. Yes.

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Q. And you are concerned about what this government could do to you in this case, aren't you, sir?
A. Yes.
Q. You have worked with Mr. Levitt and with the agents preparing for this case, right?
A. I've prepared, yes.
Q. And actually, Mr. Carbone, you don't expect to be prosecuted after you testify today, do you, sir?
A. I'm hoping not to be.
Q. And by the way, when you did speak to your attorney about testifying at the grand jury and talking to the prosecutors, you -- he explained your option to you, right?
A. He advised me to tell the truth and I will be less likely to get into trouble.
Q. And by the way, the important thing is that the government believes you're telling the truth, right?
THE COURT: Important to whom?
BY MR. LEVITT:
Q. The important thing -- you understand that what's important is that the government believes that you're telling the truth so you don't get prosecuted for perjury, right?
A. The important thing to me is telling the truth.
Q. And that the government believes you, right?

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A. Yeah, I guess.
Q. Now, back on August 19th, prior to your sit-down with the prosecutor and Agent Harriman, you said you met with Agent Harriman by yourself, right?
A. Yes.
Q. And that's when -- the time that he came to your home. And then you set up a meeting and you met with him, right?
A. Yes.
Q. You agreed to answer his questions, correct? At that time you answered his questions?
A. Yes.
Q. And he told you that he just needed you to be truthful with him, right?
A. Yes.
Q. But you weren't, were you?
A. No.
Q. He asked you whether you had held money for Sean Bucci, right?
A. Correct.
Q. And you lied and you said no, right?
A. Correct.
Q. He asked you whether you'd ever taken money from Leigha Genduso, right?
A. He asked me if I ever used that money myself, took

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that money and put it in my personal bank account.
Q. He asked if you'd ever -- well, you told him you never took receipt of cash from Leigha Genduso, correct? That first meeting.
A. Never took cash from her?
Q. Right.
A. Yeah, I never took cash from her.
Q. Well, you took a box filled with money from Leigha Genduso, didn't you, sir?
A. Yes.
Q. And that's what he was asking you about, wasn't it?
A. Yes.
Q. But you told him you never took cash from Leigha Genduso. That's what you told him, right?
A. Yes.
Q. You told him you never met up -- periodically met up with Leigha to give her cash, right? That's what you told him.
A. Correct.
Q. That was a lie, right?
A. Yes.
Q. You said you paid the first $10,000 retainer to Sean's lawyer immediately after Sean's arrest. Well, first of all, you didn't pay any money to any lawyer immediately after Sean's arrest, did you?

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A. I don't know if it was immediately.
Q. It was months later, wasn't it?
A. It could have been, yes.
Q. So that wasn't true. You described that the money came from your own savings to pay for the lawyer, right? But that wasn't true either, was it?
A. One time I believe it was, if not both, yes.
Q. Well, your own savings that weren't paid back?
A. Well, I took it from -- money from my house, and I reimbursed myself.
Q. Right. But you told Agent Harriman, the IRS agent who was investigating this case when you met with him the first time, that the money that you paid for Sean's lawyer has not been paid back, right? That's what you told him when you first met with him --
A. I'm trying to remember, ma'am. If he said I said that, then I said that.
Q. You told him that it wasn't paid back; and in fact, that wasn't true, right?
A. Correct.
Q. You lied because you were afraid and you wanted to protect yourself, right?
A. Correct.
Q. And that's why you felt better after you got that -- after you talked to a lawyer and got that letter, right?

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A. I have never felt better, nor do I feel better now.
Q. All right. Now, sir, you were afraid that your wife was going to find out about this when you met with Mr. Harriman, weren't you?
A. Yes.
Q. You were afraid that something could happen to your house, right? You didn't want to lose your house, sir?
A. I definitely didn't want to lose my house.
Q. You were afraid that if your wife did find out, she might leave you, right?
A. Find out about what?
Q. Find out about the fact that you were involved in drug dealing.
A. She knew at one point that I was, and then I lied to her and told her I stopped. But, yes, she threatened to leave me if -- she threatened to leave me if I didn't try to set things straight.
Q. Well, sir, you realize, of course, that you could have been charged in this case, right?
A. Yes.
Q. And you understand that hiding that box of money could have made you involved in this case, right?
A. Yes.
Q. And that, of course, buying and selling marijuana could have resulted in you being charged.

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A. Yes.
Q. Helping package marijuana, that certainly could have resulted in you being charged too, right, sir?
A. Correct.
Q. Sir, you don't want to go to jail, do you?
A. No, ma'am.
Q. You have a lot to lose if that happens.
A. Yes.
Q. You have a family, you have children?
A. Three children.
Q. And you don't want to be away from them, of course.
A. Not for a day.
Q. And of course you don't want to lose your wife.
A. Not for a day.
Q. Or your family home.
A. Not for a day.
Q. You understand that this prosecutor has the power to bring charges against you, right, sir?
A. Yes.
Q. They also have the power to decide not to. You understand that, don't you?
A. Yes.
Q. Now, sir, you understand why the prosecutors and agents wanted to talk to you, right? Yes or no?
A. Somehow someone must have mentioned my name, so they

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came knocking on my door.
Q. Well, they wanted to talk to you about prosecuting Sean Bucci; is that correct?
A. They initially wanted to talk to me, yes, about the money and what went on.
Q. And you understand that he is being prosecuted for a conspiracy to distribute more than 1,000 kilograms of marijuana?
THE COURT: Are you asking him whether he understands that now?
BY MS. BYRNE:
Q. Do you understand that now?
A. I never knew that before, no, ma'am.
Q. You never knew that Mr. Bucci was being prosecuted for a conspiracy to distribute over a thousand kilograms of marijuana?
A. Not the weight limit. I knew he was being prosecuted for dealing drugs. I didn't know the specifics.
Q. Well, when you met with your lawyer, did your lawyer tell you -- did you talk about what could happen to you if you got convicted?
A. Not that I remember.
Q. You don't remember talking to your lawyer about the fact that if you were convicted of a conspiracy to

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distribute over a thousand kilograms, that you could go to prison for ten years mandatory? Did your lawyer tell you that?

A. Nope.

Q. Did your lawyer tell you that if you were prosecuted for a conspiracy to distribute over a hundred kilograms of marijuana, you could go to prison for five years mandatory? Did you understand that?

A. He never told me that, no.

Q. So, but you did understand -- well, certainly you understood that you could go to prison?

A. Yes.

Q. And you did understand in your conversations with Agent Harriman and the prosecutors that they are seeking evidence to prove that Mr. Bucci was involved in drug dealing, right? You understood that?

A. Yes.

Q. A lot of drug dealing, right? You understood that?

A. Yes.

Q. And they thought that you knew that he was dealing in large quantities of marijuana, right?

THE COURT: He can't say what they thought.

BY MS. BYRNE:

Q. Did you understand, sir, that the government, the prosecutors thought that you knew things about Mr.

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Bucci's drug dealing?

MR. LEVITT: Object to what he thought about what the prosecutors thought.

THE COURT: Sustained.

BY MS. BYRNE:

Q. You understand, sir, that when you tell agents something they decide whether or not they believe you, right?

A. Yes.

Q. And in fact, in this case there were several times when agents said they didn't believe you, right?

A. (No verbal response.)

Q. Right? They challenged your story, right?

A. Well, the one at the very beginning, yes.

Q. Well, actually, when you -- when you sat down with -- well, "the very beginning" meaning Agent Harriman --

A. Yes.

Q. -- because basically everything you told him wasn't true, right?

A. Correct. Correct.

Q. Okay. So, but when you sat down with Mr. Levitt and Agent Harriman later after you got that letter, you told them -- you told them what happened, right? You told them what you knew.

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A. Yes.
Q. And when you first spoke to them, you told them that you had helped Sean Bucci break up marijuana one time, right? That's what you told them, right, when you first sat down?
A. I don't remember what I told them when I first sat down.
Q. All right. Well, you met with -- you met with Mr. Levitt and Agent Harriman prior to that -- prior to going to the grand jury, right?
A. Yes.
Q. And then you met -- and then you testified at the grand jury, right?
A. Yes.
Q. Okay. And then you met with Mr. Levitt and Agent Willoughby who's here in the courtroom, right?
A. Correct.
Q. Sitting in the back, right?
And when you -- and that was actually about a month ago, right, the first time you sat down with Mr. Willoughby and Mr. Levitt, January 9th, right?
A. It might have been then.
Q. And when you sat down with them you stated that you had purchased marijuana from Sean Bucci on occasion and that the most you ever purchased at one time was one

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pound for about a thousand dollars, right? That's what you told them first, right?
A. Yeah. I minimized it, yes.
Q. And then you said that you assisted Mr. Bucci in packaging a large quantity of marijuana at his house on one occasion, right? That's what you told them as well, right?
A. I might have said that, yes.
Q. Right. And when you did say that, Agent Willoughby said, "We don't believe you. You're minimizing," right?
A. I don't remember if he said that.
Q. You just said, all of a sudden, "I'm minimizing. Actually, it was a whole lot more times that I helped break up marijuana." Is that how it went?
A. No. I don't know if it was actually to Agent Willoughby or Peter Levitt.
Q. All right. Well, one of them said, "We don't believe you."
A. No. They said, "Are you sure? Can you think?"
Q. Right. Right. So you kind of got the impression they didn't believe you, is that fair to say, sir, when you said one time?
A. I guess.
Q. So that's when you told them that actually it was a whole lot more marijuana and a whole lot more times you

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helped break up the marijuana, right?
A. I don't know about a whole lot more times. I believed it was in the range between three and five. I honestly don't remember exactly how many times.
Q. Okay. Now, before you went into the grand jury the prosecutor made it very clear to you that you needed to tell the truth to the grand jury, right?
A. Correct.
Q. You took an oath?
A. Correct.
Q. You swore to tell the truth to the grand jury?
A. Correct.
Q. Under the pains and penalties of perjury, right?
A. Correct.
Q. And by the way, you haven't been prosecuted for perjury, have you?
A. No.
Q. There's no charges against you?
A. I hope not.
Q. You don't expect to be prosecuted for perjury, do you, sir?
A. I'm hoping not to be.
Q. All right. Well, when you went to the grand jury you actually didn't tell the truth, did you, sir? You lied to the grand jury, didn't you?

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A. I did?
Q. Well, you were asked at the grand jury, "Did you ever use marijuana?" and you said no, right?
A. I misunderstood him.
Q. You misunderstood when he asked if you ever used marijuana?
A. I thought he said "do you use marijuana" as in do you recreationally use it now. I misunderstood him.
Q. So you misunderstood?
A. Yes, ma'am.
Q. And by the way, you just said that you smoked marijuana about a couple of weeks ago, right?
A. One time, yes.
Q. And before that you said it could have been a year or two, right?
A. Yeah. I don't remember.
Q. And before that you were smoking marijuana regularly, right?
A. Yeah.
Q. So back when you testified in August of 2005, you were smoking marijuana regularly, right?
A. No. No. I worked for the post office and they had drug-screening, and I -- I basically stopped right around when Sean got arrested.
Q. How long did you work for the post office, sir?

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A. About a year.
Q. Now, you also lied about the money that you used to get the bank check for Sean's attorney when you talked to the grand jury, right? You lied about the source of the money, didn't you?
A. Not to my knowledge.
Q. Well, you were asked questions about money you had in a personal safe.
A. Yes.
Q. And you told the prosecutor that you used cash from the safe, $10,000, to get a bank check, right?
A. It might have been 10- or $9,000, yes.
Q. And by the way -- and you were asked, "Did that money come -- did any of that money come from selling marijuana that you had in your personal safe?" You were asked that at the grand jury, right?
A. I believe so. I don't remember.
Q. And you said, "No, it came from my personal savings. It didn't come from the proceeds of marijuana," right? That's what you told the grand jury.
A. If that's what I said, yes.
Q. And later in an interview with the government, later you admitted that the money in your personal savings was a mixture of money from your marijuana dealing and your own savings, right?

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A. It could have been a mixture, yes.
Q. Well, that's what you told the government, right?
A. Yes. It was hard to determine exactly what money -- at one point I saved $10,000 on my own.
Q. Now, back in 2005, Mr. Carbone, you had a personal stash of cash, right?
A. Yes.
Q. And that was cash -- at least some of it was from your drug dealing, right?
A. Back when?
Q. In 2005, sir.
A. 2005? I don't even think I had that much money by 2005.
Q. All right. Well, back in 2003. 2003 when -- in 2003 when you used the money from your personal savings to get a bank check, right?
A. Yes.
Q. You had $10,000 -- 9- or $10,000 in personal savings, right?
A. Yes.
Q. And it was your own stash?
A. Yes.
Q. I stand corrected. I said 2005; I meant 2003.
And that was your own personal stash that you kept even from your wife, as you told Agent Harriman, right?

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A. Yes.
Q. And some of that cash was from drug dealing, we just established, right? Correct? That's what you told the government, some of the cash was from drug dealing, correct, sir?
A. It could have been mixed; yes.
Q. And you kept it, even as you said, even from your wife, right?
A. Yes.
Q. You kept it, you told Agent Harriman, in case your wife ever threw you out, right?
A. Correct.
Q. So your wife didn't know you had that money, right?
A. I believe she knew I had some money in that safe, not the exact amount.
Q. And back in 2003 she didn't know you were involved in dealing drugs, did she, sir?
A. I don't think she knew.
Q. All right. She didn't know that you were buying two pounds of marijuana a month, right?
A. She didn't suspect I was doing anything.
Q. Right. And she didn't know -- she didn't know that you were spending money to buy marijuana, right?
A. Correct.
Q. Or that you were making money from selling

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marijuana?
A. Correct.
Q. Where did you hide your drugs from your family, sir?
A. Usually in that storage space in Beverly.
Q. And that's where you kept your money, too, from drugs, right?
A. No, I kept my money in the safe at my house.
Q. So you just kept your drugs in the storage space so your wife wouldn't know about that, right?
A. Correct.
Q. Now, in December of 2000, sir, you went to Amsterdam with Mr. Bucci and some of your other friends, right?
A. Yes.
Q. For a bachelor party, right?
A. Yes.
Q. Your bachelor party, right?
A. Yes.
Q. You were engaged to be married to Liane, your present wife, right?
A. Correct.
Q. And in fact, you did get married to her a couple of months later, right?
A. March.
Q. But in December 2000 when you went for this bachelor party, you didn't bring Liane with you, did you?

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A. No.
Q. In fact, nobody brought any girlfriend along on this trip, right, to Amsterdam?
A. Correct. Correct.
Q. And when you were in Amsterdam, sir, you used drugs while you were there, right?
A. Correct.
Q. Did your wife know that? Your future wife?
A. She probably assumed it. I don't know.
Q. Did you tell her that you were using drugs when you were in Amsterdam, sir?
A. I told her we were smoking marijuana.
Q. All right. Well, did you tell her that you were having sex with prostitutes, too?
MR. LEVITT: Objection, your Honor.
THE COURT: Sustained.
BY MR. LEVITT:
Q. Did you have sex with prostitutes when you were in Amsterdam?
MR. LEVITT: Objection, your Honor.
THE COURT: Sustained.
MS. BYRNE: Your Honor, may we be heard?
THE COURT: No.
BY MS. BYRNE:
Q. Sir, you've told Mr. Levitt and Agent Willoughby

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that you were unfaithful to your wife on numerous occasions; is that right?

MR. LEVITT: Objection, your Honor.

THE COURT: Overruled.

BY MS. BYRNE:

Q. Is that right?

A. Correct.

Q. And you have been unfaithful to your wife on numerous occasions, sir, right? Correct?

A. A few occasions; yes.

Q. And she doesn't know about that, does she, sir?

A. No.

Q. In 2002 you went to Aruba with Mr. Bucci and your friends, right?

A. Yes.

Q. For another bachelor's party, right?

A. Yeah.

Q. And this was for Mr. Jefgood, his party, right?

A. Yes.

Q. You didn't bring any -- you didn't bring your wife on this trip, did you, sir?

A. No.

Q. And no one brought --

THE COURT: Nobody else did either, I assume, right?

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THE WITNESS: No, sir.
BY MS. BYRNE:
Q. And by the way, sir, when you were in Aruba, you used drugs there as well, right?
A. Yes, ma'am.
Q. And you were unfaithful to your wife when you were there as well, weren't you, sir?
MR. LEVITT: Objection, your Honor.
THE COURT: Sustained.
BY MS. BYRNE:
Q. Now, on the day of Mr. Bucci's arrest, Ms. Genduso showed up at the coffee shop where you worked, correct?
A. Yes.
Q. And she told you that she had a box of money that was from Sean Bucci's house, right?
A. Yes.
Q. And you understood that that was drug money, right?
A. Yes.
Q. You told her to bring it to your house that night, correct?
A. Yes.
Q. In other words, you couldn't deal with it at the coffee shop; is that fair to say?
A. Yes.
Q. So she did bring it to you that night, right?

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A. I believe so, yes.
Q. And you took the money, the box of money, and you drove it to the storage garage that you rented, right?
A. The next morning, yes.
Q. And by the way, does your wife know about the storage garage that you rent?
A. I think she knows I used to rent one, yes.
Q. Had she ever been there?
A. No.
Q. So you hid the box of money at the storage garage, right?
A. Yes.
Q. The same place where you hid your drugs, right?
A. Yes.
Q. And you testified today that one or two months later she showed up with safes, right?
A. Yes.
Q. And before you said that it was three weeks later that she showed up with safes, right?
A. I'm not exactly sure what time frame.
Q. All right. So it could have been three weeks or it could have been two months; you don't know?
A. Yes. I don't know.
Q. You took the safes to the storage garage also, right?

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A. Correct.
Q. And she told you a few different stories about where the safes came from; is that right?
A. Correct.
Q. By the way, the owner of this storage space had no idea what you were hiding in there, did they?
A. Nobody did but me and Leigha and Sean.
Q. And the owner didn't know that you were hiding your drugs in there over the years either, right?
A. Correct.
THE COURT: He doesn't know what they knew; he can only say that he didn't tell them.
MS. BYRNE: Right.
BY MS. BYRNE:
Q. You never told the owner what you were hiding in there?
A. No.
Q. Now, in July or August of 2003 you wrote a bank check to an attorney for Sean Bucci, right?
A. I believe so, yes.
Q. From your joint checking account; is that right, sir?
A. I remember writing one from the business account from Northern Grind, and I believe the second one came from the joint checking.

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Q. And the joint checking account is the account that you hold with your wife, right?
A. Correct.
Q. What did you tell your wife about that money?
A. I told her Sean needed a favor and what it was and it would only be once.
Q. And did you tell her how you were going to be reimbursed for that money?
A. Yes.
Q. All right. So you told her that you were going to be reimbursed with cash from drug money?
A. I might not have put it in those words, but yes.
Q. You didn't use the word "drug money," right?
A. I don't remember if I did or not.
Q. Sir, there were people -- from the period of 1998 through 2003, there were other people living at 23 Marshall Street besides Sean Bucci; is that right?
A. Correct.
Q. Chris Bleicher lived there, right?
A. Yup.
Q. Jay Carnes lived there?
A. Yeah.
Q. Eric Remins lived there?
A. Yeah.
Q. And a guy named Sully also lived there for

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approximately a year, right?
A. Yeah.
Q. And all of those people rented rooms there; is that right?
A. What I thought, yes.
Q. And the rent was, as you understood it, less than a thousand dollars a month each, right?
A. Yeah. I don't have an idea but I would approximate it at less than a thousand.
Q. Sir, what's Marginal, LLC?
A. Something to do with my family business.
Q. What does it have to do with your family business?
A. My family business manufactures stainless steel restaurant equipment.
Q. So Marginal, LLC, has nothing to do with owning a rental bus, sir?
A. Rental bus?
Q. Yeah.
A. Not to my knowledge.
Q. All right. Well, sir, you applied for a mortgage at one point when you bought your present home, didn't you, sir?
A. Yes.
Q. All right. And by the way, you never told the government that you were employed -- self-employed at

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Marginal, LLC, did you?
A. What do you mean?
Q. Well, did you ever -- you told the government that you worked as -- in the post office, right?
A. Yes.
Q. And that you worked with Jay Carnes in a roofing business, right?
A. Yes.
Q. And that you worked for Northern Grind Coffee, right?
A. Yes.
Q. Those are the jobs you told the government that you had?
A. Yes.
Q. Because those are the jobs that you did have?
A. Yes.
Q. Right. You never told the government that you worked someplace called Marginal Street, LLC, did you?
A. I told them while I was running the coffee shop that I was receiving money from a buyout of my family business.
Q. And that the business -- that your position involved being the owner of a rental bus. Did you tell them that, sir?
A. A rental bus?

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Q. Right.
A. I don't recall.
Q. Well, when you applied for a mortgage for 18 Barbara Lane, sir, you were asked about your employment, right?
A. I believe so, yes.
Q. And --
(There is a pause.)
BY MS. BYRNE:
Q. Well, Marginal, LLC, what does that have to do with, your family business?
A. Yes.
Q. All right. And that's a sheet metal business?
A. Correct.
Q. All right. And it's not a rental business, is it?
A. Not to my knowledge.
Q. And when you -- as I said, when you applied for this mortgage at 18 Barbara -- for 18 Barbara Road, you told them you were a mail-handler, right?
A. Or clerk, yeah.
Q. And that before that you worked, from 1998 to 2004, as the owner of a rental business or a rental bus, Marginal Street, LLC, right? Did you tell them that?
A. I don't remember.
Q. You didn't tell them that you were working for Jay Carnes Roofing, right?

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A. Probably not. I don't remember.
Q. Or Northern Grind?
A. I don't know if I mentioned Northern Grind. I might have. I don't remember.
Q. Well --
A. My wife does most of my finances.
Q. Well, you were the one who -- you signed the application for the loan, right?
A. Yeah.
Q. And calling your attention to the bottom of that page, right? When you filled out that loan you told them you worked for Marginal Street, LLC, between -- for the full 1998 to 2004, didn't you, sir?
A. I think we listed that as a source of income.
Q. Well, you put that it's your employment and you were the rental owner, right?
THE COURT: Are you finished with it?
THE WITNESS: Yes.
THE COURT: May I see it?
THE WITNESS: Yes.
THE COURT: Thank you.
THE WITNESS: At first I sold the shares to the business, and I got paid out over five years. But I kept my interest in the land and the building, and I was collecting money as a landlord once a month.

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BY MS. BYRNE:
Q. You were not working there, were you, sir?
A. Not physically. I think I stopped in, like, '97 or '98.
Q. So you were not employed there, in other words; is that right?
A. No.
Q. So it was never your job to work at Marginal Street, LLC; is that fair to say, sir?
A. I wouldn't say "never." I worked there.
Q. Not between 1998 and 2004, though, right, sir?
A. No.
THE COURT: It's my understanding that you weren't working for them but you were receiving income from them.
THE WITNESS: Yes.
THE COURT: Who prepared that form?
THE WITNESS: I honestly don't know. I believe --
THE COURT: Did you type it up?
THE WITNESS: No.
BY MS. BYRNE:
Q. Did you sign it, sir?
A. Yes.
Q. And you know they were relying on this information

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in order to loan you money, sir?
A. Yes.
Q. You testified today that between 1995 and 1998 you saw approximately 20 pounds of marijuana in Sean Bucci's apartment in Salem, right?
A. One time I did, yeah.
Q. Right. And you testified today that you saw it in a, quote, blue tote, right?
A. That's what I remember it to be.
Q. Okay. Did you talk about that with Mr. Levitt?
A. Yes.
Q. All right. You talked about the fact that you told inconsistent stories about what you saw? Did he point that out to you?
A. I don't understand.
Q. Did he point out to you that you had said two different things about what you saw in Salem?
A. Not that I remember.
Q. Well, when you talked to -- on January 9th when you talked about what you saw in Salem, you told the agent you saw approximately 20 pounds of marijuana in a, quote, blue plastic bin, right?
A. I believe so.
Q. And then in February, about a month later, you talked about that again, right? They asked you about

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that again, right?
A. I guess so.
Q. And this time you said that you saw approximately 20 pounds of marijuana in a, quote, tote bag in the kitchen, right?
A. Tote bag?
Q. Tote bag.
A. I don't remember saying that, no.
Q. You don't remember saying that on February 10th, 2007, to Mr. Levitt and Agent Willoughby?
A. No, I don't remember using the term "bag"; no.
Q. And that interview was on -- well, that was sometime, approximately, February 8th, 9th or 10th, right, that you had that interview with them; is that right?
A. I don't remember any dates.
Q. In February.
A. Yes, basically.
Q. Now, you graduated from college in 1995, right?
A. Correct.
Q. And you graduated from high school in 1991?
A. Correct.
Q. And when you originally met with Agent Willoughby and the prosecutor, you told them that you did not deal marijuana in college at all, right?

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A. Yes.
Q. However, you now say that you dealt marijuana between 1993 and 1995, right?
A. Yes.
Q. And that was while you were in college, right, sir?
A. Yes.
Q. You've been to the -- you've been to 10 Alderbrook Road, right, in Topsfield?
A. Yes.
Q. And you know where that house is, right? You can picture it in your head?
A. Vaguely, but yes.
Q. All right. And you know that that house -- it's located actually on the middle of the street; is that right? It's not on a corner lot, is it, sir?
A. I honestly couldn't remember.
Q. So the last time that you met with Mr. Levitt and Agent Willoughby, you told them that actually you smoked marijuana about a week earlier, right?
A. A couple of weeks earlier before I met them, yes.
Q. And you told them that before that you hadn't -- well, today you said you hadn't smoked marijuana for a year or two before that. You're not sure, right?
A. I'm not a hundred percent sure, but it's been a while.

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Q. Well, do you know whether it's been as much as two years or is it a year?
A. I'm not a hundred percent sure.
Q. Well, could it have been a month?
A. No, I believe it was a while.
Q. More than two months?
A. I believe it to be, yeah. I'm not a hundred percent sure.
Q. Well, when you smoked marijuana two weeks ago, sir, who did you smoke it with?
A. My brother-in-law.
Q. Where did you get it?
A. He had it.
Q. Did you buy it?
A. No.
Q. Do you still have some marijuana stored in your garage space?
A. No.

MS. BYRNE: Nothing further, your Honor.

BY MR. LEVITT:

Q. Mr. Carbone --

MR. SINSHEIMER: Actually, I'm glad to be insignificant --

MR. LEVITT: I apologize.

MR. SINSHEIMER: -- but I do have a very few

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questions, if you don't mind.

CROSS-EXAMINATION

BY MR. SINSHEIMER:

Q. Good morning, Mr. Carbone.

A. Good morning, sir.

Q. My name is Rob Sinsheimer. I represent Catherine Bucci. I'm just going to ask you a few questions, if I might.

A. Yes.

Q. You did say that you met my client, Ms. Bucci, a couple of times?

A. Yes.

Q. And I think you said that that was on a Fourth of July party?

A. I believe so, yes.

Q. And that was at 23 Marshall Street?

A. Correct.

Q. Which is where Sean lived for a period of time?

A. Yes.

Q. You've known Sean, however, since high school; is that fair to say?

A. Yup.

Q. Would it be fair to call you guys high school buddies? Is that a fair characterization?

A. Yes.

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Q. You got involved in selling marijuana at first because you used it a little bit, right?
A. I don't know exactly why I did, but I definitely did use it, yes.
Q. You used it as a kid, right?
A. Yes.
Q. And as I think you told us, you still do a little bit? Or at least as recently as within the last month?
A. Yes. I wouldn't say "frequently" but --
Q. Sure.
A. -- here or there.
Q. And apart from the fact that it's illegal, which we all know which is why we're here, you don't see anything wrong with it, do you?
A. I don't see anything wrong with it, no.
Q. You had a joint with your brother-in-law, what, the last couple of weeks, right?
A. Yes.
Q. Now, what happened to get your involvement was you liked Sean Bucci so you got in a little over your head, right, in terms of the money part.
I'll withdraw it. Let me slow it down. I'm trying to be brief here.
Sean was your friend, right?
A. Absolutely, yes.

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Q. And except for the fact that you got no choice but being here, he's still your friend, right?
A. I don't know what he thinks of me now, but I don't -- I don't know.
Q. You don't wish him any bad will but you've got no --
A. Absolutely not. I used to love the kid like a brother.
Q. But you got no choice, right? You've got to sit there because you've been told to be here by the government, right?
A. I've been advised by my lawyer that I would be most likely to get into trouble if I didn't come here and tell the truth.
Q. So you see it as no choice, right? Let me withdraw it.
You see it as the right choice for yourself and your family?
A. Yes, sir.
Q. And you don't know what he thinks of you. I think that's what you just said, right?
A. Yes.
Q. But you still care for him, right?
A. Absolutely, sir.
Q. Now, you -- but you wouldn't lie for him, right? Not today, right?

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A. To my knowledge I haven't been lying about anything today.
Q. All right. Now, you knew that he came from a family, had a brother and -- excuse me. Had two sisters when he was growing up, right?
A. Yes.
Q. You knew his sister Noelle, a lot younger, right?
A. Yeah.
Q. And you knew that Sean had business ideas, right?
A. Yes.
Q. He had big dreams, right?
A. Yes.
Q. And it wasn't just pot, was it?
A. No, sir.
Q. He wanted to be a dee-jay, right?
A. Yes.
Q. He started this thing called Dessy Drive, I think way back in high school. Just after high school, right?
A. Yes.
Q. Do you remember that?
A. Yes.
Q. What was that all about?
A. He tried to start a service of -- a designated driver service.
Q. Explain it. How was it supposed to work?

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A. From what I recall, someone just would give him a call and his pager would go off or whatever and he would pick the person up.
Q. People who --
A. They drank too much, yeah.
Q. It was an attempt to make money in a legitimate business, right?
A. Yes.
Q. Now, the dee-jay thing he was serious about, right?
A. Yes.
Q. It wasn't just a cover for being a pot dealer, was it?
A. They were serious about it. Yes.
Q. When you say "they," it wasn't just him either, right?
A. Correct.
Q. It was him and Bleicher, right?
A. Yes.
Q. And who's the other kid involved?
A. Jay Carnes, Eric Remins.
Q. And did you tell us on direct exam that they were out two, three nights a week? Is that what you said?
A. It varied.
Q. All right. Give us your best estimate.
A. Usually Thursdays, Fridays, Saturdays.

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Q. Pretty regular, right?
A. Yes.
Q. For over what period of time?
A. They were dee-jays for a long time.
Q. Back before '95?
A. I can't remember exactly when they started but it could have been back before '95. Yes.
Q. Now, Sean was one of these guys that liked to make a big splash from time to time, right?
A. What do you mean by that?
Q. I don't know myself. It's a lousy question. Let me try again. Let me give you something specific.
Do you remember an incident in some bar where it was in the newspaper and the dee-jay was buying drinks for everybody, something like that?
A. Yeah. At the Bay Bridge, I believe it was.
MR. SINSHEIMER: If I may have a second, your Honor.
THE COURT: Yes.
(There is a pause.)
MR. SINSHEIMER: May I see Exhibit 62, please?
BY MR. SINSHEIMER:
Q. Do you remember that? Can you read that, first of all? I apologize, sir.
A. Yeah. "Dee-Jay Picks Up The Tab At Salem Watering

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Hole."
Q. And do you remember seeing that when it actually came out?
A. Yeah.
Q. I know I asked you a lousy question before but I guess that's what I mean by "big splash." He was out there marketing himself in a big-time way, right?
A. At that time, yes.
Q. As a dee-jay, not as a pot dealer.
A. Exactly.
Q. And he did other things like that along the way, right? I don't mean in the newspaper. I mean, he wanted to be known as a dee-jay. He got the word out there, right?
A. He was trying to be successful at that, yes.
Q. Do you remember Rocktober Fest?
A. Yup.
Q. Now, you told us on direct -- I think Mr. Levitt asked you some questions about Rocktober Fest. Do you remember those?
A. Yes.
Q. So I'm just going to ask you in a little more detail, if you don't mind. I think -- you don't remember exactly the year, do you?
A. I thought it was '97, but I'm not a hundred percent

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sure.
Q. One moment, please.
(There is a pause.)
MR. SINSHEIMER: Judge, may I have this object marked for identification only, please, at this juncture?
THE COURT: Yes.
MR. SINSHEIMER: Thank you.
THE CLERK: E. I believe it's E.
THE COURT: What number are we on?
MR. SINSHEIMER: E for identification. E as in Edward.
(Defendant 2's Exhibit E was marked for identification.)
BY MR. SINSHEIMER:
Q. Sir, I'm going to show you what has been marked as E for identification. Do you recognize it?
A. Yeah.
Q. Without getting in too much detail, what is it?
A. Excuse me?
Q. What is it?
A. That's a T-shirt.
Q. Is it -- from what?
A. From a promotional concert that 911 Productions tried -- attempted to throw, and they did.

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Q. The Rocktober Fest?
A. Correct.
Q. And you actually recognize this as being one that was available at the time?
A. Yup.
MR. SINSHEIMER: Judge, I'd offer it into evidence at this juncture.
MR. LEVITT: No objection.
THE COURT: Received.
(Defendant 2's Exhibit E was received into evidence.)
BY MR. SINSHEIMER:
Q. Now, this session -- well, what year does it say on it?
A. It says 1998.
Q. And does that refresh your memory as to whether Rocktober Fest was in 1998?
A. I guess so, yes.
Q. By the way, did he give you one of these?
A. I don't know if I ever -- if I did, I lost it. I don't remember.
Q. Well, this has a bunch of bands on the back. One, two, three -- quite a few, right?
A. Yes.
Q. And did they all show up?

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A. To my knowledge, yes.
Q. And where was -- did you go, first of all?
A. Yeah. I actually worked the event.
Q. Because he was your buddy, right?
A. Yes.
Q. And so -- when you say you worked the event, what do you mean?
A. I was in charge of tickets and people coming in. I was selling tickets.
Q. By the way, you and I have never spoken, have we?
A. I don't believe I've ever seen you before.
Q. Never seen me in your life, right?
A. I don't think so.
Q. And we never sent any investigator out to talk to you or anything like that?
A. No.
Q. You never got -- so you worked the tickets at Rocktober Fest?
A. Yeah.
Q. How many people came? I know it's been almost ten years, but give me a rough estimate.
A. I honestly can't speculate.
Q. Thirty, forty grand? Is that too much?
A. Thirty, forty thousand people?
Q. Yeah.

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A. Oh, absolutely. Maybe 500, 600 people.
Q. Oh, it was tiny? I know it was a bust, but how many people came altogether, do you think?
A. Through the whole day the course of people coming and going? I don't know, maybe a thousand, 1500? I honestly would have no idea.
Q. And it was outdoors?
A. Yes.
Q. Where was it?
A. I believe it was in Salem. Winter Island, I believe.
Q. Was it very clearly promoted as 911 Productions?
A. I think someone else -- it was 911. I thought someone else was in on it, too.
Q. Were there radio stations involved?
A. Yeah. WAAF was there.
Q. WAAF?
A. Correct.
Q. Were there corporate sponsors?
A. I don't know.
Q. Budweiser, or one of those --
A. Maybe. I don't know.
Q. You're not sure?
A. I'm not sure.
Q. How much time -- do you know what time of year it

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was?
A. I believe it was in October.
Q. Of '98?
A. I believe so.
Q. It took a little time to put that together, right?
A. I believe it would have, yes.
Q. And do you remember how far prior to October '98 Sean began the process of putting that together?
A. I don't remember, no.
Q. If I suggested six months to a year, is that consistent with your memory?
MR. LEVITT: I object. He said he doesn't know.
THE COURT: Sustained.
MR. SINSHEIMER: Who objected, the judge?
BY MR. SINSHEIMER:
Q. All right. I mean, do you have any idea at all?
A. I believe it took a while to plan but I don't know.
Q. When did you find out you were going to be the ticket guy?
A. I believe that day.
Q. When did you find out you were going to be involved in any functional way?
A. I told him I'd help him if he needed help.
Q. Do you know if it was advertised on the radio at all?

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A. I believe it was.
Q. Do you remember that?
A. I believe it was.
Q. Now, let's go back to these Fourth of July parties, if I may.
MR. SINSHEIMER: Can I get Exhibit -- I think it's 43.
BY MR. SINSHEIMER:
Q. That's 23 Marshall Street, right?
A. Yes, sir.
Q. That's the location where the Fourth of July party took place that you were telling us about where you met my client, right?
A. Yeah. That wasn't the first time I met her, but I'd seen her there.
Q. When was the first time you met her?
A. I can't remember.
Q. Just like growing up as kids, you went to the house once in a while?
A. It had to be sometime when I got my license in high school, I would believe.
Q. Because you'd be driving over?
A. Yeah.
Q. And, "Hey, can Sean come over?" Or -- or you'd pick him up or leave him there?

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A. I'd pick him up or leave him there, yeah.
Q. That was at 4 Loris Road in Danvers, the house where he grew up?
A. Yeah.
Q. A regular house in Danvers, as far as you could see?
A. Yeah.
Q. Now, as far as -- let's go back to this location, 23 Marshall Street. Do you know what is to the right or the left of this picture? I'll withdraw it. I'll withdraw it. Let me try a different question.
Describe the neighborhood.
A. Pretty quiet neighborhood.
Q. Pretty quiet?
A. Yeah.
Q. How far apart were the houses?
A. They weren't super far, but there was a lot of brush and trees between them.
Q. It wasn't so quiet on Fourth of July, though, was it?
A. No.
Q. A pretty big party. That's what I'm trying to get at, right?
A. Yeah.
Q. Were the neighbors present?
A. I don't know.

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Q. You don't know one way or the other?
A. No.
Q. How many people altogether?
A. A hundred plus. I don't know.
Q. And some of them you knew and some of them you didn't know, right?
A. Yeah.
Q. And some of them you knew as people who you'd smoke pot with from time to time, right?
A. Yes.
Q. Some of them you knew but as people that you may have sold a little pot to from time to time, right?
A. I can't remember if any of my clients were there, but maybe.
Q. All right. Some of them you knew as people who may have purchased from Sean, right? Bleicher, Carnes, your buddies?
A. Yeah, my buddies. Yeah.
Q. But this was a pretty small percentage of all the people that were there, true?
A. I guess.
Q. I mean, this wasn't a pot party; this looked like a suburban Fourth of July party, correct?
A. Yeah. There was a band and a cop detail and port-a-potties.

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Q. You beat me to it. There were cops outside, right?
A. Yeah.
Q. That Sean paid for, right?
A. Yeah.
Q. That was another way that he put on a big splash, right? He had a party for over a hundred people every Fourth of July party, right?
A. Yeah. I think he had, like, two or three of them. I'm not sure.
Q. In 2000, 2001?
A. Yeah.
Q. Do you know who called the cop detail?
A. No.
Q. Was it more than one cop?
A. I can't remember.
Q. No one was ever arrested at these things, right?
A. Not to my knowledge.
Q. I mean, they were happy, celebratory parties, but they weren't out of control in any way, shape or form, right?
A. Not to my knowledge. I wouldn't stay there until the end of them all but...
Q. Fair enough. All right. Let me withdraw it and try it again.
During the times you were there, they were happy

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parties, right?
A. Yeah.
Q. People were enjoying the holiday, right?
A. Yes.
Q. But no way out of control, right?
A. Not to my knowledge.
Q. Not from what you saw. I'm asking what you saw.
A. Yeah.
Q. Now -- and his parents were there, right?
A. I believe so, yeah, a few times.
Q. And never once in your entire life have you ever seen my client in the presence of marijuana, have you?
A. No.
Q. And never once have you -- now, just a couple more questions. You got contacted by Agent Harriman in August '05, right, or a little before then?
A. It might have been a little before that, yeah.
Q. Sean had already been busted, right?
A. Yes.
Q. Almost a year and a half before, right?
A. Yes.
Q. He'd been in jail for a period of time, right?
A. Yes.
Q. And all this time you'd been holding onto his money and you thought the only people who knew were you and

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him and Leigha, right?
A. To my knowledge.
Q. That's what you thought?
A. Yeah.
Q. And then the IRS is at your door, right?
A. Yeah.
Q. And this isn't good for you, is it?
A. No.
Q. So you get a lawyer, right?
A. Yeah.
Q. He tells you, "Come clean," in so many words, as quick as you can, right?
A. He told me to tell the truth, yes.
Q. And he gets you involved and in contact with Mr. Levitt, right?
A. I guess, yeah.
Q. And that's pretty scary at the beginning, right?
A. Yes.
Q. I mean, you paid your lawyer some money, you trusted him, but it wasn't like something you wanted to do, right?
A. Yeah.
Q. And you were talking about being interviewed a little bit, and I think you said some of the questions -- they asked you things like, "Are you sure?

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Can you think of more?" Do you remember those kinds of questions?

A. Specifically, no.

Q. At any time, I mean.

A. That might have happened, yeah.

Q. Well, you met with Mr. Levitt how many times?

A. Four to five.

Q. And among the things you talked about was how to handle yourself on cross-examination, right?

A. Yes.

Q. And the first thing he tells you: Whatever you do, tell the truth. No question about it, right?

A. Yes.

Q. And didn't he also say things like, "We know you're going to get asked, 'Do you expect not to be prosecuted?'" right? You knew that question was coming, right?

A. Excuse me?

Q. Well, Mister -- excuse me. Ms. Byrne asked you if you expected not to be prosecuted. Do you remember that?

A. I don't expect anything.

Q. No. But he told you to say you don't expect anything; just say be hopeful, right?

A. No. He asked me if we ever had any deals, "And to

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your knowledge we do not, correct?" And I said yes.
Q. Right. Right. And Mr. Levitt said, "Remember, now, we don't have any deals. If they ask you if you expect to be prosecuted, say you hope not," correct?
MR. LEVITT: I object, your Honor.
THE COURT: Overruled.
BY MR. SINSHEIMER:
Q. Right?
THE COURT: Do you understand the question?
THE WITNESS: Not really. Not specifically.
BY MR. SINSHEIMER:
Q. All right. Let me ask it a different way. I know I can bungle them. Let me work it down slow.
You told the jurors that you hope not to be prosecuted.
A. Yes.
Q. But let's change the word. In your heart of hearts you expect not to be prosecuted, right?
A. Honestly, I'm still scared. I have no idea what's going on with me.
Q. You're scared, but you'd also be surprised, right?
A. No.
Q. You've got a good working relationship with them, right?
A. I don't know that.

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Q. Well, you've met with them five times, right?
A. Yes.
Q. You've been asked over and over again, "Are you sure? Can you think of anything else," right?
A. Yes.
Q. And you knew at one point that my client, Mrs. Bucci, was a target of this prosecution, right?
A. I was told that later, yes.
Q. When?
A. I don't remember.
Q. Well, more than a month ago, right?
A. I didn't learn until I started meeting with them.
Q. And they told you, right?
A. Yes.
Q. They told you they had a case against Sean Bucci, but they also had a case against his mother, right?
A. Yes.
Q. And they wanted to know everything you knew about the mother, right?
A. They didn't ask me too many questions about her.
Q. Well, but they made it clear they wanted to know, right?
A. Know about what?
Q. Anything. They wanted to know what you knew about Mrs. Bucci and pot, right?

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A. They asked me if I'd ever seen her in the same room as it, and I said, "No, I don't think she's ever been around it."

Q. And you told us everything you know today, right?

A. Basically, yes.

MR. SINSHEIMER: Thank you.

THE COURT: Is this going to be short?

MR. LEVITT: Yes, very.

REDIRECT EXAMINATION

BY MR. LEVITT:

Q. Mr. Carbone, when you brought the box of money and the safes to Sean Bucci --

A. Yes, sir.

Q. -- did he give you anything?

A. Yes, sir.

Q. What?

A. He gave me $5,000.

MS. BYRNE: Objection, your Honor. Beyond the scope.

THE COURT: Sustained.

MR. LEVITT: I don't believe that's outside the scope, your Honor.

THE COURT: Well, I believe that it is.

MR. LEVITT: It's the one question I had, your Honor. I'd ask the Court's indulgence.

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THE COURT: Okay.

MS. BYRNE: Objection, your Honor. Objection. It's beyond the scope.

THE COURT: Are you saying that that's the only question you have?

MR. LEVITT: Yes.

THE COURT: All right. I'm sustaining the objection.

MS. BYRNE: Thank you, your Honor.

MR. LEVITT: You're not allowing me to ask the question about what he got from Sean Bucci?

THE COURT: I just ruled.

MR. LEVITT: Nothing else.

THE COURT: Okay, ladies and gentlemen. This will be the break at this time. Thank you. You may be excused.

THE CLERK: All rise.

(Jury out at 11:16 a.m.)

THE COURT: You're excused, sir.

THE WITNESS: Thank you.

(The witness is excused.)

MR. SINNIS: Can you ask him to leave?

THE COURT: You may leave.

MR. LEVITT: Your Honor, with respect to the issue that Mr. Sinsheimer brought up earlier about the

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Bruton issue.

THE COURT: Yes.

MR. LEVITT: Mr. McAdams has advised me that his memory is that the Court had not previously ruled on it. So I wanted to advise the Court -- the Court said it had previously ruled on it -- I said -- I agreed with that. Mr. McAdams has now told me that his recollection is apparently consistent with Mr. Sinsheimer's, is that the Court hadn't. So I wanted to just let the Court know.

THE COURT: Thank you. I'm sorry about the confusion. It's been a case with a lot of points, and I believe I did dispose of it. I don't pretend it was in writing -- it was orally -- but I'm prepared to rule on the record at the moment, if necessary.

And I'd forgotten whether -- I believe it was Mr. Sinsheimer had moved to suppress, right?

MR. SINSHEIMER: I moved in limine, your Honor.

THE COURT: Yeah.

MR. SINSHEIMER: And you've given me plenty of time to be heard so I won't belabor it, but I really don't see how they could get that in even under the coconspirator exception rule, because it is the only evidence they have of the conspiracy. And my understanding of the law is that they have to show first that there is a conspiracy and then that activity was in

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in furtherance of it. And I don't see where they're anywhere near that.

THE COURT: My recollection is that they did show that it was. They did argue precisely that point, am I right?

MR. LEVITT: That's correct, your Honor. She's deeply involved in the conspiracy. She was selling the marijuana; she was breaking it down; she was money laundering.

THE COURT: I recognize there could be a difference of opinion as to how this falls, and I'm agreeing with the government.

MR. SINSHEIMER: Let me finish now, please, because I think your Honor may have forgotten the argument because we're at the exact same place we were the last time. It's a different conspiracy. Leigha Genduso is not charged with the money-laundering conspiracy that my client is charged with. And there's not a scintilla of evidence that this pillow talk, or this casual conversation that they're going to put in -- they don't give me a date; they don't give me anything. It's just one time, "Did you ask Sean" --

THE COURT: I'm ruling in favor of the government. I would say this, however: that I think that there is enough merit to your position that the

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government should think twice about whether they want to use this statement or not.

MR. SINSHEIMER: Thank you, your Honor.

MR. LEVITT: Your Honor, I'd ask permission to re-call Mr. Carbone to ask him that one question.

MR. SINSHEIMER: Objection.

THE COURT: I'm sorry. Whose question?

MR. LEVITT: I'd ask the Court's indulgence to re-call Mr. Carbone and ask him that one question about what Sean Bucci gave him when he gave him the money box and those two safes.

MS. BYRNE: Which you just ruled on.

THE COURT: The last question?

MR. LEVITT: You ruled that I couldn't do it on redirect. I'd ask that I could re-call him and ask him that question.

MS. BYRNE: Objection, your Honor.

THE COURT: I don't understand what's happened since then.

MR. LEVITT: Well, no, your Honor. It's just that the ruling was that it was outside the scope of redirect.

THE COURT: Yes.

MR. LEVITT: I'm asking to re-call him on direct examination and ask the question.

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THE COURT: No. The answer is no.

THE CLERK: All rise.

(There is a recess in the proceedings at 11:20 a.m.)

THE CLERK: All rise for the jury.

(Jury in at 11:42 a.m.)

THE COURT: Thank you, everyone. Please be seated.

MR. LEVITT: The government calls Leigha Genduso.

LEIGHA GENDUSO, sworn

THE COURT: Ms. Genduso, would you keep your voice up and speak into the mic.

THE WITNESS: Sure.

DIRECT EXAMINATION

BY MR. LEVITT:

Q. Ms. Genduso, I show you what has been marked as Government Exhibit 82. Do you recognize that?

A. Yes.

Q. Is that your signature on the last page? Actually, your signature is not on it.

A. No. I was, like, "No, it's not."

Q. What is this?

A. That is a court order which is forcing me to come and testify along with immunization upon my testimony.

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Q. It takes away your Fifth Amendment right?
A. Correct.
Q. That means you can't be prosecuted for what you say here today?
A. Correct.
Q. Unless you lie?
A. Correct.
MR. LEVITT: I offer Exhibit 82.
THE COURT: Received.
(Government's Exhibit No. 82 was received into evidence.)
BY MR. LEVITT:
Q. And when you testified before the grand jury in this case, you had a similar order?
A. Yes.
Q. How old are you?
A. Twenty-five.
Q. Where did you grow up?
A. Shrewsbury, Massachusetts.
Q. How far did you go in school?
A. College -- I'm sorry. High-school diploma.
Q. When did you graduate?
A. In 1999.
Q. At some point did you leave home?
A. Yes.

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Q. When?
A. When I was 17 years old.
Q. Why?
A. Just bad family situations.
Q. How have you supported yourself since?
A. I've supported myself on my own without my parents.
Q. Doing what?
A. Bartending.
Q. Have you ever had a problem with drugs in your life?
A. Yes, I have.
Q. What drugs?
A. Marijuana.
Q. When did you start smoking marijuana?
A. Between the ages of 16 and 17 years old.
Q. At some point did you smoke marijuana heavily?
A. Yes.
Q. When?
A. During the time I lived at 23 Marshall Street.
Q. Who were you living with at the time?
A. Sean Bucci.
Q. Who is he?
A. Right there.
Q. Would you identify him?
A. (Witness complies.)
MR. SINNIS: The record will reflect that she

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identified Mr. Bucci.

THE WITNESS: To the right.

THE COURT: All right.

BY MR. LEVITT:

Q. What was your relationship with him?

A. He was my boyfriend at the time.

Q. How often were you smoking marijuana during that time?

A. Basically every day.

Q. Where did you get the marijuana?

A. From Sean.

Q. How old were you at that time?

A. Like 19, 20. I'd say 20.

Q. Did you also use prescription drugs at some point?

A. Yes.

Q. When?

A. During the time I resided at 23 Marshall Street.

Q. What kind?

A. I used Xanax, Wellbutrin, possibly Vicodin.

Q. Why?

A. Just for my own consumption, personal.

Q. For what?

A. The Xanax I would take to sleep; Wellbutrin for, like, depression.

Q. Where did you get prescription drugs?

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A. The Wellbutrin was from online, and the Xanax was -- Sean had.
Q. You weren't prescribed those drugs, were you?
A. No.
Q. When did you meet Sean Bucci?
A. In the year 2000.
Q. Do you recall when in 2000?
A. Approximately, no.
Q. How did you meet him?
A. He dee-jayed at a bar called Scuttlebutts in Salem, and I was cocktail waitressing there at the time.
Q. When did you start dating him?
A. Around 2000.
Q. And was Sean Bucci living at 23 Marshall at the time?
A. Yes.
Q. When did you move in with Sean Bucci at 23 Marshall?
A. Between 2000 and 2001.
Q. When you first started dating Sean Bucci, did he tell you what he did for a living?
A. No, not really.
Q. Did he say anything about what he did?
A. Nope.
Q. At some point did you learn what he did for a living?

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A. Yes, I did.
Q. When?
A. Well, one day when I was over there he brought from upstairs a bag of marijuana down to the kitchen. And I kind of wondered where it came from, and eventually he told me.
Q. What did he tell you?
A. That he sells marijuana for a living.
Q. Do you recall how soon after you were dating that happened?
A. Probably -- I'd say three months.
Q. At some point did you learn who Sean Bucci's marijuana supplier was?
A. Yes.
Q. When?
A. Not right away. At first I'd usually be in the bedroom when the person came.
Q. Why would you be in the bedroom?
A. Because the person didn't want his identity to be known.
Q. Did somebody tell you to go in to the bedroom?
A. Yes.
Q. Who?
A. Sean.
Q. At some point did that change?

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A. Yes.
Q. Why?
A. Because I was around for so long, it just finally -- things got more mellowed out and relaxed and...
Q. And who did you learn was Sean Bucci's marijuana supplier?
A. His supplier was Anthony Belmonte.
Q. Did you see Anthony Belmonte at the house?
A. Yes.
Q. When would you see him at the house?
A. About once a month.
Q. Once a month what was he doing at the house?
A. Once a month he was bringing over shipments of marijuana to the house.
Q. Did you ever talk with Sean Bucci about how long Anthony Belmonte had been his supplier?
A. Yeah. I knew it was over a few years.
Q. At some point did you get more involved in -- did you get involved in Sean Bucci's marijuana business?
A. Yes, I did.
Q. When?
A. Once I found out, after a while, I became more involved.
Q. So once he let you, sort of, be there?
A. Correct.

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Q. When you didn't have to go in to the bedroom?
A. Yes.
Q. And what year is that?
A. An approximate, I don't recall, but it was definitely between 2000 and 2001.
Q. And starting at that point were you there for deliveries?
A. Yes.
Q. Could you describe how those deliveries would come about?
A. Well, Anthony would usually call prior, before delivery day, whether it be the night before. Usually he would start calling the week before to let him know, give him a heads-up, and would always call the day before.
Q. And then what would happen on delivery day?
A. He would call that morning to state what time he would be coming. And upon arrival the garage door -- Sean would usually open the garage door. Either Sean or myself or other roommates would move all the vehicles so the garage area would be open and not restricted for a truck to come in, and Anthony would usually have a rental truck, pickup truck, that he'd bring into the garage, and then the garage door would shut.
Q. Showing you Government Exhibit 14, what is that?

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A. That is the house at 23 Marshall Street.
Q. So after Anthony Belmonte brought the marijuana into the garage, what would happen?
A. The garage door would shut. And depending on if it was a -- like a cover on it, whatever the case would be, we would take out -- they would take out the bales and bring them usually upstairs to the middle room with the shades lowered right there.
Q. The room that I'm indicating?
A. Correct.
Q. Did he always use a pickup truck?
A. Not necessarily. For the most part, yeah, a pickup truck or a van.
Q. You say it was a rental. How do you know that?
A. He would never, as far as I know, use his own vehicle. He'd usually rent a vehicle.
Q. How do you know that?
A. Because he was -- I'm pretty sure he stated it before.
Q. So did you help him move the marijuana?
A. No.
Q. Why not?
A. Because they're big bales. Usually the guys would do it, meaning the roommates.
Q. Which roommates?

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A. Jay Carnes, Chris Bleicher, Eric Remins; Darren Martin was living there once in a while.
Q. Did they all help?
A. Depending who was home at the time. Sometimes it would just be Anthony and Sean.
Q. Do you know how much at a time Anthony Belmonte was bringing?
A. It would be, actually, different, depending per month. Sometimes it was months that he wouldn't even come, but usually estimated, it would be around 200 pounds.
Q. What did you do in connection with the marijuana that was delivered?
A. A lot of times I helped him break up the bales to be able to put them into pounds.
Q. Did he break up all of the bales?
A. No.
Q. How many bales would he break up?
A. It depended. Usually whatever he had left from the people who would come take the bales in bulk. It always varied.
Q. About how many bales was he getting for delivery?
A. Like I said before, it depended. It depended on the amounts per bale. For example, one would be 17-1/2 pounds; another one could be 10 pounds. So sometimes he

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would get 20 bales, sometimes 10, depending.
Q. And so, for example, if he had 20 bales, how many might he break up into pound bags?
A. It could be two, three.
Q. And the rest would be sold in bulk?
A. Yes.
Q. Let me show you what's been marked as Exhibit -- Government's Exhibit 23J. Do those look familiar to you?
A. Yes, they do.
Q. What do they appear to be to you?
A. Those are the bales that they would come in. The numbers on them mean the weight.
Q. Can you describe -- so if there's 20 bales, he breaks up a couple of them into pound bags, right?
A. Yeah, usually.
Q. Can you describe -- and you helped him do that?
A. Yes.
Q. Can you describe how you guys would do that together and the way you would do it?
A. Sure. He'd have a black bin. We would usually take, like, a long straightedge screwdriver to break open the bales because they were very compact and hard to break up. And we would then break up the buds and put them into one-pound bags.

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Q. Let me show you Government Exhibit 38. Do you recognize this?
A. Yes, I do.
Q. What is it?
A. That is one of the buckets we'd use to break up the bales.
Q. I show you Government Exhibit 29C. Do you recognize these bags?
A. Yes, I do.
Q. What are they?
A. They are the bags that we'd put pounds into.
Q. Do you know where Sean got these?
A. I think he got them online.
Q. And do you know how many he would typically order at a time?
A. I don't know how many he'd order at a time. I do know that they cost a lot less online rather than buying them at a grocery store, for example.
Q. I show you Government Exhibit 27A. Do you recognize this?
A. Yes, I do.
Q. What is it?
A. It's a U-Haul box that occasionally the bales would come in.
Q. And how would Sean Bucci weigh the marijuana?

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A. Well, like I said before with the bales, it would already have the approximate weight on there. But when he wanted to weigh, say, to check, to make sure the weight was accurate or to do pounds, he would have two different types of scales.
Q. I show you Government Exhibit 32. Do you recognize that?
A. Yes, I do.
Q. What is it?
A. It's an electronic scale that he used.
Q. And 33?
A. Yup.
Q. What's that?
A. That is another scale that is more efficient for ounces, for example.
Q. Government Exhibit 30. Do you recognize this?
A. Yes, I do.
Q. What is it?
A. It's a money counter.
THE COURT: I'm sorry?
THE WITNESS: Money counter.
THE COURT: Oh.
BY MR. LEVITT:
Q. Where was the money counter?
A. It was also in the office.

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Q. Did you see him use it?
A. Yes.
Q. Did you use it?
A. Yup.
Q. And what would you use it for?
A. To count a large number of bills at a time. It's a lot easier.
Q. How would Sean Bucci package the bills?
A. Usually he would take elastics and wrap them around in denominations of $5,000.
Q. Did you see -- when Anthony Belmonte brought his loads of marijuana, did you ever see Sean Bucci pay him?
A. Yes.
Q. How much at a time did you see him pay him?
A. I don't remember approximates. Sometimes it would be depending on how much money he had to front him, what they call it, and then a lot of times he would have to pay him back whatever amount he still owed afterwards.
Q. When a load was coming, would Sean Bucci have the money there at the house?
A. Yes.
Q. And did he keep it anywhere else?
A. Yes.
Q. Where?
A. He also kept it at his mother's house.

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Q. How do you know that?
A. Because the night before we would usually drive to his mom's house at 4 Loris Road in Danvers. He would go inside and I'd stay in the car, and he'd go in to get money.
Q. And what would he come out with?
A. Sometimes a bag, sometimes a shoebox, depending.
Q. Do you see Catherine Bucci in court here today?
A. Yes, I do.
Q. Can you point her out?
A. Very far right.
MR. SINSHEIMER: I'd stipulate, your Honor, that she's here.
THE COURT: All right.
BY MR. LEVITT:
Q. Did you come to know who Sean Bucci's customers were?
A. Yes, I did.
Q. How?
A. Well, living there I knew half of them were his friends and then the other half were just his regular customers.
Q. Would you see them come and pick up marijuana?
A. Yes.
Q. Did you ever provide any of the customers with the

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marijuana?
A. Yeah. When Sean wasn't home?
Q. Do you know who Sean Bucci's largest customers were?
A. Yes, I do.
Q. Who?
A. Jay Zeramby, J.Z., also known as; J.Z.'s brother-in-law, Larry; Darren Martin; Tim Hurley at one time; there was another kid named Matty at one time; Scott Mizzy at one point; a kid named Jay, I believe, who used to come over, I didn't know his last name, with his girlfriend; Chris Bleicher. Those were usually his biggest customers.
Q. Did he have some smaller customers, too?
A. Yup.
Q. Who were they?
A. Chris Bleicher, sometimes he would take a little more, but he usually would take pounds; Eric Remens would take pounds once in a while; Jay Carnes would take pounds once in a while; Eric Carbone; Jan Jefgood, also known as Butchy.
Q. Those were the smaller customers?
A. Correct.
Q. When you say that J.Z. was one of the larger customers, do you know how much he was taking?
A. He would basically be the first one over to the

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house normally to get the most bulk. It could be anywhere, depending on what he wanted to choose, five bales, maybe sometimes more, sometimes less.

Q. And Larry?

A. Larry, the same. Sometimes less, depending.

Q. Darren Martin?

A. Darren Martin, sometimes he would take a few bales; other times he would take, like, ten pounds already put together.

Q. Scott Mizzy?

A. Mizzy, when he was around, would take bulk as well, and also Matty.

Q. When you say "bulk," you're distinguishing bales from pounds?

A. Correct. And, like, several bales.

Q. And what about Hurley?

A. Timmy would take a couple of bales, sometimes more, sometimes less.

Q. Matt?

A. Matt would take bales, too, at the time. Unfortunately, I don't remember his last name, but...

Q. Do you know someone named Don O'Connor?

A. Yes, I do.

Q. Who's that?

A. That's Sean's uncle.

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Q. Do you know where he lives?
A. He also lives in Peabody.
Q. Do you know if he's a customer?
A. Yes, he was, too.
Q. Was he a big customer or a little customer?
A. He would take bales at times.
Q. Do you know Eric Carbone?
A. Yes, I do.
Q. Is he a customer?
A. Yes, he was.
Q. Big or little?
A. Little. He would take pounds as far as I remember.
Q. Why would you provide marijuana to Bucci's customers sometimes?
A. If someone -- or one of the roommates, for example, if Sean wasn't home and they wanted to suddenly go out and, say, one of their friends called and wanted a pound or two, then I would go into the office into the -- one of the bags and give them some and record it on paper.
THE COURT: Can I see counsel at the sidebar, please.
(Discussion at sidebar and out of the hearing of the jury:)
THE COURT: I asked you to come here because I am concerned about the issue that Mr. Sinsheimer has

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raised, even though I think my ruling is correct; and therefore, before you ask the question, I would like you to advise me. I'm going to excuse the jury and we can discuss it further.

MR. SINSHEIMER: Judge, while we're here on that, I also -- I didn't object when it came in, but there was a statement made that I've never seen disclosed before, and I was going to come back, and as soon as I could. And the reason I didn't was because I didn't want to make a big show in front of the jury.

But he asked her this story about going to my client's house and getting money. That's never been disclosed ever. It's a brand-new statement. And to just throw that at us I think is unfair, and I'm moving for a mistrial.

MR. LEVITT: It's been disclosed, I believe, and it's not grounds for a mistrial.

MR. SINSHEIMER: Well, if it's been disclosed, then I stand in error.

MR. LEVITT: Either way, it's not grounds for a mistrial.

MR. SINSHEIMER: I think it's grounds.

(In open court:)

THE COURT: Do you want me to do that now?

MR. LEVITT: I thought you wanted to excuse the

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jury.

THE COURT: At the time that you get to the point.

MR. LEVITT: Got it.

BY MR. LEVITT:

Q. Did you ever take money from Sean Bucci's customers?

A. Yes, I did.

Q. And why would that happen?

A. Again, either Sean wouldn't be present at the house or, for example, he'd be sleeping.

Q. I show you what's been marked as Government Exhibit 40J. Do you recognize that?

A. Yes, I do.

Q. What is it?

A. It's my handwriting. Sean wasn't home at the time, and Darren Martin came over with money that he owed him, so I counted the money and placed it into that envelope and marked it.

Q. I show you Government Exhibit 66A. Do you recognize these people?

A. Yes, I do.

Q. Starting on the left, who's that?

A. Starting to the left is Chris Bleicher, sitting down is Sean Bucci, next is Eric Carbone, and the far right is Jason Zeramby.

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Q. And this person here?
A. Oh, didn't see that person. I'm sorry. It's Jan Jefgood, also known as Butchy.
THE COURT: Do you know where that picture took place?
THE WITNESS: Yes. That is in Costa Linda in Aruba.
THE COURT: Thank you.
BY MR. LEVITT:
Q. Did Mr. Bucci have any sort of system for tracking his drug sales?
A. As far as a system, it was kind of sloppy. He would have all different notebooks and pieces of paper all over the place with numbers and names.
Q. And what did he use these various pieces of paper and notebooks for?
A. To record how much people took, how much people owed him.
Q. I show you Government Exhibit 45A. Do you recognize that?
A. Yes, I do.
Q. And what's that?
A. That is one of the notebooks that he would use to record how much money everyone owed and when they came by, how much they gave him from their existing number.

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Q. So the line for J.Z. would be --
A. $144,000. And they'd come, drop off 43, and then what they had owed left.
Q. Did you ever see numbers like this?
A. Yup.
Q. This is 40C. What did that signify to you?
A. That signifies to me the approximate amount of marijuana that he received, 351.73. The number below it would be the figure that he owed to Anthony Belmonte, for example, and then minus the number, that usually would mean what he gave to Anthony for payment.
Q. Did Mr. Bucci usually pay a significant portion --
MS. BYRNE: Objection, your Honor, to leading.
THE COURT: Overruled.
BY MR. LEVITT:
Q. Did Mr. Bucci typically pay a significant portion of what he owed to Anthony Belmonte on delivery?
A. On delivery, yes.
Q. Did Mr. Bucci sometimes write things on Post-it notes?
MS. BYRNE: Objection to leading, your Honor.
THE COURT: Overruled.
THE WITNESS: Yes, he did.
BY MR. LEVITT:
Q. I show you Government Exhibit 40G. Do you recognize

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that?
A. Yup.
Q. What is it?
A. It looks like it could be either/or --
MS. BYRNE: Your Honor, "it could be"? I would object to her answer on this.
THE COURT: Sustained.
Ma'am, if you can't remember which it is, I'm afraid you can't answer.
THE WITNESS: Okay. My apologies.
BY MR. LEVITT:
Q. You mentioned there were some roommates?
A. Yes.
Q. Who were they?
A. Christopher Bleicher, Jason Carnes, Eric Remens, at one point Warren Sullivan, Darren Martin would live there on and off.
Q. Were they all -- did they all live there till the end when Mr. Bucci was arrested?
A. No.
Q. When did they leave?
A. I'd say between 2002 and 2003.
Q. Do you know if they paid rent?
A. Yes, they did.
Q. How much?

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A. 500 a month, as I recall.
Q. Did they pay on time?
A. No. Most of the time, no.
Q. The folks that lived there -- Carnes, Fletcher, Remens, Jefgood -- the other folks, Martin, Carbone, did they all smoke marijuana?
A. Yes. Well, no, Warren Sullivan didn't.
Q. Other than Warren Sullivan?
A. Yes.
Q. What about Sean Bucci?
A. No, never.
Q. Did you ever sell marijuana?
A. Yes, I did.
Q. When?
A. Between 2002 and 2003.
Q. How did you start?
A. I met someone in Worcester, we spoke about it, and I told Sean about it.
Q. Who was this person?
THE COURT: You said you sold it. Are you talking about you sold it for your own account? You got the money for it?
THE WITNESS: Yes, I did.
BY MR. LEVITT:
Q. Who was the person in Worcester?

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A. This kid named Tim. I don't recall his last name. I don't even think I knew his last name.
Q. Who supplied you with the marijuana?
A. Sean.
Q. For how long did you sell marijuana to Tim?
A. Oh, it could have been ten times, even more.
Q. How much were you selling at a time?
A. Sometimes up to ten pounds at a time.
Q. And how much was Sean Bucci charging you for the marijuana?
A. He charged me the lowest price possible to be charged. I don't recall the exact significant *[sic]* amount.
Q. Do you know how much you charged Tim?
A. I charged him the normal consistent amount/rate that everyone else did, probably between -- I don't remember the exact numbers, so I don't want to say.
Q. How much were you making?
A. I was making at least 200 a pound.
Q. Where would you pick up the marijuana that you were going to sell to Tim?
A. Well, I'd get it out of the house at 23 Marshall Street.
Q. How would you get it -- you sold it to him in Worcester?

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A. Yes.
Q. How would you get it there?
A. I would put it in boxes and then wrap them up as presents.
Q. Why?
A. Because of the smell, and because it's 60 miles to drive with that in my car.
Q. Did you ever sell Tim any other kind of marijuana?
A. Yes, I did.
Q. What kind?
A. Hydroponic, also known as High Bud.
Q. What is that?
A. It is a higher consistency --
MS. BYRNE: Objection, your Honor, as to relevancy, this portion.
THE COURT: Overruled.
Go ahead. You can answer it.
THE WITNESS: Thank you, your Honor.
It's a more potent type of marijuana. It values more on the street as well.
BY MR. LEVITT:
Q. Where did you get that marijuana?
A. From Sean Bucci.
Q. Do you recall when that was?
A. Between 2002 and 2003.

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Q. Where was Sean Bucci growing that marijuana?

MS. BYRNE: Objection. Leading.

THE COURT: Overruled.

THE WITNESS: He was growing that marijuana at his uncle's house, Donald O'Connor.

BY MR. LEVITT:

Q. Did you ever see the plants?

A. Yes, I did, once.

Q. Can you describe them?

A. Don O'Connor wasn't home. Sean wanted to see them. We stopped by, went downstairs into the basement and viewed them.

Q. Can you describe what you saw?

A. There was about 10 to 20 plants downstairs, grow lights -- grow lights everywhere, foil hanging on the walls.

Q. How many times did you sell the hydro to Tim?

A. Probably three to four times, maybe more.

Q. How much at a time?

A. Usually a pound.

Q. How much were you making per pound?

A. A lot more: 6-, $700.

Q. Do you know where the equipment came from to buy the hydro?

A. Some stuff from Home Depot, other stuff he'd get

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online. Even stuff for the soil, things of that nature.
Q. Did you see things delivered to the house?
A. Yes, I did.
Q. I show you Government Exhibit 39. Do you recognize that?
A. Yes, I do.
Q. What is it?
A. It's one of the magazines, catalogs that were sent to the house for growing material.
Q. During this time period when you were living at 23 Marshall, did you ever have any conversation with Sean Bucci about how long he had been selling marijuana?
A. Yes, I did.
Q. What did he say?
A. It was a substantial amount of time. Over four years.

MR. LEVITT: Excuse me, your Honor.

(There is a pause.)

BY MR. LEVITT:
Q. I show you what's been marked as Government Exhibit 50. Do you recognize that?
A. Yes, I do.
Q. What is it?
A. That was a photo of me and Sean taken at Anthony Belmonte's wedding.

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Q. Do you recall when that was?
A. I know it was in the fall. I think it was 2002.
Q. Did Sean Bucci and Anthony Belmonte socialize much?
A. Outside of him coming over to the house, no, not much.
Q. At some point did Sean Bucci buy a car?
A. Yes.
Q. Do you recall what kind?
A. Chevrolet Avalanche.
Q. Do you know how he paid for it?
A. Yes, I do.
Q. How?
A. All in cash.
Q. How do you know that?
A. Because I was present at the time.
Q. Can you describe what happened?
A. It was at a Chevrolet dealership in Lowell, Massachusetts. We went there, he found the Avalanche that he liked, we went upstairs into an office/room and counted the money with the car dealer.
Q. Did he say how much it was?
A. Between 20,000 and $30,000.
Q. And how did Mr. Bucci carry the money in?
A. I recall it being in just like a simplistic leather bag.

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Q. Did he have any other cars?
A. Yes.
Q. What kind?
A. Prior to the Chevy Avalanche he had a Jeep Cherokee; he also had a -- it was like a 1939 antique roadster.
Q. Anything else?
A. He also had a large box truck which carried the dirt bikes in.
Q. Did he ever have a boat?
A. Yes, he did.
Q. Did he use that?
A. Yes.
Q. Did you see money at the house at 23 Marshall Street?
A. Yes, I did.
Q. Where?
A. Normally when transactions were made, he would always take the money and put it into a safe.
Q. Were you ever concerned about security?
A. Always, yes.
Q. Why?
A. Because it -- I mean, it was dangerous with large sums of money and large amounts of marijuana in the house.
Q. Did you ever talk to Mr. Bucci about that?

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A. Yes.
Q. Can you describe these conversations?
A. He said not to worry, no one will break in. We had video surveillance monitors in the bedroom as well as in the kitchen set up.
Q. What did those show?
A. It showed the outside exterior driveway and a partial amount of the road.
Q. Did you guys ever have a problem?
A. Yes, we got broken into once.
Q. Describe what happened.
A. It was a Thursday night. I know that because they were dee-jaying at Bay Bridge on Thursday nights in Salem. Me, Chris Bleicher, Eric Remens, Sean and Jay Carnes all went down to Bay Bridge that night. Eric Remens' girlfriend at the time stayed at 23 Marshall Street because she wasn't feeling well. She called us immediately at around -- I don't know. It was after midnight, stating that she --

MS. BYRNE: Objection. Hearsay, your Honor. Some woman called her and made statements.

THE WITNESS: Eric Remens' girlfriend, your Honor.

THE COURT: I think it ordinarily would be, yes.

BY MR. LEVITT:

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Q. Did you ever have a conversation with Sean Bucci about what happened?
A. Yes.
Q. What did he say?
A. Well, what happened was, we got broken into and they stole the safe, and they stole a shotgun as well.
Q. Did Sean Bucci say anything about the safe?
A. He said luckily there wasn't really anything in it. I think one of his birth certificates was in it and some paperwork, but there was no substantial money in the safe.
Q. Did he say anything about the shotgun?
A. Yeah. He said it was taken, so he reported it stolen.
Q. Whose idea was it to report it stolen?
A. It was his.
Q. Can you describe what he said about that?
MS. BYRNE: Objection, your Honor. Renewing my objection that we discussed before.
THE COURT: Who are you asking her about?
MR. LEVITT: What Sean Bucci said about filing a police report.
THE COURT: That's permissible.
MS. BYRNE: Note my objection, your Honor.
BY MR. LEVITT:

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Q. What did he say about the report?
A. Well, we figured out to -- I had a Lincoln Marquis at the time. We went to the police station. We said that when my car was at the North Shore Mall, we were bringing it to his mom's house because we were having kids over for the holidays, and that someone stole it out of my vehicle.
Q. Do you know where William and Catherine Bucci lived at the time?
A. Yes, I do.
Q. Where?
A. 4 Loris Road in Danvers.
Q. Did they ever live at 23 Marshall Street?
A. Never.
Q. Did you see them at 23 Marshall Street?
A. Once in a blue moon.
Q. For what?
A. For example, his dad would come over for Fourth of July parties he would have; his mom would stop over on very rare occasions just to say hi.
Q. Did you ever have conversations with Sean Bucci about Catherine Bucci's financial situation?
MR. SINSHEIMER: Objection.
THE COURT: About her financial situation?
MR. LEVITT: Yes.

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MR. SINSHEIMER: Objection.

THE COURT: I'll allow that.

THE WITNESS: Yeah, we knew money was always tight with them.

MR. SINSHEIMER: I didn't hear you. I'm sorry.

THE WITNESS: We knew money was always tight as far as income goes.

BY MR. LEVITT:

Q. And that was based on your conversation with Sean Bucci?

A. Correct.

Q. Did Mr. Bucci tell you whether he was doing anything about that?

A. Yes.

Q. What?

A. He would give them money from time to time.

Q. How were you supporting yourself during this time, 2001-2003?

A. I was also bartending at various places.

Q. Did Mr. Bucci help you out as well?

A. Yes.

Q. How?

A. I never paid rent. We would go out to eat; grocery shopping. He paid for my cell phone bill; it was very overdue. Things of that extent.

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Q. You went out to eat and you would do things. How would he pay?
A. Cash.
Q. Did he ever ask to put anything in your name?
A. Yes.
Q. What?
A. The telephone.
Q. For where?
A. 23 Marshall Street.
Q. Did you do it?
A. Yes.
Q. I show you Government Exhibit 48. Do you recognize that?
A. Yes, I do.
Q. What is it?
A. It's the phone bill to 23 Marshall Street in my name.
Q. Did you ask him why he wanted you to put the phone in his name?
MS. BYRNE: Objection. Objection to leading, your Honor.
THE COURT: Are you asking why the bill is in that name?
MS. BYRNE: Why he --
BY MR. LEVITT:

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Q. Did you ever have a conversation with Sean Bucci about why the bill was in your name?
A. Yes.
Q. What did he say?
A. Well, that basically if any law enforcements were to try to tap into the phone line under my existing name, it would be a lot harder than it would be under his name.
Q. Do you know whose name the house is in at 23 Marshall Street?
A. Yes, I do.
Q. How do you know that?
A. Because when Sean was in jail, I was paying for all the bills.
Q. Whose name's it in?
A. Catherine and William Bucci's.
Q. Did you ever ask Sean Bucci why that was?
A. Yes, I did.
Q. Describe the conversation.
MR. SINSHEIMER: Objection. Same objection.
THE COURT: This is not the question we were discussing before?
MR. LEVITT: No, it's not.
MR. SINSHEIMER: No, but it's still a *Bruton* objection, respectfully.

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THE COURT: I think this will be a good time for us to review the situation.

Ladies and gentlemen -- I'm going to see counsel at sidebar. I'm going to see if we're going to break for lunch or not.

(Discussion at sidebar and out of the hearing of the jury:)

THE COURT: This material obviously is of significant importance, and the only question I have at the moment is whether we should excuse the jury for lunch and then resume.

MR. LEVITT: I think that makes sense.

(In open court:)

THE COURT: All right. Ladies and gentlemen, we have a legal question to discuss, and I don't want to keep you waiting upstairs, so we're going to take the lunch break at this time. And I'll ask you to be available again at quarter of two.

Thank you very much.

THE CLERK: All rise.

(Jury out at 12:29 p.m.)

MR. LEVITT: Ms. Genduso, please step outside.

(The witness is excused.)

THE COURT: You may all be seated.

I indicated at the sidebar I had further

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concerns about the important question of whether to allow the government to question the present witness as to -- as I understand it, the statement made by Sean Bucci that Catherine Bucci knew what he was doing. And we've had considerable discussion about that back and forth.

I understand the position of the parties to be: The defendant argues it comes under *Bruton* and the government argues that it does not because it was an exception because the statement was made in furtherance of a conspiracy.

Have I got you right?

MR. LEVITT: That's correct, your Honor.

THE COURT: What bothers me is whether that should be split -- that hair should be split further in the following way: Certainly the statement by Sean that his mother knew what he was doing would be in furtherance of the money -- I mean, of the marijuana conspiracy. The question is whether it's also in furtherance of the money-laundering conspiracy which is the only charge against Catherine Bucci.

Do you want to tell me what --

MR. LEVITT: I believe, your Honor -- and I agree with that. We just haven't gotten to that point yet in testimony. We haven't started talking about,

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with her, this witness, her involvement in money laundering. That's going to come. The statement -- and that statement comes afterward.

The statement that Mr. Sinsheimer just objected to is a wholly different statement, one that he's never objected to in the past. It's not the statement that you're referring to. It's not the statement that she asked Sean Bucci if his parents knew what he did for a living and he said they did. That comes later after we've gone through her involvement in the money-laundering conspiracy.

We started with the drugs, moving towards the money laundering. So we haven't gotten there yet.

This statement is simply --

THE COURT: When you say "this statement," what statement --

MR. LEVITT: Well, the statement is -- when we broke just now, Mr. Sinsheimer objected to -- I asked her if she knew whose name the house was in. She said yes. I asked if she ever had a conversation with Sean Bucci about why the house was in his parents' name. That's when the objection came. I can tell you what the answer I think would be, which is that he said -- similar to what he said about putting the phone in Leigha Genduso's name -- he said that, "If I ever get

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caught, they can't take my house." That's his statement.

THE COURT: Right.

MR. LEVITT: And I don't believe that even, you know, raises a *Bruton* issue as opposed to the other one, which I could see how the Court would think it at least raised the issue.

MR. SINSHEIMER: Let me start at the beginning. I'm going to try to be brief, but this is crucial to my client. First of all, we did not file one motion; we filed three separate ones. And I expect that they may have been somewhat redundant, but it was precisely for the purpose of making sure that crucial statement he knew -- excuse me -- she knew coming out of the mouth of a co-defendant that I can never cross-examine, that that was the subject of a separate motion. Then we filed a broader kind of motion in limine to keep all *Bruton* issues out.

So those motions are already out there. And then for them to say I never objected, well, if I missed one, I still have a right to object in the middle of a trial like anybody else does.

THE COURT: Yes, of course you do.

MR. SINSHEIMER: Right. The motions in limine would flag the issue in good faith so everybody knew

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this was coming.

Now, Judge, you've seen our defense. My client is essentially taking the position that the government cannot prove beyond a reasonable doubt that she agreed to launder marijuana money.

THE COURT: I understand.

MR. SINSHEIMER: Right. And this -- he intends to ask her question after question after question, not just the one which is -- goes to the core that she knew. It all will come out of the mouth of Sean Bucci who I can never cross-examine. Now, that is quintessential and classic *Bruton*. And *Bruton* is grounded in the confrontational clause which is of constitutional dimension. It's not just some rule of evidence.

THE COURT: We're aware of *Bruton* and we're aware of --

MR. SINSHEIMER: I apologize. I'm also making an appellate record. I'm being very up-front about that. And I understand the Court is well aware that we've raised this significant issue, and I appreciate your Honor's concern, and also to hear me.

Now, if -- so I don't think it should come in. I think the confrontation clause trumps the exception, and I want to make that, you know, as clear as day, that I'm saying that, and my memo argues that. But even if

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it doesn't, even if we're just looking at an old-fashioned rule of evidence, they have to show before they get the question out of her mouth that it was in furtherance of the conspiracy that my client is charged with.

THE COURT: That's the point I was making.

MR. SINSHEIMER: Right. And they haven't. It isn't even close.

And the fact that it may come in on some other basis than its 403 relevance, your Honor, to get that in where they've got a zillion -- and I did argue this in chambers, too. I think I made a polite phrase, and I think Mr. Sinnis acknowledged, you know, "They've got tons of evidence against my client." To suggest that they need her to say that Mrs. Bucci knew that he was a pot dealer to prove that he was a pot dealer on this record is laughable.

It's coming in because they want to nail her with confrontation clause material that I can never get at, and it's wrong and I'm objecting. I'm going to object to every single question of that type. And I think that's all I can say.

MR. LEVITT: Your Honor, we've briefed this issue. And first of all, Mr. Sinsheimer's notion that the confrontation clause trumps the exception is just

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not the law. We've cited --

THE COURT: No, I understand that. But I've narrowed it down to the point that I tried to express before and hope to express now. The question is whether the question that will be asked of the witness -- namely, "Did Sean Bucci ever tell you anything about his mother knowing?" The argument that the government has made as to its admissibility depends on whether that statement was made in furtherance of the conspiracy or not.

MR. LEVITT: That's correct, your Honor.

THE COURT: And there are two conspiracies -- there are three. Two, at least, in this case. And the question I'm raising is whether that statement is in furtherance of the conspiracy charged against Mrs. Bucci.

MR. LEVITT: And it is, your Honor.

THE COURT: How?

MR. LEVITT: Well, Ms. Genduso will be testifying -- we haven't gotten there yet -- will be testifying that she laundered money for Sean Bucci on numerous occasions.

THE COURT: Yes?

MR. LEVITT: You've already heard --

THE COURT: We're talking money laundering only

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now?

MR. LEVITT: Correct. You already heard about the hundreds of thousands of dollars that she had after his arrest.

THE COURT: Yes.

MR. LEVITT: She also structured transactions for him. She took money to the bank, and at his request took cash, always under $10,000, and deposited it for him. 6,000 --

THE COURT: The witness did?

MR. LEVITT: Yes. $6,000, $5,000, $8,000 at his request. He told her -- and she asked him why it's under $10,000, and he told her.

THE COURT: Right.

MR. LEVITT: So she was as deeply into the money-laundering conspiracy as the drug conspiracy.

THE COURT: Right.

MR. LEVITT: We just haven't gotten there yet in terms of the testimony.

What she'll testify about is that she was doing all this. She knows the house is in their name; the phone's in her name; they've been robbed; there's money in the house all the time; there's drugs in the house all the time; there's people coming and going. She was concerned. And as part of that concern she said to Sean

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Bucci, "Do your parents know what you're doing?" And he said, "Yes, they know, and they don't care." And that reassured her.

And cases in the First Circuit that we cited in our memo are precisely that: Cases where the Court determines it's in furtherance of the conspiracy when one coconspirator, Sean Bucci, is reassuring another coconspirator, in this case Leigha Genduso. Those are the facts and the law is very clear.

THE COURT: All right. I understand your position, and I think -- I think I will agree with it, but I want to review the cases that you've cited before I make a final ruling on it. I'm going to lunch now.

MR. SINSHEIMER: Can I have -- not to argue the law, because I appreciate you're going to review the cases, but argue a fact aspect of this, your Honor?

THE COURT: Yes.

MR. SINSHEIMER: I'm going to pull the page in a minute, but I don't agree that the government has put on any evidence and has disclosed any evidence -- and this is getting technical now -- but that Mrs. -- excuse me -- that Leigha Genduso was somehow reassured -- and I don't like to use the word "fabrication." But you know, I don't know how many times they interviewed her to get her to say maybe she was reassured.

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But what I was disclosed was that she asked him in passing. I'll give you the exact sentence if you give me a minute. "By the way, do your parents know?" Something like that. And I'll find it if you'll just give me a second. For them to now say she needed that information to be reassured when she's already, you know, moving pounds of marijuana out to Worcester, that's an outrage, your Honor. It's a bootstrap way to get in the meat of the case through somebody I can never cross-examine.

Let me give you the exact sentence so at least your Honor can have an understanding of exactly where it is.

"Mrs. Genduso also advised that during the" --

THE COURT: What are you reading from?

MR. SINSHEIMER: I'm reading from -- thank you, your Honor -- a January 16th, 2007, report from Mr. Levitt in which he discloses Ms. Genduso -- it's on page 19. And it says, "Ms. Genduso also advised that during the 2002-'3 period she once" -- sometime in that, you know, two-year range, that's an exact quote -- "she once asked why 23 Marshall Street was in the name of Catherine Bucci, and Bucci explained, 'If anything happens, they can't take my house.'"

Let me go to a knowledge statement, your Honor.

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MR. LEVITT: That is a different statement, your Honor.

MR. SINSHEIMER: It is a different statement, and I jumped up because I had the...

(There is a pause.)

MR. SINSHEIMER: I just had it, your Honor. Please forgive me.

THE COURT: Mr. Sinsheimer, I really think I understand your position. It's a question of me reviewing the cases that were cited and see whether I feel any different about it.

MR. SINSHEIMER: I'll find the exact statement. It's just slipping through my fingers at this juncture, your Honor.

THE COURT: All right. We'll go to lunch. We'll resume at two o'clock.

THE CLERK: All rise.

(There is a recess in the proceedings from 12:43 p.m. to 2:05 p.m.)

THE CLERK: All rise.

THE COURT: Good afternoon. You may be seated. Mr. Sinsheimer is missing? Oh, you're over there.

MR. SINSHEIMER: No, I'm right here, your Honor.

THE COURT: I'm ready to rule on the government's application to admit the statement from

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Leigha Genduso that she once asked Sean Bucci whether his parents knew that he sold marijuana for a living and he said that they knew and did not care.

After considerable reflection -- everybody knows we've been talking about it for a long time -- I'm ruling against the government as to this statement. For the exception to the *Bruton* rule to apply, the statement to be admitted must have been made in furtherance of the money-laundering conspiracy with which Catherine Bucci is charged.

The statement the government seeks to admit concerns Leigha Genduso's question to Sean Bucci about whether his parents knew that he sold marijuana for a living. That question is about the marijuana conspiracy, not the money-laundering conspiracy. Catherine Bucci is only charged with conspiring to launder money with Sean Bucci.

Based on what's been presented by the government and disclosed to the defense, the government has not shown that the conversation was in fact an effort to reassure Leigha Genduso or otherwise further the conspiracy with regard to marijuana.

Now, what I have said does not apply to Genduso's statement about the buying of the house and putting it in somebody else's name.

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MR. LEVITT: Your Honor, may I just be heard briefly? I believe under *Petrozziello* you need to first make a determination after you've heard the evidence. And you haven't heard the evidence yet on the money-laundering conspiracy and --

THE COURT: All right. Go ahead and put it on the record.

MR. LEVITT: -- then at that point you need to make a determination under a preponderance of the evidence as to whether it's more likely than not that she was a member of the conspiracy and that the statement was in furtherance.

And I want to make two other points. One is I believe the Court is wrong on a couple of levels when it says -- when it compartmentalizes the conspiracy. And the First Circuit has addressed this issue in *Field*, which was cited in our brief. That's a case where a statement had to do with what they called a snatch-and-grab robbery, and the defendants argued that because they were -- and this was a robbery of a store -- it referred to bank robbery -- it was a different conspiracy.

The First Circuit said no. "When a party knowingly boards the conspiracy train, he assumes responsibility for all conduct whether or not he's

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conscious of its extent. Once they're part of the same conspiracy, it doesn't matter." And more pointedly, your Honor, the money-laundering conspiracy and the drug-trafficking conspiracy are intertwined. This took place during the pendency of both.

And the question of "Do you know if your parents" -- "Do your parents know that you're involved in drug trafficking" has to do as well with the fact that there are hundreds of thousands of dollars going through Catherine Bucci's bank account; with the fact that the house is in the name of Catherine Bucci; with the fact that she is -- Ms. Genduso is being asked by Sean Bucci to deposit money into bank accounts.

THE COURT: This could be argued and reargued indefinitely. I don't see how I can be expected to rule five times.

Do you want to make a statement?

MR. SINSHEIMER: Well, I am -- I'm not going to reargue it. I'm pleased with the Court's --

THE COURT: Of course.

MR. SINSHEIMER: -- ruling.

I do want to say, though, as to the ones you're going to let in, I don't want to, you know, try to bite off more of the apple than I'm entitled to, and I do think if they're not directly in furtherance of the

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money-laundering conspiracy, then I ought to get a curative instruction that they're only in against Sean Bucci at some point, whether it be at the end of the case --

THE COURT: I don't know what there is to cure, but --

MR. SINSHEIMER: I hear you. That's why I'm not pressing it right at this juncture. I'm just pointing out that if it's coming in only against him, at some point I think I have the right to let the jury know that.

THE COURT: That's a separate issue. If I'm required to hear the witness before I make a definitive ruling, I'd like to hear the witness, then.

MR. LEVITT: That's fine. Are you saying with the jury here while we're doing the evidence?

THE COURT: Whatever you believe is proper procedure.

MR. LEVITT: Okay. That's what I would do, your Honor. And then I'll just ask to come to sidebar after there has actually been some evidence of her involvement in the money-laundering conspiracy.

The only other thing I would mention, Mr. Sinsheimer had, at sidebar, moved for a mistrial based --

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MR. SINSHEIMER: I withdraw it.

THE COURT: Are we ready for the jury, then?

MR. LEVITT: Yes.

MR. SINNIS: Judge, I'm sorry, there is one thing I would like to bring up very brief. There was testimony from Mr. Carbone, and I expect there's going to be testimony from Mrs. Genduso, that cash money was given to lawyers for certain reasons in this case to represent Sean, to represent other people.

I just think it's important for the judge to give a brief instruction to the jury that none of the lawyers presently involved in the case are in any way intimate with that or involved in that, because I don't want us to be somehow besmirched by that in terms of receiving drug money or anything to that effect.

THE COURT: I wouldn't have thought that there was any reason to believe they would think that, so if you want to prepare a proposed charge in writing, I will consider it.

MR. SINSHEIMER: I had given that the same thought, your Honor, and then I didn't stand up, but I will join that, because I saw a couple of them looking at me funny, to be honest with you. I don't know what they know. So I think it's a good idea.

MR. SINNIS: I'll do that, then, your Honor.

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LEIGHA GENDUSO, resumed

THE CLERK: All rise for the jury.

(Jury in at 2:14 p.m.)

THE COURT: Good afternoon, ladies and gentlemen. I'm sorry I kept you waiting.

DIRECT EXAMINATION (Cont'd)

BY MR. LEVITT:

Q. Ms. Genduso, when you were living at 23 Marshall Street, did you see any of the bills that came to the house?

A. Yes, I did.

Q. Did you ever help pay them?

A. Yes, I did.

Q. Did you ever see the mortgage bills?

A. Yes.

Q. Whose name were they in?

A. Catherine and William Bucci.

Q. Did you ever ask Sean Bucci about why 23 Marshall Street was in his parents' name?

A. Yes, I did.

MR. SINSHEIMER: Your Honor, respectfully, I object. May I have a running objection on the issue so I don't have to keep objecting?

THE COURT: Yes. And I'm overruling the objection.

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MR. SINSHEIMER: I understand. But I have to --
THE COURT: Yes.
MR. SINSHEIMER: Thank you.
BY MR. LEVITT:
Q. Did you ever ask him why that was?
A. Yes.
Q. Can you describe what he said?
A. He answered that basically if anything ever happened, no one would be able to take his house.
Q. And what did you take him to mean when he said "if anything ever happened"?
MR. SINSHEIMER: Objection.
THE COURT: Sustained.
BY MR. LEVITT:
Q. Did you ever help him count the money he made?
A. Yes.
Q. How much at a time?
A. It depended. Sometimes it would go through the money machine. Other times it would be as simple as five grand.
Q. Did you ever do anything else with this cash?
A. Yes.
Q. What?
A. I would deposit increments of money into his bank account in Middleton.

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Q. Why?
A. Because he asked me to.
Q. Generally speaking, what sort of increments are we speaking about?
A. It was always under the sum of $10,000 cash.
Q. About how many times did you do that?
A. Many, many times. I'd say well over 20.
Q. Could you describe how this would work?
A. He would give me a bank deposit slip with, most of the time, $9,000 in cash, and I would go to the bank in Middleton and deposit it.
Q. Walk into the bank with it?
A. Yeah. I tried doing drive-through on several occasions, but they preferred me to actually go in to the bank.
Q. Who did?
A. The drive-through teller.
Q. Did you ever talk with Sean Bucci about the amounts you were depositing for him?
A. Yes.
Q. What did you ask him?
A. I asked him why it was never over $10,000.
Q. What did he say?
A. Because anything over $10,000 you will get reported by the bank to the IRS.

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Q. Did you do any traveling with Sean Bucci?
A. Yes, I did.
Q. Where did you go?
A. We went to Florida once. We went to Aruba on several occasions, Jamaica.
Q. Anywhere else?
A. Not that I can think of off the top of my head.
Q. And this is during what period?
A. I think between 2000 and 2003.
Q. I show you Government Exhibit 49. Do you recognize that?
A. Yes, I do.
Q. What is it?
A. It's a picture of me holding up a marijuana bud in Jamaica.
Q. How long did you guys go to Jamaica?
A. I remember us going for a week.
Q. Where did you stay?
A. We stayed at Sandals Resort, which is an all-inclusive hotel in Ocho Rios.
Q. Who paid?
A. Sean.
Q. For everything?
A. Yes.
Q. When you were in Jamaica, what did he use to pay for

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things?
A. Cash, and then credit cards.
Q. How long did you go to Florida for?
A. I'm pretty sure we went for around a week.
Q. Who did you go with?
A. It was me, Sean, Jay Zeramby and his wife Colleen.
Q. Where did you stay?
A. We stayed in Orlando. I don't recall the exact name of the hotel.
THE COURT: Did you go to Disney World?
THE WITNESS: We went to the other parks.
BY MR. LEVITT:
Q. Who paid for the trip?
A. Sean.
Q. Paid for your ticket?
A. Yes.
Q. Hotel?
A. Yes.
Q. Do you know if he paid for anyone else?
A. It was at the time that J.Z. just got off parole from being in jail. I don't recall if he paid for him and Colleen.
Q. How many times did you go to Aruba?
A. Three to four times.
Q. And how long did you typically go for?

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A. Typically one week. One time we did go for the duration of two weeks.
Q. Do you recall where you stayed the first time you went?
A. Yes. It was formerly known as the Allegro.
Q. You went with Sean Bucci?
A. Yes.
Q. Anyone else?
A. That time I recall, I think it was just me and him.
Q. Did you ever go with Sean Bucci's parents?
A. Yes, I did.
Q. Do you recall when?
A. It was either 2002 or 2003.
Q. The four of you went?
A. Yes.
Q. Where did you stay?
A. We also stayed at the Allegro again.
Q. What kind of place is that?
A. It's an all-inclusive four- to five-star resort.
Q. I show you Government Exhibit 66F. Do you recognize that?
A. Yes. That is the back of the Allegro.
Q. Who paid for that trip?
A. Sean did.
Q. How do you know?

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A. I was there.
Q. He paid for you?
A. He paid for me and his parents.
Q. And when you were there, who paid for the dinners?
A. Sean did.
Q. The tickets? Plane tickets?
A. Yeah. We went to -- I went with him to the travel agency that he traveled. So I was present for that as well.
Q. And then you went a third time?
A. Yes.
Q. Do you recall when that was?
A. It was 2003. And it was at a timeshare at Costa Linda.
Q. Would you describe what happened with respect to this trip?
A. This was basically the last time I stated that I was ever going to go considering he had a severe gambling problem. And we just argued, more or less, the whole time.
Q. How long did you go for?
A. A week.
Q. Did he go for a week?
A. No.
Q. How long did he go for?

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A. He stayed at Costa Linda for a month.
Q. Were there other people that went?
A. Yes.
Q. Who?
A. Let's see. Darren Martin went to visit him, Jay Zeramby, Jay Zeramby's brother-in-law Larry, Butchy, Eric Carbone -- Butchy is also known as Jan Jefgood -- excuse me, Chris Bleicher.
Q. How often was he gambling when you were there?
A. Quite excessively.
Q. Did you see how much -- did you see what he was playing?
A. Yes.
Q. What?
A. He usually played blackjack.
Q. Did you see how much he was gambling at a time?
MS. BYRNE: Objection, your Honor.
THE COURT: Overruled.
THE WITNESS: Usually it was increments of $500 per bet, sometimes more, sometimes less.
BY MR. LEVITT:
Q. I show you what's been marked as Government 66E. Do you recognize that?
A. Yes, I do. That's Costa Linda.
Q. During the time that you knew Sean Bucci, how often

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did he go to Aruba?
A. He went a couple of times too without me as well, so several times.
Q. Did you ever have any conversation with him about his plans for Aruba?
A. Yes.
Q. What did he say?
A. Basically before June '03 that was going to be his last shipment of marijuana, and he was going to open up a nightclub in Aruba.
Q. Was he planning on moving there?
A. Yes.
Q. Did he talk to you about buying property there?
A. Yes, he did.
Q. Did he ever tell you what the name of the nightclub was?
A. Yes. It was going to be called Heaven.
Q. I show you what's been marked as Government Exhibit 45B. Did you ever see any paperwork with respect to Heaven?
A. Yes, I did.
Q. What kind?
A. He made up business cards. He also wrote down a summary of what it would be on the computer.
Q. I show you Government Exhibit 45B. Do you recognize

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that?
A. Yes.
Q. What is it?
A. Those are his business cards that he made.
Q. And who's Giovanni Carter?
A. He was a resident of Aruba who came down to the States frequently and met Sean. And they were going to operate this business together.
MR. LEVITT: Your Honor, if it has already not been admitted, I move to admit Government Exhibit 45B.
THE COURT: Received.
MS. BYRNE: Objection, your Honor.
THE COURT: All right.
(Government's Exhibit No. 45B was received into evidence.)
BY MR. LEVITT:
Q. I show you Government Exhibit 66D. Can you tell us who these people are?
A. To the back far left, that's Eric Carbone; second is Jason Zeramby; third is Giovanni Carter.
Q. Did Mr. Bucci indicate where his nightclub was going to be located?
A. Yes.
Q. Where?
A. Particularly, there was an area open in a casino.

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Q. Do you recall any other trips that Mr. Bucci took his parents on?
A. I do recall once in the beginning of our relationship he bought them a trip to Las Vegas for their anniversary.
Q. Do you know whether they went?
A. No, I don't remember.
Q. You don't know if they went to --
A. No, I know they went. I don't remember where they, like, stayed.
Q. How do you know they went?
A. Because I was present for picking them up at the airport with Sean.
Q. Do you know if he ever bought anything for his parents?
A. Yes, he did.
Q. What?
A. One major occasion he bought them siding and windows for their house.
Q. Did you talk to him about that?
A. Yes.
Q. Do you remember when that happened?
A. I'm thinking 2002.
Q. And tell me what -- about your conversation with Sean Bucci about that.

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A. He said it was going to cost him a lot of money, around $20,000.
Q. You mentioned you saw Bucci's bills at home. Did he pay for anything else for his parents?
A. Yes, he did.
Q. What?
A. His father's life insurance bill that would always come in the mail.
MR. LEVITT: Approach sidebar, your Honor?
THE COURT: Me? Okay.
(Discussion at sidebar and out of the hearing of the jury:)
MR. LEVITT: At this point, your Honor, I would be asking the witness -- I would be going into asking the witness about whether she's concerned -- based on all the money in the house, the money he was spending, the fact that she was bringing money to the banks for him in denominations under $10,000, depositing them, whether she was concerned about that.
I want to ask, "Did you ever talk with him about it?
"Yes.
"Did you ever talk to him about what his parents knew?
"Yes.

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"Why?

"I was concerned about, you know, whether they knew what was going on.

"What did he say?

"He said they knew he was a marijuana dealer and they didn't care."

THE COURT: Of course I know that's what the ultimate question will be. If you want to create the record, it's up to you, but when you get to that question --

MR. LEVITT: Well, I guess the question is: I mean, I can do that and --

THE COURT: I mean, it's what I said earlier to the defendants. If I'm wrong, there's nothing you could do about it.

MR. LEVITT: My point is simply now you've heard some evidence that she was laundering money for him because you've heard --

THE COURT: Oh, I didn't have any question about that before.

MR. LEVITT: I thought you did.

MR. SINSHEIMER: I have a different objection now. Are you finished? I don't mean to cut you off.

No one has ever disclosed a scintilla of evidence that this young lady was concerned about the

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fact that the money was in -- that the house was in my client's name or there was --

THE COURT: All right. That's a statement you can make for the record but --

MR. SINSHEIMER: I'm making it. I'm asking he not be allowed to ask for a different reason: for failure to provide discovery. And my brother and sister here, if I'm wrong, but I was looking over that stuff at lunch --

THE COURT: We're not going to go over this at this time.

MR. SINNIS: We join in that.

MR. SINSHEIMER: This is brand-new.

MR. LEVITT: Do you want me to proceed?

THE COURT: I don't know whether you're telling me that the law requires you put your questions on the record before I rule.

MR. LEVITT: Well, no. I mean, look --

THE COURT: I believe I've heard what you're going to ask and I understand it, and I don't think it's a capricious position of the government at all, but I've ruled after a good deal of soul-searching.

MR. LEVITT: That's what I want to ask.

MR. SINSHEIMER: I don't think he should even be allowed to ask the questions, so I'm objecting for the

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record.

(In open court:)

BY MR. LEVITT:

Q. When you were living with Sean Bucci, did you see his credit card bills?

A. Yes, I did.

Q. Did you ever pay any of them for him?

A. I did during the duration that he was in jail for, yes.

Q. What was the -- how many credit cards did he have?

A. To my knowledge, three.

Q. What were the typical balances on them?

A. Typically anything over $20,000.

Q. I show you what's been marked as Government Exhibit 99C. This is for the month of July 2002. Is this pretty consistent with what you saw on his bills?

A. Yes.

Q. Typically where was he -- where were the charges being rung up?

MS. BYRNE: Objection, your Honor, as to "typically." Over what, a month, a year?

I would object to this question.

THE COURT: If there's a question about that, you can cross-examine on it.

THE WITNESS: I'm sorry. Can you repeat that?

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MR. LEVITT: I'm sorry. I didn't hear that, your Honor.

THE COURT: I said if there's a question about the details that Ms. Byrne is concerned about, she can cross-examine about it.

BY MR. LEVITT:

Q. What were the charges on Sean Bucci's credit cards? Was there anything typical in terms of what he was charging?

A. Yes.

Q. What?

A. Usually they were cash advances when he was in Aruba.

Q. Where were you living on June 4, 2003?

A. 23 Marshall Street, North Reading.

Q. Anything happen the previous week?

A. The previous --

Q. The days leading up to June 4th.

A. Yes. Anthony Belmonte was supposed to come with a shipment I think a week prior. Things got held up, and he called the day before.

Q. Did you have a conversation with Sean Bucci about it?

A. Yes.

Q. What did he say?

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A. Just stated that Anthony was going to come over the day of June 4th.
Q. And did you and Mr. Bucci do anything?
A. We went over to his mom's house and got the money, as usual.
Q. Did you stay in the car?
A. Yes. Always.
Q. And did you see him come out of the house?
A. Yes.
Q. What did he have?
A. A bag with money.
Q. Did you see anything on the morning of June 4, 2003?
A. Yes.
Q. What?
A. Well, I woke up, saw that Anthony was pulling in with his U-Haul trailer. They were having problems, so they each tried to drive around the block and rearrange it to pull it in. Sean tried doing it as well. And I went back to sleep.
Q. Where did you see that?
A. I saw that on the surveillance camera in the bedroom.
Q. Did something happen after you went to sleep?
A. Yes. Sean woke me up quite ecstatic *[sic]*.
Q. I'm sorry. I didn't hear you.

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A. Sean woke me up very upset.
Q. Did he say anything?
A. He told me to get out of the house, and that there was a box in the trunk that he put in there.
Q. Did he say where to go?
A. No.
Q. What did you do?
A. I put on gym clothes and got my dog, and was about to leave when the phone rang.
Q. Who was it?
A. It was Anthony Belmonte.
Q. What did he say?
A. He stated that he was pulled over down the street by the Lynnfield line, that they found something, like a bad inspection sticker or something on his rental, and was wondering if we could come pick him up.
Q. What did you say?
A. I said Sean was in the bathroom, "Can he call you back?"
Q. Was that true?
A. No.
Q. Where was Sean?
A. He had already left.
Q. What did you do?
A. I hung up, called Sean, let him know he called,

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Anthony called.
Q. And then what did you do?
A. I left.
Q. I show you Government Exhibit 16C. Do you remember seeing a video from June 4, 2003?
A. Yes, I did.
Q. And what did it show?
A. It showed me leaving the house, opening my trunk, checking that there was a box in my trunk, putting my dog in the car and leaving.
Q. What did you do when you left 23 Marshall Street?
A. First thing I did is drove to Don O'Connor's house thinking that Sean would have went there first.
Q. What happened when you got there?
A. No one was there.
Q. What did you do?
A. Next I went to Sean's parents' house on 4 Loris Road.
Q. What did you do when you went there?
A. I knocked on the door. No one answered, so I walked in, put the box into the closet -- it was like a coat closet -- and left.
Q. Did you know what was in the box at that point?
A. Yes, I did.
Q. How did you know?

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A. Because he told me.
Q. What did he tell you?
A. Before leaving 23 Marshall Street he told me there's a box of money in my trunk.
Q. So after you dropped off the money at 4 Loris Road, what did you do?
A. I then drove by 23 Marshall Street to see what was going on.
Q. What did you see?
A. I saw numerous officers all over the lawn, in the driveway.
Q. What did you do at that point?
A. I kept driving. And the next thing, you know, I went to where I used to work, a nightclub called Spin.
Q. What did you do there?
A. Well, I knew my best friend at the time was doing inventory there. I asked if I could borrow a car, and to get her friend's number who was an attorney.
Q. What was the name of your friend?
A. Jessica Columbo.
Q. Why did you ask to borrow her car?
A. Because I was worried my car was marked and I was going to get pulled over in it.
Q. What was the name of the attorney that you got from Ms. Columbo?

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A. Gary Zerola.
Q. What did you do next?
A. Contacted Gary Zerola via my cell phone. We figured out that it was best to meet somewhere immediately, so I planned to meet him at the Northern Grind Coffee Shop in Beverly.
Q. Who's that owned by?
A. Eric Carbone.
Q. So what happened next?
A. I went to the Northern Grind to where I met up with Carbone, Jason Carnes, and Eric Remens also eventually appeared, and Gary Zerola came to meet me.
Q. And did you have a conversation there with them?
A. Yes.
Q. Based on that, what did you do?
A. I told Mr. Zerola about the situation that occurred, gave him some sort of simplistic background information, told him what I had, told him that I thought Sean was arrested. And he said he was going to go to 23 Marshall Street to check out the situation.
Q. And what did you do?
A. I spoke with Carbone and told him that I have, you know, the box at Sean's mother's house. And Eric Remens and I decided to go get them.
Q. To get the box?

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A. Yes.
Q. And so did you go back to 4 Loris Road?
A. Yes, I did.
Q. Was anybody home?
A. Yes.
Q. Who?
A. Catherine.
Q. Did you have a conversation with her?
A. Yes.
Q. What did you say to her?
A. I had told her I was in the house before, earlier, and that I left the box in the closet, and that her son had most likely been arrested at this point.
Q. Did you tell her what was in the box?
A. I might have said "box of money," yes.
Q. What did Catherine Bucci say in response?
A. She alerted me that there were safes also in the house.
Q. Did she tell you where?
A. Yes.
Q. Where?
A. In the basement.
Q. Did she ask what Sean Bucci was arrested for?
A. No.
Q. Did she express surprise that Sean Bucci had a box

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of money?
A. No.
Q. Did you go get the safes?
A. Yes.
Q. How did you find them?
A. She brought us downstairs.
Q. Where were they?
A. In the basement.
Q. How big were they?
A. I don't recall exactly, but I would say maybe 2-by-2, possibly.
Q. And how did you get them out of the house?
A. Eric helped me carry them out.
Q. And did you also get the box of money?
A. Yes.
Q. Where did you put everything?
A. I put everything in the back of my friend's car that I was driving.
Q. What did you do then?
A. Drove back to the Northern Grind.
Q. And did you meet anybody at the Northern Grind?
A. Yes. Jan Jefgood, also known as Butchy, was there, and we agreed to put the money in his apartment with the safes.
Q. Where did he live?

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A. He lived in Beverly, two streets down.
Q. And did you do that that day?
A. Yes.
Q. What's the next thing that happened with respect to the box of money and the safes?
A. Butchy started getting really nervous about it a few days later, so me and Gary Zerola decided that we'd bring it to his apartment in Boston.
Q. To whose apartment?
A. Gary Zerola's.
Q. So who went and got the box of money and the safes out of Jan Jefgood's apartment?
A. I took my vehicle, went to Butchy's, Jan Jefgood, and he carried the safes into my trunk, and the box of money as well.
Q. And where did you go?
A. Then I drove out to Boston to Gary Zerola's apartment.
Q. Did Mr. Zerola tell you what he was going to do with the money and the safes?
A. Yes.
Q. What?
A. That he was going to put them in his friend's safe -- his friend owned a restaurant somewhere.
Q. So do you recall where Gary Zerola lived?

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A. It was kind of by the -- I forget the exact name of the street. I could drive there. It was by the -- name off some areas and I'll be able to tell you.
Q. It was in Boston?
A. Yes.
Q. What happened when you got to Gary Zerola's apartment?
A. I called him on my cell phone, let him know that I'm in front of his building. And he came out to help me carry the safes in.
Q. When you got in the apartment, what did you do?
A. I counted the money.
Q. How much was in the box?
A. $275,000.
Q. How was it packaged?
A. It was all elastic-banded, all in increments of $5,000.
Q. Had you told Attorney Zerola where the money came from?
A. Yes, I did.
Q. Did you tell him what Sean Bucci did for a living?
A. Yes, I did.
Q. At some point did Sean Bucci hire Gary Zerola?
A. Yes.
Q. How did that come about?

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A. I actually hired Gary for him, technically, the day of June 4th. But then Gary and Mike Natola went to see him at Plymouth County.
Q. Who's Mike Natola?
A. Mike Natola at the time was, for the first two weeks, like my lawyer, but then Sean also hired him for representation.
Q. How did Mike Natola become your lawyer?
A. Through Gary.
Q. Did you have any conversation with Gary Zerola about his fee?
A. Yes.
Q. Can you describe that?
A. He said it was going to be around $50,000.
Q. And did you have any conversations with Sean Bucci about that?
A. Well, the first week that he was in jail I had no contact with him whatsoever, couldn't go visit him, but he accepted that with Gary.
Q. And did you arrange to have Gary Zerola paid $50,000?
A. Yes.
Q. How?
A. He told me he was going to extract it from the box.
Q. Did he give you a receipt?

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A. No.
Q. Did he give you any paperwork whatsoever?
A. No.
Q. What happened with Mike Natola?
A. Sean agreed for representation with not only Gary but Mike Natola as well.
Q. And how was Mike Natola's fee determined?
A. That was determined through Gary, Mike and Sean.
Q. How much was it?
A. I don't remember approximately how much it was. Anywhere from 25 to 50.
Q. And where did that money come from?
A. The box.
Q. Did you get a receipt?
A. No.
Q. At some point you got into the prison and you could talk with Sean Bucci?
A. Yes.
Q. Did you have any conversations about Darren Martin?
A. Yes.
Q. Describe those conversations.
A. The first time that Gary and Mike went to see Sean they also brought another attorney named Hank Brennan to visit them as well, where Darren hired Hank.
Q. And did you have any conversations with Sean Bucci

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about Darren Martin?
A. In regards to his lawyer?
Q. Yes.
A. Yes.
Q. What?
A. That he was going to pay for Darren's lawyer as well.
Q. And do you know how much Sean Bucci paid for Darren Martin's lawyer?
A. I remember it being around 20,000.
Q. Where did that money come from?
A. It came from the box as well.
Q. I'm sorry?
A. It came from the box as well.
Q. Did you get a receipt?
A. No.
Q. You had Mike Natola at some point. Did you get a new lawyer?
A. Yes.
Q. Who?
A. Elliot Weinstein.
Q. And did you talk with Sean Bucci about that?
A. Yes.
Q. And how did Elliot Weinstein come to represent you?
A. He was an associate of Mike Natola's. Not so much

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an associate, but they worked together sometimes on cases.

Q. And you said you had a conversation with Sean Bucci about this?

A. Yes, I did.

Q. What did Sean Bucci say about it?

A. Well, I told him that it's going to cost money for representation of Elliot on my behalf as well, and he agreed.

Q. How much --

A. 15,000.

Q. Where did that money come from?

THE COURT: Weinstein represented you?

THE WITNESS: Yes.

BY MR. LEVITT:

Q. Where did that money come from?

A. It came from the box, as well, of money.

Q. Who gave the cash to Weinstein?

A. I did.

Q. Get a receipt?

A. No.

Q. How long did Gary Zerola have the money box and the safes?

A. These are approximates but it could have been up to a month.

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Q. Where did they go next?
A. Well, once I had actual visitation with Sean, he basically was telling me, like, through code, so to speak, that he felt comfortable with the box being with Eric Carbone.
Q. Why?
A. Because that was his friend, and he felt most comfortable with the money being accessible to him.
Q. So what did you do at that point?
A. At that point I set up an arrangement to get the box and the safes from Gary Zerola and meet up with Eric Carbone so he could put them into his house.
Q. And did you meet up with Eric Carbone?
A. Yes.
Q. And what did you give him?
A. I gave him the safes as well as the box of money.
Q. Do you know where he put them?
A. Somewhere in his house.
Q. Did you subsequently get any money from the money box?
A. Yes; through Eric Carbone.
Q. How would you do that?
A. I would make arrangements with him. Either I'd go into the Northern Grind a day prior to getting access to the money, asking him for it, and then going back there

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the next day.
Q. Where were you living at this time?
A. 23 Marshall Street.
Q. Did Sean Bucci ask you to do anything while he was in prison?
A. Yes, he did.
Q. What?
A. Pay his bills.
Q. And what did you use to pay those bills?
A. The cash.
Q. Did Sean Bucci give you any instructions on how to do that?
A. Yes. He told me to pay through money orders.
Q. And how would that work?
A. I'd go to different places, post office, Honey Farms; I'd get money orders up to $500 apiece.
Q. Did you have any conversations with Sean Bucci about this?
A. Yes.
Q. Describe those conversations.
A. Well, he was in jail at the time, and I was very worried about paying for bills with cash through money orders.
Q. And so what did you tell him?
A. I told him I was worried.

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Q. What did he say?
A. He said, quote/unquote, You can't get in trouble for paying bills.
Q. So what bills did you pay?
A. His credit card bills, the mortgage, electrical, phone.
Q. Did you have any other arguments with Sean Bucci at this time about the bills?
A. I just didn't feel comfortable ever paying in cash.
Q. I show you --
MR. LEVITT: This is not marked at this time. I'd ask that it be marked as Government's Exhibit 113.
THE COURT: 113?
MR. LEVITT: 113.
(Government's Exhibit No. 113 was marked for identification.)
BY MR. LEVITT:
Q. Do you recognize that?
A. Yes, I do.
Q. What is it?
A. It's a money order for World Savings, which was his mortgage bill.
Q. And Government Exhibit 114. Do recognize that?
A. Yes.
Q. What is it?

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A. It's another mortgage money order.
Q. Are these money orders that you did?
A. Yes.
Q. And where did the money come from for these money orders?
A. It came from the cash that Eric Carbone still had.
Q. And 115. Do you see that?
A. Yes.
Q. Is that your handwriting?
A. Yes. Well, it was my handwriting, but I was trying to make it not my handwriting.
Q. What do you mean?
A. I didn't want it tracing back to me.
Q. Why did you write "Catherine Bucci" on it?
A. Because the mortgage is under her name.
Q. Did you have a conversation with Sean about that?
A. No.
Q. Did you spell her name right?
A. No.
Q. What else did you use the money box for?
A. Bills to help me live in the house.
Q. Did you pay his credit card bills?
A. Yes.
Q. How much at a time?
A. I don't remember, but I know it was basically the

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minimum due.

THE COURT: Where were you living at this period?

THE WITNESS: I was living at 23 Marshall Street still.

THE COURT: And what did you do for personal expenses?

THE WITNESS: I was still bartending, but I also used it for personal expenses as well, your Honor.

BY MR. LEVITT:

Q. What sort of personal expenses did you use the money from the money box for?

A. Groceries, I got my wisdom teeth extracted.

THE COURT: That was a good idea.

THE WITNESS: Sorry?

BY MR. LEVITT:

Q. What else?

A. Car payments, living situations, drinks, whatever.

Q. Did Sean Bucci ever ask you to buy anything?

A. Yes.

Q. What?

A. A computer.

Q. Did you do it?

A. Yes.

Q. You used the money box?

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A. Yes.
Q. During this time when you met with Sean Bucci in prison, did he ever ask you to bring money to anybody?
A. Yes, he did.
Q. To who?
A. Two different people.
Q. Start with one.
A. One of them was his mom.
Q. And did you do that?
A. Yes.
Q. Do you recall how much you gave her?
A. No.
Q. Did you have a conversation with her at the time?
A. Not really. We really weren't talking after the beginning. This was in the beginning when he was arrested.
Q. Who else did you -- did Sean Bucci ask you to bring money to?
A. Darren Martin.
Q. Did you have a conversation with Sean Bucci about why he wanted you to bring money to Darren Martin?
A. Yes. Well, he was living at the Cape and he was broke.
Q. Did Sean Bucci ask you to talk to Darren Martin?
A. Yes.

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Q. What did Sean Bucci ask you to talk to Darren Martin about?
A. He wanted to find out -- he wanted me to find out if Darren was cooperating or not.
Q. And did you go meet with Darren Martin?
A. Yes, I did.
Q. And did you give him money?
A. Yes, I did.
Q. Do you recall how much?
A. It was like 800 to $1,000.
Q. And did you ask him about whether he was cooperating?
A. Yes.
Q. What did he say?
A. He told me no.
Q. And did you communicate that back to Sean Bucci?
A. Yes, I did.
Q. Did you bring Darren Martin any money on any other occasions?
A. I possibly could have once after that as well.
Q. Did you ever subsequently see Sean Bucci give Darren Martin any money?
A. Yes, after he got out of jail and was house-arrested at his uncle's.
Q. Don O'Connor's house?

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A. Yes.
Q. How many times?
A. Maybe once or twice.
Q. Do you remember how much?
A. No. A couple of hundred.
Q. Did you still live at 23 Marshall Street?
A. No.
Q. When did you move out?
A. I moved out, let's see, December of '04.
Q. Are you still dating Sean Bucci?
A. No.
Q. When did you split up?
A. I'd say November of '04.
Q. Were you ever engaged?
A. Yes.
Q. To Sean Bucci?
A. No.
Q. Someone else?
A. Yes.
Q. Who? Well, let me ask you: Are you married now?
A. Yes.
Q. When was the last time you spoke with Sean Bucci?
A. It was like the week before my last grand jury appearance.
Q. Where did you see him?

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A. I went to see him at his uncle's house in Peabody.
Q. Why?
A. Because I wanted to talk to him about the situation.
Q. Now, was that the first grand jury subpoena you had gotten?
A. No.
Q. What happened --
THE COURT: Excuse me. When did you say this was?
THE WITNESS: This was around September.
THE COURT: Of what year?
THE WITNESS: Was it '05?
THE COURT: Thank you.
BY MR. LEVITT:
Q. Your reference is that it was shortly before your second grand jury appearance?
A. That's correct.
Q. And what happened when you got your first grand jury subpoena?
A. I pled the Fifth.
Q. And then what happened?
A. I got re-subpoenaed. My Fifth Amendment rights were no longer in existence.
Q. You had one of those orders that I showed you earlier?

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A. Yes.
Q. So you wanted to talk to Sean Bucci about this?
A. Yes.
MS. BYRNE: Objection to leading, your Honor.
THE COURT: She's already said so.
MS. BYRNE: Can we approach sidebar, your Honor, about what the next topic is going to be here?
She's going into an area, your Honor, that we need to address at sidebar.
THE COURT: All right.
(Discussion at sidebar and out of the hearing of the jury:)
THE COURT: Just out of curiosity, are you nearly through?
MR. LEVITT: Yes.
MR. SINNIS: Your Honor, I anticipate the next line of questioning here is going to be regarding her conversation with Mr. Bucci before she goes into the grand jury and whether or not there was any pressure or coercion put on her by him about what to say or not to say in the grand jury. I don't see how this has any relevance whatsoever to what we're here to decide. I think we've gotten so far afield at this point that now we're going to talk about things that happened two years after the offense conduct charged here, and that it is

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completely irrelevant to anything, what conversation they had two years after the fact about whether she should go before the grand jury or not go before the grand jury. I think it is completely prejudicial. Highly prejudicial.

MR. SINSHEIMER: Join.

MR. LEVITT: Your Honor, the evidence of obstruction of justice --

MR. SINNIS: There's no charge.

MR. LEVITT: The evidence -- excuse me. Thank you for letting me finish, both of you. I appreciate it.

MR. SINNIS: Just finish, Peter.

THE COURT: Go ahead.

MR. LEVITT: Evidence of obstruction of justice is evidence of underlying guilt on the charges.

MR. SINNIS: They've never sought --

THE COURT: I'll allow it but don't --

MR. SINNIS: They never sought to admit on those grounds. They wouldn't even be in limine on that, your Honor.

(In open court:)

BY MR. LEVITT:

Q. When you went to see Sean Bucci at his uncle's house, did you have a conversation with him about the

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grand jury subpoena?
A. Yes, I did.
Q. What did you say to him?
MS. BYRNE: Objection, your Honor. I would just ask for a continuing objection on this topic.
THE COURT: I thought I ruled on it over there. Sustained -- overruled.
MS. BYRNE: Thank you, your Honor.
BY MR. LEVITT:
Q. What did you say to him?
A. Well, we had discussions about it prior to me meeting him for the last time at his uncle's house. I told him I can't plead the Fifth again; if I do, I could go in for contempt for up to two years.
Q. What did he say?
A. He said no judge would put me away in jail for two years for contempt.
Q. Are you still living in the North Reading area?
A. No.
Q. Have you had any contact with Sean Bucci and his friends since that last conversation with Sean Bucci?
A. No.
Q. You've moved to a different part of the state?
A. Yes, I did.
Q. You said you're married?

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A. Yes.
Q. How long?
A. Since May of last year.
Q. When was the last time you used marijuana?
A. 2003.
Q. When was the last time you sold marijuana?
A. 2003.
Q. Had you ever sold marijuana before you met Sean Bucci?
A. No, I had not.
Q. Have you sold since?
A. No.

MR. LEVITT: Nothing else.

CROSS-EXAMINATION

BY MS. BYRNE:
Q. Ms. Genduso, you are married now, right?
A. Yes, I am.
Q. And you are married to a corrections officer, correct?
A. Yes, I am.
Q. Now, you testified today about what happened with that box of money that was in your car on June 4th.
A. Uh-huh.
Q. Now, just to be clear, you didn't take that box of money to Eric Carbone on that day, did you?

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A. On that first day?
Q. June 4th.
A. Well, if you want to call taking it to Eric Carbone technically being at the Northern Grind.
Q. Well, I mean, you didn't give it to him on that day, did you?
A. No.
Q. And you didn't take it to his house that evening and give it to him, did you?
A. No.
Q. In fact, you didn't give him the box of money until approximately one month later; is that fair to say?
A. I wouldn't say "approximate," but to some extent, yes.
Q. Well, do you know the exact date if it's not approximate?
A. No. This was a long time ago.
Q. Correct. So we're talking approximate, then, right?
A. Estimated.
Q. Estimated.
A. Correct.
Q. And when you did see him, you didn't bring him the money box -- box of money on one day and then the safes on another day; you brought him the box of money and the safes on the same day, right?

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A. I do believe so, right.
Q. And he put them in his house, right?
A. Eric Carbone.
Q. You saw him put them in his house; is that right?
A. Yes.
Q. Okay. And he told you that he was keeping them at his house; is that right?
A. Yes.
Q. Now, you testified ultimately at a grand jury in this case, right?
A. Yes.
Q. The first time you went to the grand jury you were asked questions by Mr. Levitt; is that right?
A. The first time? No.
Q. You were asked questions by a different prosecutor?
A. Yes.
Q. And at that time you said that you refused to testify on the grounds that you feared you would incriminate yourself, correct?
A. Actually, I pled the Fifth every single time they asked me a question.
Q. Right. Because -- right. The Fifth Amendment because you were afraid you would incriminate yourself, so you said that you would not testify on the grounds of the Fifth Amendment; is that right?

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A. Correct. I was also seeing Sean at the time, too, so it wasn't just myself I would be incriminating.
Q. Well, and then you went and got yourself an attorney, right?
A. No, I had the same attorney.
Q. Okay. You had an attorney before you went into the grand jury?
A. Elliot Weinstein.
Q. All right. And when you -- and you went into the grand jury and you pled the Fifth, as you said, and then afterwards you were ordered to come back to the grand jury; is that right?
A. That's correct.
Q. And at that time you had an order which gave you immunity for anything that you said; is that right?
A. Yup. That's correct.
Q. Okay. And I'm showing you a document. Have you seen that before?
A. Yes.
Q. And that is, in fact, the immunity order; is that right?
A. Yes.
Q. Okay. And taking a look at the final paragraph, you understand that that means that anything that you say at the grand jury could not be used against you, right?

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A. Yes.
Q. Unless you committed perjury, right?
A. Yes.
Q. Or gave a false statement, right?
A. Yes.
Q. And then, of course, you could be prosecuted, right?
A. Uh-huh.
Q. Now, today you testified that when you took the box of money from Mr. Jefgood, you took it to Attorney Zerola in Boston; is that right?
A. That's correct.
Q. And when you got to Attorney Zerola's apartment, you counted the money, right?
A. Yes.
Q. That's your testimony today --
A. That is.
Q. -- correct?
And when you did testify at the grand jury with that immunity order, you were under oath, right?
A. Yes.
Q. And you swore to tell the truth, right?
A. That's under oath, yup.
Q. And at that time --
MS. BYRNE: May I approach, your Honor?
THE COURT: Yes.

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BY MS. BYRNE:
Q. Ms. Genduso, I've just handed you a copy of your grand jury testimony; is that correct?
A. I do believe that is.
Q. All right. Have you seen that before?
A. No, I have not.
Q. You testified on July 28th, 2005, right?
A. The first time?
Q. The second time.
A. The second time.
Q. The first time you didn't testify, right?
A. Right.
Q. The second time you did testify?
A. Okay.
Q. And on the second time, that was July 28, 2005?
THE WITNESS: I apologize, your Honor. I thought it was September.
BY MS. BYRNE:
Q. Okay. September is when you took -- September of '03 is when you refused to testify.
A. Right. I got that mixed up.
Q. Now, when you did, in fact, testify at the grand jury under oath with that grant of immunity to protect you, you stated on page 38 at the bottom of the page, you were asked --

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"QUESTION: What was in the box?

"ANSWER: Money.

"QUESTION: How much?

"ANSWER: That I -- I never actually sat down and counted it."

Did I read that correctly?

A. Yes, you did.

Q. Now, when you went to the grand jury, you had met with Attorney Weinstein?

A. Uh-huh.

Q. And you knew -- at the time when you went to the grand jury the second time, did you know that there would be an order for you to testify?

A. I assumed so, yes.

Q. And you discussed that with your attorney, right?

A. Yes.

Q. And you understood that that order meant that you had to testify at the grand jury, right?

A. Yes.

Q. But that anything that you said at the grand jury would not be used against you?

A. That's correct.

THE COURT: If it was true.

MS. BYRNE: Right. I was going to get to -- that was my next question, your Honor.

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THE WITNESS: Yes.
BY MS. BYRNE:
Q. And the only way that anything would be used against you from your testimony before the grand jury would be if you lied --
A. That is correct.
Q. -- right?
And you were concerned about lying to the grand jury, right?
A. I was.
Q. You wanted to make sure that you did not commit perjury. In fact, you asked Mr. Levitt about -- your concerns about committing perjury during your testimony at the grand jury, right?
A. I also addressed him about my concerns of safety, too. That's correct.
Q. Okay. Well, let me just get the one question I'm asking.
A. Sure.
Q. You asked Mr. Levitt about your concerns about committing perjury at the grand jury during your testimony, did you not?
A. If it's in here, then absolutely, there's no question I did.
Q. Do you remember doing that?

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A. I don't recall precisely, but I believe you.
Q. Well, why don't we look at it. Turning your attention to page 21. Actually, turning your attention to page 20, line 8, you were asked:
"QUESTION: Okay. Now, if you could just orient me in terms of when you first started going together, then we can go six months out.
"ANSWER: See, I'm afraid to actually state dates because I don't want to get perjurized *[sic]* for something that I don't recall correctly," right?
A. That's correct.
Q. And then Mr. Levitt explained to you what perjury was, right? Calling your attention to the bottom of that page.
A. Line 17 to 25.
Q. And on page 21 Mr. Levitt told you, "It's, you know, if you lie about something that's pertinent to the grand jury, okay?
"ANSWER: Okay."
So you understood what that meant?
A. Yes, I did.
Q. So when you testified before the grand jury after understanding that, you told the truth?
A. Apparently I didn't.
Q. Apparently you didn't?

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A. That's correct.
Q. So you told -- well, you told the grand jury that you never counted the money, right? Is that right?
A. That's correct.
Q. And you also told the grand jury that the day that Sean Bucci was arrested you gave the money to Carbone. And that's not true either, is it?
A. No. But I've had a long time to think about it since that last grand jury appearance.
Q. And your memory is better now?
A. It's a lot better considering I've been thinking about it for such a long time. There are also places and events that I don't remember.
Q. That's the only question before you.
A. That's fine.
Q. Now, you testified today that you saw large quantities of marijuana at 23 Marshall Street, right?
A. Right.
Q. And that you helped off-load quantities of marijuana at 23 Marshall street, right?
A. No, ma'am. I didn't say I helped off-load it.
Q. Well, did you?
A. Did I ever off-load it?
Q. Uh-huh.
A. No.

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Q. You testified that you collected money for marijuana, right?
A. Yup.
Q. You testified that you distributed marijuana, right?
A. Yes, I did.
Q. And that you helped break up bales of marijuana, right?
A. That's correct.
Q. And that you sold your own marijuana, right?
A. Yup.
Q. You testified to all of those things today --
A. Yes, I did.
Q. -- right?
And you're under oath today, right?
A. Absolutely.
Q. Just like you were at the grand jury --
A. Yes.
Q. -- right?
And by the way, when you did testify at the grand jury, your attorney, Attorney Weinstein, advised you that it was very important for you to tell the truth to the grand jury, did he not?
A. Yes.
Q. And you also spoke to another attorney, John Fitzpatrick, right?

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A. When Elliot was away sick, personal leave, yes.
Q. Right. Right. He was away because of his son being injured, right?
A. Yes. That's correct.
Q. Right. So he arranged to have another attorney actually available to you so that you would have someone with you at the grand jury, right?
A. Yes.
Q. Okay. And of course the lawyer was not inside the grand jury but was outside the grand jury, right?
A. That's correct.
Q. Available for you to go out and talk to during your testimony, right?
A. Yes.
Q. And you met with this attorney prior to taking the stand at the grand jury, right?
A. I met him about an hour before I took the stand, so very, very little did I meet him.
Q. Right. You met him -- well, as I said, you met with Attorney Weinstein before already?
A. Correct.
Q. To talk about what was going to happen at the grand jury, right?
A. Yes.
Q. And that's when he told you: Just make sure you

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tell the truth and you'll be all set, right?
A. Yes.
Q. And then you met with Mr. Fitzpatrick the morning of the testimony, right?
A. Yes.
Q. And he told you the same thing: Just tell the truth to the grand jury, right?
A. That's correct.
Q. And of course, as you said, you were concerned about committing perjury. You didn't want to do that, right?
A. We just discussed that, yes.
Q. I'm just asking you.
A. Yes.
Q. Okay? And you, as you said -- now you say you didn't tell the truth to the grand jury, right?
A. That's correct.
Q. So what you said then when you were concerned about committing perjury and had been told the only thing you needed to worry about was to tell the truth, you were asked at the grand jury:
"QUESTION: Did you see large amounts of marijuana, or did you see amounts of marijuana?"
Page 24, line 6.
"ANSWER: Yes.
"QUESTION: Did you see amounts of marijuana

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that Bucci was selling as opposed to people were smoking?

"ANSWER: As far as selling goes, I would never be present in the room. Just wasn't. It wasn't like -- it wasn't allowed, put it that way. It wasn't."

A. In the beginning, it wasn't.

Q. I'm asking what you said under oath to the grand jury.

A. Well, that's correct as far as the beginning.

Q. Was that true?

A. Absolutely.

Q. Now, further down the page you were asked:

"QUESTION: I'm asking if you saw drugs that he was selling."

And you answered:

"ANSWER: Yes.

"QUESTION: Okay. How often did you see that during the time period? Really, an approximation here. Are we talking once? Are we talking once a month? Every day?

"ANSWER: I really don't know."

And line 6 on the next page: "The year 2001?"

"ANSWER: The year 2001?

"QUESTION: Yes.

"ANSWER: I don't recall. At least -- at least

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two times up to -- I don't know. I'm sorry, I can't state -- I can't state exactly."

You were asked, "How many items did you see?" Line 19.

"How many items did you see? Was it one in plastic? Was it more than one?

"ANSWER: I don't know."

MR. LEVITT: Your Honor, are there questions here or is she just reading the grand jury transcript, because there hasn't been a question?

THE COURT: Is there a question?

MS. BYRNE: I'll ask her in the form of a question, your Honor.

BY MS. BYRNE:

Q. You were asked the question, ma'am, "How many items did you see? Was it one in plastic? Was it more than one," correct?

A. That's correct.

Q. And you answered, "I don't know. At least one in plastic, yes," correct?

A. Correct.

Q. And on the following page, line 7, you were asked:

"QUESTION: And at other times is that consistent with what you saw on other occasions," correct?

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A. That's correct. At least one.
Q. And is that correct that that's what you were asked, ma'am?
A. Yes.
Q. And you answered "yes," correct?
A. That is correct.
Q. You were asked:
"QUESTION: Is there any time when you saw more than that?"
Were you -- were you asked that question, ma'am?
A. This is all specific documentation, so I'd agree, yes.
Q. Okay. So what you're saying is that if there weren't specific documentation, if it was not in writing, you would not agree with me, ma'am?
A. No, I would agree with you. Absolutely. But we're reading something that's not going to be anything different than what I stated prior to this.
Q. Well, they could have gotten it wrong, right?
A. I doubt it, but okay.
Q. You were asked, "Is there any time when you saw more than that," correct?
A. Yes.
Q. And you answered, "Possibly. I don't -- I'm just -- this is 2001, so you have to understand, this was a long

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time ago," right?
A. Yup.
Q. And then you were asked at the bottom of the page:
"QUESTION: So given that it's an important event to you, tell us what other occasions you saw marijuana in the house," correct?
A. Yes.
And you answered:
"ANSWER: Okay. Given this is an important question, I'd like to go speak to my counsel, if possible. Yes? Thank you," right?
A. Yup.
Q. And then what happened was, you actually left the grand jury, right, and you went out and talked to the lawyer?
A. Which was legal. Yes.
Q. And when you went out and spoke to the lawyer, the lawyer told you: Just go in there and tell the truth, right?
A. Yes.
Q. And so that's what you did, right?
A. Uh-huh. Correct.
Q. And then you were asked questions about the times that you saw non-personal-use amounts of marijuana, right?

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A. Yes.
Q. And you were asked:
"QUESTION: Do you want to expand on your answer about that?"
And you answered:
"ANSWER: Like I just told my lawyer --
"QUESTION: Well, don't talk --
"ANSWER: Well, I'm sorry.
"QUESTION: Just tell us."
And you said: "Sorry. Sorry. Sorry. Sorry. As far as you asking me if I've seen more than one, I mean, yes, but at the same time, I literally mean it when I tell you that I do not recall as far as amounts go."
Did you not answer that that way?
A. I did.
Q. You were asked:
"QUESTION" --
By the way -- strike that.
You were asked:
"QUESTION: Do you ever recall seeing more than one brick," correct?
A. Yes.
Q. And you answered yes, right?
A. That's correct.
Q. And then you were asked, "How many do you recall

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seeing at a time? And you can give a range. You can say more than five, less than ten. You can say 20 to 30."

Your answer: "I would say -- I mean, between -- I don't know.

"QUESTION: Your best estimate, and we understand you're estimating."

And you answered ten, right?

A. That's correct.

Q. That's what you said at the grand jury, right?

A. Yes.

Q. Now, Ms. Genduso, you said between 2002 and two thousand -- well, between 2001 and 2003 you sold marijuana yourself, right?

A. I think I said between 2002 and 2003, but yes. Around that --

Q. All right. Between 2002 and 2003, which was the time period that you were living with Sean Bucci, correct?

A. Yes.

Q. You moved in in January of 2002. Is that approximately correct?

A. No, not approximately correct.

Q. All right. Well, we'll get back to that.

But between 2002 and 2003 you were living with Sean

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Bucci, right?
A. Yup.
Q. And you sold marijuana yourself, right?
A. Yes, I did.
Q. And you say you sold five to ten pounds to somebody named Tim, right?
A. At a time.
Q. At a time?
A. Uh-huh.
Q. And you did that five to ten times, right?
A. Potentially, yes.
Q. Excuse me?
A. Potentially, yes. It could have been more and it could have been less. So that's estimated.
Q. Approximately five to ten times, right?
A. Correct.
Q. And when you did this, you delivered -- you delivered the marijuana wrapped up to look like gifts, right?
A. Yes.
Q. In order to hide it from anyone seeing it, right?
A. That's correct.
Q. Most importantly, the police, right?
A. Yes.
Q. And of course you never reported any income from

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this marijuana selling you were doing, did you?
A. No.
Q. You helped Sean Bucci with his marijuana business, right?
A. Yes, I did.
Q. You helped him count money, deliver marijuana, right?
A. Yes.
Q. Break up bales of marijuana, right?
A. Yes.
Q. Helped him bag it, right?
A. Yes.
Q. And on the day of Mr. Bucci's arrest, you took possession of a box of money that you knew to be proceeds from marijuana sales, right?
A. That's correct.
Q. And you knew it was -- you knew that's where the money was from, right?
A. Yup.
Q. You hid it from the police, right?
A. Yes, I did.
Q. Carefully, right?
A. Very.
Q. And then you used this money, which you knew was drug proceeds, to live off of, right?

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A. Yes.
Q. You used it to go out to dinner, right?
A. I even brought his parents out once to dinner.
Q. You used it to go out drinking?
A. Yeah.
Q. You used it to go to the movies, to make your car payments, right?
A. Yes, I did.
Q. You spent this money that you knew to be drug proceeds on your daily living expenses, right?
A. That's correct.
Q. Ms. Genduso, you understand that you could be indicted in this case as a coconspirator, right?
A. Yes, I do.
Q. Well, you can't be indicted because you have immunity, right?
A. That's correct.
Q. The only way you can be indicted is if you lie or commit perjury, right?
A. Yes.
Q. And by the way, there's no question in your mind that you lied at the grand jury, right?
A. Not today, though.
Q. And have you been charged with perjury?
A. No.

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Q. Are you being prosecuted for that?
A. No.
Q. And you don't expect to be charged with perjury, do you, ma'am?
A. Not that I know of.
Q. Now, you understand that you could have been charged in this case, right?
A. Yes.
Q. And that if you were charged in this case, you could have been facing a ten-year minimum mandatory sentence, correct?
A. That's right.
Q. You understand that?
A. Yup.
Q. And now the only way that you're facing prison time is if you lie?
A. That's correct.
Q. And you don't want to go to prison, do you, Leigha?
A. I don't think anyone wants to go to prison, ma'am.
Q. And you understand that if the prosecutors don't believe you, you could be charged with perjury?
A. That's correct.
Q. You understand that they decide whether or not you're telling the truth, right?
A. Yes.

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Q. You've met with the prosecutors to prepare your testimony, right?
A. Several times.
Q. And in fact, you met with them several times before you were even starting to prepare your testimony, to tell them -- to talk to them, right?
A. We've been -- well, I considered it actually preparing the testimony since the first time.
Q. So since the first time that you met with the prosecutor you considered that you were preparing testimony against Mr. Bucci; is that right?
A. Yes.
Q. Because that's what you understood they wanted from you, right?
A. Well, yeah. Correct.
Q. Now, you understand that the prosecutor didn't believe your testimony at the grand jury, right?
A. Did or didn't? I couldn't hear you.
Q. Did not.
A. Yes.
Q. And that, in fact, the prosecutor thought that you knew a lot more than you said you knew, right?
A. That's correct.
Q. They didn't believe you when you said you couldn't remember things, right?

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A. I guess not.
Q. They didn't believe you when you said that you weren't involved with the marijuana business, right?
A. Right.
Q. And by the way, you didn't tell the grand jury anything about your having been involved in the marijuana business, did you?
A. Did they ask? I don't even recall.
Q. I'm asking you if you told the grand jury anything about your being involved in the marijuana business.
A. I don't know, ma'am. I'd have to read through this first. It's been a while. I'm sorry.
THE COURT: Did you appear before the grand jury once, only, or more than once?
THE WITNESS: Twice, your Honor. The first time I pled the Fifth.
THE COURT: Right. So the testimony we're talking about is your second appearance?
THE WITNESS: Yes.
BY MS. BYRNE:
Q. Well, after your testimony before the grand jury, you were afraid of being prosecuted for perjury?
THE COURT: After the second appearance, you mean?
THE WITNESS: Can you repeat that, please?

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BY MS. BYRNE:
Q. After your second appearance before the grand jury.
A. I never said that.
Q. Well, were you concerned having lied to the grand jury?
A. Well, I also must state that I was nervous, as much as possibly someone could be nervous during that time, and I basically blocked a lot out.
Q. Well, you were pretty nervous when the prosecutors accused you of lying at the grand jury when you met with them, weren't you?
A. We didn't really talk about it that much to that extent.
Q. You understood that they were prosecuting Mr. Bucci for conspiracy to traffic -- to distribute over a thousand kilograms of marijuana, right? You understood that?
A. Yeah, it's been understood for a couple of years.
Q. Of course you understood that. You received all the discovery in this case, did you not, from Mr. Bucci?
A. What do you mean, "discovery"?
Q. In other words, you saw the police reports. You know what the case is about.
A. To some extent I saw the police reports.
Q. Right.

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A. Not all of them.
Q. But you certainly understood that he was -- well, you understood that Mr. Bucci was originally indicted for conspiracy to distribute over a hundred kilograms. You knew that, right?
A. Yes.
Q. And that later he was indicted for conspiracy to distribute over 1,000 kilograms. You knew that?
A. Actually, I never knew that.
Q. You didn't know that?
A. I know it now.
Q. You understand that the -- you understood that the prosecutor wanted you to tell them that you saw lots of marijuana. You understood that, did you not?
A. No, ma'am, they didn't tell me to -- like urge me into saying anything. Sorry.
Q. Well, as you said, you understood that they didn't believe your testimony at the grand jury, right? Right?
A. Peter Levitt spoke to me once saying, "I don't believe you were fully truthful during your testimony before the grand jury." That was it. That was simply stated.
Q. And you got the point, did you not, ma'am?
A. Well, I did. Yes.
Q. Well, you get the impression they believe you now,

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right?
A. I hope so.
Q. You testified that, as you said, you had sold marijuana to a guy named Tim, right?
A. Yes.
Q. And that was five to ten pounds on five to ten occasions, right?
A. Estimated. That's correct.
Q. And this is the guy that you wrapped the marijuana as presents when you delivered it, right?
A. That's right.
Q. And then later you testified -- you testified later that you sold him different marijuana, right?
A. Yes.
Q. Now, you told the prosecutors that for the first time on February 6th, right? The last time you met with the prosecutors was the first time you told them that you ever sold commercial grade, as you called it, marijuana, right?
A. It could have been -- no, it wasn't the last time. It was one time before that.
Q. Right. Because the last time you met with the prosecutors was when you were preparing to testify here today, right?
A. That's correct.

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Q. So it was the time before that, right?
A. Yes.
Q. It was about -- it was less than two weeks ago, right?
A. Or it could have been the time before that, actually. I don't know the accuracy of that.
Q. So you're not sure whether it was February 6th or January 16th, is that what --
A. I do believe it was on the first time that we actually -- I mean, the second time that we met.
Q. And the second time that you met was a couple of weeks ago, right?
A. Yes. A couple of weeks ago, maybe? Possibly a month? I'm not sure.
Q. And the first time you met was about two weeks before that, right?
A. Yup.
Q. And when you met the first time, you had a long meeting with the prosecutors also, right?
A. Yes.
Q. And you told them -- they asked you to tell them everything that you had done, right?
A. That's correct.
Q. And everything that you had seen, right?
A. Yes.

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Q. And that was on January 16th, right?
A. Yes.
Q. And on that date you told the prosecutor and the agent a different story about what you sold to Tim, right?
A. No, ma'am, not a different story. I told them what else I also sold to him. There's a big difference.
Q. Well, you didn't tell them that you sold five to ten pounds of commercial-grade marijuana on five to ten occasions, did you, ma'am?
A. I don't recall.
Q. You don't remember?
A. I don't remember which time I did, actually, tell them that.
Q. Well, let's just get this straight.
A. Sure.
Q. You told two different stories about how much marijuana you sold to Tim; is that fair to say?
A. No, it's not. Because it was estimated.
Q. All right. Well, let's just...
(There is a pause.)
Q. I'm handing you a copy of a letter. Could you turn to the second page and read the top paragraph to yourself?
THE COURT: Do you have an exhibit number?

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MS. BYRNE: I can mark it for identification, if you want, your Honor.

THE COURT: Of course. Nobody would know for the record --

MS. BYRNE: I'd just ask that this be marked for identification. Sorry, I don't know what number we're up to.

THE CLERK: The last one was 115. So 116?

MS. BYRNE: February 6th.

THE CLERK: Yes. E was the last one, so this is F.

MS. BYRNE: This is F for identification. Thank you.

THE COURT: Thank you. I'm sorry, what letter is that?

MS. BYRNE: This is F, your Honor. F for identification.

(Defendant No. 1's Exhibit F was marked for identification.)

BY MS. BYRNE:

Q. If you could just read the top paragraph to yourself.

A. "Ms. Genduso" --

Q. To yourself, ma'am.

A. Oh, I'm sorry.

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THE COURT: Thank you. Just to see whether it refreshes your recollection.

THE WITNESS: Sorry. Sorry. Sorry.

BY MS. BYRNE:

Q. Okay? And this was -- if you could look at the first page of that letter, the letter is dated February 6, 2007, correct?

A. That's correct.

Q. And --

THE COURT: Can you tell us from whom to whom?

BY MS. BYRNE:

Q. And this is a letter from counsel to Mr. Peter Levitt, right?

A. Yes.

Q. And also on the first page of that letter, the second line, it indicates that it's based on a meeting with Leigha Genduso on February 5th, 2007, right?

A. Yes.

Q. And that was, as you say, the second-to-last meeting you had with Mr. Levitt, right?

A. Yes.

Q. And on that meeting, Ms. Genduso, you told --

MR. LEVITT: Your Honor, I'm going to object to the way that Ms. Byrne is doing this. She's basically going to have -- the question is whether this letter

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refreshes her recollection.

MS. BYRNE: I'm sorry. I'm happy to ask that if you want, your Honor.

MR. LEVITT: And it should be -- someone needs to explain to the witness how that works.

MS. BYRNE: Certainly, your Honor.

BY MS. BYRNE:

Q. Have you read that?

A. Have I read the whole thing?

Q. Have you read the paragraph?

A. On the first page.

Q. Right. Does that letter refresh your recollection about what you said to Mr. Levitt on February 6th of 2007?

A. Yes.

Q. And in fact, what you said was you sold about five to ten pounds of commercial-grade to Tim on about five to ten occasions, right?

A. Yes.

Q. And you also told Mr. Levitt that later you sold Tim hydroponic marijuana as well; is that right?

A. Yes.

MS. BYRNE: Could I have this marked for identification as well?

THE COURT: G?

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THE CLERK: Yup.

(Defendant's No. 1's Exhibit G was marked for identification.)

MS. BYRNE: Thank you.

MR. LEVITT: Your Honor, I think Ms. Byrne, before she shows the witness the letter, needs to ask her the question to see if she has a memory, and then show her the letter and see if it refreshes her recollection.

MS. BYRNE: Actually, I think she testified that she didn't remember which thing she said at which time, your Honor, but I'm happy to ask her again if she has a memory.

THE COURT: Okay. Why don't you do that.

THE WITNESS: A memory with regards to what again, please?

BY MS. BYRNE:

Q. A few weeks earlier on -- prior to that meeting on February 6th --

A. Yes.

Q. -- February 5th, actually, you met with the prosecutors -- the prosecutor and agent in this case, right?

A. January 16th or 12th?

Q. I'm just asking you from your own memory right now.

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A. Yes. Yes.
Q. Right? And at that time you told them you only ever sold hydroponic marijuana, right?
A. What page is that?
Q. I'm asking you if you remember what you said.
A. No, I don't remember.
Q. You don't remember what you told them about whether you sold commercial grade or hydroponic marijuana on February 16th?
A. No.
Q. Okay. Calling your attention to page 21 of the document which I believe is Exhibit G for identification, the first full paragraph, could you read that to yourself.
A. (Witness complies.)
Q. Does that refresh your recollection about what you said on January 16th about the marijuana you sold to Tim?
A. Yes.
Q. And in fact, at that meeting, Ms. Genduso, you said that you sold Tim two to three pounds of hydro on five or six occasions, right?
A. Yes.
Q. And there's no mention of five to ten pounds of commercial-grade on five to ten occasions, is there?

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A. No, there isn't.
Q. So the first time you told Mr. Levitt or anybody involved in this case that you sold five to ten pounds on five to ten occasions to Tim was on February 5th of 2007, right?
A. But that was commercial and hydro, so yes.
Q. When they asked you how much marijuana did you sell to this guy Tim, you understood that they meant marijuana in general, right?
A. Oh, yeah. But they're two different things, though, like apples and oranges.
Q. So you just didn't tell them about the regular marijuana that you sold to Tim when you met with them on the 16th; you just didn't mention that, right?
A. Right.
Q. You started dating Mr. Bucci the summer before you moved in with him; is that right?
A. Yes.
Q. And that was in about June; is that right?
A. Yes.
Q. Correct?
A. Correct.
Q. You started dating him in 2001, right?
A. I said between 2000 and 2001, but yes.
Q. And you moved into 23 Marshall Street -- and you

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moved in with him in the winter after you started dating him; is that right?
A. Yes.
Q. You moved into 23 Marshall Street in 2002, right? January? The beginning of 2002; is that right?
A. Yes. I don't remember the approximate month, but possibly.
Q. And you lived with him during the period of time between 2002 up until he was arrested in 2003, right?
A. Yes, I do recall. I thought I lived there from 2001 to 2003, but okay.
Q. And you -- then you lived in the house alone from June 4th, 2003, until February of 2005; is that right?
A. Yes. Well, I'd say December-early January.
Q. Of 2004?
A. December. Yes. Correct.
Q. Mr. Bucci was arrested on June 4th of 2003?
A. Yes.
Q. And he was held in custody for a period of time, right?
A. Correct.
Q. And he was released in May of 2004; is that right?
A. Correct.
Q. And in August of 2004 he started a website called WhosARat.com; is that right?

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A. Yes.
Q. By the way, who named that website, ma'am?
A. Oh, I did. I said the name as a joke and he stuck with it. That was me.
Q. By the way, you testified that you had smoked marijuana over the course of your life, right?
A. Very much so, yes.
Q. And taken prescription drugs that you didn't have a prescription for, right?
A. Yup. With Sean.
Q. Did you ever use cocaine?
A. No, I did not.
Q. Ms. Genduso, you lied to the grand jury about what you did with that box of money. We've established that already, right?
A. That's correct.
Q. And then you lied to the prosecutors about what you did with that box of money, didn't you?
A. When?
Q. All right. Well, you now say that you took that box of money to Jan Jefgood's house, right?
A. Yes.
Q. And after he got nervous, you took it directly to Attorney Zerola's office in -- apartment in Boston, right?

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A. Correct.
Q. You drove it there, to that apartment in Boston, right?
A. As I recall, yes.
Q. Well, do you remember that?
A. I'm pretty sure I do, yeah.
Q. And when you got there you went inside the apartment?
A. Yes.
Q. With the box of money?
A. Yes.
Q. And then you counted it all out. This is what you're testifying to today?
A. This is what I'm testifying, correct.
Q. And there was $275,000 in there --
A. Yes.
Q. -- right?
And that you left the box of money and two safes at Attorney Zerola's apartment, correct?
A. Yes.
Q. And that it stayed there for three or four weeks, right?
A. Yes.
Q. Before you picked it up and took it to Eric Carbone, right?

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A. Right.
Q. And you testified that Mr. Bucci wanted to hire Mr. Zerola, right?
A. Yes.
Q. And that you told Mr. Zerola to take $50,000 from the box, right?
A. I said around $50,000, yes.
Q. You also told Mr. Zerola to give a second attorney money from the box, right?
A. That's correct.
Q. And that was Attorney Natola, right?
A. Yes.
Q. And so you asked Mr. Zerola to take his own money out of the box, right?
A. Uh-huh.
Q. Which he had in his possession?
A. Uh-huh.
Q. And you asked him to pay Mr. Natola from the box, right, that he had in his possession, right?
A. Right.
Q. And you also told Mr. Zerola to give Attorney Brennan money from the money box, right?
A. Yes.
Q. Okay. Now, on January 16th, at that same meeting that we were talking about, you told a different story

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about what you did with the money box, right?
A. Uh-huh.
Q. Did you? Did you tell a different story on the 16th about what happened to the money in the money box?
A. Prior to what date?
Q. January 16th of 2007 when you sat down to meet with the prosecutors. Not the last meeting before this preparation for court, the one before that.
A. Yes, I did.
Q. You told a different story?
A. I did, because I didn't want to incriminate anyone else.
Q. You didn't want to incriminate anyone else?
A. That's correct.
Q. What you told -- and you understood that you -- the one thing that you had to do here was to tell the truth, right?
A. Absolutely. Which is what I did the next time I met them.
Q. Well, but basically what you're saying is when you met them on January 15th, the letter that was January 16th, you lied about what happened to the money in the money box. Is that fair to say, Ms. Genduso?
A. Actually, it's more fair to say that I didn't bring up a period of time when the money was at someone else's

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house. But I was always accurate about the other two places that it was at.

Q. You left out a significant part of the story; is that fair to say?

A. That's more fair to say, correct.

Q. What you said on the 16th was that you took the safes and money box to Jefgood's apartment first, right?

A. Uh-huh.

Q. And then a week later you went to see Mr. Bucci, right? That's what you told them on the 16th, right?

A. Like I said, I just left out a big chunk.

Q. I'm not asking you what you left out. I'm just asking you questions, and I'd ask you to answer the questions I'm asking.

A. That's right. Correct.

Q. And then you took the safes and the box of money to Eric Carbone's, right, from Jan Jefgood's house. That's what you told the prosecutors who are trying to investigate their case, right?

A. That is what I told them on January 16th.

Q. And you told them that you took $50,000 -- you took $50,000 from the box of money to pay Attorney Zerola, right?

A. That's correct.

Q. Nothing about telling him to take $50,000 out of the

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box of money himself, right?
A. Right. Because --
Q. Nothing about him having possession of that box of money at all, right? You didn't tell them anything about that on the 16th?
A. On the 16th. You are correct.
Q. You told the prosecutors a story about putting money in a paper bag and meeting Attorney Zerola at a sub shop in Lynn, right?
A. Yes.
Q. And that's what you told them?
A. Yes.
Q. Right? And you made up the story.
A. Well, not technically.
Q. Well, you just said that you just left out a few -- excuse me, ma'am.
You just said that you just left out a few things, right?
A. Right.
Q. But in fact, you actually made up a few things, too, didn't you?
A. Well, what I was just about to say is that I did meet him at a sub shop in Lynn prior to that.
Q. With a bag full of $50,000?
A. No. No. But with a bag full of money that he gave

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me.
Q. Oh, with a bag of money that he gave you?
A. It was actually $5,000. Because he still had obtained the money still --
Q. Well, this is the first time anybody's heard this. So what are you saying?
A. Well, it's not the first time, technically, because I did talk about the sub shop and us meeting before, so...
Q. You talked about meeting -- let's just be clear here.
A. Sure.
Q. You talked about going to a -- taking $50,000 in cash out of the money box yourself?
A. That part was a lie; correct.
Q. Thank you.
And putting the $50,000 into a paper bag. That's what you told the prosecutor and the agent here?
A. Yeah.
Q. That didn't happen, did it?
A. No, it did not.
Q. And you told them that you then traveled to a sub shop in Lynn with the bag of $50,000?
A. Right.
Q. Which did not happen, did it?

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A. Right.
Q. And gave that money to Attorney Zerola, $50,000 cash, that you had taken out of the box of money. And that did not happen, did it, ma'am?
A. Nope, it didn't.
Q. That's the story that you told Mr. Levitt and Agent Willoughby, right?
A. Right.
Q. And then you went on to tell them that one or two months later again you went and got $25,000 from the box of money, right? You told them more on this January 16th meeting about giving money to Attorney Natola, right?
A. Right.
Q. You told them that one or two months later you got another $25,000 from the money box, took it out yourself, correct?
A. Was it one or two months later or was it one or two weeks?
Q. Well --
A. The accuracy of that is a big difference.
Q. Was it one or two months later or was it one or two weeks?
A. I don't know.
Q. Well, you made up the story. I have no idea.

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A. I just thought documentation might help, that's all.
Q. I'm handing you the document numbered Exhibit G for identification. Calling your attention to page 17, the first full paragraph. Could you read that, please, ma'am, to yourself.
A. (Witness complies.)
Q. Right.
A. Where's the one to two months?
Q. "Ms. Genduso advised that a month or two later" --
A. Oh, okay. I see that.
Q. Are you with me?
A. Yes.
Q. So that's actually the story you made up, a month or two later, right?
A. Yes.
Q. And now you don't know because you really -- it could have been a week or two later because it actually never happened at all that you took the money and met with Attorney Natola, right?
A. That's right.
Q. Ms. Genduso, you know that Mr. Bucci dee-jayed -- was a disk-jockey at a club called Bay Bridge, right?
A. Yes.
Q. And that he had an arrangement with the owner that he would pay for everyone's drinks, right?

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A. Yes.
Q. And then the owner would pay him back, correct?
A. Correct.
Q. Ms. Genduso, your understanding was that Mr. Belmonte was the only supplier to Mr. Bucci; is that right?
A. Yes.
Q. About six months after Mr. Bucci was arrested, Mr. Belmonte came to see you where you were working at Centerfolds, right?
A. Yes.
Q. You worked at a club called Centerfolds?
A. Yes.
Q. You worked as a bartender; is that right?
A. Yes.
Q. And Mr. Belmonte came in to see you two or three times while you were working there, right?
A. That's correct.
Q. And when he came in, he was paying for drinks with hundred dollar bills; is that right?
A. Yes.
Q. You noticed that because that's unusual to see, people flashing around hundred dollar bills, right?
A. Especially after they got arrested, yeah.
Q. Especially after they've been arrested.

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During the period of time that you lived with Mr. Bucci, you would -- you testified you would deposit cash in the amount of $9,000, right?
A. Yes.
Q. And that was -- that's the amount that it was, correct?
A. Sometimes a little less. It wasn't always $9,000 on the dot.
Q. And you deposited -- but it was often $9,000, wasn't it?
A. Yes.
Q. You deposited it into Mr. Bucci's mother's SIS Family bank account, correct?
A. In Middleton, Mass.
Q. It was Ms. -- well, you told the government, did you not --
A. Yes. Yes.
Q. -- that it was Mr. Bucci's mother's SIS Family bank account?
A. Right. I know the name of the bank changed, so that's where it kind of got complicated.
Q. And also, while you were living with Mr. Bucci you deposited cash into that bank account -- well, you told them that you did it on over 20 occasions, right?
A. Yes. Estimated 20 occasions.

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Q. And that was in increments of 5,000 to $9,000, right?
A. Yes.
Q. While you lived at 23 Marshall Street, Sean Bucci had roommates, right?
A. Yes.
Q. Chris Bleicher lived there?
A. Yes.
Q. Jay Carnes?
A. Yup.
Q. Eric Remens?
A. Yup.
Q. Right? Darren Martin?
A. Warren Sullivan.
Q. Somebody named Warren Sullivan, nicknamed Sully?
A. Yes.
Q. And those people who were living there were paying rent, correct?
A. Yes.
Q. Paying rent to Mr. Bucci, right?
A. Yes.
Q. By the way, you never had a combination for those two safes, did you?
A. No, I did not.
Q. And you never opened those safes?

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A. No.
Q. You never saw them opened?
A. No.
MS. BYRNE: May I have just a moment, your Honor?
(There is a pause.)
MS. BYRNE: Nothing further, your Honor.
MR. SINSHEIMER: I can if you want, your Honor.
THE COURT: Yes.
MR. SINSHEIMER: I think people are tired, but I'm happy to proceed if you want me to.
THE COURT: Well, let me speak to you --
THE WITNESS: Your Honor, I don't know if I could come tomorrow.
THE COURT: -- and then we'll take the temperature of the situation and I'll let you know.
(Discussion at sidebar and out of the hearing of the jury:)
THE COURT: Do you have anything significant?
MR. SINSHEIMER: Oh, yeah. Oh, yeah.
THE COURT: I see. How long do you estimate? A half-hour?
MR. SINSHEIMER: Yeah, in that league. I mean, I don't mean all afternoon.
THE COURT: Right. And you have a little more?

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MR. LEVITT: A little bit.

THE COURT: What else have we got for tomorrow?

MR. LEVITT: We've got the tax guy who should be half an hour, max, I would say.

THE COURT: Well, do you think we'll be finished by noon tomorrow?

MR. LEVITT: Yes, with the government's case.

THE COURT: Okay.

MR. SINNIS: And probably the defense case too.

THE COURT: I'm assuming that means everything?

MR. SINSHEIMER: No. No, we have at least two witnesses.

THE COURT: You do?

MR. SINSHEIMER: Yes.

THE COURT: It doesn't sound like we could prepare the charge. All right, I'll tell everybody we'll certainly be going over to Monday.

MR. LEVITT: You already told them that.

MR. SINSHEIMER: It's up to you. I'll start now if you want me to.

THE COURT: No, I think everybody's had a pretty heavy day.

(The witness is excused.)

(In open court:)

THE COURT: Well, we're making good progress.

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The government tells me that their case will probably be finished by noon tomorrow, and then there will be some defense witnesses, so obviously the case will be going over at least until Monday, I hope only until Monday. I will have to have some time free to prepare the charge on the case which can be done in a reasonable amount of time, but it does take some time and it can't be done until it's all over and I know exactly what I have to tell you.

So that's it. And we'll resume tomorrow morning at 9:15. Thank you. And you're a good, loyal bunch and we appreciate it. You're free to leave.

THE CLERK: All rise for the jury.

(Jury out at 4:07 p.m.)

THE COURT: Good night.

MR. SINNIS: Good night, your Honor.

MR. LEVITT: Good night, your Honor.

MR. SINSHEIMER: Good night, your Honor.

(The proceedings adjourned at 4:07 p.m.)

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C E R T I F I C A T E

I, Marcia G. Patrisso, RPR, CRR, Official Reporter of the United States District Court, do hereby certify that the foregoing transcript constitutes, to the best of my skill and ability, a true and accurate transcription of my stenotype notes taken in the matter of Criminal Action No. 03-10220-MEL, United States of America v. Sean Bucci, et al.

MARCIA G. PATRISSO, RPR, CRR
Official Court Reporter

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Criminal Action No. 03-10220-MEL

UNITED STATES OF AMERICA, Plaintiff, v. SEAN BUCCI and CATHERINE BUCCI, Defendants.	Day Seven of Jury Trial

BEFORE: The Honorable Morris E. Lasker,
Senior District Judge

John J. Moakley United States Courthouse
Courtroom No. 8
One Courthouse Way
Boston, Massachusetts 02210
Friday, February 23, 2007
9 a.m.

Marcia G. Patrisso, RPR, CRR
Official Court Reporter
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(The following proceedings were held in open court before the Honorable Morris E. Lasker, United States District Senior Judge, United States District Court, District of Massachusetts, at the John J. Moakley United States Courthouse, One Courthouse Way, Boston, Massachusetts, on February 23, 2007.

The defendants, Sean Bucci and Catherine Bucci, are present with counsel. Assistant U.S. Attorneys Peter K. Levitt and John P. McAdams are present.)

THE CLERK: Counsel, your jurors.

(Jury in at 9:04 a.m.)

THE CLERK: Hear ye, hear ye, hear ye, all those having business before the United States District Court for the District of Massachusetts draw near, give your attention, you shall be heard. Court is now in session.

THE COURT: Good morning, everybody.

VOICES: Good morning.

THE COURT: You may be seated. Thank you, ladies and gentlemen of the jury, for being so prompt. If they supplied me with gold stars, I would give each of you one.

LEIGHA ANN GENDUSO, resumed

THE CLERK: I would like to remind the witness she is still under oath.

THE WITNESS: Yes, sir.

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MR. SINSHEIMER: May I proceed, your Honor?

THE COURT: Yes, Mr. Sinsheimer?

CROSS-EXAMINATION

BY MR. SINSHEIMER:

Q. Good morning, Ms. Genduso.

A. Good morning.

Q. How are you?

A. Good.

Q. My name is Rob Sinsheimer. I'm going to ask you some questions on behalf of Mrs. Bucci --

A. Okay.

Q. -- who you met sometime after you moved in with Sean, right?

A. Yes.

Q. I want to begin by just helping the jurors understand what I suggest are some key dates, okay?

A. Okay.

Q. Now, you say you met Sean around 2000 or 2001?

A. That's correct.

Q. You're not -- well, 2001 comes right after 2000. So was it in 2000 or was it over the line into 2001?

A. I would say 2000, when I was working at Scuttlebutts.

Q. You were working -- one thing that is clear is you were working at Scuttlebutts --

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A. And he was dee-jaying.
Q. -- and he was dee-jaying? Okay.
Now, there was no question the year had changed into 2001 when you moved in?
A. Yes.
Q. Do you know the exact date you moved in?
A. Unfortunately, I don't recall.
Q. How long had you been dating by that time?
A. Before I moved in?
Q. Uh-huh.
A. I would say three, four months.
Q. Okay. June 4, 2003. That's a big day in your mind, right?
A. Yes.
Q. That's the day of the arrest.
A. Correct.
Q. And it was also on that day that you took possession of a box with approximately $275,000 in it?
A. Yes.
Q. September 17, 2003, was your first grand jury date, true?
A. True.
Q. On that date you took the Fifth Amendment?
A. Yes, I did.
Q. Upon advice of counsel?

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A. Correct.
Q. Who you trusted?
A. Yes.
Q. Did a good job for you?
A. Well, let me just re-frame something. It wasn't advice on counsel; it was advice on my own behalf. I took that because I felt the need to.
Q. Because you knew you committed a bunch of crimes, right?
A. No. Actually, because I was still seeing Sean at the time and I didn't want anyone to get convicted of anything.
Q. Sure. Including yourself. That's all I'm trying to ask.
A. Oh, sure. But not just myself.
Q. Fine. Listen, I'll ask the questions, okay? If they're not clear, you tell me.
A. Okay.
Q. I want to be as fair as I can be.
My question is: Among the reasons you took the Fifth was to protect yourself, right?
A. Yes.
Q. Because it's a privilege against self-incrimination, right?
A. That's correct.

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Q. You actually have to go in to the grand jury, right?
A. Yes.
Q. They -- it's not like you could just do this by letter. They start to ask you questions, right?
A. Yes.
Q. And you say words to the effect -- I mean, we have the exact transcript, but you say words to the effect: I refuse to answer on the grounds that the answer to this question might incriminate me --
THE COURT: Or "I decline."
MR. SINSHEIMER: Excuse me?
THE COURT: Or "I decline to answer."
BY MR. SINSHEIMER:
Q. Or "I decline." I'll do the exact words.
A. I respectfully decline to answer the question and invoke my rights and privileges under the Fifth Amendment of the United States Constitution.
Q. You've got that mantra down pretty good, don't you?
A. I do.
Q. Yeah. Then your lawyer obtained an immunity order for you, right?
A. Yes.
Q. Which meant you couldn't be prosecuted at all for anything you had done prior to the immunity order, right?

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A. Correct.
Q. What you had to do was tell the truth in the future, right?
A. Yes.
Q. The date -- we're talking about dates -- of the immunity order is October 14, 2004, right?
A. I'm not sure.
Q. All right. Let's see. We had it marked yesterday.
THE COURT: I take it all you want to do is specify what the date is?
MR. SINSHEIMER: I think we'd rather -- I'd like to have it marked, assuming there's no objection.
MR. LEVITT: It's already marked. I just don't remember what number it is.
MR. SINSHEIMER: I can pull that up if you give me a second.
MR. SINNIS: It's not in evidence, though, is it?
MR. LEVITT: It is. I believe it's in evidence. It's Exhibit 82, and it should be --
MS. BYRNE: No. That's the grand jury -- that's the --
MR. LEVITT: I'm sorry. No, the grand jury compulsion order is not in.
MR. SINSHEIMER: Thank you. So may I approach,

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your Honor, please?

THE COURT: Yes.

BY MR. SINSHEIMER:

Q. I'm going to show you this document, Ms. Genduso. You'd agree with me, would you not, that this is the order that immunized you at the grand jury?

A. Yes, it is.

Q. And you'd agree with me also that the date is October 13, 2004?

A. Correct.

MR. SINSHEIMER: And I'd offer this into evidence, your Honor.

THE COURT: Received.

MR. SINSHEIMER: Thank you.

THE COURT: What number is it?

MR. SINSHEIMER: F, I think, but I'm not sure.

THE CLERK: If I'm right, it's Defendant's No. 2, and it would be H.

MR. SINSHEIMER: Well, I'll figure out what G is in a minute.

THE CLERK: G is checked off but I don't know what it is.

(Defendant No. 2's Exhibit H was received into evidence.)

BY MR. SINSHEIMER:

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Q. So let's be clear now, again, because we're doing dates. The bust: June 4, 2003, right?
A. Yes.
Q. You take the Fifth September 7th, a few months -- September 17th, a few months later?
A. Right.
Q. And you're finally immunized October 14, 2004, a year and a month, approximately, after you take the Fifth.
A. Yes.
Q. All right. And it's around that time, by the way, that you break up with Sean, right?
A. Yes.
Q. Right around the time of --
THE COURT: Around the time of the immunity order?
MR. SINSHEIMER: Yes, sir.
BY MR. SINSHEIMER:
Q. And incidentally, on June 4th Sean was arrested and put in jail, right?
A. Correct.
Q. And then -- and you stayed there almost a year, right?
A. Yes.
Q. And then he was released on some kind of bail or

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house arrest or something like that?
A. Yes, sir.
Q. And during that period you still considered yourself his girlfriend, right?
A. Yes.
Q. You still lived in the home at Marshall Street, right?
A. Correct.
Q. You still used the money from the money box for your personal expenses?
A. Yes.
Q. All right. Now, do you remember exactly when you broke up with him? Was there a specific date or event?
A. No, not specific.
Q. I understand you're now married.
A. Yes.
Q. Congratulations.
A. Thank you.
Q. When was the date of your wedding?
A. It was May of last year.
Q. May of '06?
A. Yes.
Q. And for how long had you been seeing the gentleman that you married?
MR. LEVITT: Objection.

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THE COURT: Sustained.

MR. SINSHEIMER: May I come to sidebar?

THE COURT: No.

BY MR. SINSHEIMER:

Q. Was your breakup with Sean final in November 2004?

MR. SINSHEIMER: That's all I'm trying to get at, your Honor.

A. Technically, I honestly think that our breakup was final when I finally officially moved out of 23 Marshall Street.

BY MR. SINSHEIMER:

Q. Okay. When was -- that's fair enough.

A. Thank you.

Q. And that was January or February 2005, right?

A. It was January or December, around that area.

Q. All right. And without getting into details, sometime after that you met the gentleman that you married?

A. Yes.

Q. And without getting into too much details, did you have a period of time that one would call a courtship?

A. Yes.

MR. LEVITT: Objection, your Honor.

THE COURT: Sustained.

BY MR. SINSHEIMER:

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Q. Well, let me just try again. All I'm trying to find out is, you have a happy marriage today?
A. Absolutely.
Q. You have nothing to do with Sean Bucci -- that's all I'm trying to get at -- right?
A. No, nothing.
Q. And you have nothing to do with his mother?
A. No.
Q. And you've had nothing to do with either one of them since you moved out in January 2005, right?
MR. LEVITT: Objection, your Honor. Characterization. She said December-January.
MR. SINSHEIMER: Whatever. I'll withdraw it. Good objection. I apologize.
THE WITNESS: Technically, as far as in terms of speaking terms, I did have a few phone calls with Sean. He would call me on my cell phone, and like I stated before, as of yesterday the last time I spoke with him was about a week or so before my last grand jury appearance.
BY MR. SINSHEIMER:
Q. Let's back up. You moved out of the house, right?
A. Yes.
Q. And that's your final -- and please, again, you don't have to volunteer anything. I'm going to ask you

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the questions.
A. Okay.
Q. And you move out, say, at the beginning of the year, right?
A. Okay.
Q. Is that fair?
A. Yeah, absolutely.
Q. All right. You certainly never saw his mother again after that --
A. No, sir.
Q. -- until yesterday.
Yesterday was the first time you laid eyes on her, correct?
A. That's correct.
Q. Now, during the first few months of 2005, up to July, you learned that you're going to have to come to bat for the grand jury, right?
A. Yes.
Q. You've already been immunized, because again, that was October '04, right?
A. Yes.
Q. So you know the day is coming unless the case gets resolved, right?
A. That's correct.
Q. And at some point you told Sean Bucci you wanted him

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to plead guilty, right?
A. The day I went over to his uncle's house and him and Darren Martin were there.
Q. All I asked you was: At some point you did that. That's a true statement, isn't it?
A. I asked him to, yes.
Q. Thank you.
Now, the grand jury is July 28, 2005, correct?
THE COURT: Which one, the one she testified --
MR. SINSHEIMER: The one she actually testified at.
THE WITNESS: Yes.
BY MR. SINSHEIMER:
Q. More than two years after Sean was arrested, correct?
A. That's correct.
Q. All of which time you had access to the $275,000, at least until you moved out of the house, right?
A. Until I moved out of the house because --
Q. All right.
A. -- when he was under house arrest, he got the money.
Q. Now, you were represented by counsel before the grand jury?
A. Elliot Weinstein, to be exact, yes.
Q. And he's a terrific attorney, isn't he?

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A. Yeah, he's okay. He's good.
Q. You know he's good, right?
A. Yeah.
THE COURT: Is he as good as Mr. Sinsheimer?
MR. SINSHEIMER: No.
THE WITNESS: Absolutely not.
MR. SINSHEIMER: He's actually much, much better, your Honor, and I'd be the first to say so.
BY MR. SINSHEIMER:
Q. In fact, because I -- let me make a point, though. Sean paid for him, right, at the beginning?
A. Yes.
Q. But you know he was loyal to you and you alone. He made a point of telling you that. "I represent you," right?
A. That's correct.
Q. And you liked him so much that when the feds came looking for you recently you went back to him, right?
A. Yes.
Q. And you spent your own money, right?
A. Yes, I did.
Q. And the one thing that Mr. Weinstein made clear to you in that period between the immunity order and the grand jury is if you really have to go, this is the time to tell the truth, right?

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A. He said that all along; correct.
Q. Over and over again, right?
A. That's right.
Q. Now, you went to the grand jury on July 28, 2005, right?
A. Yes.
Q. And you knew at that time that you'd been a pot dealer, right?
A. That's correct.
Q. And you knew at that time that you had helped your boyfriend hide $275,000 in cold, hard cash, right?
A. Yes.
Q. And you also knew -- and by the way, you were the person who named WhosARat.com, right?
A. I stated that yesterday.
Q. But I'm asking you again. Is that right?
A. Yes.
Q. I have a job to do, just like Mr. Weinstein, right?
A. Uh-huh.
Q. I'm here for her, right?
A. Yes.
Q. You understand that?
A. Yes.
MR. LEVITT: Objection, your Honor.
THE COURT: Sustained.

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BY MR. SINSHEIMER:
Q. You have respect for the defense function, correct?
MR. LEVITT: Objection, your Honor.
THE COURT: Don't argue with the witness.
BY MR. SINSHEIMER:
Q. Okay. You knew at the time you went to the grand jury that you'd been a pot dealer, right?
A. Yes.
Q. You knew you'd helped hide $275,000, right?
A. Yes.
Q. You knew you cheated on your tax returns, right?
A. That's correct.
Q. And not just with the pot money, but with your waitressing tips, which everybody does, but you knew you did it?
A. I was just going to say everyone does that.
Q. Right.
A. Yes.
Q. But you did it?
A. Correct.
Q. Everybody does it, but not everybody's watched as closely by the feds as you were at that time, right?
A. That's right.
THE COURT: She doesn't know that.
BY MR. SINSHEIMER:

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Q. Well, you knew you were being investigated, right?
A. Yes.
Q. Because you'd already been to the grand jury, right?
A. Yes.
Q. And you'd already had an order of immunity taken out on your behalf, right?
A. Yeah, I just stated that.
Q. Right. So you knew that when you went to the grand jury all you had to do to walk away from the whole thing was tell the truth, right?
A. Yes.
Q. And you knew you were going to be asked as much or more about the money than the pot, right?
A. That's correct.
Q. Because you knew that by that time Mr. Carbone had flipped -- is that the right word?
A. Absolutely not. I had no idea Mr. Carbone, quote/unquote, flipped during any of this pending --
Q. What's the word you'd use for "flipped"? "Rat"?
A. Whatever you would like to use, I'm fine with it, but absolutely, without question, no, I did not know that.
Q. You know now, right?
A. I've known as of yesterday; that's correct.
Q. Well, you knew at the grand jury they wanted to --

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they asked you questions -- it was Mr. Levitt, by the way, right?
A. Yes.
Q. And he asked you questions --
A. At that time.
Q. -- about the money, right?
A. Yes.
Q. And you told the grand jury what happened to the money, right?
A. Yes.
Q. Now, I guess we're going back to dates. That was July 28, 2005, right?
A. Okay.
Q. And the next -- and you were interviewed under oath; there was a stenographer there, right?
A. I do recall that, yes.
Q. You came into the grand jury; there were a bunch of citizens sitting there watching you, right?
A. I'm pretty sure the same as today, right.
Q. It was different than today, right?
A. Correct. It was just a grand jury.
Q. There was no cross-examination, right?
A. No.
Q. Mr. Levitt was there, right?
A. Yup.

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Q. And there was another prosecutor there, right?
A. I don't remember, but possibly.
Q. There were federal government agents there, right?
A. Not in the room. I think they were outside.
Q. They were outside. Did they escort you there?
A. No.
Q. Did they escort you here today?
A. Yes.
Q. Now, the grand jury testimony runs approximately 62 pages, right?
A. I don't know, sir. Sorry. I've never actually thoroughly read it. As of yesterday was the first time I actually saw it.
Q. No one told you to read it to prepare for today -- or yesterday?
A. The grand jury testimony?
Q. Yes.
A. No.
Q. All right. The next time you were asked questions about your pot dealing and money hiding and all that stuff was January 2007. Just a few weeks ago, right?
A. Yes.
Q. And then you met with Mr. Levitt and the federal agents at least three times, right?
A. Correct.

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Q. January 15th, right?
A. I believe it's all documented, yes.
Q. January 24th, right?
A. Approximate dates. I know it's documented, so I'm going to go with yes.
Q. And February 5th, right?
A. Yes.

MR. SINSHEIMER: Judge, I have prepared a chalk of some of these dates that I showed Mr. Levitt. He objects, but I would like to put it up. It's just a recapitulation of what she testified to on the dates alone.

MR. LEVITT: I just think it's unnecessary, your Honor. And the way she's been testifying, she's unclear on dates. She's basically saying whatever he says.

THE COURT: If the witness can't remember, we'll help her. But you don't need to do it now.

MR. SINSHEIMER: Judge, they've used chalks and it's just to help clarify. It's one page. It's strictly dates. And I'd suggest --

THE COURT: All right. Go ahead.

MR. SINSHEIMER: Thank you. It's just to recapitulate.

BY MR. SINSHEIMER:
Q. Now, 2001 is when you moved in, right?

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A. Correct.
Q. June 4th is the bust, right?
A. Yes.
Q. September 17th, that's when you take -- that same year, that's when you take the Fifth, right?
A. Yes, sir.
Q. Immunity October 14th, right?
A. Yes.
Q. Now, I put the breakup with Sean in November. If that's my mistake, I apologize. But that's the date you first told him you were breaking up, right?
A. It was the day that I told him that I was moving.
Q. And then you did move out subsequently?
A. Yes.
Q. By January?
A. Yes.
Q. Should I put January on there to --
A. It's up to you. It's your call.
Q. And then it has, "February: Moving out." That may be a little off?
A. May be a little off.
Q. But it's roughly the time period?
A. Yes.
Q. And then the grand jury, July 28, 2005?
A. Correct.

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Q. And then the three recent interviews, right?
A. Right.
Q. January 15th -- all right.
Now, it was this period in here, right at the beginning on this timeline, when you became a marijuana dealer, right?
A. Correct.
Q. You'd already had experience with drugs, right?
A. Yes.
Q. But when you met Sean, you thought he was a dee-jay, right?
A. I thought he was a dee-jay, and people said that he flipped houses, so to speak.
Q. That's how you thought he got his money, right?
A. That's what I assumed. I didn't know technically.
Q. What attracted you to him?
MR. LEVITT: Objection, your Honor. This is irrelevant.
THE COURT: I'm sorry. I didn't hear the question.
MR. SINSHEIMER: The question is: What attracted him to her, or vice-versa?
THE COURT: Sustained.
BY MR. SINSHEIMER:
Q. Well, you liked him, right?

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A. Well, obviously, yes.
Q. You fell deeply, deeply in love with him, true?
MR. LEVITT: Objection, your Honor.
THE COURT: Well, you can ask if they had a close relationship, but it's obvious they did.
THE WITNESS: Correct. It's obvious that I did, sir.
BY MR. SINSHEIMER:
Q. People live together -- I want the record clear. You fell in love with him, right?
A. Yes.
Q. But by February '03 even before he was arrested, the relationship was starting to turn a little bit, right?
A. That's very much correct.
Q. Primarily because, I think you told us yesterday, he had a problem, you thought, with gambling, right?
A. There were other issues involved as well, but that was one issue.
Q. Well, you wrote down once that it was really gambling that bothered you about him, right?
A. It was gambling that bothered me about him when we went on vacations.
Q. Right. And another thing that bothered you was that he was spending more and more time in Aruba?
A. Well, he was also planning to move to Aruba and I

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wasn't, so...
Q. You didn't want to move to Aruba?
A. No.
Q. So the relationship was --
A. Rocky.
Q. -- rocky at that point in time?
A. Yes, sir.
Q. But that didn't stop you from dealing pot at that point in time?
A. June 4, 2003, around the month of June, I don't recall dealing any pot that month.
Q. Well, that month. I'm talking about that period -- let's say winter-spring '03 you were still a pot dealer, right?
A. Winter '03. But you were just talking about spring '03 when we were having the rocky problems in our relationship, which is totally...
Q. Well, you were expanding the pot-dealing relationship franchise out to Worcester, right?
A. Yes.
Q. Taking a few pieces and making a little profit of your own, right?
A. That's correct.
Q. Because you'd grown up in the Worcester area, right?
A. Yes.

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Q. You had some contacts in the Worcester area, right?
A. I stated that before; yes.
Q. Now, you didn't spend -- during these same pot-dealing years you didn't spend very much time at all with my client, Ms. Bucci, did you?
A. Not at all.
Q. You didn't care for her, frankly, did you?
A. We didn't care for each other.
Q. All right. She was, in a way -- I don't mean formally and legally -- like your mother-in-law, in a sense?
A. No.
Q. Well, she was the mother of the guy you were living with, obviously?
A. Right.
Q. Now, let's go back to the grand jury, okay? There's four times on this chalk where you -- at least where you spoke with government agents in one form or another: The last was the grand jury and the three recent interviews, right?
A. Step back a little bit. Grand jury you're saying I spoke with agents?
Q. Well, Mr. Levitt was questioning you under oath.
A. Right. The prosecutor, not agents.
Q. Fair enough. But the grand jury was the only one of

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those that was taken down word for word, right?
A. I do believe the pretrial interviews from the paperwork that I saw yesterday that the other defense lawyer showed me was basically word for word.
Q. Well, the difference is, at the pretrial interviews you were meeting in a room with Mr. Levitt and federal agents alone, right, or with your attorney? The first time your attorney came, right?
A. Yes.
Q. Then you didn't need him anymore, right?
A. Right.
Q. Because you felt comfortable with Mr. Levitt and Mr. Willoughby, right?
A. That's correct.
Q. But at the grand jury there was actually someone taking it down word for word, right?
A. Sir, are you saying they didn't write things down word for word?
Q. I'm saying there wasn't a stenographer. I'm just asking you if that's true or not.
A. That's correct.
Q. Now, at the grand jury you told those folks a very different story about June 4th than you told these folks yesterday, true?
A. True.

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Q. You were asked at the grand jury where you took the money, right?
A. Yes.
Q. And you said you took it to his, meaning Sean Bucci's, mother's house, right?
A. During my grand jury testimony?
Q. Yeah.
A. That's correct.
Q. And you were asked if Sean told you where to bring the box, and you said no, he didn't, right?
A. Correct.
Q. Then you were asked: You made the decision to bring it to his mother's house, right? That was the question.
A. That I made the decision to bring it to his mother's house?
Q. Yes.
A. Yes.
Q. Do you remember exactly word for word, as taken down, what your answer was?
A. Just like I stated before. I never had the privilege of reading the grand jury until yesterday.
MR. SINSHEIMER: May I approach, your Honor?
THE COURT: Yes.
BY MR. SINSHEIMER:
Q. Let me show you this document, ma'am. Do you agree

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these are your grand jury minutes, right?
A. Uh-huh.
Q. "July 28, 2005, Leigha Ann Genduso sworn at 1:49 p.m.," right?
A. Yes.
Q. "Examination by Mr. Levitt," right?
A. Uh-huh.
Q. And these are 62 pages, right?
A. Yes.
Q. On or about page 18 or so, or somewhere earlier in the deposition -- in the transcript, you had some concern about perjury, right?
THE COURT: About what?
MR. SINSHEIMER: Perjury.
BY MR. SINSHEIMER:
Q. Do you remember that?
A. Yes. We went over it yesterday, actually.
THE COURT: Are you --
BY MR. SINSHEIMER:
Q. I know we did, but I want to ask my own questions.
THE COURT: Are you asking her whether she said something about --
MR. SINSHEIMER: I'm going to get to that, your Honor. I just want to back up for one second.
BY MR. SINSHEIMER:

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Q. And Mr. Levitt made you comfortable about that, right, without getting into the exact language, right?
A. Yes.
Q. All right. Then you were asked after that, "You made the decision to bring it," referring to the money, "to his mother's house." Bottom of page 39.
THE COURT: It's confusing. Would you read question, answer?
MR. SINSHEIMER: I would like to have her read the answer, with the Court's permission.
THE COURT: No.
MR. SINSHEIMER: All right. That's how --
BY MR. SINSHEIMER:
Q. "QUESTION: You made the decision to bring it to his mother's house?"
Is that the right question?
A. Yes.
Q. And the answer: "I didn't know what was going on. I didn't know what to do. I tried to contact him via cell phone. He wasn't answering, so I went to his mom's house praying that they weren't home, and thankfully, they weren't. And I walked into their house and I put it in the closet without their knowledge of it at the time."
Did I read that right?

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A. You most certainly did.

THE COURT: We'll rely on your representation.

BY MR. SINSHEIMER:

Q. You were praying that they weren't home, right?

A. Right.

Q. And you were thankful to the Lord above that when you got there they weren't home?

THE COURT: You don't need to shout.

MR. LEVITT: Your Honor, this is --

MR. SINSHEIMER: Judge, I'm actually a little hard of hearing. Sometimes I do that.

THE COURT: So am I, and I can hear you.

(Laughter in the court.)

BY MR. SINSHEIMER:

Q. You were thankful, right? That's what you said.

A. If you would like to ask me why I didn't --

Q. No. No, ma'am, please, I would like to ask you the questions that I'm entitled to ask you on behalf of my client, okay?

A. Okay. Just checking.

Q. Do you have it in for her today or not?

A. Excuse me?

Q. Do you have it in for her today or not?

A. Do I have it in for her?

Q. Yeah.

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A. No.
Q. Then why did you change your story yesterday? Why did you try make it sound like she knew it when you knew that she didn't?
MR. LEVITT: Objection, your Honor. This is not consistent with the testimony whatsoever on direct.
THE COURT: Exactly.
MR. LEVITT: Exactly.
BY MR. SINSHEIMER:
Q. Well, you told some story about her being surprised yesterday?
A. Well, sir, she knew about the safes downstairs in the basement.
Q. Later on, right?
A. Later on? No. Sorry.
Q. We're talking now about the money box that has $275,000 that you squired out of 23 Marshall Street on the day your boyfriend was arrested, right?
THE COURT: We understand that.
BY MR. SINSHEIMER:
Q. All right. And you bring it to the mother's house, right?
THE COURT: You mean that's what she said before the grand jury?
MR. SINSHEIMER: I'm just bringing her through

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now.

THE COURT: It's not clear as to whether you're asking her what she said to the grand jury or you're asking her what she's saying now.

MR. SINSHEIMER: I would like the truth without anything in front of her.

BY MR. SINSHEIMER:

Q. You brought it to the mother's house, right?

A. I brought it to the mother's house at 4 Loris Road --

Q. Right. That was the question. And no one was home, right?

A. That is very much correct.

Q. Now, at the grand jury you were asked when you took it out of the mother's house, right?

A. Yes.

Q. Yesterday you told us it was a month later, right?

A. When I took it out of the mother's house?

Q. Yes.

A. Oh, no. Absolutely not. You're getting words mixed up now.

Q. Maybe.

In any event, at the grand jury you told them that you took it out of the mother's house the very same day.

A. That is correct. The very same day, not a month.

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Q. And you were asked why you took it out the very same day. Do you remember what your answer was?
A. I most certainly do.
Q. What was your answer?
A. Well, my answer, at least to this day, is because most likely that the police were going to come and raid the house.
MR. SINSHEIMER: May I approach, your Honor?
THE COURT: Yes.
BY MR. SINSHEIMER:
Q. Page 42, line 9. Starting -- let's start, just to put it in context, back to page 41, line 24.
"QUESTION: Okay. Did you -- did he tell you to move it anywhere else?"
And your answer: "Well, I did take it out of the mother's house."
I read that right, right?
A. Yes, you did.
Q. "QUESTION: Where did you put it?
"ANSWER: Back in my trunk," right?
A. Right.
Q. "QUESTION: That same day or later?
"ANSWER: Yes.
"QUESTION: That same day?
"ANSWER: Yes," right?

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A. Yes.
Q. Now the question:
"QUESTION: And why did you do that?"
Do you see that?
A. Yes, I do.
Q. And your answer was, in its entirety, "Because I didn't want his parents knowing what was going on," right? That's what it says?
A. Until they were home, yes.
Q. No. What it says -- why did you say that now? Did you try to say that to burn Mrs. Bucci?
A. No, sir.
Q. Okay. Then let's answer my question which you know I have a right to ask you, right?
A. Just like I have a right to answer, yes.
Q. No, the truth. All I'm asking you is what it says on a piece of paper where you were under oath, right?
A. Right.
Q. You were sworn to tell the truth.
THE COURT: I think you should get farther away from the witness.
THE WITNESS: Thank you, your Honor.
MR. SINSHEIMER: I backed up, Judge.
THE COURT: No. No, all the way down. All the way down. Question her from the lectern. Question her

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from the lectern.

THE WITNESS: I already read it, sir.

THE COURT: Don't overdo it, Mr. Sinsheimer.

MR. SINSHEIMER: Thank you, your Honor.

THE COURT: You're welcome.

BY MR. SINSHEIMER:

Q. Your answer to the question "Why did you move the money out?" was because you didn't want his parents knowing what was going on, period. That's the answer on line 9, page 42 of your July 28th, 2005, transcript, right?

A. I just read it right here, yes. That's correct.

Q. Now, you told the folks yesterday it took you about six months or so to learn that Sean was a pot dealer after you moved in; is that right?

A. Estimated. I said -- I'm pretty sure I said between three to six months.

Q. Well, you told the grand jury six months, right?

A. Oh, so now we're talking about the grand jury, not yesterday?

Q. No. No, I'm asking you. Well, let me -- how long --

A. You're confusing me, sir.

Q. Okay. I'll stop.

A. Thank you.

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Q. Just tell us how long it was before you learned he was a pot dealer after you moved in.
A. All right. Let me rephrase that once again.
Q. Sure.
A. Estimated, three months. Let me remind you it was a long time ago.
Q. Please don't remind me of anything. Just answer my questions.
A. I just did, sir.
MR. LEVITT: Objection, your Honor. Argumentative.
THE COURT: Sustained.
BY MR. SINSHEIMER:
Q. Let's just try to get a simple question. You didn't know he was a pot dealer when you moved in, right?
A. That's incorrect. I never said that.
Q. When did you first learn he was a pot dealer?
A. Again, like I just said, it was around three months, estimated, which was prior to my moving in.
Q. So you moved in knowing he was a pot dealer?
A. Yes, sir.
Q. There was a period of time when he was very secretive, right?
A. Yes.
Q. In fact, he wouldn't even let you in the room when

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pot was being broken up, right?
A. I stated he wouldn't let me in the room when Anthony Belmonte was coming in with shipments.
Q. And Anthony Belmonte, you know, was a major supplier, right?
A. At the beginning I did not. That's the reason I was in the bedroom.
Q. But then you became like a business partner, in a way, right?
A. Define "business partner."
Q. I'll withdraw that question.
You became actively involved?
A. Yes.
Q. Now, at the same time you knew he was still pursuing the disk-jockey business, right?
A. Yes.
Q. And you knew he made money as a disk-jockey, right?
A. Yes.
Q. And you knew he had business partners as a disk-jockey, right?
A. That's correct.
Q. And you knew that they worked hard at it, right?
A. For a few days a week, yes.
Q. They put a lot of effort into that stuff, didn't they?

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A. They spent a lot of money too, yes.
Q. I didn't ask you what they spent; I just asked you whether they put a lot of effort into it, right?
A. Money's effort as well.
Q. I see. Money's effort?
A. It can be. Absolutely.
Q. Are you good at valuing money?
A. I guess.
Q. How much of the 275 grand did you use for yourself at the time you had access to it?
A. I don't know. That's a good question.
Q. You never saw -- or rarely saw Ms. Bucci at 23 Marshall Street, right?
A. She'd come over once in a blue moon.
Q. Came to the Fourth of July parties, right?
A. Mr. Bucci came to the Fourth of July parties. I don't recall if she was there or not.
Q. All right. When you say you don't recall, it doesn't mean she wasn't there or you just don't remember one way or another?
A. I definitely remember Mr. Bucci. I don't remember her being present.
Q. All right. How big a party were the Fourth of July parties regularly?
A. Big enough to have a North Reading police officer do

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detail.
Q. Who called the North Reading police officer to get them involved?
A. Sean.
Q. How many cops came for the detail?
A. Just one.
Q. And how many -- and did the neighbors come?
A. Some came; some hated it.
Q. Some came; some hated it?
A. Yeah.
Q. Like any Fourth of July party?
And the ones who came, did they know Sean was a pot dealer?
A. No.
Q. Of course not, right?
A. No.
Q. He was a big-time dee-jay, right?
A. Big time? No.
Q. Big enough to have a Fourth of July party with a detail out front, a lot of folks from the neighborhood hanging around, right?
A. That doesn't mean they knew his profession. No one knew he was a dee-jay on our street.
Q. Well, no one knew he was a pot dealer either, right?
A. That's correct.

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MR. SINSHEIMER: May I see Exhibit 49, please, I think it is --

THE COURT: Is that a government exhibit?

MR. SINSHEIMER: Yes, I'm sorry.

BY MR. SINSHEIMER:

Q. That's you, where, in Aruba?

A. I recall that being in Jamaica. Ocho Rios, to be exact.

Q. Okay. And that's a marijuana bud?

A. That's correct.

Q. Do you know who took that?

A. Sean.

Q. Were you having fun that day?

A. It looks like it, yeah.

Q. Because until about February 2003 you enjoyed the relationship, right?

A. Yes.

Q. You enjoyed the life you were leading, right?

A. To some extent.

Q. All right. And you knew all that time Mrs. Bucci was living at Loris Road in Danvers, right?

A. Yes.

Q. She wasn't well off, right? You knew that.

THE COURT: She wasn't what?

BY MR. SINSHEIMER:

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Q. She wasn't well off.
A. Technically meaning what?
THE COURT: Do you know whether she was well off or not?
THE WITNESS: Does that mean financially?
BY MR. SINSHEIMER:
Q. Yeah.
A. No, they weren't financially well off.
Q. You told us yesterday, I think, that Sean would tell you: My parents are out of money, right?
A. Right.
Q. Right. They didn't have much of anything, right?
A. His father works at a liquor store.
THE COURT: Did you know what their assets were?
THE WITNESS: Do you mean, like, what they made?
MR. SINSHEIMER: I'll withdraw it in that form. I'll withdraw it in that form. I understand your point.
BY MR. SINSHEIMER:
Q. You knew how they lived, right?
A. Yes.
Q. Sean put siding on the house one time for them, right?
A. And windows.
MR. SINSHEIMER: Just a minute, your Honor, please. One moment.

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(There is a pause.)

THE COURT: I'm always encouraged to see you checking things off.

MR. SINSHEIMER: I'm going through it pretty quickly, your Honor. One minute.

(There is a pause.)

BY MR. SINSHEIMER:

Q. Now, when you went back to get the money, Mrs. Bucci wasn't home, right?

A. When I went back to get the box, you mean?

Q. Yeah, the box of money.

A. Yeah, I remember -- I recall her being home.

Q. You do?

A. I'm pretty sure.

Q. You're not positive?

A. Again, this was a long time ago, but from my recollection she's the one who showed me where the safes were.

Q. No, that was later.

A. I'm sorry?

Q. That was later. She showed you where the safes were later, right?

A. I remember getting the box of money and the safes the same day.

Q. You do?

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A. I do.
Q. Well, you told Agent Willoughby on January 15, 2007, five weeks ago, that no one was home.
A. When I went to pick up the box?
Q. Yes. That's what you told him, right?
A. I'd like to see that, actually, in the documentation.
Q. Well, without any paper in front of you, do you know whether that's what you told him or not?
A. Again, sir, I'd like to see that in documentation, because, do you know what? I have said a lot of stuff in these last couple of weeks.
Q. You sure have.
A. I sure have.
Q. All right. Page 16, January 16th disclosure letter.
MR. SINSHEIMER: May I approach, your Honor?
THE COURT: Yes.
BY MR. SINSHEIMER:
Q. I have a document. That's your name on it, right?
A. Yup.
Q. It appears to be a fax, January 16th, right?
A. Yes.
Q. It says that "Ms. Genduso advised and made the following statements during a January 15th, 2007, interview." Do you see that?

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A. Yes, I do.
Q. That's on page 14, right?
A. Yes.
Q. And we turn and it's all your statements, right?
A. Yes.
Q. And on the top of page 16, first paragraph, it says: "Ms. Genduso advised that she later returned to the parents' house in a Columbo's car and got the money box and put it in the car." Do you see that?
A. Yes.
Q. And then the very next sentence is: "No one was home at the parents' house," right?
A. Yes.
Q. And that's consistent with what you told the grand jury, right?
A. I don't recall.
Q. Well, we just went over that. You told the grand jury you came back and you were happy that no one was home and no one knew, right?
A. The grand jury -- I'm pretty sure I stated that when I went to the house and put the box of money into the closet, no one was home and I was happy.
Q. It also says that the reason you took it out was because you didn't want the parents to know what was going on, right? We just covered that, right?

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A. In the grand jury?
Q. Yeah.
A. No. We covered that when I went there to put the money in the closet, no one was home.
Q. All right.
MR. SINSHEIMER: Grand jury, page 42, if I may, your Honor.
BY MR. SINSHEIMER:
Q. "QUESTION: Did he tell you to move it anywhere else?" Starting on page 41.
"ANSWER: Well, I did take it out of the mother's house," right?
A. Yes.
Q. "Where did you put it?" Your answer: "Back in the trunk," right?
A. Yes.
Q. "QUESTION: That same day or later?
"ANSWER: Yes."
A. Yes.
Q. "That same day?" "Yes," right?
A. Okay. But where's the -- this isn't correct.
Q. Wait. Wait. Wait.
"QUESTION: Why did you do that?
"ANSWER: Because I didn't want his parents knowing what was going on," right?

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THE COURT: If it says it, it says it.

THE WITNESS: Yes.

BY MR. SINSHEIMER:

Q. Just to be clear now, what I was showing you a minute ago, that was your testimony on page 42, July 28, 2005, right?

A. Yes.

Q. Well after you were immunized, right?

A. That's correct.

Q. And well after you knew your obligation was to tell the truth, right?

A. Yes.

Q. And you told the same thing to Agent Willoughby January 15, 2007, just six weeks ago, right?

A. Obviously I got it confused. My apologies.

Q. What you're confused about is where the money went, right?

A. No. It went in Columbo's car's trunk.

Q. Where did you take it? How much did you take? Where did it go? You tell us. Take as much time as you want.

MR. LEVITT: Objection, your Honor. There's like four questions there.

THE COURT: If she doesn't know, she doesn't know.

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MR. SINSHEIMER: All right. I'll break it down.

MR. LEVITT: Your Honor, I object. The Court is saying it's already been asked and answered.

MR. SINSHEIMER: I'll ask a different question, if I may.

THE COURT: Let me hear it.

BY MR. SINSHEIMER:

Q. What kinds of stuff did you spend all that money on?

A. I'm pretty sure I stated that yesterday, sir.

Q. No, but that's okay. I'd like to ask it again.

A. Sure.

Q. I have my own client here. Just like Mr. Weinstein represented you --

THE COURT: Stop talking so much. Go ahead.

THE WITNESS: Thank you, your Honor.

Wisdom teeth extraction, bills, mortgage, car payments, possibly clothes, drinks. Anything else you would like me to add?

BY MR. SINSHEIMER:

Q. What kind of clothes?

MR. LEVITT: Objection, your Honor.

THE WITNESS: It certainly wasn't Gucci, sir.

THE COURT: Sustained.

BY MR. SINSHEIMER:

Q. Now, you didn't care much for Miss Bucci, you told

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us that, and you say she didn't care much for you, right?
A. That's correct.
Q. But you did spend some time with her, correct?
A. Yes.
Q. And you learned she was a very naive kind of person, right?
A. She seemed more anxiety-stricken than naive.
Q. More anxiety-stricken than naive?
A. She was a very nervous woman. That's correct.
Q. Anxious?
A. Nervous. Don't put words in my mouth.
Q. Well, you said "anxiety," didn't you, a second ago?
A. Yes.
Q. And that's what you told the grand jury?
A. "Anxiety" isn't "nervous," in my definition, sir.
Q. And you told the jury she was anxiety-stricken, right?
A. If you're saying that and it's documented, then I must have, correct.
Q. And you also said she's kind of a very naive person at the same time. Do you remember saying that?
A. No, I do not.
MR. SINSHEIMER: May I approach, your Honor?
BY MR. SINSHEIMER:

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Q. Page 60, line 25. I refer you to Catherine Bucci. "I don't know. She's kind of a very naive person at the same time. So like I said, we didn't have -- we never talked. Like, I mean, she was just -- she's a very anxiety-stricken woman, and I just really had nothing to do with her, to tell you the truth," right?

A. Yes.

MR. SINSHEIMER: No further questions.

REDIRECT EXAMINATION

BY MR. LEVITT:

Q. Ms. Genduso, Mr. Sinsheimer was showing you a letter that is dated January 16, 2007.

A. Yes.

Q. And that's addressed to the lawyers in the case. Do you see that?

A. Correct.

Q. And just to be clear, that's signed by me?

A. Correct.

Q. And he was asking you to look at this part about whether you brought the box to the house. You brought the box to the house, correct?

A. Yes.

Q. Nobody was home?

A. No.

Q. And at some point you picked it up?

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A. Yes.
Q. And here you said -- you said what here?
MS. BYRNE: Page, please?
THE WITNESS: Page 16.
MR. LEVITT: Page 16.
THE WITNESS: This paragraph?
BY MR. LEVITT:
Q. You said that no one was home when you picked it up, correct?
A. That's correct.
Q. And then what did you say about -- did you say you went back to the parents' house?
A. Yes.
Q. "Ms. Genduso also returned to the parents' house to tell Catherine Bucci what had happened"?
A. Yes.
Q. "Ms. Genduso advised that she told Catherine Bucci that Sean Bucci had been arrested and told Ms. Genduso to leave with a box full of money," correct?
MS. BYRNE: Objection, your Honor. He's reading it and not asking the question.
MR. LEVITT: I'm doing just what defense counsel did.
THE COURT: I'll allow it.
MR. SINSHEIMER: Yeah, but it's his witness.

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BY MR. LEVITT:
Q. And why don't you read that part to yourself.
THE COURT: You don't have to -- just ask her what she did on that day, and if she can't remember, she can refresh her recollection with the document.
BY MR. LEVITT:
Q. Do you recall what happened when you went back to the house?
A. Yes. She alerted -- Mrs. Bucci alerted me that there were safes in the basement.
Q. And you said that in here, correct?
A. I said it.
Q. And there was some confusion about how many times you went to the house that day?
MS. BYRNE: Objection to leading, your Honor. This is redirect.
THE COURT: Yes, it is redirect.
MR. LEVITT: I'm sorry. I didn't hear the Court.
THE COURT: That's all right. Go ahead.
THE WITNESS: Could you repeat that, please.
BY MR. LEVITT:
Q. Did you have some confusion about how many times you went to the house that day?
MS. BYRNE: Objection. Leading, your Honor,

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again.

THE COURT: Don't lead.

THE WITNESS: Yes, I did.

BY MR. LEVITT:

Q. How did Sean Bucci pay for that Fourth of July party?

THE COURT: The Fourth of July party?

MR. LEVITT: Correct.

THE COURT: First of all, do you know how he paid for it?

THE WITNESS: Yes, I do, sir.

THE COURT: Okay.

BY MR. LEVITT:

Q. I'm going to ask you first: What kind of stuff went on at the Fourth of July parties? Can you describe it?

A. Tons of alcohol. We usually would have a band. One time Mixed Nuts, which was a garden band, played; lots of food: lobsters, steaks, things of that nature.

Q. And how did Sean Bucci pay for this?

A. With his own money; cash.

Q. And how was he making money during this time?

A. He was selling marijuana and dee-jaying.

Q. And how often was he dee-jaying?

A. It depends. Bay Bridge was Thursday nights, I do believe; Scuttlebutts was the weekends.

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Q. And do you know how much he and his friends were making a night?
A. I don't recall exactly. A couple hundred dollars, if that.
Q. You mentioned that Mr. Bucci told you at one point he was flipping houses?
A. Yes.
Q. Had you ever known him to have another house other than 23 Marshall?
A. Yes, I did.
Q. Can you tell us about that?
A. It was in Topsfield, Mass.
Q. When was that in your relationship?
A. It was in the beginning.
Q. What did he tell you about that house?
A. That he bought it at an auction and he was going to just resell it for more money.
Q. Mr. Sinsheimer was asking you about your grand jury testimony when you said when you brought the money to the house, you were glad the first time when you went with the money his parents weren't home. Do you recall that?
A. Yes.
Q. And you said you were glad they weren't home?
A. Correct.

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Q. You didn't want them knowing. Can you explain why?
A. I just didn't want to deal with them at the time.
Q. What were your concerns at this point when you're driving around with that money in your car?
A. That I was going to get pulled over and arrested as well.
Q. You mentioned you didn't know -- Catherine Bucci didn't have much money. His parents didn't have much money?
A. That's correct.
Q. How did you know that?
A. They never had new vehicles, new furniture. They would ask Sean for things, you know, such as money once in a great while, or things that they needed for the house, like the siding, for example.
Q. Who would ask Sean for money?
A. His mom.
Q. Did Sean talk to you about that?
THE COURT: Be careful.
THE WITNESS: He stated before once, like, "I've got to go drop some money off to my mom."
BY MR. LEVITT:
Q. Now, Mr. Sinsheimer asked you some questions about when you went to see Sean Bucci before your second grand jury appearance.

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A. Yes.
Q. Do you recall that? And asked you if you asked Sean Bucci to plead guilty?
A. Yes.
Q. And you said you did. What did he say?
A. He said he's not going to, that he'll win the case, and like I said prior to this, that no judge will put me away for contempt for two years.
Q. How was your demeanor at that time?
A. I was crying my eyes out. I didn't want to go.
MS. BYRNE: Objection, your Honor.
THE COURT: Overruled.
MS. BYRNE: Your Honor, may we approach?
THE COURT: No.
BY MR. LEVITT:
Q. And what did he say about you testifying before the grand jury?
A. He told me to take the Fifth again, and just don't worry about it, that I'll go down to see the judge, and like I said, no judge will put me away for a long period of time.
Q. Ms. Byrne and Mr. Sinsheimer asked you about WhosARat.com, and you said you came up with the name.
A. Yes.
Q. Can you describe your conversations with Sean Bucci

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leading to that?
A. From the get-go I disagreed with the whole idea. I thought it was absurd. I thought, if anything, it was going to get people a lot more upset in terms of --
MS. BYRNE: Objection, your Honor. This is not her conversation.
THE COURT: Sustained.
BY MR. LEVITT:
Q. You said that you bought a computer with the money from the money box, correct?
A. Two of them, actually.
Q. Why did you buy the second computer?
A. Because Sean got out on house arrest and wanted one at his uncle's house.
MS. BYRNE: Objection, your Honor.
THE COURT: Overruled.
BY MR. LEVITT:
Q. So he asked you to buy another computer?
A. Yes.
Q. What did you use to buy that computer?
A. Cash.
Q. And did he use that -- where did the cash come from?
A. From the box of money.
Q. Did he use that computer to set up WhosARat.com?
A. Yes, he did.

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MR. LEVITT: Nothing else.

MS. BYRNE: Nothing further, your Honor.

THE COURT: All right.

MR. SINSHEIMER: Very quick.

THE COURT: I saw you hold up one finger.

MR. SINSHEIMER: One. Yes. One time.

RECROSS-EXAMINATION

BY MR. SINSHEIMER:

Q. Mr. Levitt asked you a minute ago about what you were thinking about when you had the cash in the car, right?

A. Yes.

Q. And I think you said you were scared you were going to get pulled over and arrested, right?

A. That's correct.

Q. But nonetheless, the same day you took it to my client's house, you took it away, right?

A. Yes.

Q. Even though you were scared you were going to get arrested, you put it right back in the trunk of your car, right?

A. I thought they were going to get --

Q. No.

A. -- searched.

Q. It's true: You put it right back in the trunk of

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your car, right?
A. And still scared, yes.
Q. And you were scared to death, right?
A. Both times.
Q. And brought it to Eric Carbone, right?
A. Northern Grind, yes.
Q. Because you knew he was Sean Bucci's childhood friend, right?
THE COURT: We've been through all of this.
MR. SINSHEIMER: I'm just making it clear.
THE COURT: The jury is aware of the fact that she was scared to death.
BY MR. SINSHEIMER:
Q. But took it away from my client's house nonetheless?
THE COURT: Sustained.
MR. SINSHEIMER: Thank you. Nothing else.
MR. LEVITT: Nothing else.
THE COURT: Thank you, ma'am. You're excused.
(The witness is excused.)
MR. SINNIS: May we approach, your Honor?
THE COURT: Yes.
(Discussion at sidebar and out of the hearing of the jury.)
MR. SINNIS: I don't see any relevance in these coming in.

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THE COURT: I don't know what I'm being asked.

MR. LEVITT: I'm sorry. I told Mr. Sinnis the government is going to offer these; they were previously disclosed. Their relevance is, it corroborates her testimony. It's the initial appearance of Gary Zerola, June 5, 2003, and certified --

THE COURT: What does this verify?

MR. LEVITT: It corroborates her testimony.

THE COURT: As to what?

MR. LEVITT: That she testified she paid Zerola $50,000 out of the money box and told him to pay Natola out of the money in the box as well.

MR. SINNIS: There's no dispute that Gary Zerola and Mike Natola represented Sean Bucci. I don't think there's any need to bring this in. The point isn't that they were retained; the point is the changes in their story about when she paid and who she paid and that stuff. I don't see how this is relevant.

THE COURT: I think the government has a right to try to show that their witness is telling the truth. I'll allow it.

(In open court:)

MR. LEVITT: Your Honor, at this time I offer Government Exhibit 85. This is the certified appearance of Gary Zerola as attorney for Sean Bucci on June 5,

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2003; and Government Exhibit 86, which is the certified notice of appearance of Michael Natola on June 23, 2003, also as attorney for Sean Bucci.

THE COURT: Okay. Proceed. They're received.

THE CLERK: Government's Exhibit 85 and 86 are marked and entered.

(Government's Exhibit Nos. 85 and 86 received into evidence.)

MR. McADAMS: Your Honor, the government calls Dave Lajoie.

DAVID LAJOIE, sworn

THE CLERK: Please be seated.

Give the Court your full name, spelling your last.

THE WITNESS: David Lajoie, L-A-J-O-I-E.

DIRECT EXAMINATION

BY MR. McADAMS:

Q. Good morning, Mr. Lajoie.

A. Good morning.

Q. Where do you work?

A. I work for the Internal Revenue Service.

Q. And what is your position there?

A. Internal Revenue agent.

Q. And what are your duties and responsibilities as a revenue agent?

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A. Well, I'm a member of the Special Enforcement Group out of Boston. I'm assigned to the Worcester post for duty. And our duties, we work grand jury investigations along with IRS criminal investigators and Assistant United States Attorneys.

Q. And in assisting the investigations, what role do you play in that?

A. We do the tax accounting functions.

Q. You determine how much the tax due and owing might be for a criminal case?

A. We do.

Q. Have you been present throughout this trial in the courtroom?

A. Yes.

Q. And you've observed all the records that have been introduced as evidence in this case?

A. I have.

Q. Have you reviewed those records?

A. Yes, I did.

Q. Have you heard all the testimony of witnesses?

A. I have.

Q. And you listened to all the stipulations that have come in?

A. Yes.

Q. What is it that you understand your role to be here

today in the courtroom?
A. To summarize the tax calculations.
Q. And the tax calculations with respect to Sean Bucci?
A. Yes.
Q. For what years?
A. 1998, 1999, 2000, 2001 and 2002.
Q. When you were reviewing records, did you review the summary sheets that Special Agent Harriman prepared in this case?
A. Yes.
Q. And did you compare those to the actual bank records?
A. Yes, I did.
Q. I'd like to show you what's marked for identification only Government's Exhibit 102-E.
THE COURT: What number?
MR. McADAMS: 102-E as in Eric.
BY MR. McADAMS:
Q. Do you recognize this?
A. Yes, I do.
Q. What is it?
A. It's the total deposits on all accounts: the Salem Co-Operative Bank, the Warren Five, the Beverly Co-Operative Bank, the SIS Family Bank and the First Mass. Bank.

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Q. And who prepared this summary?
A. Excuse me?
Q. Who prepared this summary?
A. I did.
Q. And what did you base it on?
A. Deposits in each various account.
Q. So these are the total amount of deposits, by year, for the five bank accounts that we've been dealing with in this case?
A. It is.
Q. And from the period 1998 through 2003, what was the total amount of money deposited in the five bank accounts?
A. 809,219.
Q. Is that this figure here?
A. It is.
Q. Now, that $809,219, is that the amount you used to determine the tax due and owing in this case?
A. It is not.
Q. Why not?
A. The years that I concerned myself with were the years that we brought charges against: 1999, 2000, 2001 and 2002.
Q. So in other words, in this case the tax evasion charges are for 1999, 2000, 2001 and 2002?

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A. Correct.
Q. And you only did tax calculations for those four years?
A. Yes.
Q. I'd like to show you Government's Exhibit --
MR. McADAMS: If I may approach?
BY MR. McADAMS:
Q. -- Government's Exhibit 102-A. Have you seen that before?
A. Yes, I have.
Q. And could you just flip through it and tell us what it is?
A. It's a Revenue Agent Report Form 4549. It's a last-year's program report that revenue agents use in determining tax due and owing based on various adjustments we make.
Q. Did you prepare this report in order to calculate the tax loss in this case?
A. I did.
MR. McADAMS: Your Honor, I'd move Government's Exhibit 102-A into evidence.
MR. SINNIS: No objection, your Honor.
THE COURT: Is that 102-A?
MR. McADAMS: 102-A as in Adam.
THE CLERK: Government's 102-A is marked and

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entered.

(Government's Exhibit No. 102-A was received into evidence.)

BY MR. McADAMS:

Q. Is it fair to say this is an IRS form that you, as a revenue agent, use to calculate the taxes?

A. Yes.

Q. Did you also prepare a sort of more simple version of this form?

A. I did.

Q. I'd like to show you Government's Exhibit 102-D, as in David, and ask you what that is.

A. That is a schedule -- simple schedule of the omitted income and additional tax due and owing.

Q. So is it fair to say this is sort of a simpler version of that IRS lengthy report you prepared?

A. It is.

MR. McADAMS: Your Honor, I'd move Government Exhibit 102-D into evidence.

MR. SINNIS: No objection, your Honor.

THE COURT: Received.

THE CLERK: Government's Exhibit 102-D is marked and entered.

(Government's Exhibit No. 102-D was received into evidence.)

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BY MR. McADAMS:
Q. Mr. Lajoie, what method did you use to calculate the tax in this case?
A. Method of proof was indirect method, bank deposits.
Q. And what does that mean?
A. Well, basically we look at the bank statements, any bank document, we add up the deposits, then we remove any things that are non-taxable or not income, like some distribution from a bank that might be, like, from an escrow payment because it's previously taxed income or removed loans or things like that.
Q. Sir, you indicated this is an indirect method of proof. What does that mean?
A. Well, we didn't have books and records.
Q. So you don't have all the information that you would use to calculate a tax loss, say, in a full-blown audit?
A. Correct.
Q. And so this is -- the idea here is that you look at the amount of money that's deposited in the bank account and determine whether or not that's typical of income?
A. Yes.
Q. And so when you do that, do you give credit for something that doesn't look like it would be income?
A. Yes.
Q. Okay. And did you do that in this case?

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A. I did.
Q. Now, on this chart, going by year, you have categories here. What is "Income Reported Per Return"? What does that mean?
A. Well, that's the income that Mr. Bucci reported on his 1999 1040.
Q. So, for example, 1999, it was $9,101 reported on his tax return?
A. Yes.
Q. And for 2000 it was $70,802?
A. Yes.
Q. And 2001 and 2002, did Mr. Bucci file tax returns?
A. He did not.
Q. And so that's why he reported zero?
A. Yes.
Q. These categories that you have for additional unreported income for -- let's just go with 1999 for now. $82,295, where does that figure come from?
A. Those are all cash deposits in the bank accounts.
Q. That's the total amount of cash deposits?
A. Uh-huh.
Q. Now, when you had that number there, did you do anything to determine that, say, some deposits might not be income?
A. Oh, the deposits in all cases were higher, but we

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removed the non-taxables or the -- what we couldn't determine to be taxable income or taxable deposits.

Q. Can you tell me what you mean when you say you "couldn't determine to be taxable income"?

A. There was a question that I had about what was described as rents. I've seen some books. It could have been, like, repayment of loans, rent or drug purchases.

Q. Well, if it was rent, isn't that income and there's tax due on it?

A. It is.

Q. But you didn't include it as taxable income here?

A. Correct.

Q. Why not?

A. It wasn't that much, and I wanted to present strictly drug sales, drug amounts.

Q. So you wanted to take a conservative approach as to what his income was?

A. Yes.

Q. And you only calculated income that appeared to be deposits based on drug sales?

A. Yes.

Q. Now, if that -- if those deposits had come from some other source, such as a business, would that also have been included in your calculation?

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A. It would.
Q. Now, you have this figure here, "Total corrected income, $91,396." What does that mean?
A. Well, that's just the income reported per return, and the additional unreported income that we picked up. And we just added both those amounts together.
Q. So you're just adding the income that he already reported plus the income he didn't report?
A. Correct.
Q. And when you have "total corrected taxable income," what does it -- how do you figure out what that figure is?
A. Well, in arriving at that amount, we allowed for additional expenses.
Q. Like what?
A. Mortgage interest deduction, real estate --
Q. Did Mr. Bucci take mortgage interest deduction on his tax return?
A. No, he did not.
Q. But you're giving him credit for it anyway?
A. I am.
Q. Why?
A. He paid it.
Q. And what did you determine -- what is this figure, "Tax reported per return, 1999"? What does that mean?

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A. Well, Mr. Bucci on the return that he filed in 1999, that was the total tax that he had computed per return.
Q. Okay. And "total corrected tax," what is that?
A. That is the corrected tax based on the total corrected taxable income.
Q. And so where you have, "Additional unreported tax due and owing," what does that number mean?
A. That's the difference between what he reported per return and what was determined to be the correct tax due and owing.
Q. So this is the amount of outstanding taxes owed for 1999 based on your conservative calculation?
A. It is.
Q. And did you conduct the same analysis with respect to the other years?
A. Yes.
Q. Now, looking at, for example, the year 2002, you have additional unreported income, $242,187. Where does that figure come from?
A. That comes from bank deposits and several major cash expenditures.
Q. Sir, what do you mean by "major cash expenditures"?
A. Well, I believe that includes a 35,900 some-odd cash purchase of a Chevy Avalanche.
Q. So when you do the bank deposit analysis, are you

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accounting for any cash that might not actually get deposited into the bank account?
A. Normally, no. This is the only instance. That and another instance of cash that didn't go through the bank account.
Q. So for example, 1999 -- just switching back to 1999 which we just discussed, if there were -- if Mr. Bucci had cash available at his house or in his pocket or whatever that he didn't deposit into the bank account, how do you figure out what cash might be owed?
MR. SINNIS: Objection to leading, your Honor.
THE COURT: Overruled.
BY MR. McADAMS:
Q. So you would just assume he didn't have that cash for tax purposes?
A. Well, I mean, if he deposited it and it went through the bank account, you know, we can pick it up that way, or if he spent it and we have a receipt showing he had it and spent it, we'd pick it up that way.
Q. But you don't have a receipt to show that he spent it; you just don't --
A. We don't know about cash we can't find.
Q. And so in the year 2002 --
THE COURT: How did you find out that he purchased the car?

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THE WITNESS: I believe the automobile dealership filed a form, like a CTR, because it was a cash transaction in excess of $10,000.

THE COURT: I see.

BY MR. McADAMS:

Q. Were you present in the courtroom when records were produced that showed a cash transaction for the purchase of that from Chevrolet of Lowell?

A. I was.

Q. And did you observe the receipt for cash in the amount of $35,901.95?

A. Yes.

Q. Is that why you included that in your calculation?

A. Yes.

Q. I'm going to show you what's been marked as Government's Exhibit 102-C and ask you if you could just explain what this is, briefly. Is this a form you prepared?

A. It is.

THE COURT: It is what?

MR. McADAMS: 102-C.

THE COURT: You asked if it is what?

MR. McADAMS: A form he prepared.

BY MR. McADAMS:

Q. Can you explain briefly what it is?

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A. That is a computation of cash deposits, cash attributed to Sean Bucci's direct benefit.
Q. So is this sort of like another backup summary that you used to prepare the taxes?
A. It is.
Q. And pointing to the year 2002 where you have what you describe as non-bank cash expenditures, there's two items there. Can you explain, is this Chevrolet of Lowell? Is that what you're referring to?
A. Yes, it is.
Q. You have another one there, "Mohegan Sun Casino, purchased chips, cash." What does that mean?
A. I believe it was probably in the fall of 2002, Mohegan Sun filed a CTR on Mr. Bucci in the amount of $12,700, and it was for the purchase of chips.
Q. And that indicated that he had paid cash in that amount to buy chips at the casino?
A. Yes.
Q. And so, therefore, that was cash that you could actually trace being spent and you included in your tax calculation?
A. Yes.
Q. What was the -- we already covered 1999 and we were just discussing 2002. What did you determine was the corrected tax for the year 2002?

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A. 65,219.
Q. And since there was no tax return filed that year, is that also the figure that you concluded was the additional tax due and owing?
A. Correct.
Q. And with respect to the year 2000, what amount did you determine to be the additional tax due and owing?
A. $5,530.
Q. And when you calculated that, did you use the same procedures that we've just discussed with respect to 1999 and 2002?
A. Yes.
Q. With respect to the year 2001, what amount did you determine was the additional tax due and owing?
A. $14,157.
Q. And when you prepared that -- when you computed that number, did you use the same procedures we just discussed with respect to the other years?
A. I did.

MR. McADAMS: Thank you. I have no other questions.

MS. BYRNE: No questions, your Honor.

MR. SINSHEIMER: I have a few.

CROSS-EXAMINATION

BY MR. SINSHEIMER:

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Q. Good morning, sir.
A. Good morning.
Q. I'm just going to ask you to help me clear up a couple of things about Catherine Bucci, if I might.
MR. McADAMS: Objection, your Honor. Nothing on direct examination dealt with Catherine Bucci at all.
THE COURT: Sustained.
MR. SINSHEIMER: There is. May I?
THE COURT: You have to ask him -- you have to lay a foundation.
MR. SINSHEIMER: I'm going to. I was just doing a little introductory.
THE COURT: This was not the subject of direct examination.
MR. SINSHEIMER: I believe it was, your Honor, and I can clear it up.
THE COURT: You can make him your witness, if you want.
MR. SINSHEIMER: That's what I'm trying to do, frankly. Do you mean I should call him?
THE COURT: Yeah.
MR. SINSHEIMER: Well, I -- I think the time to do it is now, but I'm happy to do whatever the Court wishes.
THE COURT: It's not what I wish. I don't make

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the rules. You can't cross-examine him about something he didn't testify about.

MR. SINSHEIMER: He testified about this chart, and I would certainly like to -- this is where it began. Can I ask him a couple of questions about it?

THE COURT: Come up and explain to me what it is you're trying to accomplish.

(Discussion at sidebar and out of the hearing of the jury:)

THE COURT: Just a moment.

MR. SINSHEIMER: I understand.

THE COURT: As I see it, the only thing you can ask him is -- this has nothing to do with Catherine Bucci, does it?

MR. SINSHEIMER: Except that these bank accounts are in her name, so I would like to go into a little more detail about how he matched up the numbers, and which were drug transactions and which weren't. And I have an absolute right to do that.

THE COURT: If they're in her name, right.

MR. SINSHEIMER: Thank you. Thank you, your Honor.

(In open court:)

MR. SINSHEIMER: Thank you very much, your Honor. May I proceed? Thank you.

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BY MR. SINSHEIMER:
Q. Sir, this is the chart that you showed the folks at the beginning of your exam with Mr. Levitt, 102-E, right?
A. Yes.
Q. And if you look on the first date of 1998, there's a total of 50,000, correct?
A. Yes.
Q. And the first three -- some of these accounts were in my client's name, and you know that to be true, correct?
A. Yes.
Q. For example, the Beverly Co-Op, which you showed $12,674, that's in Mrs. Bucci's name, right?
A. It is.
Q. Now, let me just show you Exhibit 100-C, if I may.
MR. SINSHEIMER: Can everybody see that? I don't know.
BY MR. SINSHEIMER:
Q. Well, first of all, for the record, this is 100-C, correct?
THE COURT: It says so.
THE WITNESS: That's what it says.
BY MR. SINSHEIMER:
Q. And you recognize it, sir, as Catherine Bucci,

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Beverly Co-Op bank account, right?
A. Uh-huh.
Q. And you see on the left it's 1998, right?
A. Correct.
Q. And if you go to the end, the next page -- it's also '98 -- that number, 12,674.09, that's the sum of all of the deposits, right?
A. Uh-huh.
Q. And that's the exact same number that you have on your summary chart, right?
A. Uh-huh.
Q. Right there. But that's not all drug money, right?
A. There are, I think, two deposits, cash deposits, that went in there of almost $5,000, and the other one is $3,000.
Q. Right. And so if we go back to this page, there's the 5920.81, right?
A. Uh-huh.
Q. And there's the 3057.28, right?
A. Uh-huh.
Q. Those are the ones that you believe are drug money, right?
A. Yes.
Q. In other words, for the purpose -- to be more precise --

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MR. SINSHEIMER: Where's that second chart that you had, Mr. Levitt?

MR. McADAMS: Which one?

MR. SINSHEIMER: The second one.

BY MR. SINSHEIMER:

Q. For the purpose of this document -- well, you didn't even do '98 for this document.

A. Correct.

Q. So if we go back to this one, '99 in Beverly, you show $21,314, right?

A. Uh-huh.

Q. And if we look at Exhibit 100-C again, it's the same thing. This is 1999, right?

A. It is.

Q. And the bottom line on the next page, 21,314.06, right?

A. Uh-huh.

Q. The end of the year. Most of those deposits appear to be small, routine, family kind of deposits, correct?

A. I didn't see the whole --

Q. But you did when you prepared it?

A. That schedule just shows the total deposits of all of the accounts.

Q. This one does?

A. During that period of time.

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Q. I don't want to bore anybody, but let's take it slow. It shows 21,314 in 1999, right?
A. Uh-huh.
Q. And that account's in my client's name, right?
A. Yes.
Q. But some of the deposits are as small as $410, right?
A. Yes.
Q. You don't know as you sit here whether that's her paycheck or her husband's paycheck, do you?
A. No.
Q. You do know that that account existed for quite some time before this case, right?
A. I'm not sure if it opened in '98. Early '98, I think.
Q. But then in your '99 you've got these $9,000 deposits, right?
A. Uh-huh.
Q. And those are the ones that you treat, based on everything you know today in 2007, as drug money?
A. Yes.
Q. All right. But as you sit here today, as a tax guy in good faith, you don't know that's drug money, do you?
A. It's going to Sean Bucci's benefit.
Q. You're treating it for tax purposes, right?

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A. Yes.
Q. You don't know as you sit here where it came from except for everything you've heard sitting in this whole trial, right?
A. Correct.
Q. Now, let's go back to the big chart you put together, the summary.
MR. SINSHEIMER: Can everybody see this?
BY MR. SINSHEIMER:
Q. The accounts that were in my client's name: Warren Five, Beverly Co-Op, SIS Family Bank, right?
A. Yes.
Q. Okay. Now, in all of '98, $59,157, that's all that went in, right?
A. That's all the total deposits for those --
Q. For those accounts, right?
A. Uh-huh.
Q. And clearly much of it was their family income, Bill and Catherine Bucci's working income, right?
A. No. I think for those accounts, I think they ranged from probably 61 percent to 70 some-odd percent cash -- significant cash deposits.
Q. But you don't know if she cashed a paycheck in there?
A. I said it was a cash deposit.

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Q. No, these were the total deposits, right?
A. That's total deposits, yes.
Q. $59,157, right?
A. Uh-huh.
Q. '98. '99: 96,000, right?
A. Yes.
Q. But 50 of that is in the SIS Family Bank account, correct?
A. Yes.
Q. Which was a new account that year, right?
A. I believe so.
Q. That's why it starts here, right?
A. Uh-huh.
Q. And you sat here, and as you told Mr. Levitt, you've heard everything, right?
A. Yes.
Q. And you understood that that was an account that was pretty much dedicated to the expenses of the Marshall Street property, right?
A. I'd have to -- I can't say offhand right now.
Q. You don't remember that?
A. I think most of the properties at around that time were for Marshall Street.
Q. So the other two accounts, 24 and 21, 41 grand that Mr. and Mrs. Bucci had that year that you know of?

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A. Uh-huh.
Q. By the way, you never saw any other accounts in Mrs. Bucci's name, did you?
A. Just those up there.
Q. Right. Now, then we get to 2000. We have First Mass. checking and the SIS Family Bank, right?
A. Yes.
Q. And as far as you know, the SIS Family Bank pretty much is still used as the dedicated expense account for Marshall Street, right? It's coming back to you, right?
A. Yes.
Q. All right. And the big money, the 233 grand, that's mostly the deposit from the sale of Alderbrook, right?
A. Yes.
Q. So my client had nothing to do on that. You're clear on that, right?
MR. McADAMS: Objection to "nothing to do with it."
THE COURT: Sustained.
BY MR. SINSHEIMER:
Q. It never went into my client's name, to the best of your knowledge, as a tax investigator in any way, shape or form, right?
A. What's the question again? I'm sorry.
Q. I'll try it again. I'm trying to go fast and I'm

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trying not to be confusing.

All I'm asking you to do is to acknowledge that based on your expertise as a tax investigator, that that number, $233,799, never went into my client's name in any way to your knowledge?

A. I believe that was on the sale of the property in Topsfield, Mass.

Q. Which was bought and sold by Sean Bucci?

A. Yes.

Q. And which went into an account in his name and his name alone?

A. Yes.

Q. That's all I'm trying to say.

THE COURT: Okay.

BY MR. SINSHEIMER:

Q. And that would be true of the rest of the money on that First Mass. checking account. That was Sean Bucci's personal account, right?

A. Yes.

Q. Which he opened at around the time of the sale of Alderbrook, right?

A. Correct.

Q. And now in 2001 there's hardly any deposits in my client's account, right?

A. Correct.

Q. Is that because you didn't look at them at all or because they stopped altogether?
A. I think that $5100 amount was just a one-time cash in and check out.
Q. That was for siding, right?
A. I'm not sure.
Q. You don't remember?
A. I don't remember.
Q. All right. You've been here all this time and paid attention?
A. I've tried to.
MR. McADAMS: Objection, your Honor.
MR. SINSHEIMER: I know. I know.
BY MR. SINSHEIMER:
Q. Back to '98, real quick.
Never mind. I'm all done. Thank you.
MR. McADAMS: Just very briefly, your Honor, on redirect.

REDIRECT EXAMINATION

BY MR. McADAMS:
Q. Mr. Lajoie, Mr. Sinsheimer was showing you this summary that you did about the total deposits?
A. Yes.
Q. And he was pointing to 1998, which we discussed. You didn't even calculate a tax for that year; is that

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correct?
A. No, I did not.
Q. But you did review tax records of Sean, and also Catherine Bucci's tax returns?
A. Yes.
Q. And you pointed out that their total deposits in Mrs. Bucci's accounts for '98 were $59,157?
A. Uh-huh.
Q. How much did Mrs. Bucci report on her tax return for 1998?
A. Of --
Q. Mr. and Mrs. Bucci, the parents.
A. Just his wages, and there may have been some minor gambling winnings, but I think he had wages of approximately $24,000.
Q. And did Mrs. Bucci report any income for herself?
A. She had not.
Q. And when you calculated this tax due and owing, were you just trying to determine how much money Sean Bucci owes on taxes that you, as an agent, viewed as income to him for his benefit?
A. Yes.
Q. You weren't attempting to determine what taxes Mrs. Bucci owed, if any?
A. No.

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MR. McADAMS: No other questions.

MR. SINSHEIMER: Nothing.

MR. SINNIS: Pass.

THE COURT: Thank you, sir.

THE WITNESS: Thank you.

(The witness is excused.)

MR. LEVITT: Your Honor, we have one additional witness we'd like to be heard at sidebar on.

(Discussion at sidebar and out of the hearing of the jury:)

MR. LEVITT: We want to re-call Special Agent Willoughby. I asked to be heard at sidebar because I know Mr. Sinnis objects. I want to call him on two discrete points; it will take five minutes.

When Anthony Belmonte was on the stand, Mr. Sinnis played a tape-recording of his meeting with Matterford, and after the meeting there's a part where Anthony Belmonte's talking to somebody recapping what happened and saying, "You got my back" --

THE COURT: Saying what?

MR. LEVITT: "You got my back, though, right?"

Mr. Sinnis made a production of it at that time, and I'm sure will be doing so in closing. It's leaving a false impression with the jury, especially since Agent Willoughby will testify that Anthony Belmonte was

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talking to him; he remembers the conversation and he was speaking to Special Agent Willoughby. The implication --

MR. SINNIS: That's not a problem.

MR. LEVITT: Okay. You don't have a problem with me calling him to do that?

THE COURT: I can't hear you.

MR. SINNIS: I'm thinking, because I knew it was Agent Willoughby, I wasn't going to make the -- because he talks to Willoughby before that.

MR. LEVITT: But the impression was otherwise, is my point.

THE COURT: You're saying he doesn't need to call him or what?

MR. LEVITT: No. Because the impression with the jury -- the impression was --

THE COURT: I know. I get it all.

MS. BYRNE: We could stipulate to that. We don't need to call him.

MR. SINNIS: And what was the second point?

MR. LEVITT: The second point is evidence that was seized from the house and the shotgun, and the police report needs to come into evidence. So I would have Agent Willoughby --

THE COURT: Can't you identify them?

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MR. LEVITT: Have they been identified?

THE COURT: Are you offering those or --

MR. LEVITT: I would be offering that --

THE COURT: Through him?

MR. LEVITT: -- through him, that he found the shotgun on June 4, 2003. And the police report, it's --

MR. SINNIS: Well, here's -- on both points: We obviously objected to the police report coming in; your Honor has already overruled us on that with regard to the shotgun, so...

MS. BYRNE: Not the police report coming in. The evidence came in, but not the police report. The police report hasn't gone into evidence, I don't believe.

MR. SINNIS: Well -- Ms. Byrne, go on.

MS. BYRNE: Your Honor, I believe -- and I may be wrong on this, but my recollection is that we objected to the evidence of the shotgun coming in. Inasmuch, the Court overruled us on that, the evidence of that did come in through Ms. Genduso, that they had made a false police report regarding the shotgun. That's the end of the story on that, your Honor.

Obviously the police report about that doesn't come in. There's no exception that would allow a police report to come in. And a police report never comes into

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evidence, your Honor. So I think it's done. We're done with that. We would object, obviously, to him re-calling a witness to further testify about that now.

MR. LEVITT: It would be to certify a business record, your Honor, and it comes in to corroborate her testimony.

MS. BYRNE: There's case law directing on that. I don't have the case cite right with me, your Honor, but there's case law that implicates that -- the case law is that is not a business record for purposes of the exception.

THE COURT: The witness can offer it and I'll rule on its admissibility, all right?

MR. LEVITT: The issue also is it's not being offered for the truth of the matter asserted because we know it's false, so it's not even hearsay.

THE COURT: I'm not prepared to rule on the minutia of the legal aspects of it, but I'll allow you to offer --

MS. BYRNE: But he doesn't need to call the witness for that, your Honor.

MR. SINNIS: No. No. Ms. Byrne is right. If your Honor is going to let it in at a later date, they can just admit it as an exhibit.

THE COURT: I don't understand that that's the

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sole reason for calling the witness.

MR. LEVITT: No. The other one is -- there's three things: There's his testimony who Anthony Belmonte was talking to in that phone call, the seizure of the shotgun records, and the police report.

THE COURT: I'll allow it.

MS. BYRNE: Your Honor, wait a second. Judge, could we just have --

MR. SINNIS: Judge -- your Honor --

MS. BYRNE: Your Honor --

MR. SINNIS: -- I am also going to, just in terms of trying to speed this up, I am -- once they rested, I was going to re-call Agent Willoughby on one single point of impeachment pertaining to something that Mr. Wojciechowski denied telling him, and I was just going to bring that in as a prior inconsistent statement. And so I can either have them rest and then re-call him or I can just do it now. It will be outside the scope of what Mr. Levitt's going to do, but it will just save time.

MR. LEVITT: I think it should be done on direct, your Honor. You've been --

THE COURT: Yes.

MR. SINNIS: All right, fine.

(In open court:)

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MR. LEVITT: The government re-calls Special Agent Gregg Willoughby.

THE CLERK: I'd like to remind the witness that he is still under oath.

Please be seated.

THE WITNESS: Yes.

GREGG WILLOUGHBY, resumed

DIRECT EXAMINATION

BY MR. LEVITT:

Q. Special Agent Willoughby, were you here in the courtroom when Anthony Belmonte was cross-examined by Mr. Sinnis?

A. Yes, I was.

Q. Do you recall that Mr. Sinnis played a tape-recording of a meeting between Anthony Belmonte and Ken Madderford?

A. Yes, I do.

Q. And do you recall hearing at the end of that tape-recording a portion where Anthony Belmonte had left Mr. Madderford and was talking to someone?

A. Yes.

Q. Did it appear he was talking on the phone?

A. He was.

Q. And he recapped what happened in his meeting with Madderford?

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A. Correct.
Q. And then he made a statement, "You've got my back, though?"
A. Yes.
Q. Who was he talking to on the phone?
A. He was talking to me.
Q. Why?
MS. BYRNE: Objection, your Honor, to anything more than that.
THE COURT: I will sustain the objection as to why. You can ask what was said.
MR. LEVITT: Okay.
BY MR. LEVITT:
Q. And do you remember that conversation at the time?
A. I do.
Q. What did you take it to mean when he said, "You've got my back?"
MS. BYRNE: Objection, your Honor.
THE COURT: You can ask what he said.
MR. LEVITT: Well, in terms of the state of mind, your Honor.
THE COURT: I'm sorry?
MR. LEVITT: In terms of his state of mind.
MS. BYRNE: Objection, your Honor. What's the relevance of that, your Honor? What he said, yes, but

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beyond that, no more.

THE COURT: First ask -- is it on the record as to what he said?

BY MR. LEVITT:

Q. Do you remember what he said?

A. Yes, I do.

Q. What did he say?

A. He asked if I had his back. That was on the recording.

MR. LEVITT: That's fine. I'll move on, your Honor.

BY MR. LEVITT:

Q. In the search of 23 Marshall Street, did you find any records regarding a shotgun?

A. Yes, we did.

Q. I show you Government Exhibit 65. Do you recognize that?

A. Yes, I do.

Q. What is it?

A. I believe that was a receipt from the Sports Authority showing that he had purchased a Mossberg shotgun.

Q. And then there's something from the Department of Massachusetts, correct?

A. Yes.

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Q. There was some kind of identification that he had a right to carry a shotgun, right?
A. I believe there was an FID card as well, yes.
MR. LEVITT: The government offers Exhibit 65.
MS. BYRNE: Objection, your Honor.
THE COURT: I'll reserve decision.
MR. LEVITT: Actually, this is not the one that you reserved decision on, your Honor.
THE COURT: If you don't mind, at the moment I'm not clear what it's about, so I'll reserve decision.
MR. LEVITT: That's fine.
BY MR. LEVITT:
Q. So I'll show you what has been marked for identification only as Government Exhibit 109.
MR. LEVITT: And I'll simply ask the witness, your Honor, what it is.
THE COURT: All right.
BY MR. LEVITT:
Q. What is it?
A. It's a police report from the Peabody Police Department.
Q. Okay. Concerning what?
A. A stolen firearm.
Q. From who?
A. Stolen firearm listing Sean Bucci.

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MS. BYRNE: Objection, your Honor. He's reading from hearsay that he doesn't -- didn't write. He doesn't know it.

THE COURT: He's identifying it.

MR. LEVITT: That's it, your Honor.

THE COURT: All right.

MR. LEVITT: And I'd move to admit both documents. I understand the Court's reserved decision.

MR. SINNIS: We object, your Honor.

THE COURT: I'll reserve decision.

CROSS-EXAMINATION

BY MR. SINNIS:

Q. Belmonte wanted to know if you still had his back, right?

A. He wanted to know if we were covering him as he was waking away from there, yes.

Q. That's how you took that phrase?

A. Yes.

Q. You didn't take that phrase to mean, "I didn't get anything out of Madderford; you still got me"?

A. No. He was under surveillance. We were watching him walk away to make sure he got away safely.

Q. After hearing all the testimony in this case, who do you think has the money?

MR. LEVITT: Objection. Beyond the scope.

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THE COURT: Sustained.

MR. SINNIS: No further questions.

MR. SINSHEIMER: Nothing, your Honor.

THE COURT: Thank you. You're excused, sir.

THE WITNESS: Thank you, your Honor.

(The witness is excused.)

MR. LEVITT: Your Honor, the government is prepared to rest but would like time to simply go through the exhibit list and make sure that there's nothing that has not been admitted that we are seeking to admit, and then I think we're prepared to rest.

THE COURT: Do you want to do that now or would you like to take a break now?

MR. LEVITT: I'd like to take our morning break at this time.

THE COURT: We'll take our morning break at this time, ladies and gentlemen.

THE CLERK: All rise as the jury leaves the courtroom.

(Jury out at 10:49 a.m.)

THE CLERK: This court is now in recess.

(There is a recess in the proceedings at 10:50 a.m.)

THE CLERK: Counsel, your jurors.

(Jury in at 11:15 a.m.)

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THE COURT: Thank you, everyone. Please be seated.

MR. LEVITT: Your Honor, we just need to -- we're ready to close. We just have to resolve the issue of these two documents, if we could approach sidebar.

THE COURT: Yes.

(Discussion at sidebar and out of the hearing of the jury:)

MR. LEVITT: Your Honor, these, I don't think, are in dispute. This is what was found in the search of the house: It is a receipt showing that he bought a shotgun. It says "home security." It was found in the search.

MS. BYRNE: I don't have a problem --

MR. LEVITT: It corroborates the testimony of --

MS. BYRNE: I don't have a problem with that. My objection is to this, your Honor.

THE COURT: All right. So let's get it on the record. This is admitted without objection?

MS. BYRNE: This, though, your Honor, is pure hearsay. It's the police report. There's no exception, in my view, that allows it to --

THE COURT: What's it offered to prove?

MR. LEVITT: It's not true, so it's nothing offered for the truth, so it's not hearsay. It

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corroborates the testimony of Leigha Genduso that, in fact, they filed a police report, a false police report, indicating that the firearm had been stolen. The shotgun. So it corroborates, in fact, that there was a shotgun.

MS. BYRNE: I object, your Honor. I think he's put that into evidence; that's the evidence that the jury has. But I object to the police report going into evidence.

THE COURT: I think it's admissible, so I'll allow it.

THE CLERK: What number is that?

MR. LEVITT: 109.

THE CLERK: 109 is marked and entered.

(Government's Exhibit No. 109 received into evidence.)

(In open court:)

MR. LEVITT: Your Honor, with the admission of these two documents, the government rests.

THE COURT: Ladies and gentlemen, the government has just indicated, through Mr. Levitt, that they've rested, which means they've completed the presentation of their case-in-chief. And I have to discuss the legal status of the case with counsel at this time. It will take us only two or three minutes, maybe five at the

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most, but I do have to ask you to return to jury room.

THE CLERK: All rise while the jury leaves the courtroom.

(Jury out at 11:18 a.m.)

THE CLERK: You may be seated.

THE COURT: Is Mr. Sinnis there?

MR. SINNIS: Yes, your Honor. Sorry.

THE COURT: Is it you or Ms. Byrne?

MR. SINNIS: Your Honor, at the close of the government's case we'd be moving, pursuant to Rule 29, for a directed verdict on all counts. I'd only like to be heard on one count, which is the count regarding the actual substantive money-laundering count. I believe it's Count 5; I could be wrong.

And my argument there is a statute of limitation argument which was the argument I made to your Honor --

THE COURT: Right.

MR. SINNIS: -- in preserving that issue. I don't believe -- I don't believe the government at this point actually, at the rest of their case, has made any indication of proof that there was in effect the limitations which would run from July 28 -- I'm sorry -- from July 27, 2000, when the deposit was made. This indictment was handed down July 28, 2005, which is one day after the running of the statute of limitations.

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And so we would argue that the government hasn't met their burden on that issue, and we would ask your Honor for a directed verdict.

THE COURT: I understand your position. Of course I ruled on the motion earlier, but I understand why you're raising it again.

MR. SINNIS: Thank you.

THE COURT: Mr. Levitt, do you want to make a statement for the record?

MR. LEVITT: No, your Honor.

MR. McADAMS: Your Honor, I would just point out that there was testimony from Special Agent Harriman regarding -- based on his training and experience that banks process checks subsequent to the deposit. There were also receipts admitted into evidence which were stamped "next-day transaction," and the actual deposit tickets which were the deposit slips for the specific transaction point, which the government has introduced evidence on that point and met its burden.

THE COURT: On the basis of what the government has pointed out as well as the points that I made in disposing of the issue on an earlier motion, I'm denying the present motion for acquittal.

Mr. Sinsheimer?

MR. SINSHEIMER: Your Honor, I presented a

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written Rule 29 motion that I gave to Mr. Howarth. There's no memorandum; it's just to protect the record.

Judge, I don't think they proved conspiracy. I'm not going to belabor it only because I'm familiar with the fact that the Court has listened closely to the evidence, the Court has discussed with me at some length our proposed instructions which have raised some of the same issues. But if you look at all the elements, I don't think they've met -- I don't think they've proved beyond a reasonable doubt anything other than my client put a house in her name and -- that she may or may not own; they used cash as a down payment which may or may not have come from Sean Bucci in some or all; and that some money that he may or may not have obtained from drug transactions flowed through a bank account that she had access to or that she had her name on for a very short period of time eight years ago. That's what they proved. That's not conspiracy. Thank you.

THE COURT: Mr. Levitt, do you want to answer?

MR. LEVITT: Just very briefly, your Honor. Of course a conspiratorial agreement can be inferred from circumstantial evidence, and there is a mountain of circumstantial evidence in this case: the bank records showing the money going through the account; there is also false statements made on the mortgage statements

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saying that -- inflating their income, saying that she was making $20,000 a year for four years at 911 Productions where her tax records show that she had listed herself as a homemaker with no income whatsoever.

There's also the direct testimony, your Honor, of the two bank tellers. You'll recall that Lynn Bodner said that she spoke directly with Mrs. Bucci, and Mrs. Bucci was arguing with her about the filing requirement; the question of whether the bank had to report a -- if the amount was not over $10,000.

THE COURT: Right.

MR. LEVITT: You'll recall -- and there was direct testimony that she knew that the structuring -- that she was structuring. She knew what she was doing was illegal.

There's also the testimony of the other bank teller that the money smelled like marijuana, so, your Honor, I believe there's --

THE COURT: I believe there's sufficient evidence so that I must deny the motion and I do so.

MR. SINNIS: Before you re-call the jury, I'm just asking your Honor how you want me to do this. We've entered into a stipulation, and again it goes to the statute of limitations and is simply preserving that issue. The parties agreed -- I won't read it verbatim

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to your Honor, but basically that Mr. Bucci went into the bank -- or someone went into the bank on July 27, 2000 -- and deposited the money or presented it for deposit and that on July 28th the bank processed it.

So we have a stipulation as to what the witness would say -- which is Heather Mellow -- instead of calling her. I'm happy to read the entire thing. If your Honor would prefer, we can just simply tell the jury we've stipulated --

THE COURT: I don't see any reason to call a witness --

MR. SINNIS: No, we're not calling. I'm asking your Honor if you want me to read the entire thing into the record in front of the jury or just simply admit it as Stipulation No. 2.

THE COURT: It's not a question of preference on my part. I think to protect yourself it's better to read it.

MR. SINNIS: All right. Then we'll do that, your Honor.

THE COURT: All right. Are you in a position at the moment to estimate how much time you think the defense testimony will take?

MR. SINNIS: On my side, your Honor, reading that stipulation and seven questions of Agent

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Willoughby.

MR. SINSHEIMER: I think mine is going to be only a half-hour.

THE COURT: In other words, it's likely we can finish this morning?

MR. SINSHEIMER: I think so. I don't know how long the cross will be. I can't imagine it will be long.

THE COURT: Thank you. Would you re-call the jury, please.

THE CLERK: Yes, I will, your Honor.

Counsel, your jurors.

(Jury in at 11:26 a.m.)

THE COURT: Welcome back. Please be seated. All right. We're ready to hear -- the government has rested its case and we're ready to hear the defendants.

Mr. Sinnis?

MR. SINNIS: Thank you, your Honor.

MS. BYRNE: Your Honor, before --

THE COURT: Ms. Byrne?

MS. BYRNE: Before we begin with witnesses, your Honor, I would like to read a stipulation to the jury that the parties have agreed on.

THE COURT: Let me make sure I understand. A stipulation -- I think I ruled -- or explained this

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before, but at any rate, a stipulation is an agreement by the parties as to certain facts.

MS. BYRNE: This is a stipulation of the parties as to testimony of Heather Mellow. "The United States of America and the defendants, Sean Bucci and Catherine Bucci, through respective counsel, hereby stipulate and agree that if called Heather C. Mellow would testify as follows: Heather Mellow has been employed at TD Banknorth as a customer service representative since 1995. TD Banknorth is the successor bank to" --

THE COURT: I'd suggest you read it a little slower.

MS. BYRNE: "TD Banknorth is the successor bank to First Massachusetts Bank. Mellow reviewed documents related to a July 2000 deposit into Sean Bucci's First Massachusetts Bank checking account 8240004593. The documents reviewed by Mellow include an undated deposit slip and two checks payable to Sean Bucci totaling $222,179.88. The documents reviewed by Mellow also include copies of the backs of the deposit slip and the two checks. The deposit slip indicates the deposit was made at the Middleton branch of First Massachusetts Bank. The date stamp on the back of the deposit slip is marked 7/28/2000 at 1430, which means 2:30 p.m. Pursuant to bank policy, funds presented for deposit

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after 2 p.m. are considered next-day transactions and dated the following business day.

"Based on the above, the records indicate that on July 27, 2000, at 2:30 p.m., the funds were physically presented to the bank for deposit. The deposit slip and checks were left with the bank teller. Pursuant to bank policy, the customer presenting funds for deposit would have been issued a receipt marked 'next-day transaction.' Pursuant to bank policy, the bank processed the checks for deposit on July 28, 2000. A provisional credit in the amount of the deposit was posted to Mr. Bucci's account on July 28, 2000. The definition of a next-day transaction is contained in the bank's deposit account agreement which is provided to customers when an account is opened."

THE COURT: Thank you, Ms. Byrne.

MS. BYRNE: Thank you, your Honor.

MR. SINNIS: Your Honor, at this time we would call Agent Willoughby.

THE COURT: Okay.

THE CLERK: I'd like to remind the witness that he is still under oath.

THE WITNESS: Yes.

THE CLERK: Please be seated.

GREGG WILLOUGHBY, resumed

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DIRECT EXAMINATION

BY MR. SINNIS:

Q. Good morning, Agent Willoughby. How you are?

A. Good morning.

Q. You met with Mark Wojciechowski on August 4th and August 5th in Boston, correct?

A. August 4th and August 5th of what year?

Q. 2004.

A. I believe so.

Q. And you debriefed him regarding his dealings with Anthony Belmonte, among other things, correct?

A. Yes.

Q. And he told you that Anthony Belmonte had three regular customers to whom he sold marijuana, correct?

A. I believe he mentioned a third customer.

Q. And those customers were Mr. Madderford, Mr. Bucci and someone named Mike DiPlatzi, correct?

A. I don't believe he gave me the name. I believe he knew of a third customer, but I don't believe he knew the name.

Q. You prepared reports in association with your meeting with Mr. Wojciechowski?

A. Yes.

Q. And he told you that a third customer was someone who drove a black pickup truck, correct?

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A. Correct.
Q. And you had identified that person as Michael DiPlatzi, correct?
A. I believe we had previously identified him, yes.
Q. And he told you that that person was Anthony Belmonte's largest customer, correct?
A. I believe he might have said that, yes.
Q. I'm going to show you the report that you wrote back on August 5.
MR. SINNIS: I'm showing him a report prepared August 5, 2004, page 4, Paragraph 6.
BY MR. SINNIS:
Q. If you could just read the sentence starting with the CW. The CW is Mr. Wojciechowski, correct?
A. Correct.
Q. And in that you wrote that Mr. Wojciechowski told you that Mike DiPlatzi was Anthony Belmonte's largest customer, correct?
A. Correct.
Q. Thank you.
MR. SINNIS: No further questions, your Honor.
MR. LEVITT: I don't have any questions, your Honor.
THE COURT: Sir?
MR. SINSHEIMER: One question.

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THE COURT: Do you have a question?

MR. SINSHEIMER: Just one.

CROSS-EXAMINATION

BY MR. SINSHEIMER:

Q. You interviewed Leigha Genduso on January 15, 2007, right?

A. I believe I was there.

Q. And she told you that there was no one home when she came back and took the money box, right?

A. I don't recall if she said that or not.

MR. SINSHEIMER: May I approach, your Honor?

THE COURT: Yes.

BY MR. SINSHEIMER:

Q. This is part of the disclosure?

A. Are you asking me?

Q. I am, yes.

A. I believe so. It's not mine, but I believe --

Q. It's typed up by Mr. Levitt's office, right?

A. It's not my report, correct.

Q. No, it's not a written report.

A. Correct.

Q. But you understand it says --

THE COURT: Are you giving that to him to refresh his recollection? You're not entitled to read it out.

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MR. SINSHEIMER: I wasn't going to. I was --

THE COURT: You were about to say, "it says."

MR. SINSHEIMER: Well, I think I can cross him, your Honor, I mean. But whatever. I'll do it --

THE COURT: Tell him to read whatever you want him to read.

BY MR. SINSHEIMER:

Q. Does this refresh your recollection that you met with her on January 15, 2007?

A. I believe I was there during that interview, correct.

Q. Now, just read this section to yourself.

A. The entire paragraph?

Q. Up to where it's underlined.

A. Okay.

Q. Does that refresh your recollection as to the fact that she said no one was home?

A. I'm not sure that it actually refreshes my -- that I remember that exactly. Again, that's not my report, so I can't really say for sure.

Q. You understand it's a disclosure report from the government to me?

A. Yes.

Q. Would you have actual notes of that?

A. No.

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Q. Mr. Levitt was there also, right?

MR. LEVITT: Your Honor, I object to this at this point. He's asked him if he remembers, and he said he doesn't remember.

MR. SINSHEIMER: Can I come to sidebar, please, your Honor?

MR. SINNIS: May we approach, your Honor?

(Discussion at sidebar and out of the hearing of the jury:)

THE COURT: You're making him your witness because you're really questioning about things that didn't arise on direct.

MR. SINSHEIMER: But the thing is -- no, but I cross-examined her and she was a little vague about it. And the government gave us this disclosure. And I don't want to make Mr. Levitt a witness, but my understanding is the whole reason the cops are there is so the prosecutors are not a witness. So maybe they can stipulate that that's what it says.

MR. LEVITT: She said she doesn't remember and --

MR. SINSHEIMER: This says --

MR. LEVITT: Excuse me. Can I finish my statement?

THE COURT: You're asking this witness if he

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remembers something, and he said he doesn't.

MR. SINSHEIMER: But the problem is, what I have is from Mr. Levitt. Do you want me to call Mr. Levitt to the witness stand? I don't think that we want to treat our brothers of the bar that way.

MR. LEVITT: I'd tell you I don't remember either.

MR. SINSHEIMER: Okay. But you wrote it, Peter.

MR. LEVITT: It doesn't matter.

MS. BYRNE: We could put your writing in, Peter. This is unbelievable.

MR. LEVITT: Hold on a second. She didn't deny it --

THE COURT: Just a minute.

MS. BYRNE: It doesn't matter.

THE COURT: I'll allow you to show him this and ask him if it refreshes his recollection. You can't make a witness remember.

MR. SINSHEIMER: No, but I can demonstrate that the government as an institution told me this, and if I can't get it in through him, then I have to put Mr. Levitt on because it's his signature. And I don't treat brothers of the bar that way. So it's a stipulation. It's a statement of the witness recorded by the United States of America and --

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THE COURT: I'll rule on that later. You may have something there, but you can't push the witness on it.

MS. BYRNE: Well, then, your Honor, I would follow up -- I would then follow up with Mr. Sinsheimer's questions and I would want to straighten out --

THE COURT: What can I do about it? We have a witness who says he doesn't remember it.

MR. SINSHEIMER: You can order the government to stipulate this is what it says.

MS. BYRNE: The government --

THE COURT: Let me handle that after we're finished with the witness. Why should we do that here at the sidebar?

MR. SINSHEIMER: He's the only live witness and that's why I have to protect -- he's the only live witness other than a lawyer who was there.

THE COURT: I know. You can ask him questions, but if he says he doesn't remember, what do you want me to do?

(In open court:)

BY MR. SINSHEIMER:

Q. Who exactly was at the first meeting with Leigha Genduso in trial preparation?

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A. I believe it was just me and Mr. Levitt, I believe.
Q. You're like the lead case agent in this case, right?
A. Yes.
Q. You've been following this case since the day it began, right?
A. Yes.
Q. You've read the grand jury testimony and so forth, right?
A. Not all.
Q. You understood that the lead defendant's girlfriend was an important witness, right?
A. Yes.
Q. And you meet her January 15, 2007, right?
A. I believe I was there, yes.
Q. And where the money went is a big topic, right?
A. Yes.
Q. And you don't remember that she told you no one was home when she came and took the money box?
A. I don't recall whether she said -- I recall when she -- what she said when she dropped the money off that no one was home, I don't recall whether she said anyone was home initially when she went to retrieve the money. She did state afterward that when she went back there, Mrs. Bucci was home --
Q. The third time?

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A. I don't recall if that was the third time. I do recall her saying at one point that she went back to retrieve the money, Mrs. Bucci was there, and Mrs. Bucci said, "There's two safes in the basement as well."
Q. Right. But she also said that she returned to the parents' house in Columbo's car, got the money box and no one was home and she took it, right? You don't remember that?
A. I don't remember that answer specifically.
MR. SINSHEIMER: May I approach? May I approach?
THE COURT: Yes.
BY MR. SINSHEIMER:
Q. First of all, just for the record, you'd agree that what I'm showing you is the government's disclosure, right?
A. Well, I've never seen the actual disclosure, but I believe so.
Q. Well, look, you've been a lead case agent for a long time, right?
MR. LEVITT: Asked and answered and argumentative.
THE COURT: Overruled.
BY MR. SINSHEIMER:
Q. Right?

A. Yes.
Q. And you understand that when witnesses are interviewed, the government has to tell the defense what they say?
A. Yes.
Q. And this looks to you like a disclosure letter signed by Peter Levitt, sitting right here, right?
A. I see that, yes.
Q. And it's about Leigha Genduso, right?
A. Yes.

MR. LEVITT: Your Honor, maybe I can try to move this along. The witness --

MR. SINSHEIMER: I'd appreciate that. You signed it.

THE COURT: Let me make a suggestion at the sidebar.

(Discussion at sidebar and out of the hearing of the jury:)

MR. LEVITT: Your Honor, do you have a suggestion?

THE COURT: Yeah, I'm inclined to agree with Mr. Sinsheimer that we ought to stipulate to this --

MR. LEVITT: That's what I was going to suggest.

THE COURT: -- because even if you don't remember, you'd agree that you said it.

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MR. SINSHEIMER: I'll read it.

MR. LEVITT: I'll make the stipulation --

MR. SINSHEIMER: I'll read it.

MR. LEVITT: Your Honor, I will make the stipulation that I wrote this and, you know --

THE COURT: Well, I mean, what's the --

MS. BYRNE: Exactly.

THE COURT: So you're telling me --

MR. LEVITT: I'm trying to figure that out, everybody, okay? I'm trying to be helpful. If you guys would give me a break.

THE COURT: No, I understand it. I'll instruct the jury that the parties have decided the way to deal with this is to read the following stipulation.

MR. LEVITT: I'll stipulate that I wrote this with respect to what she was telling us at the time. I have no independent memory; I have no reason to --

MR. SINNIS: No.

MS. BYRNE: No.

THE COURT: It isn't necessary to go into people's memory.

MR. LEVITT: Okay.

MS. BYRNE: Just read it.

MR. SINSHEIMER: I want him to stipulate that she said it.

THE COURT: It's the witness who doesn't have a memory.

MS. BYRNE: Read it.

MR. SINNIS: Read it.

MR. LEVITT: I'm going to say I wrote this based on what she was saying. How's that?

MR. SINNIS: Fine.

MS. BYRNE: Fine.

MR. SINSHEIMER: Fine.

(In open court:)

THE COURT: I understand the parties have reached an agreement on a point here?

MR. LEVITT: The government will stipulate that, A, they wrote this -- that I wrote this, it was based on what Ms. Genduso was telling me, and --

Is there anything else you want me to say?

MR. SINSHEIMER: Read what it says.

MR. LEVITT: The whole letter?

MR. SINNIS: No, just that sentence.

MR. SINSHEIMER: No.

MR. LEVITT: It says, "Ms. Genduso advised that she later return to his parents' house in Columbo's car and got the money box and put it in the car and no one was home at the parents' house."

MR. SINSHEIMER: Thank you.

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MS. BYRNE: Thank you, your Honor.

THE COURT: Very good. Is the witness needed any further?

MR. SINSHEIMER: No, we're all set.

MR. SINNIS: No, your Honor.

THE COURT: You're excused.

THE WITNESS: Thank you, your Honor.

(The witness is excused.)

MR. SINNIS: Your Honor, at this point Sean Bucci rests and renews the motion that we made earlier, your Honor.

THE COURT: And my ruling is -- I deny the motion.

Mr. Sinsheimer?

MR. SINSHEIMER: Thank you. Good morning, your Honor. I'd like to begin by introducing into evidence first some government records as Defense Exhibit J, and these would be from the probate of the Last Will and Testament of Rita M. O'Connor. And the government has seen these and they're in by agreement.

With the permission of the Court, I'll offer them.

THE CLERK: This is Defendant No. 2. It will be Exhibit J and J-1.

THE COURT: Marked --

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THE CLERK: Marked and entered.

(Defendant No. 2's Exhibits J and J-1 received into evidence.)

MR. SINSHEIMER: And I apologize for being out of order -- I think I comes before J in the alphabet -- but this is I-1, -2 and -3, documents from the Estate of Pasquale J. Landolphi.

THE CLERK: 1, 2 and 3.

MR. SINSHEIMER: I-1, -2 and -3.

THE CLERK: Marked and entered.

(Defendant No. 2's Exhibits I-1, I-2 and I-3, received into evidence.)

MR. SINSHEIMER: Thank you, Mr. Howarth.

THE CLERK: That's for Defendant 2.

MR. SINSHEIMER: Exhibits L-1, -2, -3 and -4 are business records from Marian Court College, again, by agreement.

THE CLERK: And that's by Defendant 2. And that would be L-1, -2 and -3.

THE COURT: I think he said -4 also.

THE CLERK: And -4?

MR. SINSHEIMER: Yup. There's four of them.

(Defendant No. 2's Exhibits L-1 through L-4, received into evidence.)

THE COURT: Before you ask any questions, I

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would like to look at the exhibits.

MR. SINSHEIMER: Yeah.

(There is a pause.)

THE COURT: Okay.

THE CLERK: Thank you, your Honor.

MR. SINSHEIMER: May I proceed, your Honor?

THE COURT: Do you want your exhibits?

MR. SINSHEIMER: No, I don't need them right this second. I was waiting for the Court to --

THE COURT: I've examined them.

MR. SINSHEIMER: Thank you very much. I would like to call Noelle Bucci, please.

NOELLE BUCCI, sworn

THE CLERK: Please be seated. Give the Court your full name, spelling your last.

THE WITNESS: Noelle Angelique Bucci, B-U-C-C-I.

THE COURT: This is a big room, as you can see, and we all have to hear you. So would you pull yourself up to the mic and speak into the mic and try and speak up, if you can?

MR. SINSHEIMER: You beat me to it, your Honor.

DIRECT EXAMINATION

BY MR. SINSHEIMER:

Q. You know me, right?

A. Uh-huh.

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Q. Would you speak loud so I can hear you?

MR. SINSHEIMER: Actually, with the Court's permission, I'm going to stand back here.

THE WITNESS: Okay. Noelle Angelique Bucci, B-U-C-C-I.

BY MR. SINSHEIMER:

Q. And how old are you?

A. 29 years old.

Q. What's your date of birth?

A. 10/27/77.

Q. Where did you grow up?

A. At Danvers, Massachusetts.

Q. Who did you live with growing up?

A. My mom and dad.

Q. Do you recognize your mom in court today?

A. Uh-huh. She's right over there.

Q. What's your father's name?

A. William Paul Bucci.

Q. How old is he?

A. He's 62.

Q. Okay. Do you have any brothers and sisters?

A. Yes; an older brother and a younger sister.

Q. That's your older brother, Sean, here today?

A. Uh-huh.

Q. Let me take you to your high school years. What

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year did you start high school?
A. 1993.
Q. What year did you graduate?
A. 1997.
Q. What was your relationship at that time with your older brother?
A. He was just my brother. I mean, I saw him on holidays.
Q. Were you close to him?
A. He was family. He wasn't really close-close, but...
Q. How much older was he than you?
A. Five years older.
Q. Five years older?
A. Uh-huh.
Q. When you were in high school, was he living at home?
A. No.
Q. Where did he live?
A. In Salem, Massachusetts.
Q. What did you understand he did for a living at that time?
A. He was a dee-jay.
Q. Did he have any other jobs?
A. He worked -- he had his own business, Dessy Drive.
Q. What was Dessy Drive?
A. It was a business where an intoxicated person at a

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bar would call him for a ride home.
Q. Do you know how much money he made doing that?
A. No, I don't know.
Q. Now, as you got older, did you come to see him in the course of his business?
A. Yes. When he worked for -- he had a 911 Productions business. He worked at bars. When I turned 21 I visited him a couple of times.
Q. And when did you turn 21?
A. 1998.
Q. And at what establishments would you see your brother acting as a dee-jay?
A. At Bay Bridge and Scuttlebutts, and Bleachers in Salem.
Q. Are you aware of an event called Rocktober Fest?
A. Yes.
Q. What did you understand that to be?
A. Well, I helped out giving out tickets. I worked at the door, at the entrance.
Q. What was it?
A. It was a bunch of bands playing music, and they gave out food. And that's all I know about it. And I'm in the pictures, if you want to see them.
Q. I'm going to show you four photographs that we've marked already, K-1, K-2, K-3 and K-4. And just for the

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record, do you recognize those? Take your time.
A. Uh-huh.
Q. I'm going to throw them up on the board in a minute, too.
A. That's me right there.
Q. Hold on a second. They can't see. But just for the record, are these fair and accurate representations of the some of the events that day at Rocktober Fest?
A. Uh-huh.
MR. SINSHEIMER: Okay. If I may, your Honor, may I display them?
THE COURT: Sure.
MR. SINSHEIMER: Thank you.
BY MR. SINSHEIMER:
Q. I'm going to show you what's been marked K-2. And can you identify what's going on there?
A. Oh, yeah.
Q. Take your time. I know. I know.
A. You were looking over there and I didn't know --
Q. I apologize.
A. I'm giving out tickets. I'm on the right-hand side in the gray sweatshirt with all of the flags.
Q. And the gentleman next to you with the shirt that says "Staff"?
A. Eric Carbone.

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Q. And who's he?
A. What?
Q. No, go ahead -- I don't want to interrupt you -- please.
A. He's my brother's friend. And we were giving out tickets for them to get to where the concert was playing.
Q. And who do you know Mr. Carbone to be?
A. My brother's friend.
Q. How long has he been your brother's friend?
A. Since middle school, maybe.
Q. Okay. Let me show you this one, which has been marked K-1. What's that?
A. That's Rocktober Fest.
Q. Is that the event itself?
A. Yes.
Q. Do you recognize that --
THE COURT: How many people would you say were there?
THE WITNESS: Over a thousand or more.
BY MR. SINSHEIMER:
Q. And is this a -- showing you K-4, is that a close-up of the stage?
A. Yes.
Q. Can you recognize those -- well, do you know as you

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sit here whether or not there were corporate sponsors?
A. Yeah, WAAF.
Q. Who's WAAF?
A. It's a radio station.
Q. How about the Guitar Center? Do you see that back there?
A. I'm not sure what band it was. There were several bands, and I don't recall what band it was.
Q. Do you know whether Guitar Center is --
A. Oh, Guitar Center? That's a sponsor, too.
Q. Did you go to college?
A. Yes.
Q. And when did you go to college?
A. In 1998.
Q. And what's the name of the college?
A. Marian Court College in Swampscott, Massachusetts.
Q. When did you graduate?
A. 1999.
Q. Did any other family members attend college with you?
A. Yes, my mother.
Q. And when did she go to college?
A. She began in 1999, graduated in 2000.
MR. SINSHEIMER: May I see Exhibit K, please?
MR. LEVITT: It's right here.

MR. SINSHEIMER: Thank you.

THE WITNESS: I'm sorry. It was 2001. She went for two years.

BY MR. SINSHEIMER:

Q. And do you recognize this to be one of the records from her college?

A. Yes; that's her associate's degree.

Q. And she -- she graduated in '01?

A. Yup.

Q. And do you know one way or the other whether she got financial aid while she was in college?

A. She got some.

Q. I show you L-3. Do you know if those are her --

A. Yup, that's what I got, too.

Q. That's like an invoice?

A. Yup.

Q. Do you see "Anticipated financial aid" down at the bottom? It's hard to read it.

A. I can't see it. I probably need glasses.

Q. No. No. No. This is a terrible thing. Don't -- I don't know if anybody can see it, but we'll try.

You received a similar type of --

A. Yes, I did.

Q. -- document?

And did you know for a fact that your mom was on

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financial aid?
A. Yes.
Q. Now, the house you grew up in: Loris Road?
A. Yes.
Q. Can you describe that?
A. It was a cape on Loris Road. Three bedrooms, a living room, a kitchen and a dining room, one and a half baths. Is that what you want to know?
Q. Just anything you can remember, okay? I didn't ask you that before ever, have I?
A. We have two cats.
Q. Two cats?
A. Yup.
Q. Let me ask you about 1998 now. Do you remember the furniture in the house in 1998?
A. Yeah. A sofa, a rocking chair, a mantle.
Q. This is the living room?
A. Yeah.
Q. How long had it been there?
A. Oh, for ages. Since we were little.
Q. Starting around '98 through today, any fancy new furniture in the house?
A. No; the same furniture.
Q. Any fancy new big-screen TVs, anything like that?
A. No.

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Q. Any indicia of wealth in that house whatsoever?
A. What?
Q. I'm sorry. Anything big that you think would have cost a lot of money in there?
A. No.
Q. How about new siding? Do you remember the new siding?
A. Oh, yeah.
Q. That was when? Do you remember when that was?
A. I believe it was in 1999.
Q. You're not sure?
A. I'm not quite sure. '98-'99.
Q. Did you ever inherit any money?
A. Yes.
Q. From whom did you inherit money?
A. My father's mother.
Q. And what was her name?
A. Congetta Mary Bucci.

MR. SINSHEIMER: May I see Exhibit J, please?

THE CLERK: I?

MR. SINSHEIMER: I or J.

THE CLERK: That's I.

MR. SINSHEIMER: No, I need J.

THE CLERK: I don't have J.

MR. SINSHEIMER: Yes, you do.

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THE CLERK: I do?

MR. SINSHEIMER: You'd better, or I'm in trouble.

THE CLERK: You've got it. You've got it.

BY MR. SINSHEIMER:

Q. And who is -- Congetta Bucci, you said?

A. Yes.

Q. And --

A. Nicknamed Connie.

Q. Connie Bucci?

A. Uh-huh.

Q. And what was her relationship to you?

A. She was my grandmother.

Q. And do you know someone named Pasquale Landolphi?

A. Yeah; that's my father's uncle.

Q. And do you know when Mr. Landolphi passed away?

A. Yes.

Q. When?

A. Before I was born.

Q. Okay. And do you know if your dad inherited money from Mr. Landolphi?

A. Yes, he did.

Q. How about the house you live in? Do you know anything about that?

A. He inherited the house from him, too.

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Q. Let me show you Exhibit I. Would you agree with me that this is the will of Pasquale Landolphi?
A. Yes, it is.
Q. Would you agree with me that Exhibit I-2 is the accounting for that estate?
A. Yes.
Q. It shows that Congetta Mary Bucci became the executrix?
A. Uh-huh.
Q. Do you know there was a trust for a period of time?
A. Yes.
Q. Now, do you know someone named Rita O'Connor?
A. Yes; she's my grandmother on my mom's side.
Q. And when, if ever, did she pass on?
A. She passed on January 4, 1999.
Q. And I show you Exhibit J. Is that her will?
A. Yes.
Q. Do you know if she left your family any money?
A. She left my mother $20,000.
Q. And that's in this will of probate?
A. Yeah.

MR. McADAMS: Rob, can I see that?

MR. SINSHEIMER: I'm sorry.

BY MR. SINSHEIMER:

Q. Now, when you were in high school, where did Sean

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live?
A. He lived in Salem.
Q. Who did he live with?
A. With roommates.
Q. Gentlemen roommates?
A. Yes.
Q. And would you go over there often?
A. No, only the time when he was sick we brought chicken soup to him, my mother and I.
Q. Do you remember an incident with your mom?
A. Uh-huh.
Q. Do you remember an incident when your mom and you brought him over some chicken soup?
A. (Nonverbal response.)
Q. You've got to speak up, honey. You've got to answer out loud.
A. Yes.
Q. And is it fair to say at that time Sean was out on his own?
A. Uh-huh.
Q. And what did you think he did for a living then?
A. He was a dee-jay.
Q. When you went over and brought him the chicken soup, what, if anything, did you see?
A. I saw disk-jockey equipment.

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Q. All over the house?
A. Yes.
Q. At that time did you have any idea that he dealt in marijuana?
A. No.
Q. Were you ever present when he talked about what he did for a living in front of your mom?
A. I wasn't around when they'd talk. I mean, I was around sometimes.
Q. That day when you came over with the chicken soup, did they talk about how things were doing in the dee-jay --
A. Oh, yeah. He was talking about he had a lot of -- he worked at Bay -- not Bay Bridge -- Bleachers in Salem.
Q. Where do you work today?
A. Massachusetts Medical Society in Waltham.
Q. What do you do for them?
A. I am -- I do accounts payable/accounts receivable and administrative work.
Q. Have you ever been in trouble?
A. No.
Q. Has your mom ever been in trouble with the law?
A. No.
Q. When was the first time you found out that your

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brother might have been a pot dealer?
A. The day that he got arrested.
MR. SINSHEIMER: No further questions.
MR. McADAMS: I just have a few brief questions.
CROSS-EXAMINATION
BY MR. McADAMS:
Q. Good morning, Ms. Bucci. My name is John McAdams. I'm one of the prosecutors in this case. I just want to ask you a couple of questions.
You talked about an inheritance that your mom received in 1999?
A. Yes.
Q. Okay. And I think Mr. Sinsheimer showed you this document which was Defense Exhibit J; do you recall that?
A. Yes.
Q. Does it say anything on there about the amount of money that was inherited at that time?
A. She gave my -- my grandmother gave her money in cash.
Q. Before she died or after she died?
A. Before she died.
Q. And when did she give her that?
A. I don't remember what month or -- I don't recall.
Q. So it wasn't an inheritance; it was a gift?

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A. You could say it was a gift.
Q. Well, I guess what I'm asking you: Did she inherit money from a will or did she give her cash when she was alive?
A. She gave her cash, so that would be a gift.
Q. And did she give her $20,000 cash all in one day?
A. Yes.
Q. And do you remember when this was?
A. I don't recall what month. I don't recall.
Q. Do you recall what year?
A. Right before she died.
Q. And she died in --
A. 1999.
Q. January of --
A. January 4th.
Q. Okay. And you knew that your brother, Sean, was living at 23 Marshall Street from June of 1998, correct?
A. Yeah; he was renting from my mother and father.
Q. That's what you understood?
A. Yes.
Q. Okay. And how was he paying them the rent?
A. He and his roommates rented from my mom.
Q. And do you know how much they were paying?
A. I don't recall.
Q. Okay. And --

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A. We were originally going to move there, my family and I, before my grandmother got sick to look after her, and then she passed away. And then my brother and his roommates asked if they could move into Marshall Street, and they rented from my mom.

Q. And exactly when did they ask to move into Marshall Street?

A. I don't recall what date.

Q. Well, do you recall that your brother, Sean, went on May 29th and put down $10,000 cash to buy the place at an auction?

A. Well, my mother was sick in the hospital and she just got out. And she had C. diff, if you guys know what that is.

Q. So when did she get out, that night before she -- I'm sorry.

A. It was when --

Q. I'm sorry. Let me ask you a question. You just indicated that Sean went to Marshall Street to do the auction because your mom was sick in the hospital?

A. Yes.

Q. Now, did she get out that night or did she get out at some point later?

A. Later.

Q. Okay. So was she in the hospital on June 1st when

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she went into the mortgage brokerage company and filled out a false mortgage application?
A. I know when she was in the hospital, she was very sick and he represented her. That's all I know.
Q. That's what your story is.
A. Uh-huh.
Q. Now, you also talked about going to Marian College and --
A. Marian Court.
Q. Marian Court College. And your mom went there, too?
A. Uh-huh.
Q. And you both received financial aid?
A. Uh-huh.
Q. Did you know your mom lied on her financial aid application?
A. She lied? I don't think she did.
Q. Well, let me ask you if -- this is a copy of Defense Exhibit L, I believe. You don't have a cousin Sean, do you?
A. No.
Q. Does your mom have a cousin Sean Bucci?
A. No.
Q. Did you know that she was putting Sean Bucci as a reference for her financial aid application and claiming that he was a cousin?

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A. I can't even see that.
Q. Right here where it says "Relationship to borrower: Cousin." Do you see that?
(There is a pause.)
A. I do see a little bit of it. My eyes are blurry.
Q. You're not sure whether it says "cousin" or not?
Well, let me ask you this: Did you know -- do you know somebody named Chris Bleicher?
A. Yes, I do.
Q. Who's he?
A. He's my brother's friend.
Q. And where did he live?
A. He lived with my brother.
Q. At 23 Marshall Street?
A. Uh-huh.
Q. Did you know that your mother claimed that he lived at 32 Marshall Street on this same application for financial aid, putting him down for a reference?
A. Probably the numbers are transposed.
Q. Is there any confusion as to whether it was at 23?
A. It's 23.
Q. Okay. Do you think that had anything to do with the fact that she was listing Sean at 23 Marshall and didn't want it to appear that two references were from the same place?

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THE COURT: She can't tell what was in someone else's mind.

BY MR. McADAMS:

Q. Now, this application for financial aid was signed by your mom on August 12th of 1999. Do you see that?

A. I can't see that.

Q. Okay. Well, let me show you down there. This is dated September 20, 1999, when part of it was completed. Do you see that?

A. Very barely. Yeah, I can a little bit.

Q. So you would agree with me that this was an application that was being done in 1999, at least at some portion of the time?

A. That's when she was starting to go to college.

Q. Right. And did you know that at the same time, in the fall of 1999, your mom was filing out false loan applications to refinance the house at 23 Marshall Street?

MR. SINSHEIMER: The question was did she know, your Honor.

THE COURT: Sustained.

THE WITNESS: No, I did not.

MR. SINSHEIMER: I object.

MR. McADAMS: The question is whether the witness knew.

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THE COURT: No, I sustained the assumption included in your question.

MR. SINSHEIMER: And I objected.

BY MR. McADAMS:

Q. You talked about the house you grew up in in Danvers?

A. Uh-huh.

Q. And you stated that your dad inherited that from his uncle?

A. Yes, he did.

Q. And do you know when your uncle passed away?

A. Before I was born.

Q. Do you know when? Well, let me rephrase the question.

Do you know how long your parents lived there, or when they moved in?

A. All their life; since they got married.

Q. And when was that?

A. 1971.

Q. And was it that your dad's uncle had passed away a year or two prior to that?

A. Yeah; I believe so.

Q. And does it jibe with your recollection that -- this is also from the defense exhibits. This is from the will of Pasquale Landolphi -- that your dad inherited

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some money back at the time when he also inherited the house?
A. Yes.
Q. And that later when the estate was final, closed out back in 1982, that a little bit more was given to your dad?
A. Yes.
Q. And were you aware that the total amount of all that money was about $50,000?
A. It might be a little bit more.
Q. It could have been $52,000?
A. I'm not -- I don't recall, but I know it was a lot of money.
Q. And you testified that you were not wealthy growing up?
A. No; it was a frugal life.
Q. Did you go on a lot of vacations?
A. No, we never went on any vacations.
MR. McADAMS: No other questions. Thank you.
THE COURT: I have a question: With regard to your mother's inheritance from your grandmother, did you say it was paid in cash?
THE WITNESS: Yes.
THE COURT: How do you know that?
THE WITNESS: Because she showed me and she kept

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it in a safe.

THE COURT: I'm sorry?

THE WITNESS: She showed me and she kept it in a safe.

THE COURT: She showed you? Okay.

Anything else?

MR. SINNIS: No, your Honor.

THE COURT: Thank you very much, ma'am. You're excused.

(The witness is excused.)

MR. SINSHEIMER: Defense rests, your Honor.

THE COURT: Very good. I believe that means all parties have rested; is that right?

Ladies and gentlemen, this means we completed the presentation of evidence and we'll stop for the day, and of course for the week, and we'll resume Monday morning at which time counsel will sum up for you, state their positions as to what the evidence establishes, and I'll charge you and you'll start your deliberations.

Are there any other matters that anybody wishes to bring up before I discharge the jury?

MR. SINNIS: None, your Honor.

MR. SINSHEIMER: None, your Honor.

THE COURT: Thank you very much, ladies and gentlemen. Have a good weekend.

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THE CLERK: All rise while the jury leaves the courtroom.

(Jury out at 12:11 p.m.)

THE CLERK: You may be seated.

THE COURT: The only thing I have to take up before I leave is to ask whether you could give me an approximation of how long you think your closing statements will be.

MR. LEVITT: I'd say half an hour to 45 minutes.

MR. SINNIS: I would say 45 minutes, your Honor.

MR. SINSHEIMER: Same range, your Honor.

THE COURT: Okay. So you'll need, with a government rebuttal, if necessary, a couple of hours. I'm asking so I can target what moment I have to have the charge. All right. We'll be working on it this afternoon.

MR. SINNIS: There is one thing with regard to the charge, your Honor, and it's on the statute of limitation. I hope your Honor appreciates why I'm doing this: just simply to preserve my record.

THE COURT: Yes.

MR. SINNIS: Your Honor was apparently inclined to deny my motion for an instruction on statute of limitations. I'm going to renew that request. Your Honor wanted some cases. I'm going to give your Honor

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two cases is which -- one is a 2006 First Circuit case *U.S. v. DeLeon*, 444 F.3d 41, where the statute of limitations argument was presented to the jury and the First Circuit did not rule it improper. The other is another First Circuit case, *U.S. v. Thurston*, 358 F.3d 51, where the defendant did not ask for an instruction on statute of limitations and the First Circuit ruled it forfeited.

So I am renewing my request for a specific instruction, the one I submitted to your Honor earlier, for an instruction on the statute of limitations based on these two cases.

MR. SINSHEIMER: Judge, I join that. And also --

THE COURT: Are you going to give us a copy of that?

MR. SINNIS: Do you want a copy of the cases, your Honor? I will provide it to your law clerk.

THE COURT: We've got the citation. Okay.

MR. SINSHEIMER: Judge, I join the request. Also, just to be clear, I don't need to argue, but I just need to make sure you got -- I filed this morning a second supplemental request for jury instructions. I gave a hard copy to Mr. Howarth. I was trying to get it filed electronically, but I'm here and they're back in

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the office. I just wanted to make sure you have it.

THE COURT: We have it, apparently.

MR. SINSHEIMER: Thank you very much.

MR. LEVITT: Your Honor, the only issue with respect to jury instructions that I want to raise is the drug quantity instruction. As you'll recall, there was -- we submitted a special verdict form on that, and the Court indicated that it was inclined to agree with the government's proposal on drug quantity -- on the drug quantity issue.

THE COURT: I received one from you this morning which -- let me put it this way: I believe it is appropriate, yes, to have an instruction with regard to weight. I don't like the language of the one that you submitted this morning because it says that as to the 1,000 -- it first gives an amount and then says yes or no. That's not the way I want to do it. I want to do it by saying: "Do you find that the amount involved was above or below?" or something like that.

MR. LEVITT: Above or below a certain amount?

THE COURT: We're talking 1,000, aren't we?

MR. LEVITT: Correct.

THE COURT: Right.

MR. LEVITT: And then there's 100 as well. The --

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MR. SINNIS: Are we talking about the jury verdict form or an instruction?

THE COURT: Yes, the jury verdict form.

MR. SINNIS: Okay.

MR. LEVITT: The main issue for the government is that it is separate from the initial question of --

THE COURT: I agree with that.

MR. LEVITT: Okay.

MR. SINNIS: Will your Honor let me see that, exactly what you're going to send out in terms of a jury verdict form, before I --

THE COURT: I will do my best to do that, yes.

MR. SINNIS: Because that's important in terms of my closing. Is there any way we'd know how the verdict form is going to look today? Not the jury charge but the verdict form.

THE COURT: I don't have it prepared. I think I'll -- we'll prepare it this afternoon and you can come to my chambers on Monday morning, or I could give you a copy on Monday morning before you start your opening statements.

MR. SINNIS: I just want to make sure I've got my mind wrapped around it. Is there going to be something similar to what the government's asking for, which is: Did Mr. Bucci conspire, and then if so, is it

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1,000, yes or no, or is it 100, yes or no? Is it going to be something like that or is it going to be: Did Mr. Bucci conspire to distribute over 1,000: guilty or not guilty; or did Mr. Bucci conspire to distribute under 1,000: guilty or not guilty?

I'm just not clear, and it's really important for how I sum up, your Honor. I need to be clear on this before I leave today.

THE COURT: They're two separate questions: One is did he conspire and the other is what is the amount.

MR. SINNIS: Are you going to offer amounts like over 1,000 or under 1,000 or are you going to --

THE COURT: I'm going to put the question to them as to whether it was a thousand or over, yes.

MR. SINNIS: In terms of the conspiracy?

THE COURT: Yes.

MR. SINNIS: Because I don't have any problem with the way Mr. Levitt submitted it this morning, frankly. I don't have a problem with that. I had a problem with his initial one. This one I don't have a problem with, so...

THE COURT: If you don't have a problem with the initial one -- I mean, with the one this morning, that's all right with me.

MR. SINNIS: Okay. Then let's go with this one.

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MR. LEVITT: The only difference between the two is I included the hundred.

MR. SINNIS: So we're going to go with the one Mr. Levitt submitted this morning?

THE COURT: Yes.

MR. SINNIS: Thank you, your Honor.

MR. LEVITT: Thank you, your Honor.

THE CLERK: All rise.

THE COURT: See you Monday morning.

THE CLERK: Court is now in recess.

(The proceedings adjourned at 12:17 p.m.)

C E R T I F I C A T E

I, Marcia G. Patrisso, RPR, CRR, Official Reporter of the United States District Court, do hereby certify that the foregoing transcript constitutes, to the best of my skill and ability, a true and accurate transcription of my stenotype notes taken in the matter of Criminal Action No. 03-10220-MEL, United States of America v. Sean Bucci, et al.

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MARCIA G. PATRISSO, RPR, CRR
Official Court Reporter

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