

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Action No. 96-CR-68

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TERRY LYNN NICHOLS,

Defendant.

REPORTER'S TRANSCRIPT

(Trial to Jury: Volume 70)

PROCEEDINGS

Proceedings before the HONORABLE RICHARD P. MATSCH,
Judge, United States District Court for the District of
Colorado, commencing at 1:35 p.m., on the 10th day of November,
1997, in Courtroom C-204, United States Courthouse, Denver,
Colorado.

Proceeding Recorded by Mechanical Stenography, Transcription
Produced via Computer by Paul Zuckerman, 1929 Stout Street,
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APPEARANCES

LARRY MACKEY, BETH WILKINSON, GEOFFREY MEARNES, JAMIE
ORENSTEIN, and AITAN GOELMAN, Special Attorneys to the U.S.
Attorney General, 1961 Stout Street, Suite 1200, Denver,
Colorado, 80294, appearing for the plaintiff.

MICHAEL TIGAR, RONALD WOODS, ADAM THURSCHELL, and
REID NEUREITER, Attorneys at Law, 1120 Lincoln Street, Suite
1308, Denver, Colorado, 80203, appearing for Defendant Nichols.

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PROCEEDINGS

(Reconvened at 1:35 p.m.)

THE COURT: Be seated, please.

(Jury in at 1:35 p.m.)

THE COURT: Next witness, please.

MR. MACKEY: Thank you, your Honor. We call Ronald
Bain.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Ronald Bain affirmed.)

THE COURTROOM DEPUTY: Would you have a seat, please.

State your full name for the record and spell your
last name, please.

THE WITNESS: My name is Ronald L. Bain, B-A-I-N.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Please.

MS. WILKINSON: Thank you, your Honor.

Ronald Bain - Direct

DIRECT EXAMINATION

BY MS. WILKINSON:

Q. Good afternoon, sir.

A. Good afternoon.

Q. Could you tell us where you live.

A. I live in Marengo, Ohio.

Q. And how long have you lived in Marengo, Ohio?

A. I've been there about the nine months now.

Q. Are you married?

A. Yes.

Q. Do you have any children?

A. Yes.

Q. How old are they?

A. Ten, seven, and three.

Q. Are you working --

A. Yes.

Q. -- near Marengo?

A. Yes, I've worked in Columbus, Ohio.

Q. What do you do in Columbus?

A. I'm a project manager for Ameritech.

Q. What is Ameritech?

A. Ameritech is a regional Bell operating company in that region.

Q. When did you start working for Ameritech?

A. November 11 of '96.

Ronald Bain - Direct

Q. What had you been doing prior to that?

A. Prior to that I was a U.S. Army officer.

Q. Did you retire from the Army?

A. Yes.

Q. When did you retire?

A. September 30 of '96.

Q. What rank did you obtain before you retired?

A. I was a major in the Army.

Q. Did you have an MOS, area of specialty?

A. Yes, I was a Signal Corps officer, communications officer.

Q. How long were you in the Army before you retired?

A. I was on active duty for 16 years.

Q. Did you have any other service?

A. Yes, before that, I was in the National Guard for three-and-a-half years.

Q. What was your last assignment you had when you were in the Army?

A. My last assignment was as the executive officer of the U.S. Army Recruiting Battalion in Oklahoma City.

Q. What does an executive officer for a recruiting battalion do?

A. My responsibilities was to maintain and manage the day-to-day operations of the headquarters, to make sure that all the sections of the battalion headquarters provided support to recruiters in the field.

Ronald Bain - Direct

Q. You said "recruiters in the field." Could you describe for us the difference between the headquarters and the recruiters in the field?

A. We had recruiting stations in Oklahoma and in Arkansas and in northern Texas. And they did active recruiting out of the recruiting stations. At battalion headquarters we did not do active recruiting; we did processing of paperwork, processing of waivers, supply operations, personnel operations, those sort of things.

Q. When did you become the executive officer for the headquarters Army Recruiting Battalion?

A. In August of 1994.

Q. Were you the executive officer on April 19, 1995?

A. Yes, I was.

Q. Can you tell us prior to that date how often you were in the office.

A. I was in the office every day.

Q. Did you know everyone who worked in that office?

A. Yes, I did.

Q. Could you tell the jury where the office was located for the U.S. Army Recruiting Battalion on April 19, 1995?

A. Our offices were on the fourth floor on the west end of the building.

Q. Did you have officers in any other location?

A. We also had a company headquarters that occupied office

Ronald Bain - Direct

space on the third floor.

Q. You said "the building." Which building was that?

A. The Alfred P. Murrah Building.

Q. Let me show you Government's Exhibit 952, which has previously been entered into evidence, the third floor. Do you recognize that floor plan?

A. Yes, I do.

Q. Could you circle the area where the Army had offices on the third floor of the Murrah Building, please.

And how many people were located on the third floor that worked for the Army?

A. At the time of the bombing, there were two people there.

Q. What did they do for the Army?

A. That was our company headquarters, so they were responsible for the recruiting stations we had in Oklahoma City.

Q. Were the remaining personnel located on the fourth floor?

A. Yes.

Q. Let's take a look at that floor plan. Do you recognize that?

A. Yes.

Q. Now, I take it the green area marked Army, that's the area where you had your office and the rest of the offices?

A. That's correct.

... That's correct.

Q. Could you start from the left-hand side where it says "Public Affairs" and tell us what section were housed in which

Ronald Bain - Direct

areas of this floor plan. You can use that pen, if you'd like.

A. Okay. The four offices -- there were actually four people that occupied this area. There was an office here.

Q. "This area" meaning what's Public Affairs?

A. What I just circled.

Q. It's marked "Public Affairs"?

A. Yes, that was our Advertising and Public Affairs section. There was four people, one in each of the smaller offices and two in the larger office.

Q. If you could proceed to the right and tell us who was in the office there.

A. The first circle I drew was there. That's the area where our RA and reserve operations personnel were located.

Q. When you say "RA," what do you mean?

A. Regular Army.

Q. And if you could keep going toward the right.

A. And then in this area was our personnel section. This office was the personnel officer's office, and then this area where the NCOIC, the noncommissioned officer in charge, and the other personnel that worked in the personnel section.

Q. Did you have both active-duty and civilian personnel working in the Army office on April 19, 1995?

A. Yes, we did.

Q. Let's proceed back, if we could, and tell the jury who had their offices back in that back space.

Ronald Bain - Direct

A. In the Public Affairs space?

Q. No, back over to the right.

A. Here? I'm not sure I follow you.

Q. No, go further back.

A. Over in this area?

Q. I can't see your mark.

A. Okay.

Q. Can you do that again?

A. Right there.

Q. Yes, tell us who's located there.

A. There we had -- at that time there were two NCOs and two civilian personnel that worked in that area.

Q. Which section were they assigned to?

A. In the Operations section.

Q. Okay. So that area was the Operations section; is that correct?

A. That's correct.

Q. Now, go back behind that, straight back towards the south of the building.

A. Over in this area?

Q. Yes. Well, in that whole space that you haven't marked,

tell us who's housed there.

A. Okay. Right next to the personnel section, we had our Supply section, and they occupied this area here, those two offices. The battalion commander's office was in the corner.

Ronald Bain - Direct

My office was next to his.

Q. Could you put an X in your office?

A. Yes. It was right there.

Q. Did you have windows facing the south plaza?

A. Yes.

Q. Keep going, please.

A. Next to me was the sergeant major's office. Next to him was our education services specialist that was assigned to the battalion. And then this office here was our Budget section. Then there's one other office in the middle of the complex where the recruiter trainers were located. And then there was a secretary in the middle of the open area between the offices.

Q. What rank was the battalion commander who sat there in the back corner?

A. Lieutenant colonel.

Q. Were you in your office on the fourth floor of the Murrah Building on the morning of April 19, 1995?

A. Yes, I was.

Q. When did you arrive that morning?

A. I arrived there at approximately 8:25.

Q. Could you click your pen a couple times and clear that screen. Just press the button on the side of the pen.

A. Okay.

Q. Keep going until you see all the marks go away.

Now, you told us you entered the building at

Ronald Bain - Direct

approximately what time?

A. Approximately 8:25.

Q. What did you do when you got there that day?

A. I went to my office to start process -- 'cause the battalion commander was out of the office and he'd be returning that day, so I started making a list of everything we needed to have squared away for him as he got back.

Q. Did you see anyone as you arrived that morning?

A. Yes, I talked to Jona Gert, the battalion secretary.

Q. Did anyone else come into your office at that time?

A. Yes, Sergeant Evans, our -- he was the noncommissioned officer in charge of the personnel section, brought in Sergeant Titsworth to meet me.

Q. Why did Sergeant Evans bring in Sergeant Titsworth to meet you?

A. Sergeant Titsworth was a new soldier being assigned to our battalion. He had orders and was reporting for duty. He was being assigned to the personnel section. And so Sergeant Evans

brought him in to introduce me because as the executive officer, I supervised everyone in the headquarters, so he wanted me to get to know the soldier.

Q. Was that Sergeant Titsworth's first day on the job?

A. Yes, it was.

Q. Was he -- was Sergeant Titsworth alone in the office?

A. No, he was not.

Ronald Bain - Direct

Q. Who was with him?

A. His wife and his two daughters.

Q. Do you know how old his daughters were?

A. Five and three.

Q. Do you know the name of his youngest daughter?

A. Kayla.

Q. After you met Sergeant Titsworth, did you leave the building that morning?

A. Yes.

Q. What did you do?

A. I had to return to my truck. I'd left some tax documentation there, and I went back to my vehicle to get that documentation.

Q. Where was your truck parked?

A. In the parking lot across the street from the front of the federal building.

Q. Is that the parking lot that is in between the Murrah Building and the Journal Record Building?

A. Yes, sir.

Q. That large parking lot there in front?

A. Yes.

Q. And did you return to the building before 9:00 a.m.?

A. Yes, I did.

Q. Did you see anyone from the Army Recruiting office as you were returning to the Murrah Building prior to 9:00 a.m.?

Ronald Bain - Direct

A. As I got off the elevators on the fourth floor, Sergeant Lola Bolden, I met her and also Sergeant Bernard Jones. They were getting on the elevators as I was getting off.

Q. So you saw them on the fourth floor?

A. That's correct.

Q. Did you ask them where they were going?

A. I said -- I asked them where they were going. They said they were going out to our warehouse to do some inventory.

Q. Where was the Army warehouse located in Oklahoma City?

A. It was in the GSA warehouse, which is on the east side of the city.

Q. Do you know whether Sergeants Bolden and Jones made it to the warehouse that day?

A. I know for a fact they did not.

Q. Was Sergeant Lola Bolden killed in the blast that day?

A. Yes, she was.

Q. Do you know where they recovered her body?

Q. DO YOU KNOW WHERE THEY RECOVERED HER BODY:

A. Her body was recovered in the parking garage.

Q. Where was Sergeant Bernard Jones at the time of the blast?

A. He was with Sergeant Bolden on the first floor of the building.

Q. And he survived the blast?

A. Yes, he did.

Q. Let's go back to when you were on the fourth floor after you spoke to Sergeant Bolden and Sergeant Jones. What did you

Ronald Bain - Direct

do?

A. I returned to my office to make a phone call.

Q. What happened next?

A. Next thing I recall, I recall hearing a very loud noise, and I thought perhaps our Supply section was moving some boxes on a handcart and it had crashed into the wall. I remember --

Q. Go ahead.

A. I remember reacting to that, just briefly; and then the next thing I knew, I was getting up off my floor.

Q. Did you have any idea what had happened at that time?

A. No.

Q. What did you see when you got up from the floor?

A. The office -- the windows in my office, which overlooked the plaza, were gone; and I looked out over the plaza, and the ground was all buckled and the plaza was covered with debris.

Q. What did you do?

A. I turn the other way, to look towards the center of the building, and I noticed I could look all the way through the building. The walls were gone.

Q. Was part of the Army Recruiting office gone?

A. Yes.

Q. What did you do after you saw that?

A. My first reaction was to find out if Jona was okay, so I called out her name; and I heard an answer, but I couldn't find her in the debris. And she told me she was under her desk.

Ronald Bain - Direct

Q. What did you do for her?

A. I got down on my hands and knees and asked her to crawl out to me, but there was glass everywhere; so I got something -- I believe it was a ceiling tile -- and I cleaned it off and slid it to her so she could get out.

Q. Were you concerned about her ability to get out from underneath the desk?

A. Yes.

Q. Why?

A. She has multiple sclerosis; and she's able to walk, but she's very frail.

Q. What happened?

A. She crawled out; and I said, "Jona, are you okay?"

And she said, "Yes."

And I said, "Wait here. I'll come back for you."

Q. Did you leave the area to look for others?

A. Yes.

Q. Did you see anyone as you left?

A. After I took care of Jona and as I made my way toward the other part -- or towards personnel section, there was a woman standing there and she was screaming, "Where's my baby?"

Q. Did you know who she was at the time?

A. No.

Q. Did you later learn who she was?

A. Yes.

Ronald Bain - Direct

MR. TIGAR: Objection, your Honor.

THE COURT: Overruled.

BY MS. WILKINSON:

Q. Who was she?

A. Mrs. Titsworth.

Q. Was she there with one of her children?

A. Yes.

Q. The older one or the younger one?

A. The oldest one.

Q. When you saw Mrs. Titsworth at that time, did you see her youngest daughter, Kayla?

A. No.

Q. What did you do next?

A. As I made my way through the debris to the personnel section, I met Sergeant Davenport. He was the noncommissioned officer in charge of our Operations section.

Q. That's the section that you told us was right here in the center of the office?

A. Yes.

Q. What did he say to you?

A. He really didn't say anything to me. I told him to get accountability of his people.

Q. Could you tell if he had any injury at that time?

A. Yeah. He didn't have any injuries.

Q. Did you see anyone else at that time?

Ronald Bain - Direct

A. Then I made my way to the personnel section, and I saw Sergeant Evans, the NCOIC of the personnel section.

Q. Did he have any injuries?

A. Yes.

Q. What injuries could you see?

A. He had -- his back was bloody and he had glass in his back.

Q. Did you speak to him?

A. Yes.

Q. What did you instruct him to do?

A. I told him also to get accountability of his people.

Q. Did you continue to look for other personnel who may have survived?

A. Yes.

Q. Where did you go?

A. I went to -- the personnel officer was Captain Lawrence Martin, and I went to his office, or what used to be his office.

Q. What did you find when you got there?

A. At that time he was sitting in a chair, and he had a bad head wound and his right hand was nearly severed and blood was squirting out of his wrist.

MR. TIGAR: Your Honor, I object to this detail.

THE COURT: Overruled.

BY MS. WILKINSON:

Q. What did you do?

Ronald Bain - Direct

A. I knew at that time that we had to provide some sort of emergency medical care. And we had a first-aid kit in the supply room, but looking for it was pointless. And I knew we had to have a tourniquet to stop the bleeding, so I took my tie off. I was wearing a tie that day, and I don't recall specifically if I handed it to someone else and they put it on his wrist, but the tie was on his wrist to stop the bleeding.

Q. Did you do anything about his head injury?

A. Yes. I knew he needed to have some sort of bandage, and the cleanest thing I could think of was the white, cotton T-shirt I had on --

Q. So what did you do?

A. -- so I took off my uniform shirt and used my T-shirt to bandage his head.

Q. Did Sergeant Davenport come back into the area at that time?

A. Yes.

Q. What happened?

A. He told me he couldn't find any of his people.

Q. And those were the folks in the operations center?

A. Yes.

Q. Closest to the windows of the Murrah Building?

A. Yes.

Q. What did you do?

A. One of the other soldiers -- made my way to another soldier

Ronald Bain - Direct

who was badly injured. That was Sergeant Marilyn Travis. She was bent over her desk, and she was in extreme pain and she also was covered with blood. And I knew we had to bandage her as well.

Q. So what did you do?

A. I got another -- I asked Sergeant Davenport for his T-shirt and bandaged her as well.

Q. Did you try to get these people out of the building for medical attention after giving them the bandages?

A. Yes.

Q. What did you do?

A. We started raining up like we ambulatory, the assault and

A. We started pairing up who was ambulatory, who wasn't and who could help each other out, and so we started just pairing up and making our way out of the building toward the stairwell.

Q. How did you get Captain Martin out of the building?

A. I asked Anthony Scott, who worked in our Supply section who was there -- and I asked him and Captain Martin if they could both get out together, and they said they could, so they made their way out.

Q. Was Sergeant Travis able to get herself out of the building?

A. No, she was not.

Q. What did you do?

A. We had a bulletin board in the office that had all of our names on it, the commander, executive officer, etc. And that

Ronald Bain - Direct

of course had fallen off the wall. It was off the wall, so I turned it over, cleaned it off, and then I didn't help carry her out, but four other individuals carried her out to the stairwell.

Q. Did you help anyone get out of the building, yourself?

A. Yes, I went back to Jona and helped her out.

Q. What did you do with those folks after you got them out of the building?

A. We took them to the curb, which -- along the building which ran behind the building. And there were already ambulances there, so some of them started -- got loaded up right away; and the rest of them either laid down or sat down and waited.

Q. Did you speak to them?

A. Yes.

Q. What did you say?

A. I said, "Hang in. Help's on its way."

Q. Did you go back in the building?

A. Yes.

Q. Where did you go?

A. I went back to the fourth floor. There was -- when we went out, there was some people who were -- weren't injured and stayed behind to look for the people we couldn't find, so I went back to assist.

Q. Did you find anyone else?

A. I did not personally.

Ronald Bain - Direct

Q. At sometime during this, were you able to see your car in the parking lot across the street?

A. Yes.

Q. Could you see it from the fourth floor?

A. Yes.

Q. What did you notice?

A. It was engulfed in flames.

Q. Were all the cars in that parking lot engulfed in flames?

A. No.

--- ---

Q. Were some of them?

A. Yes.

Q. Now, after you determined that you couldn't find anyone else in the building, did you see any rescue workers in the building?

A. Yes.

Q. Who did you see?

A. A fireman was -- firemen had already been in the building, but there was one on the fourth floor with us.

Q. Did you tell him about the people you could not account for?

A. Yes.

Q. What did you say?

A. I said -- well, he told us we needed to leave the building. And I said, "There are five people here I can't find, a man and four women."

Ronald Bain - Direct

Q. And when you got outside of the building that second time, did you try and account for all your people?

A. Yes.

Q. Had any one of your personnel or people located any of the missing?

A. Yes.

Q. What happened?

A. When I went back into the building to look for people, Sergeant Evans found Kayla Titsworth.

Q. And what was her condition when he --

A. She was dead.

Q. Did he bring her out of the building?

A. Yes.

Q. Were you able to find the others that were missing that day?

A. No.

Q. Did they all die in the bombing?

A. Yes.

Q. Did you learn that several days later?

A. Yes.

Q. Where were they found?

A. They were found in the rubble at the base of the building.

Q. Now, after April 19, 1995, was the Army Recruiting office headquarters able to resume operations immediately?

A. No.

Ronald Bain - Direct

Q. Why not?

A. All of our computer systems and files in -- on the fourth floor, part of those had fallen with the rest of the building; and the rest were destroyed, and we weren't able to recover them.

Q. Did the Army send in additional personnel to help you begin

operations again?

A. Yes.

Q. Now, if I show you Government's Exhibit 1039, a chart with the personnel from the Army Recruiting office who died that day, could you identify them for the jury and tell them what they did for the Army Recruiting office?

A. Yes.

MS. WILKINSON: Your Honor, we'd move in Government's Exhibit 1039 and ask that Mr. Tongate put it in front of the jury.

MR. TIGAR: Subject to our earlier discussion.

THE COURT: All right. It's received.

Yes, you may display it.

BY MS. WILKINSON:

Q. Major Bain, before we begin, you told the jury earlier that when you spoke to the firefighter, you said you were missing five people; is that right?

A. Yes.

Q. And there are seven people up on that chart that is Exhibit

Ronald Bain - Direct

1039. Can you explain the discrepancy?

A. When I told the firefighter, I told him it was six, one man and four women -- correction, one man and five women.

Q. Why do we have a discrepancy of one person here?

A. I saw Sergeant Bolden and Sergeant Jones at the elevator, I wasn't sure, I hoped that they had gotten out of the building.

Q. You were wrong about whether they had survived?

A. That's correct.

Q. Could you step down and keep your voice up and tell the jury the name of each individual and what they did for the Army.

A. Lola Renee Bolden was a sergeant first class. She was our supply sergeant.

Karen Gist Carr worked in our Advertising and Public Affairs section. She was an advertising assistant.

Peggy Holland worked in our Advertising and Public Affairs section, also. She had recently changed jobs to be our information management officer.

John Moss was the chief of our Advertising and Public Affairs section.

Victoria Lee Sohn was sergeant first class, worked for our Operations section.

Delores Stratton worked in our Operations section. She was a personnel clerk.

And Wanda Lee Watkins worked in our personnel section.

Ronald Bain - Direct

She was a personnel clerk, also.

Q. You can take your seat.

MS. WILKINSON: We have no other questions, your

..

Honor.

THE COURT: Mr. Tigar.

CROSS-EXAMINATION

BY MR. TIGAR:

Q. Major Bain.

A. Sir.

Q. My name is Michael Tigar. I'm one of the lawyers appointed to help out Terry Nichols.

I wanted to ask you a few questions, sir, about what you saw on the north side of the building during the time you were working there. I understand that your first -- your first duty that day was to your fellow soldiers --

A. Yes, sir.

Q. -- and the others; correct?

A. Yes, sir.

Q. And that's what you were principally engaged in was trying to help them; right?

A. Yes, sir.

Q. But were you able to see some of the things out on the north side of the building having to do with the damage that was wrought by the blast?

A. Yes, sir.

Ronald Bain - Cross

Q. Now, the first thing, sir, that you remember seeing -- or one thing you remember seeing is your car on fire; is that right?

A. Yes, sir.

Q. Was it your -- did you usually park on that parking lot that's between the Murrah Building and the Journal Record Building?

A. Yes, sir.

Q. And at the time that you saw your car on fire there, could you see firemen attempting to put out those blazes?

A. I didn't -- it was not a high priority to me. I didn't notice.

Q. I understand.

A. I did not notice anyone out there at the time.

Q. Okay. And after you finished doing the rescue work and the helping work that you described for us here, did you leave the scene of the Murrah Building?

A. Yes, sir.

Q. Okay. And when was the first time that you came back to the Murrah Building after the 19th?

A. I'm not really sure how soon it was after that. It must have been four or five days. I really don't recall.

Q. So by that time -- by the time you came back, the rescue workers and the work that they were doing was very far along, the situation --

Ronald Bain - Cross

A. Yes.

Q. The situation had changed a great deal from the way it was

Q. The situation had changed a great deal from the way it was when you first left there; is that fair to say?

A. The rescue operation was well under way. The landscape had not changed that significantly.

Q. All right. And did you ever get your car back? Did you ever go look for it?

A. We were told we needed to go to a salvage yard there in Oklahoma City and take our title with us. If we did so, we could sign it over.

Q. Okay. When you went back there on the -- that four or five days later, whatever it was, had the cars in that parking lot been moved?

A. I believe so, sir; yes, sir.

Q. And you don't -- you don't know today exactly when that was done or how; is that fair?

A. I know how it was done. I don't know when it was done, no.

Q. The when is the part I was asking, but all right.

MR. TIGAR: Thank you, very much; I appreciate your answering my questions.

No further questions.

MS. WILKINSON: There's one thing I forgot, your Honor, make a record.

REDIRECT EXAMINATION

BY MS. WILKINSON:

Ronald Bain - Redirect

Q. Major Bain, before you came to court today, did I ask you to place the names of the individuals who had died for the Army on the floor plan where they had been at the time of the bombing?

A. Yes, ma'am.

MS. WILKINSON: Your Honor, we would move in 952D and 952C, although we don't want to display them at this time.

MR. TIGAR: No objection.

THE COURT: All right. Received.

MS. WILKINSON: The witness is excused, your Honor.

THE COURT: Excused?

MR. TIGAR: Yes, your Honor.

THE COURT: You may step down. You're excused.

THE WITNESS: Yes, your Honor.

MR. MACKEY: Your Honor, we would call Gregory Pfaff.

THE COURT: All right. Mr. Pfaff.

THE COURTROOM DEPUTY: Raise your right hand, please.

(Gregory Pfaff affirmed.)

THE COURTROOM DEPUTY: Would you have a seat, please.

Would you state your full name for the record and spell your last name.

THE WITNESS: Gregory Michael Pfaff, P-F-A-F-F.

THE COURTROOM DEPUTY: Thank you.

MR. GOELMAN: Thank you, your Honor.

DIRECT EXAMINATION

Gregory Pfaff - Direct

BY MR. GOELMAN:

Q. Mr. Pfaff, where do you live?

A. Harrisonburg, Virginia.

Q. Are you married?

A. Yes.

Q. Do you have any kids?

A. Yes.

Q. How many?

A. I have one daughter that's five and a half.

Q. And what do you do out there in Harrisonburg?

A. I own a delicatessen.

Q. What did you do before you owned a delicatessen?

A. I owned a business, Lock & Load Distributors.

Q. What kind of business was Lock & Load Distributors?

A. Sold special-application ammunitions.

Q. What exactly are special-application ammunitions?

A. Special-application ammunitions are ammunitions that aren't used for target shooting or hunting. It's more of a tracers, incendiaries, armor-piercing bullets, things of that nature.

Q. Self-defense and military-type ammunitions?

A. Yes.

Q. Where did you sell this ammunition?

A. At gun shows.

Q. And what exactly are gun shows?

A. In a layman's terms, gun shows are a flea market for

Gregory Pfaff - Direct
firearms, ammunition, and supplies of that nature.

Q. And how many gun shows did you go to a year when you were in the Lock & Load business?

A. I would do approximately 45 to 48 gun shows a year.

Q. Were those shows held during the week or on weekends?

A. They were all on the weekends, that I know of.

Q. Mr. Pfaff, do you know Tim McVeigh?

A. Yes.

Q. When did you first meet him?

A. It was the early part of 1992.

Q. And where did you meet him?

A. Monroeville, Pennsylvania.

Q. How many times have you seen Tim McVeigh?

A. Counting the trial, it was five.

Q. So before the trial, you saw him four times?

A. Yes, sir.

Q. And were all those times at different gun shows?

A. Yes, sir.

Q. Did you ever see Mr. McVeigh except for at a gun show?

A. No, sir.

Q. Do you remember the last time that you saw Tim McVeigh, Mr. Pfaff?

A. Last time was in 1993.

Q. When about in 1993?

A. I don't know exactly when, but it was after the start of

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Waco.

Q. How do you remember that it was after the start of Waco when you last saw Mr. McVeigh?

A. He had a conversation with me about Waco and about going down to the siege and being there while the siege was on.

Q. Did Mr. McVeigh express any opinion to you about what was going on at Waco?

A. Yes. He stated that it was -- the government was infringing on civilians' rights and that this shouldn't be happening and that this could be the start of the government coming door to door, collecting weapons from the citizens.

Q. And did he predict civil unrest as a result of Waco?

A. Yes.

Q. Describe the last time that you physically saw Mr. McVeigh. Did you speak to him on the phone after that point?

A. Yes.

Q. About when was that?

A. That was around the fall of 1994.

Q. Where did you speak to Mr. McVeigh on the phone?

A. I was at my delicatessen.

Q. How many phone lines do you have at your delicatessen?

A. Two.

Q. Were you still in the gun show business back in the fall of 1994?

A. I was somewhat phasing it out.

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Q. What does that mean, "somewhat phasing it out"?

A. I still had a certain amount of inventory left that I was willing to get rid of. I no longer really went to gun shows at that time and no longer took out advertisements to sell wares; but clients that knew where I was, I was willing to sell what I had.

Q. Tell us about that conversation you had with Mr. McVeigh on the telephone.

A. Went through the normal pleasantries of "Hi, how you doing" type of things, hadn't talked to him in a while, asked him how he was doing. And he told me he was living in Arizona.

Q. Okay.

A. Went on further, just regular type of conversation; and then he asked me if I was still in the gun business. And I stated to him that I was somewhat phasing it out, that the delicatessen was becoming a, you know -- a viable way of life. And he asked me if I can get him any det cord.

Q. Now, what is det cord?

A. Det cord is -- detonation cord is a high-explosive primary charge used to set off a huge explosive charge or multiple explosive charges simultaneously. It's the primary source to set that off.

Q. What did you tell Mr. McVeigh when he asked if you could get him det cord?

A. I told him I didn't have it and I couldn't ship it in the

A. I told him I didn't have it and I couldn't ship it in the

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United States.

Q. What was his response?

A. See if I could -- he asked me if I could try to locate some. And I told him that I would see what I could do and to give me a call in about seven or ten days or so.

Q. Did Mr. McVeigh indicate to you why he was looking for det cord?

A. No.

Q. When you told Mr. McVeigh to give you a call back, did you intend to make any efforts to acquire det cord?

A. No.

Q. Why didn't you tell him that?

A. Because I never wanted to turn off a potential customer. He bought things from me before, and I still had this inventory that I thought someday he might be interested in purchasing some of.

Q. Did you make any efforts to try to locate det cord?

A. No.

Q. And did you hear from Mr. McVeigh again?

A. Yes.

Q. When was that?

A. It was about seven to ten days later.

Q. Where were you at that time?

A. I was at the delicatessen.

Q. Can you tell us about that conversation.

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A. There was again normal beginning telephone pleasantries, "Hi, how you doing." He asked me if I had gotten him any det cord, and I replied that I did not. The conversation somewhat ended after that.

Q. And during these two phone calls, did Mr. McVeigh ever talk to you in any kind of code?

A. No, sir. It was normal tones as we're speaking now.

Q. Mr. McVeigh never whispered to you during this conversation or anything?

A. No, sir.

Q. Did you ever supply Tim McVeigh with det cord?

A. No, sir.

Q. Did you ever refer him to anyone else or anyplace else where he might be able to acquire det cord?

A. No, sir.

Q. And after it became clear that you were not going to be a source of det cord for Mr. McVeigh, did he ever contact you again?

A. No, sir.

Q. Mr. Pfaff, what's the name of your delicatessen in Harrisonburg, Virginia?

A. Brooklyn's Delicatessen.

Q. And was that its name back in September, October of 1994?

-
A. Yes, sir.
Q. Could you look inside -- do you have a folder up there?

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A. No, sir.

MR. GOELMAN: One moment, please.

BY MR. GOELMAN:

Q. Can you look and see if you can find Government Exhibit 1888. What's been marked Government's Exhibit 1888 for identification, you find that?

A. No, sir.

Q. I think -- does that have a number on the tag in the lower right-hand corner, Mr. Pfaff?

A. 555.

Q. Okay. There should be another one in there that says 1888.

MR. GOELMAN: Your Honor, may I approach?

THE COURT: Yes.

THE WITNESS: Yes, sir.

BY MR. GOELMAN:

Q. Could you turn to the second page of that, please. Without reading from that document, 'cause it's not yet in evidence, can you see if you recognize the secondary number for the Brooklyn Delicatessen.

A. Yes, sir.

Q. And what is that telephone number?

A. (703) 433-3978.

Q. Do you also see what your home number was in the fall of 1994 on the right-hand column on page 2 of Government Exhibit 1888?

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A. Yes, sir.

Q. And what was your home telephone number in the fall of 1994?

A. (703) 289-6958.

Q. Mr. Pfaff, when Tim McVeigh called you and indicated that he was living in Arizona, did you have any way of verifying that he was indeed calling from Arizona?

A. No, sir.

Q. So for all you know, he could have been calling from anywhere?

A. Correct.

Q. Do you know what Terry Nichols' home phone number was in the fall of 1994, Mr. Pfaff?

A. No, sir.

Q. Do you know Terry Nichols?

A. No, sir.

Q. Do you know anyone named Daryl Bridges?

A. No, sir.

Q. Now, you mentioned that you used to do about 45 to 48 gun shows every year; is that right?

A. Yes, sir.

Q. Were you also a customer of gun shows during various periods of your life?

A. Yes, sir.

Q. And at any of these gun shows, did you ever buy or sell det

Gregory Pfaff - Direct
cord?

A. No, sir.

Q. At any of these gun shows, did you ever see anyone selling det cord?

A. No, sir.

Q. Did you ever see Primadet for sale at any of these gun shows?

A. No, sir.

Q. You ever seen any kind of electric or non-electric blasting cap for sale at any of these gun shows?

A. No, sir.

Q. And in all your years of selling and shopping at gun shows, have you ever seen ammonium nitrate for sale?

A. No, sir.

Q. Now, you described gun shows as kind of a flea market for guns and ammunition; is that right?

A. Yes, sir.

Q. Have you ever seen anyone selling any kind of plant food at a gun show?

A. No, sir. Most of those shows were regulated to just gun-type of items that people can bring there to sell.

Q. Have you ever heard of anyone selling any kind of horticultural product at all at a gun show?

A. No, sir.

MR. GOELMAN: Court's indulgence?

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THE COURT: Yes.

MR. GOELMAN: Nothing further, your Honor.

THE COURT: Mr. Tigar.

CROSS-EXAMINATION

BY MR. TIGAR:

Q. Good afternoon, Mr. Pfaff.

A. Good afternoon.

Q. My name is Michael Tigar. I'm one of the lawyers appointed to help out Terry Nichols.

When's the first time that you ever worked at a gun show?

A. First time I worked one was in 1990.

Q. And you began phasing out of the gun show business when?

A. In the latter part of '93. I actually kept the business in operation. I just stopped going to gun shows in around June of '93.

Q. Now, did you attend gun shows all over the country?

A. On the East Coast.

Q. Did you ever work any gun shows in the Midwest?

- A. No, sir.
Q. Not in the West?
A. No, sir.
Q. And did you ever work any in Florida?
A. No, I have not.
Q. Now, you described the gun shows as a kind of a flea

Gregory Pfaff - Cross
market; is that right?

- A. Yes, sir.
Q. Did you ever see books for sale at gun shows?
A. Yes, sir.
Q. Did you see political literature at gun shows?
A. Yes, sir.
Q. Did you see people walking around in uniforms at gun shows?
A. Can you clarify?
Q. Military-style clothing?
A. Some folks did, yes.
Q. And were some of these folks not obviously members of the military, just folks that liked to dress up that way?
A. I could not answer that.
Q. Could not. Now, you sold ammunition?
A. Yes, sir.
Q. What kind of ammunition did you sell?
A. Special-application ammunition.
Q. And what is that? What kind did you sell?
A. That is tracer, incendiaries, pre-fragmented-core bullets, things of that nature.
Q. Now, are these things that you'd use for target practice?
A. No, sir.
Q. What do you use them for?
A. Self-defense.
Q. All right. And, now, you mentioned to us that you -- well,

Gregory Pfaff - Cross
at gun shows, you've seen military surplus items for sale;
correct?

- A. Yes, sir.
Q. You see ammo cans, empty ammo cans?
A. Yes, sir.
Q. See other military surplus things? Ever see picks and shovels?
A. I can't specifically say that I have, but I'm sure that they were there.
Q. Did you see clothing for sale?
A. Yes, sir.
Q. By the way, you've never met Terry Nichols; right?
A. No, sir.
Q. And to your knowledge, you've never spoken to him in your life; is that right?
A. To my knowledge, I've never spoken to him.
Q. You've seen his pictures in the paper; correct?
A. Yes, sir.

... 100, 111.

Q. And he's sitting right there?

A. Yes, sir.

Q. And so you're looking at him; you're sure you've never seen him; correct?

A. As far as I can recall, I've never met the man.

Q. Okay. Now, you mentioned that you had discussed with Timothy McVeigh Waco; correct?

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A. Correct.

Q. Mr. McVeigh told you that he had crawled up to the perimeter fence around Waco and crawled back without being seen by the federal agents; correct?

A. That's what he stated.

Q. He stated that he sat in his car in Waco selling bumper stickers; correct?

A. I'm not sure if that's the exact terminology; but, yes, he was selling bumper stickers at Waco, yes.

Q. And he stated that he -- that this could be the start of the government coming house to house to retrieve weapons; is that correct?

A. Correct.

Q. And when he said this, he was very angry, wasn't he?

A. Yes, sir.

Q. And did he appear serious about his attitude towards Waco?

A. Yes, sir.

Q. Then you told us about a telephone call that you had with Mr. McVeigh; correct?

A. Yes, sir.

Q. Now, when he called you up, you have no way of knowing where he called from; correct?

A. That is correct.

Q. And if -- wherever it was that he called from, whoever the subscriber was -- you do not know who the subscriber was to the

Gregory Pfaff - Cross

telephone; right?

A. I don't know.

Q. To find out who called you and what was said, you're the logical person to ask; would you agree with that?

A. Excuse me?

Q. To find out who it was that called you and what was said, you're the logical person to ask; right?

A. Yes, sir.

Q. Now, you said that he wanted det cord; correct?

A. Correct.

Q. Did you know that Mr. McVeigh had been to gun shows in the past?

A. I've only seen him at the gun shows that I attended.

Q. So, then, that's the only time you've seen him?

A. Correct.

Q. Did he say why it was that he would be calling you, a gun show person, to obtain det cord?

A. No, he did not state why he called me.

Q. Did you tell him, "Mr. McVeigh, if you're looking for det cord, don't call me because you can't buy it at gun shows"?

A. He did not call me at a gun show, sir. He called me at the delicatessen.

Q. No, no, I understand. When Mr. McVeigh called you, did you say to him, in words or substance, "Don't call me about det cord, Mr. McVeigh, that sort of thing isn't sold at gun shows"?

Gregory Pfaff - Cross

A. No, sir. I'm running a business, and I didn't have time to explain everything to Mr. McVeigh. He asked me if I could get the det cord. I told him that I would see what I could do.

Q. Right.

A. Uh-huh.

Q. And you told him that you would see what you could do, but you didn't intend to do anything; right?

A. No, sir.

Q. So you -- what would you call it, you exaggerated?

A. No, sir.

Q. You puffed?

A. No, sir. I don't understand what you mean by "puffed."

Q. Well, you told him you intended to do something that you didn't intend to do. How would you describe it?

A. I described it as not turning off a potential customer.

Q. Now, when he called you, he told you he was living in Arizona; correct?

A. Yes.

Q. And he said -- what did he say, "I want det cord"?

A. No, sir. He -- we had the normal pleasantries of a normal conversation. I asked him how he was doing. He told me he was living in Arizona. Then he asked me if I was still in the gun business. I told him that I was somewhat phasing that out. Then he asked me if I could get him any det cord.

Q. He said, "Can you get me det cord"; is that what you said?

Gregory Pfaff - Cross

A. I don't know if that's the exact words from what you're saying; but, yes, he told me could I get him det cord.

Q. You told him it could not be shipped in interstate commerce; correct?

A. I said it could not be shipped in the United States.

Q. And then he said, "I'll drive there and get it"; right?

A. Yes, sir.

Q. Now, this was the first conversation you had with him -- right -- about the det cord, the one you're talking about now?

A. Yes, sir.

Q. And he called seven to ten days later; correct?

A. Yes, sir.

Q. And he was still looking for det cord; right?

A. Yes, sir.

Q. Did he offer to drive across the country in that connection again?

A. No, sir.

Q. And what did you tell him, that you hadn't been able to get any?

A. Correct.

Q. Now, the first time that you did business with Mr. McVeigh,

did you buy something from him?

A. No, sir.

Q. Did you ever buy something from him?

A. Yes, sir.

Gregory Pfaff - Cross

Q. Did you buy blast simulators from him?

A. Yes, sir.

Q. And what are blast simulators?

A. It's pretty much the size of an M-80. It makes a loud bang. It's to simulate a blast.

Q. Did you buy atropine from him?

A. No, sir.

Q. Did you take atropine from him on consignment?

A. Yes, sir.

Q. What is atropine?

A. Atropine is a reimpregnation compound to thwart chemical warfare.

Q. That's a chemical substance?

A. I believe so.

Q. How do you use it?

A. You inject it into your leg, from what I understand.

Q. Pardon me?

A. From what I understand, if you're ever hit with chemical warfare, you would to be to inject this into your leg.

Q. Did you sell the atropine?

A. Yes, sir.

Q. Was it in injectable form?

A. Yes, sir.

Q. In little injection bottles like you see in a doctor's office?

Gregory Pfaff - Cross

A. It was in a syringe.

Q. In syringes. So Mr. McVeigh gave you these syringes on consignment, and you sold them; is that right?

A. Yes, sir.

Q. Where did you sell them?

A. At a gun show.

Q. And after you sold the syringes that Mr. McVeigh had given you -- excuse me, containing this substance, what did do you with the money?

A. Well, I kept the profit that was mine, and then I sent him

A. Well, I kept the profit that was mine, and then I sent him a check.

Q. Did you sell anything else -- did you have any other business transactions with Mr. McVeigh?

A. I sold him armor-piercing incendiary bullets.

Q. I'm sorry, armor piercing?

A. Incendiary bullets.

Q. I see. Did he once show you a piece of steel at a gun show?

A. Yes, sir.

Q. And that was to demonstrate the difference between what an armor-piercing round would do and a standard round; correct?

A. Correct.

Q. Now, other than the blast simulators that you got and the atropine that you had on consignment, is there any other business that you had with Mr. McVeigh?

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A. He gave me 25-millimeter training round. He gave me some of his training manuals, and I believe I might have bought some smoke grenades from him.

Q. Did he ever give you any political literature?

A. No, sir.

Q. And other than the Waco situation, did you ever discuss politics with him?

A. Not that I can recall.

Q. And after Mr. McVeigh called you that second time, that's the last you ever saw him until you came to be a witness in his trial; is that correct?

A. The last I saw him was in 1993.

Q. 1993?

A. Correct, sir.

Q. Excuse me. After the telephone conversation in 1994, that's the last you spoke to him?

A. Correct.

Q. That's the last time you ever spoke to him?

A. Correct.

Q. And you never saw him after 1993?

A. Correct.

Q. And you've never seen or spoken to Mr. Nichols?

A. Correct.

MR. TIGAR: I have no further questions. Thank you.

MR. GOELMAN: No questions.

THE COURT: Do you have any redirect?

The witness is excused, then, I trust.

MR. GOELMAN: Yes, your Honor.

THE COURT: Agreed? Agree to excuse the witness?

MR. TIGAR: Yes, your Honor.

THE COURT: You may step down. You're excused.

Next, please.

MR. MACKEY: Your Honor, we would recall Joanne Thomas.

THE COURT: Miss Thomas has already been sworn before. When she came before.

If you'll resume the stand under the oath you took

earlier.

THE WITNESS: Yes, I did.

(Joanne Thomas was recalled to the stand.)

MR. ORENSTEIN: May I proceed, your Honor?

THE COURT: Yes.

MR. ORENSTEIN: Thank you, sir.

DIRECT EXAMINATION

BY MR. ORENSTEIN:

Q. Welcome back, Miss Thomas.

A. Thank you.

Q. I know you were here last week, but if you would just remind the jury where you're from and what you do.

A. My name is Joanne Thomas. I'm from the Omaha division,

Joanne Thomas - Direct

Omaha, Nebraska. I'm a financial analyst there.

Q. And the jury has seen a number of people from the FBI. You're not a special agent; is that correct?

A. That's correct.

Q. Now, when you were here last week with us, you showed us one of the items that you found in the living room closet of Mr. Nichols' home when you helped execute that search warrant. That was Government Exhibit 250; correct?

A. Right.

Q. And you told us that you placed that notebook in a plastic bag which was received in evidence as Exhibit 250B; is that correct?

A. Right.

Q. Did you also find other items in that same closet which you put in the same evidence bag?

A. Yes, I did.

Q. And were they all given Q numbers that started with Q156 to indicate they came out of that same bag?

A. Yes.

Q. I'd like to ask you to find Government Exhibit 1818 and 2000 in the folder that's been handed to you.

A. Yes, I have them.

Q. Do you recognize those items?

A. Yes, I do.

Q. And were those among the items that you also found in the

Joanne Thomas - Direct

living room closet and put into that evidence bag admitted as 250B?

A. Yes.

Q. Let's start with Government Exhibit 1818. What is that, please.

A. That's a Michigan driver's license application.

Q. And it's got some pieces of paper there, as well as something else?

A. Yes. There is a driver's -- Michigan driver's license with a photo attached to the back -- with a photograph on it.

MR. ORENSTEIN: Pardon me.

BY MR. ORENSTEIN:

Q. And does it have a Q number on the particular item that starts with Q156?

A. Yes, it does, 156-7.

Q. What's the number for the record?

A. Q156-7.

Q. And that's among the items that you found in Mr. Nichols' closet?

A. Yes.

MR. ORENSTEIN: Government offers Exhibit 1818.

MR. TIGAR: Your Honor, I'm having trouble finding it here. May I just look at it, please.

THE COURT: Yes, you may.

MR. TIGAR: Thank you. 1818.

Joanne Thomas - Direct

Okay.

No objection, your Honor.

THE COURT: 1818 is received.

MR. ORENSTEIN: Judge, may I retrieve the exhibit, just to display part of it on the ELMO?

THE COURT: Yes.

MR. ORENSTEIN: Thank you.

Thank you, ma'am.

BY MR. ORENSTEIN:

Q. Ma'am, just focusing for a moment on the left side of that, this is a Michigan driver's license application for Terry Lynn Nichols; is that correct?

A. That's correct.

MR. ORENSTEIN: I'm sorry. Could we have the display, please.

Thank you.

BY MR. ORENSTEIN:

Q. Just to show the title there, it says, "Michigan Driver's License Application"; correct?

A. Yes.

Q. And on the left side, it shows it's for Mr. Terry Lynn Nichols; is that right?

A. That's true.

Q. And attached on the right side, there's a corner of a Michigan driver's license; is that true?

Joanne Thomas - Direct

A. Yes. Yes.

Q. Now, it's a little difficult to read from this. Is that also in the name of Terry Lynn Nichols?

A. Yes, sir, it is.

Q. And there is a photograph of Mr. Nichols in the corner?

A. Yes.

Q. Now, if I could ask you to turn to Exhibit 2000. Do you have that?

have that:

A. Yes, I do.

Q. What's that?

A. It's a receipt from Wal-Mart in Manhattan, Kansas.

Q. Is that among the items that you found in the closet in Mr. Nichols' living room on April 22?

A. Yes, it is.

Q. Do you know if there were other receipts found in different parts of the house?

A. Yes, there were.

Q. And you don't know specifically what all those items were?

A. No, I don't.

Q. But this one came from the closet?

A. Yes, it does.

Q. Does it have a Q number starting with 156 like the other items from the bag?

A. Yes, it does.

Q. For the record, what number is that?

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A. Q156-4.

MR. ORENSTEIN: Government offers Exhibit 2000.

MR. TIGAR: No objection.

THE COURT: 2000 is received.

MR. ORENSTEIN: And if I may turn to the computer to display that, please.

BY MR. ORENSTEIN:

Q. Miss Thomas, did you examine this item and find if there's a date on it?

A. Yes, there is.

Q. And perhaps we could focus in on that.

A. April 15, 1995.

Q. That's what we're seeing at the very bottom of the receipt?

A. Yes.

Q. And is there a time stamp on it as well?

A. Yes, 1440.

Q. And that's military time; is that correct?

A. That's right. It would be 2:40 in the afternoon.

Q. All right. Now, in addition to recovering items from the closet in the living room, did you also recover various items from the dining table that was in the living room?

A. Yes.

Q. Let me ask you first to turn to Exhibits 1957 and 1958 from your folder.

A. Yes, I have them.

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Q. Are those among the items that you found on the top of the dining room -- the dining table in Mr. Nichols' living room on April 22?

A. Yes, they are.

MR. ORENSTEIN: Government offers Exhibits 1957 and 1958.

MR. TIGAR: No objection, your Honor.

THE COURT: They are received.

BY MR. ORENSTEIN:

Q. Let me turn now to Exhibits 1716 and 1717.

A. I have those.

Q. Now, do you recognize both of those as items that you also recovered from the dining table in Mr. Nichols' living room?

A. Yes, I do.

Q. And what is Exhibit 1716?

A. It's a Executive Weekly Minder.

Q. When you say "Executive Weekly Minder," that's the title of the item?

A. Of the outside cover of the item, yes.

Q. And what kind of cover is it?

A. It's a telephone address book with paper in it as well.

Q. It's one of these things that have a number of things that come within it?

A. Right.

Q. When you found it, did it have other items tucked within

Joanne Thomas - Direct

it?

A. Yes, it did.

Q. Was Exhibit 1717, the next exhibit, one of those items?

A. Yes, it is.

Q. And what is 1717?

A. It's the telephone address part of that Weekly Minder.

MR. ORENSTEIN: Government offers Exhibits 1716 and 1717.

MR. TIGAR: No objection, your Honor.

THE COURT: They are received.

BY MR. ORENSTEIN:

Q. Now, if I could turn your attention to 1717, the telephone address book --

A. Yes.

Q. -- that you found there. Does that have pages that are within it that are labeled as a telephone book with different pages of the -- different letters of the alphabet?

A. Yes, it is.

MR. ORENSTEIN: Your Honor, at this point I'd offer a stipulation that we reached with the defense that the handwriting on pages marked B, F, and M are in the handwriting of Mr. Nichols.

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

THE COURT: All right. B, F, and N did you say?

MR. ORENSTEIN: I'm sorry. M.

Joanne Thomas - Direct

THE COURT: M.

MR. ORENSTEIN: Yes, the letter M.

THE COURT: And it is stipulated that is Mr. Nichols' handwriting.

MR. TIGAR: Yes, your Honor.

THE COURT: All right.

BY MR. ORENSTEIN:

Q. Now, last week we also heard from Agent Jasnowski. You know her?

A. Yes, I do.

Q. And she was the team leader of the search?

A. That's right.

Q. And she told us about making photocopies of the documentary items in the search before they were sent off to the lab for fingerprinting. Are you familiar with that?

A. I was not involved in that.

Q. You weren't in the court, but you're aware that that was done; right?

A. Yes, I was.

Q. And have you looked at photocopies of some of these pages?

A. Yes, I have.

MR. ORENSTEIN: The -- just for the record, Judge, we've marked the B page copy as 1717A, and the copy of 1717 -- I'm sorry -- the copy of the F page as 1717B, and we would offer those.

Joanne Thomas - Direct

MR. TIGAR: No objection for demonstrative purposes, your Honor.

THE COURT: All right.

MR. ORENSTEIN: That's all.

THE COURT: 1717A and 1717B received for demonstrative purposes.

MR. ORENSTEIN: Right.

BY MR. ORENSTEIN:

Q. Let's start with 1717B. And if you can see on your screen, there's a portion of that showing.

A. Yes.

Q. And that shows not the only entry on the F page, but one of them; correct?

A. That is correct.

Q. What is the name of that entry?

A. It says, "Fortier, Mike."

Q. And underneath the name, "Fortier, Mike," is there another first name?

A. Yes, "Lori."

Q. And is there an address --

A. Kingman.

Q. Kingman, Arizona?

A. Kingman, Arizona.

Q. If we could turn now to 1717A. If I could show you a portion of that page. Let me focus in on part of it there.

Joanne Thomas - Direct

There's only one entry on that page; is that correct?

A. That's right.

Q. All right. And can you read the name that is the only entry on the B page of Mr. Nichols' telephone address book?

A. "Bridges, Daryl."

Q. And there's other information connected with that name; correct?

A. Yes.

Q. Now, in addition to the telephone address book, did the Executive Weekly Minder that you found, Exhibit 1716, have anything else inside of it when you found it?

A. Yes, it did.

Q. Let me direct your attention to Exhibit 484.

A. I have that.

Q. What is that, please.

A. It's a Spotlight prepaid telephone card. And the name on the front is Daryl Bridges, and --

Q. That was one of the items that you found inside of the Executive Weekly Minder?

A. Yes, sir, it is.

Q. On top of the dining table from Mr. Nichols' home?

A. Yes, it is.

MR. ORENSTEIN: Government offers 484.

MR. TIGAR: No objection, your Honor.

THE COURT: 484 is received.

Joanne Thomas - Direct

MR. ORENSTEIN: And if we could just display the cover of it.

THE COURT: All right.

BY MR. ORENSTEIN:

Q. Is that it there?

A. That's it.

MR. ORENSTEIN: Thank you, Miss Thomas.

Nothing further, your Honor.

THE COURT: Any questions?

MR. TIGAR: May I retrieve the exhibits from the witness, your Honor?

THE COURT: Yes.

MR. TIGAR: Thank you.

THE WITNESS: Uh-huh.

CROSS-EXAMINATION

BY MR. TIGAR:

Q. Hello again, Miss Thomas.

A. Hello.

Q. You were of course one of a number of people that was involved in that search; correct?

A. That's right.

Q. And you went to the briefing before it happened?

A. Yes, I did.

Q. Was Agent Crabtree at that briefing?

A. I'm sorry. I don't know Crabtree -- Agent Crabtree by his

Joanne Thomas - Cross

JOANNE THOMAS - CROSS

name.

Q. So you wouldn't know whether he was or not? Okay.

Now, do you happen to know how Mrs. Fortier spells her first name?

A. No, I do not.

Q. Lori. You don't.

Now, you told us about the DRMO materials; right?

And are those Exhibits 1957 and '58?

A. Are those the sealed bids, sir? Two.

Q. Yes, the sealed bids.

A. Yes.

Q. And do you know how -- do you have any information about how that sealed-bid material works, how that -- sealed-bid auctions work?

A. No, I don't.

Q. Let me just put up a page here. I'll zoom out.

And so that when the jurors come to look at this, are these pages just lists and lists of things that the Army is trying to get rid of?

A. I don't know, sir.

Q. Oh. All right.

MR. ORENSTEIN: For the record, could we just have it read into -- the items, which of the items is being displayed.

MR. TIGAR: This is Exhibit 1957, and I'm on page 3.

THE COURT: Thank you.

Joanne Thomas - Cross

BY MR. TIGAR:

Q. Now, with respect to this, did you read this material?

A. Did I read it inside?

Q. Yes, did you read the inside?

A. No, I didn't.

Q. Oh, okay. Well, then I won't tax your patience by reading it to you now.

A. Okay.

MR. TIGAR: I thank you very much. I don't have any other questions.

MR. ORENSTEIN: No further questions. The witness is excused.

THE COURT: Excused this time?

MR. ORENSTEIN: We don't anticipate calling her again.

THE COURT: Agreed?

MR. TIGAR: Agreed, your Honor, we don't anticipate calling Miss Thomas.

THE COURT: All right. You may step down. You're excused now.

THE WITNESS: Thank you.

MR. MACKEY: Call William Sweet.

THE COURTROOM DEPUTY: Raise your right hand, please. (William Sweet affirmed.)

THE COURTROOM DEPUTY: Would you have a seat, please. Would you state your full name for the record and

spell your last name.

THE WITNESS: William Glen Sweet, S-W-E-E-T.

THE COURTROOM DEPUTY: Thank you.

DIRECT EXAMINATION

BY MR. MACKEY:

Q. Good afternoon, Mr. Sweet. How are you?

A. Good afternoon. Fine.

Q. In April of 1995, sir, did you work for a company in Washington, D.C., area known as Liberty Lobby?

A. Yes, I did.

Q. And after the bombing, did it fall to you to gather whatever records were on hand at that business concerning the sale of a debit calling card in the name of Daryl Bridges?

A. Yes, it did.

Q. And did you do so?

A. Yes, I did.

MR. MACKEY: Your Honor, at this time, pursuant to agreement by the parties, we would move to admit Government's exhibits I would expect this witness to testify about including 480 through 483, 485 through 488 -- excuse me -- 488, 490 through 503, and 1835. And in addition Exhibits 486A, 488A, 490A, 493A, 496A, 499A, and 502A.

MR. TIGAR: That's correct, your Honor. We have no objection to the introduction of those exhibits.

THE COURT: All right. They're received.

William Sweet - Direct

BY MR. MACKEY:

Q. Mr. Sweet, tell the jury a little bit about yourself. How old are you, please.

A. I'm 50 years old.

Q. And where do you currently reside?

A. At 10141 Wavell Road, Fairfax, Virginia, 22032.

Q. Is that in Washington, D.C., metro area?

A. Yes, it is.

Q. How long have you lived in the Washington, D.C. area?

A. Approximately 20 years.

Q. And what is your educational background?

A. I have a B.S. degree in accounting from Ithaca College in Ithaca, New York.

Q. You may need to raise your voice just a little bit.

A. Okay.

Q. What is your current line of work?

A. I am a direct-response marketing consultant.

Q. What do you do in that kind of job?

A. I'm in marketing, and it is a direct response. By definition, it's quantifiable. You do something and you can quantify the reaction of the results you get immediately, very quickly.

Q. Do you assist business clients in selling products?

A. Yes, I do.

Q. Did you once upon a time work for Liberty Lobby?

William Sweet - Direct

A. Yes, I did.

Q. And what time period?

A. It was from 1985 to 1995.

Q. And what position did you start with at Liberty Lobby?

A. I was initially hired as a controller for one of their subsidiaries.

Q. And what different jobs after starting did you hold for Liberty Lobby?

A. I was responsible for circulation, management, operations, marketing and then eventually marketing director.

Q. Did Liberty Lobby during the time of your employment publish a newspaper by any name?

A. Published a newspaper called Spotlight.

Q. Is that a single word?

A. It's The Spotlight. Spotlight is one word.

Q. And could you tell the jury the period of publication, how often was it issued?

A. It's published weekly.

Q. And when is it printed in relation to when it's distributed?

A. It's printed on Friday, with the date being ten days hence, for the ten days to the Monday.

Q. In the fall of 1994, in the spring of '95, approximately how large was The Spotlight readership?

A. The readership was estimated at that time at around

William Sweet - Direct

200,000.

Q. In 1993, sir, did you use the list of readers, Spotlight subscribers, to launch a program to sell a debit calling card?

A. Yes, we did.

Q. Tell the jury about that, please.

A. We prepared a -- we had reviewed the product, and we prepared a wrap that would go around the newspaper promoting the advantages of having a card you so you don't have to use coins to make phone calls. It was good for people who would be in college or if you were on the road.

Q. Is it oftentimes referred to as a debit calling card?

A. Yes, it is a debit calling card by definition.

Q. What does that mean?

A. By definition you have to prepay the amount. There's no credit involved. You prepay a certain amount.

Q. And were accounts set -- kept separately; that is, by individual?

A. We sold them to individuals. The accounts each had what we called a PIN number, a unique PIN number to each card that was sold.

Q. And was that PIN number, then, issued to each person who held a Spotlight calling card?

A. Yes, it was.

Q. Were any records or summaries or recaps of phone usages on any card sent to the cardholder?

William Sweet - Direct

A. No, there were not. That was one of the advantages. You didn't have to worry about it. You just used up the time, and that was it.

Q. Now, based on the program that began in 1993, did Spotlight provide any means for recharging or refunding a particular calling card?

A. Yes. When you originally received your calling card in the mail, you got a booklet that came with it of eight coupons where you could send back with money from 30, 50, or a hundred dollars.

Q. Take a look, please, Mr. Sweet, in your folder before you. You should find Government Exhibit 480, 480.

Can you pull that out of the plastic and first identify it for the record.

A. This is the original wrap that was put on The Spotlight newspaper that launched the marketing effort for the prepaid debit calling card.

Q. Could you pull that out of the plastic and simply show it to the jury, please.

And does that exhibit describe the features, some of which you've described here --

A. Yes, it does.

Q. -- about the debit calling card?

A. It goes into a lot of detail.

Q. That was included in each one of The Spotlight newspapers?

William Sweet - Direct

A. For this issue, yes.

Q. And when was that issue?

A. The issue date on this was November 1, 1993.

Q. Mr. Sweet, did you come to own a Spotlight calling card?

A. Yes, I have.

Q. And have you used it over the years?

A. Yes, I have.

Q. Would you describe to the jury how it works.

A. The original cards, we were given an 800 number that you would dial into.

Q. You remember that 800 number?

A. It's 1 (800) 793-3377.

You would be prompted to -- it would say, "Welcome to The Spotlight calling card," and it would ask you for your PIN number. You would enter your PIN number. It would tell you how much money you had remaining on the card. You would then dial the number that you wanted to get to. It would -- just before it made your connection, it would tell you how many minutes you had remaining on that card, and you talked.

Q. All right. And the balance would go down as you used the card?

A. Correct.

Q. Let's turn now to what you found in your search of records for Daryl Bridges. Let me start with Government Exhibit 1835.

A. Government Exhibit what?

William Sweet - Direct

Q. 1835. It should be towards the end of your folder.

A. 1835. Oh, yes.

Q. Mr. Sweet, with benefit of that document and your own research, could you tell the jury when Daryl Bridges was issued his Spotlight calling card?

A. The original date was 11-7, 1993. November 7, 1993. That was the application that he sent to us to -- for the -- in the amount of \$50.

Q. Did you find records to show that he re-funded or recharged, made more payments on that card after that date?

A. Yes; we received an additional six recharges with coupons.

Q. What was the total amount that Daryl Bridges sent to Spotlight to recharge that card?

A. The total -- the overall amount was \$480. The recharges were \$430.

Q. What did a Spotlight customer pay for each minute of phone usage?

A. They paid 25 cents a minute. So you were actually looking the 1,920 minutes at the time, About 32 hours.

Q. On the Bridges account?

A. Yes, on that account alone. 32 hours.

MR. MACKEY: Can we display 1835 to the jury, please.

THE COURTROOM DEPUTY: 1835 hasn't been admitted.

MR. MACKEY: Yes, it was.

THE COURT: Yes, it is.

William Sweet - Direct

MR. TIGAR: Yes, your Honor, we did consent that it be admitted; I think it was.

THE COURT: Yes.

MR. MACKEY: Thank you.

It's on the computer.

Thanks, Kathi.

BY MR. MACKEY:

Q. Mr. Sweet, tell the jury what they're looking at.

A. This is the listing of the history, payment history on the Daryl Bridges phone card. The first entry is the application -- was the application, and the following six entries represent recharges, money that was sent in to The Spotlight to add more time to the card.

Q. Each of the seven payments received at Spotlight was a money order; is that correct?

A. Yes, it was.

Q. And according to this exhibit, 300 of the \$480 was paid after -- on or after November 7, 1994; is that correct?

A. Correct.

Q. Let me show a few of the other exhibits, Mr. Sweet, that you've alluded to. Let's start with the application, please,

Government Exhibit 481, if you can find that.

And for the record, tell us what that is.

A. This is the original application that we received from a Daryl Bridges at 3616 North Van Dyke Road in Decker, Michigan.

William Sweet - Direct

It was --

Q. Let me zoom in, Mr. Sweet, on the handwriting.

A. Okay.

Q. Go ahead and finish reading into the record the address that was listed on that application?

A. That was Decker, Michigan, 48426/TDC.

Q. Do you know what TDC stands for?

A. I believe it is threat, derision, and coercion.

MR. MACKEY: Your Honor, pursuant to agreement of the parties, it is agreed that the handwriting now displayed to the jury was authored by Terry Lynn Nichols.

MR. TIGAR: Yes, your Honor. That's agreed.

THE COURT: All right.

And of course, members of the jury, we accept that agreement.

BY MR. MACKEY:

Q. Mr. Sweet, let's turn now to the money order that accompanied that first payment, Government Exhibit 482; and I show that to you, please.

And for the record, what is 482?

A. This is a United States postal money order dated the 11th of November, 1993. It is made payable to The Spotlight, at 300 Independence Avenue, S.E., Washington, D.C., 20003.

Q. All right. Let me interrupt, Mr. Sweet. And let's go back to the top portion of the money order. You see some printing

William Sweet - Direct

on there that says year, month, and day?

A. Correct.

Q. What would the year be?

A. 1993.

Q. What would the month be?

A. November.

Q. What would the day be?

A. The 7th.

Q. The 7th?

A. The 7th.

Q. All right. Thank you. And was this the money order that was received with the first application in the name of Daryl Bridges?

A. Yes, it is.

Q. Let me show the enlargement on the left-hand side, please. And how was this made payable?

A. This was made payable to The Spotlight.

Q. And in the notation at the bottom, below the listing of the name "Washington, D.C.," there are some initials. Would you

read those:

A. DGATT.

Q. Could it be DBATT?

A. Yes, it could.

Q. All right. Do you know what those initials, whatever they are, represent?

William Sweet - Direct

A. I can't tell, no.

Q. Let's look at the other side of that same money order.

And is that the same name and address that you read in earlier from the application itself?

A. On the reverse side? Are we looking at that?

Q. Yes, on the right-hand side, the other side.

A. The right-hand side. We have the "from Daryl Bridges, care of 3616 North Van Dyke Road, Decker, Michigan, 48426/TDC."

Q. Let me show you again the entire document.

MR. MACKEY: Your Honor, it's the agreement of the parties that the handwriting that appears on this exhibit, 482, was authored by Timothy James McVeigh.

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

THE COURT: All right. It's agreed the handwriting is Timothy James McVeigh's.

BY MR. MACKEY:

Q. Mr. Sweet, did you find the envelope that that payment and application came in to The Spotlight?

A. Yes, we did. Yes, we did.

Q. Take a look at 483, please.

And for the record again, tell us what that exhibit is.

A. This is the original envelope that contained the money order and the original application.

Q. I want to focus in now on the return address, Mr. Sweet.

William Sweet - Direct

And simply read that into the record, please.

A. "Daryl Bridges, Care of 3616 North Van Dyke Road, Decker, Michigan, 48426/TDC."

Q. And again, this was the envelope that carried the money order that you've just previously identified?

A. That's correct.

MR. MACKEY: Your Honor, we'd advise the Court and the jury that pursuant to agreement, the handwriting that appears on the face of this exhibit, 483, was that of Terry Lynn Nichols.

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

THE COURT: All right. So agreed.

BY MR. MACKEY:

Q. Mr. Sweet, now let's turn to the records you found concerning the second payment on the Bridges account. Let's start with 485, please.

What is that?

MAC 10 0000.

A. This is another United States postal money order.

Q. And was it the payment received on or about what date, if you can read from the money order?

A. The money order date is February 16, 1994.

Q. Let me zoom in on the right-hand side of that exhibit. And is that the same name and address and notation of TDC that you found on previous exhibits?

A. Yes, it is.

William Sweet - Direct

MR. MACKEY: And let me zoom back out, please.

And I'll report to the Court and jury, please, your Honor, that it is the agreement that the handwriting that appears on 485 was that of Mr. Terry Lynn Nichols.

THE COURT: That is agreed?

MR. TIGAR: I'm sorry.

THE COURT: 48- --

MR. TIGAR: Yes, your Honor. I was getting a note here. Yes, your Honor, we agree to that.

THE COURT: All right.

BY MR. MACKEY:

Q. Mr. Sweet, you mentioned earlier that as a service to the customer, you sent coupons for future payments to cardholder?

A. Yes, we did.

Q. What purpose did those coupons serve?

A. It was usually designed to facilitate payments for the card, to recharge the card.

Q. And on this and other Daryl Bridges payments, did you find that those money orders were accompanied by coupons?

A. Yes, they were.

Q. Let me show you just for illustration one such coupon, Government Exhibit 486A.

Do you find that?

A. Yes, I did.

Q. What is that, please?

William Sweet - Direct

A. This is a coupon to recharge The Spotlight calling card.

Q. Was that the coupon that accompanied the money order you just previously identified?

A. Yes, it was.

MR. MACKEY: Your Honor, again pursuant to agreement, the handwriting that appears on this coupon is that of Mr. Terry Lynn Nichols.

MR. TIGAR: Yes, your Honor.

THE COURT: All right. So agreed.

BY MR. MACKEY:

Q. For the record, Mr. Sweet, can you identify Government Exhibit 487? It should be right behind that.

A. This is --

Q. Yes, what is that?

A. This is an envelope which was opened in our -- in the mail

room. And it contained additional payment.

Q. Did your staff routinely make notations on the envelopes as part of their record keeping at Spotlight?

A. Yes, they did.

Q. Do you see such notation on Exhibit 487?

A. Yes.

Q. Show the jury what you're referring to.

A. The notations of the date that it was opened in the mail room of February 24, 1994, and the amount of \$50 was received, and the "TC," which represents telephone card, were noted.

William Sweet - Direct

Q. Thank you.

Let's turn now to the third payment, previously identified as a money order dated 8 -- August 21, 1994. Take a look at 488.

And if you can find 488A, see if that's a more legible copy of the same money order.

A. Yes, it is.

Q. All right. Let's focus on 488A. And what is that, please, for the record.

A. This is a Traveler's Express International money order for the amount of \$50.

Q. And in the upper right-hand corner, do you see a date?

A. August 21st, 1994.

MR. MACKEY: Your Honor, again pursuant to agreement, the handwriting that appears on this exhibit, 488 and 488A, was authored by Terry Nichols.

MR. TIGAR: Yes, your Honor, we agree to that.

THE COURT: So agreed. All right.

BY MR. MACKEY:

Q. Mr. Sweet, take a look now, please, at 491.

Tell his Honor and the jury what that is, please.

A. This is an envelope that contained a payment from Daryl Bridges.

Q. Let me zoom in on the return address.

Is that the same return address that you had found on

William Sweet - Direct
previous mailings?

A. Yes, it is.

Q. With the exception that there's no ZIP Code?

A. There is no ZIP Code or the "slash TDC."

MR. MACKEY: Again, pursuant to agreement, your Honor, the handwriting that appears on this exhibit, 491, is that of Mr. Terry Lynn Nichols.

MR. TIGAR: That's right, your Honor.

THE COURT: All right. So agreed.

BY MR. MACKEY:

Q. Mr. Sweet, depending on how good your eyes are, you can use

the screen to look at future exhibits and maybe it will go faster. But if you need to look at the real documents, it will be right next to you. Okay.

Take a look at 490 and tell the jury what that is.

A. Is this 490 in front of me?

Q. Not yet. Exhibit 490.

Find it in your folder, if you could.

A. Okay.

Q. Is that the coupon that accompanied that particular payment?

A. This would be the coupon, yes.

Q. Let's turn now to the fourth payment in September of 1994, Government Exhibit 492. Can you see it on the screen below you, sir?

William Sweet - Direct

A. Yes.

Q. And is that a money order dated September 29, 1994?

A. Yes, it is.

Q. And was that the fourth payment, according to your summary, that you received on the Bridges account?

A. Yes, it is.

Q. Let me focus our attention on the left hand, and we'll zoom that out for you. And what is the long series of numbers that appears on the fourth line of that portion of that money order?

A. That is the PIN number that was assigned to this card.

Q. To the Daryl Bridges card?

A. To the Daryl Bridges card, yes.

Q. Let's zoom back out, if we can.

MR. MACKEY: And your Honor, for the record, it's the agreement of the parties that the handwriting that appears on this money order, 492, was that of Timothy James McVeigh.

MR. TIGAR: It's agreed, your Honor.

THE COURT: All right. So agreed.

BY MR. MACKEY:

Q. Take a look now, Mr. Sweet, at 494. And is that the mailing envelope in which that money order was found?

A. That is the mailing envelope, yes.

Q. And do you find some handwriting in the upper left-hand corner that is the return address?

A. Yes.

William Sweet - Direct

Q. Let me show you that.

MR. MACKEY: Your Honor, it's again the agreement of the parties that this handwriting, the return address on Exhibit 494, was authored by Timothy James McVeigh.

MR. TIGAR: That's agreed, your Honor.

THE COURT: All right. So agreed.

BY MR. MACKEY:

Q. Mr. Sweet, for the record, is the payment coupon that accompanied that particular exhibit, 493?

A. Yes, it is.

A. Yes, it is.

Q. Thank you. Let's turn now to the fifth payment, one dated November 7, 1994. Take a look, please, at Exhibit 495. Is that the money order in the amount of \$100 dated 1-17-94?

A. Yes, it is.

MR. MACKEY: Your Honor, again pursuant to agreement, the handwriting that appears on this money order was written by Terry Lynn Nichols.

MR. TIGAR: That's agreed, your Honor.

THE COURT: All right.

BY MR. MACKEY:

Q. Take a look, Mr. Sweet, at Exhibit 497. And was that the mailing envelope in which that was sent?

A. Yes, it is.

MR. MACKEY: Again, your Honor, the left-hand portion, the return address portion of this exhibit, was written by

William Sweet - Direct

Terry Lynn Nichols.

MR. TIGAR: That's agreed, your Honor.

THE COURT: All right.

BY MR. MACKEY:

Q. Mr. Sweet, is Exhibit 497, for the record, a payment coupon that was with this money order and envelope, if you could take a look at it, just to verify?

A. 497 is the envelope.

Q. All right. 496.

A. Yes, this is the coupon.

Q. Let's turn now to the next-to-the-last payment, one dated January 21, 1995, in the amount of a hundred dollars, Government Exhibit 498. Do you see that in front of you?

A. Yes.

Q. And was that the sixth payment received on the Daryl Bridges account at Spotlight in D.C.?

A. Yes.

MR. MACKEY: Your Honor, again pursuant to agreement, the handwriting that appears on this money order was written by Terry Lynn Nichols.

MR. TIGAR: That's agreed, your Honor.

THE COURT: All right. So agreed.

BY MR. MACKEY:

Q. Mr. Sweet, Exhibit 500: Do you find that in your packet? Can you see it on the screen?

William Sweet - Direct

A. Yes.

Q. And is that the envelope in which the money order from January 21, '95, was received?

A. Yes, it is.

Q. Focus our attention now on the return address. Is that the same address you've noted in other documents?

A. Yes, it is.

MR. MACKEY: Your Honor, again, the agreement is that

this handwriting was written by Terry Lynn Nichols.

MR. TIGAR: Yes, your Honor.

THE COURT: So agreed.

BY MR. MACKEY:

Q. And 499, Mr. Sweet: Find it in your folder, please, and tell us if that is the coupon that accompanied this payment.

A. Yes, it is. This is the coupon.

Q. I'm going to show you the final exhibits, then, for the seventh and final payment on the Bridges account. Let's start at 501, please. Is that a money order dated February 14, 1995?

A. Yes, it is.

MR. MACKEY: Your Honor, again the agreement is that the handwriting on this money order was written by Terry Lynn Nichols.

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

THE COURT: So agreed.

BY MR. MACKEY:

William Sweet - Direct

Q. Let me focus just a moment, Mr. Sweet, on the right-hand portion of that exhibit, if you can. Can you read into the record how "Daryl Bridges" is spelled?

A. D-A-R-Y-L, B-R-I-D-G-E-S.

Q. Let's turn our attention, now, to 503, the envelope in which that was sent in. Focus on the return address and read into the record how "Daryl Bridges" is spelled there?

A. D-A-R-L-Y, B-R-I-D-G-E-S.

Q. And for the record, what return address did this person use on the last payment on the Daryl Bridges account?

A. 1228 Westloop, No. 197, Manhattan, Kansas, 66542. I can't really read that.

Q. Is that an address you had seen on any other document in your search for Daryl Bridges' records?

A. No.

MR. MACKEY: Your Honor, it's the agreement of the parties that Mr. Terry Lynn Nichols prepared the handwriting that appears on the return address portion of this exhibit, 503.

MR. TIGAR: That's agreed, your Honor.

THE COURT: All right, so agreed.

BY MR. MACKEY:

Q. And again for the record, please, Mr. Sweet, take a look at 502 and tell us -- Exhibit 502 in your folder and tell us if that is the coupon that accompanied the last payment.

William Sweet - Direct

A. Yes, it is.

Q. Thank you.

I want to conclude, Mr. Sweet, by directing your attention now to Government Exhibit 484. It's previously admitted into evidence. Do you recognize what that is?

A. That is the first page of the coupon book that was sent out

to Daryl Bridges.

Q. And when would this coupon book have been sent?

A. It would have been sent shortly after the original purchase in November.

Q. Of 1993?

A. Of 1993.

Q. And to what address would it have been sent?

A. That was sent to Daryl Bridges, 3616 North Van Dyke Road, Decker, Michigan, 48426.

Q. Now, there is some names and numbers on the inside front flap of that exhibit, Mr. Sweet. I'd like for you to answer some questions about those. Let me show them to you and the jury. If you want to work from the original exhibit, that's fine, too.

What are we looking at here on the screen?

A. On the left-hand side is the back of the original calling card that was sent to him. On it are instructions on how to use the card.

Q. So if I took the coupon book, the Government Exhibit 484,

William Sweet - Direct

and simply opened it, are we looking on the back side of the front cover?

A. That is correct.

Q. All right. Now, let me focus your attention on some handwriting that appears in the bottom left portion of that same front page cover. Do you see that?

A. Yes, I can.

Q. Do you see the handwriting that begins with the word "assist" and then an 800 number?

A. Right.

Q. Do you recognize that 800 number?

A. Yes. That is the 800 number to the technical support person, Keith Bower.

Q. And is Mr. Bower's name written right next to that number?

A. That is correct.

MR. MACKEY: Your Honor, it's the agreement of the parties that the highlighted handwriting now being displayed to the jury was written by Timothy James McVeigh.

I'm sorry, my notes -- and they've corrected me. That's Mr. Nichols'.

MR. TIGAR: That's agreed to, Your Honor.

THE COURT: Agreed that it's Mr. Nichols'.

BY MR. MACKEY:

Q. It's the handwriting below that that I want to highlight to you and the jury. Do you see that?

William Sweet - Direct

A. Yes.

Q. Do you recognize that number?

A. That is the main phone number into Spotlight.

Q. And what names appear below that phone number?

Q. And what names appear below that phone number?

A. Appears to be my name, but my last name is misspelled. It's spelled -- it looks like S-U-I-T-E. And the name below that is that of Paul Angel.

Q. And who is Paul Angel?

A. Paul Angel is a gentleman who assisted me in this program.

MR. MACKEY: Your Honor, it's the agreement of the parties that the highlighted portion of the handwriting now appearing is written by Timothy James McVeigh.

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

THE COURT: All right. So agreed.

BY MR. MACKEY:

Q. Mr. Sweet, before coming to court, did you look at the stubs that are still a part of Government Exhibit 484, the coupon stubs?

A. Yes, I did.

Q. Let me show you now an exhibit. And is that a copy of the stubs that are part of Government Exhibit 484?

A. Yes, they are.

Q. Let me draw your attention now to five of those six stubs.

MR. MACKEY: Your Honor, it's the agreement of the parties that the handwriting that appears on five of those six

William Sweet - Direct

stubs -- that is, all stubs dated with the exception of September 1994 -- was written by Terry Lynn Nichols.

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

THE COURT: So agreed.

MR. MACKEY: And the third stub, if we can highlight that, please. And for the record, that's one dated September 21, 1994. It's the agreement of the parties the entries on that stub was written by Timothy James McVeigh.

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

THE COURT: All right.

BY MR. MACKEY:

Q. And all of the handwriting that's part of 484 is together in the same exhibit; is that correct, Mr. Sweet?

A. That's correct.

Q. Just a couple final questions, Mr. Sweet. Did you check your records to determine whether a person by the name of Tim or Timothy McVeigh ever subscribed to The Spotlight newspaper?

A. Yes, we did.

Q. And what did you find?

A. We didn't find anything.

Q. And how about Terry Lynn Nichols?

A. No.

Q. And what about Michael Fortier?

A. Yes.

Q. And what about James Nichols?

William Sweet - Direct

A. Yes.

O. At what address was Mr. Nichols' subscription to be mailed?

A. To the Decker, Michigan address.

Q. Finally, in April of 1995, to your knowledge, did The Spotlight newspaper carry coverage or articles about the upcoming anniversary of the Waco event?

A. Yes, they did.

MR. MACKEY: I have nothing else, your Honor.

THE COURT: All right. Mr. Tigar.

CROSS-EXAMINATION

BY MR. TIGAR:

Q. Good afternoon, Mr. Sweet.

A. Good afternoon.

Q. My name is Michael Tigar. I'm one of the lawyers appointed to help out Terry Nichols.

You worked for Liberty Lobby for how many years, sir?

A. 10 years.

Q. And how would you describe the politics of Liberty Lobby?

A. They are a populist institution that follows the political, if you will, policies of Thomas Jefferson, President Thomas Jefferson.

Q. And in The Spotlight newspaper that they publish, they have a lot of quotes from Thomas Jefferson?

A. There are a few in there. I'm sure there has been quite a few over the years.

William Sweet - Cross

Q. You do not particularly agree with the politics of the Liberty Lobby; is that correct?

A. That's correct, sir. I'm not completely in tune with the politics of Liberty Lobby.

Q. Now, did you read The Spotlight over the years?

A. On occasion, I did.

Q. Did you have copies of it in your home?

A. Yes, I did.

Q. Did it change your political thinking to have copies of it in your home?

MR. MACKEY: Objection.

THE COURT: Overruled.

You may answer.

THE WITNESS: In some areas, yes.

BY MR. TIGAR:

Q. It didn't make you a violent person, did it?

MR. MACKEY: Objection.

THE COURT: Overruled.

THE WITNESS: No, sir.

BY MR. TIGAR:

Q. Now, in The Spotlight magazine -- or Liberty Lobby, you were in charge of marketing; is that correct?

A. Correct.

Q. That meant you had to know the demographics of your customers; correct?

William Sweet - Cross

A. Yes, sir.

Q. The calling card was not the only thing that was marketed to people that subscribed to Spotlight; right?

A. Correct.

Q. And in fact, there are also advertisements in Spotlight that people can put if they pay the advertising fee; right?

A. That's correct.

Q. And those advertisements are also directed at people who the advertisers believe will be interested in their products; is that right?

A. Correct.

Q. Now, have you -- are you familiar with the -- generally the kind of advertising that appears in Spotlight?

A. Just on a peripheral basis. We had an advertising manager who specifically handled all the advertising.

Q. Now, Spotlight newspaper, you say, had a press run of, what, over a hundred thousand?

A. At the time it was over a hundred thousand, yes, sir.

Q. About what was it, if you remember?

A. It was probably 110,000 at that time frame.

Q. Something like that?

A. Yes, sir.

Q. Did it have more readers than it had press run, so far as you could tell?

A. Yes. Every indication was that the newspaper itself was

William Sweet - Cross

passed around to a lot of people, and we estimated between two and two-and-a-half people read each issue. So that would be roughly 200,000 to a quarter of a million people a week.

Q. Now -- and did you ever in your marketing job study the demographics of those readers so that you could more efficiently market to them?

A. We tried, yes.

Q. Did you, during the years that you were at Spotlight, notice advertisements that dealt with how to incorporate under a fictitious name?

A. I don't recall that.

Q. Did you notice advertisements on how to protect your privacy from government intrusion?

A. There could have been those in there. I vaguely recall having seen something of that nature.

Q. Do you recall things -- advertisements having to do with opting out of the banking system?

A. There were a lot of articles about the banking system in the newspaper. If that was covered specifically, I could not quote it at this time.

Q. And in fact, the political view of Spotlight in addition to populist could fairly be described as conservative; is that correct?

A. Correct.

Q. And the political view of Spotlight was in fact in

William Sweet - Cross

opposition to many of the policies of the United States; is that correct?

A. From a -- I'm not the person to be answering these questions necessarily. I don't write for the newspaper. They took issue with the government of the United States in many areas.

Q. For instance, NAFTA: They opposed NAFTA?

A. They're opposed to NAFTA; that's correct.

Q. All right. Now, you mentioned that this Spotlight marketing was something that you worked on in the beginning; is that correct?

A. Initially, I was hired as a comptroller.

Q. No, I understood. I say when the card started, Spotlight card?

A. The card, yes.

Q. You were in right at the beginning.

A. I was in at the beginning of the program.

Q. Did you study how these cards had worked in other countries?

A. I had very little information from what people were telling me how they worked and some foreigners. I just took it from what the people who came in to us and said, Let's do it, and worked from there.

Q. Do you have any familiarity as you sit there today with the billing records that shows what kind of calls were made and to

William Sweet - Cross

whom by the person who had access to the Daryl Bridges card?

A. No, I have no -- I have no knowledge of the --

Q. Don't know anything about it. You showed us a little while ago, or you were talking about a coupon book. Do you remember that?

A. Yes.

Q. Now, inside the front cover of that coupon book, there's some writing that tells you what number you punch in if you want to make a call; correct?

A. Correct.

Q. Now, if the card had credit, anybody who had that coupon book could pick it up and make a call; is that right?

A. Correct.

Q. And did you have a policy at Spotlight -- Did people call up and say, Hey, look, somebody else's got my card? Did that ever happen?

A. Yes. Well, people had called in and said they had lost their cards. People had called in and said that they felt that somebody else had used their card. But that was very, very rare.

Q. Now, you were talking about the debit card function. Am I correct in saying that this is not a credit card?

A. That's correct.

Q. You have a certain amount of call time, and when that's gone, the card's used up, unless you recharge it?

William Sweet - Cross

A. Correct.

Q. Now, are international calls billed at a higher rate than domestic calls?

A. Yes, they are.

Q. Is the card especially convenient for someone who wants to make international calls?

A. At that time you could make international calls. I wouldn't say it was especially convenient, because a lot of countries weren't part of the deal yet.

Q. For the countries that were part of the deal, was it more convenient than going to the phone booth with a stack of quarters?

A. Absolutely.

Q. Indeed, even for domestic calls, it was more convenient than going to the phone booth with a stack of quarters?

A. Yes, and cheaper, too.

Q. You bought the card; right?

A. Yes, I did.

Q. How many of them did you buy?

A. Personally, I think I purchased four of them.

Q. And you gave them to your kids; is that right?

A. That's right.

Q. And was this a handy way for your kids to keep in touch with you?

A. No excuse for not calling home.

William Sweet - Cross

Q. And also, you could monitor how much of their call activity was -- was being done; right?

A. I never kept the numbers. It was up to them. I just handed -- I just handed the cards to them. I never recorded the number.

Q. Each one in their own name?

A. I just bought them. They were actually all in my name.

Q. Oh. So if calls were made on the -- I just want to get this right. The "William Glen Sweet" -- did you use your William Glen Sweet card -- if we were to bring in all the William Glen Sweet call records in here, we'd find a lot of card calls that you didn't make; is that right?

A. That's true.

Q. And we wouldn't know particularly who did make them, would we?

A. No.

Q. Because that would be up to your kids to whom you'd given the cards as to what calls they made; right?

A. Correct.

Q. Now, these cards that you sold: You sold how many of them in this period we're talking about here, 1993 to 1995?

A. If my memory serves me, it was approximately 10,000.

Q. And who bought them?

A. Mostly the readers of The Spotlight. But there were a

number of sales outside that realm.

William Sweet - Cross

Q. Did you look at the demographics to see who was buying it?

A. I would run analysis by ZIP Codes to look in terms of the typical distribution of Spotlight readership.

Q. Any outside the United States?

A. Yes. There was U.S. forces used them. In fact, there was a -- at one point, somebody who used to work in the U.S. embassy in Moscow had one.

Q. So somebody in the U.S. embassy in Moscow could use this card; and would it work from -- was it then the Soviet Union, or was it something --

A. I can't answer that.

Q. Never had any complaints?

A. Never had any complaints from that person.

Q. Now, I want to ask you about some of the documents that you looked at that you were discussing with us. You said that you saw on a couple of the early writings the initials TDC; correct?

A. Yes.

Q. And do you -- you said those stood for what?

A. I believe it's threat, derision, and coercion.

Q. Now, when did you find that out, that that's what those initials might stand for?

A. I believe I knew it sometime ago. But it was -- my memory had been refreshed here recently.

Q. I see. Because you testified in a prior proceeding in

William Sweet - Cross

relationship to this calling card on the 6th of May, 1997, and you didn't recall what they stood for; correct?

A. At that time, I wasn't sure what it stood for.

Q. All right. So who refreshed your recollection?

A. The attorneys.

Q. Which attorney was that that refreshed your recollection?

A. The attorney, the prosecuting attorney.

Q. Mr. Mackey?

A. Yes.

Q. Did he tell you why he wanted you to remember that?

A. We were just discussing it, and I was puzzled as to what -- what it was.

Q. I see. And do you know in addition to whatever those words mean -- do you know why people used to put that out next to their ZIP Code?

A. I'm not that politically attuned. I could imagine it was something derisive about the U.S. government, for all I know.

Q. Well, and other than what you can imagine, do you know whether it's something derisive about the U.S. government?

A. No, I don't.

Q. Now, you looked at some envelopes here, and I'd like to put one of them up, if I may. This is Government Exhibit 494; the

address, The Spotlight. Is that a label that you distributed to people so that they could more easily send in their payments?

William Sweet - Cross

A. That could have come from almost anything. That address and in that format is used on many different kind of envelopes and promotional materials.

Q. But if you'll notice, did you notice that the address on all of these envelopes appears to come from the same matrix; that is to say, it looks like -- just like this?

A. Sure.

Q. And is it your view, based on your experience, that that came from -- the labels were supplied by Spotlight at some point?

A. I wouldn't say that this was a label that was provided by Spotlight. To give you some background, we probably produced in a single year some 3 million of these on return envelopes.

Q. So if this is a return envelope, in your view, that Spotlight had issued at some time?

A. Yes. We have millions of them.

Q. Right. And did you testify that you didn't find a subscriber named Terry Nichols; is that right?

A. Correct.

Q. But you did find one named James Nichols; correct?

A. Correct.

Q. You found one named Mike Havens?

A. Correct.

Q. And he lived in Pennsylvania?

A. Correct.

William Sweet - Cross

Q. And Michael Fortier was a subscriber?

A. Correct.

Q. Now, looking at this envelope, this is dated the 29th of September, and the postmark is Topeka, Kansas; is that right?

A. That's correct.

Q. Where it was mailed from. And do you remember looking at the money order that was sent along with it, with the exhibits that you had earlier today?

A. Just went through that.

Q. All right. And that money order was obtained from a United States post office on the 29th of September also; correct?

A. That's correct. What it appeared to be. I don't have it in front of me at the moment.

Q. And your experience is that in order to get a postal money order, you have to go to a United States post office; correct?

A. I've never purchased one at a U.S. post office. I couldn't answer that.

Q. You don't know one way or another.

A. Right.

Q. Now, I'd like to show you what's been marked here as Government -- received rather -- as Government Exhibit 497

Government -- received letter -- as Government Exhibit 497.

That's an envelope postmarked the 7th of November; correct?

A. Yes, it appears to be.

Q. And that also bears a postmark of Topeka, Kansas; is that right?

William Sweet - Cross

A. Yes.

Q. Here is one, and this is Government Exhibit 500. You see the date on the bottom marked the date of receipt; correct, 2-1-95?

A. Correct.

Q. And the date is not possible to read on this copy of Government Exhibit 500. But the postmark is still visible as Topeka; is that correct?

A. I can't see that on this slide here.

Q. You can't see that on the --

A. I can't read it.

Q. Now can you see Topeka?

A. Yes, I can see the word Topeka.

Q. All right. Thank you.

And you notice also you told us about -- this is Government Exhibit 503. And that's the one in which the Daryl Bridges, first of all, name is wrong. This is a different address than all the others; correct?

A. Correct.

Q. The one in Manhattan, Kansas. And -- but also, the postmark on there is also Topeka, Kansas; correct?

A. Correct.

Q. Was it one of the advantages of The Spotlight credit card that you didn't need to establish credit in order to have it?

A. It's not a credit card.

William Sweet - Cross

Q. I understand. And I'm just asking in a different way --

A. Yes.

Q. -- just to make sure that I understand this. You didn't have to establish credit in order to have it; right?

A. It's prepaid. There's no credit involved.

Q. You had the customer's money in your pocket -- right --

A. That's right.

Q. -- at the time, and so that anybody who came up with the money to send you could get one of these things; right?

A. Correct.

Q. Oh. The cards that you -- the cards that you got, you got four of them. Did any member of your household other than your children use them?

A. Well, yes; my wife.

Q. All right. And you just showed her the coupon book and gave her the number so that she could use it?

A. They weren't at that point from the coupon book. There was a later version of these.

Q. But you gave her the number --

-
A. I gave her the number.
Q. -- and then she was able to use it; right?
A. Correct.
Q. And the way that you would keep track, did you use it also at the same time that she was using it?
A. No, I usually had my own number.

William Sweet - Cross

Q. Okay. All right. And as your credit would go down, the amount of credit you had left on the card would go down, you told us that you'd hear somebody tell you that as you were making your phone call; right?
A. You were given a warning at -- when you had 2 minutes.
Q. And -- excuse me. Could you also call some number and find out how much credit you had left on the card?
A. As I introduced earlier, when you make the initial phone call, it will tell you at one point how many dollars are left and then at another point before the connection is made, how many minutes you have remaining.
Q. I recall that. I'm asking you: Was there also a way you could find out by calling a number and finding out how much credit you had left without making a telephone call, since you'd hear those voice prompts?
A. That was a difficult -- we had a service number that you could call in and explain your problem. But as a rule, the -- that information was not given out because you don't know who it is you're talking to over the phone. It had to be somebody who was identifiable: In other words, if somebody called me, I could pull my files, my records, and I could identify or ask them their name and their address, and then I would probably identify that this person was issued the card.
Q. And then you would give the information?
A. Then I could get the information, yes.

William Sweet - Cross

MR. TIGAR: Thank you.
Will your Honor indulge me for a moment?
THE COURT: Yes.

BY MR. TIGAR:

Q. Just a couple more about this -- when people would call you.
A. Uh-huh.
Q. In the beginning stages, did you have problems with the delay in people sending in money and there would be some delay before it was credited to their account?
A. Spotlight was one of the first affinity groups to have one of these cards here in the United States; and the technology was being developed as we went along. So, yes, we did have trouble at times making the connectivity, if you will, between the payment being received and getting credited on the account.
Q. Your marketing was a little ahead of your technology?
A. I would say so, yes.

Q. And when your marketing got a little ahead of your technology, did people call in and gripe to you about that?

A. They certainly did.

MR. TIGAR: Thank you, your Honor. I have no further questions.

THE COURT: Redirect.

REDIRECT EXAMINATION

BY MR. MACKEY:

William Sweet - Redirect

Q. Mr. Sweet, on those occasions when someone complained about the delay in credit, was there ever an occasion where you'd pick up the phone at Liberty Lobby, use that person's PIN to check to see if the service was --

A. I'm sure I did it hundreds of times.

Q. What was the usual amount of money that was on a Spotlight calling card?

A. Typically \$30 or 50. I mean, those were the amounts that most people purchased them in originally.

Q. So I take it because it's prepaid, Liberty Lobby didn't do a credit check on any applicant?

A. No credit check required.

Q. Did any creditor of any Spotlight calling card come to Liberty Lobby to seize assets or anything of the like?

A. No, they have not.

Q. Mr. Tigar asked you a few questions about the content, at least the general nature of the publication Spotlight. You mentioned something about the banking system, reports and articles that were critical of the American banking system. Do you recall that?

A. There have been a number of articles critical of the Federal Reserve, yes.

Q. As a general matter, did those articles in The Spotlight suggest that the American system was the product of a conspiracy of European bankers and particularly the Rothschild

William Sweet - Redirect
family?

A. I believe so, yes. The publication thrives on conspiracy.

Q. And because?

A. Because?

Q. Because why?

A. Because that polarizes people to read the newspaper, and it's a good way to sell newspapers.

Q. And Spotlight counted on that?

A. Absolutely. With the Kennedy assassination, they have been following that one for -- since Day 1.

Q. You were asked a series of questions about how one who had a card would know the balance, the then-existing balance on the card.

A. Yes.

Q. As I understand your testimony -- is you didn't need to

keep track of records as you make calls; you could simply pick up the phone and dial?

A. Correct.

Q. And so anyone who had a same, single PIN number would know what that balance is, even if those two people were miles apart?

A. Correct.

MR. MACKEY: Your Honor, at this time I'd like to publish a factual Stipulation No. 26 that places by agreement the site of purchase of each of the money orders that the

William Sweet - Redirect
witness has identified.

THE COURT: Well, I don't -- oh, here it is.

MR. TIGAR: Yes, your Honor --

THE COURT: It's been agreed to.

MR. TIGAR: Yes, that has been agreed to. I'm just finding my copy.

THE COURT: All right.

Members of the jury, it has been agreed here that Government Exhibit No. 482 is a \$50 money order purchased on November 7, 1993, in Deford, Michigan. Government Exhibit No. 485 is a \$50 money order purchased on February 18, 1994, in Las Vegas, Nevada. Government Exhibit No. 488 is a \$50 money order purchased on August 21, 1994, in El Dorado, Kansas. Government Exhibit No. 492 is a \$30 money order purchased on September 29, 1994, in Marion, Kansas. Government Exhibit 495 is a \$100 money order purchased on November 7, 1994, in Manhattan, Kansas. Government Exhibit No. 488 is a \$100 money order purchased on January 21, 1995, in Junction City, Kansas. And Government Exhibit No. 501 is a \$100 money order purchased on February 14, 1995, in Junction City, Kansas.

MR. MACKEY: Thank you, your Honor.

BY MR. MACKEY:

Q. Mr. Sweet, as his Honor read that stipulation, did you hear Topeka, Kansas, mentioned?

A. Yes.

William Sweet - Redirect

Q. Topeka, Kansas?

A. No.

Q. All right.

A. Manhattan.

Q. Exactly. Junction City, Kansas; El Dorado, Kansas; Marion, Kansas, for example.

A. Yes.

Q. Did you know what the practices of the U.S. Postal Service were, if you took an envelope and put it in the mail in El Dorado and what postmark would appear that same envelope? Did you know what the practices were?

A. I would assume it to be the three-digit ZIP Code of that post office.

MR. TIGAR: Objection, your Honor. Lack of personal

... from objection, your Honor. Lack of personal knowledge.

THE COURT: Yes, assuming won't cut it.

BY MR. MACKEY:

Q. So you don't know what the practices were?

A. No.

Q. Mr. Tigar showed you a number of envelopes. You had examined them before. Did you notice that the stamps on many of those envelopes were all upside down?

A. Yes, I did.

Q. Do you know what that represents?

A. This is a -- to my knowledge, a protest to the U.S.

William Sweet - Redirect

policies: The country is in trouble.

MR. TIGAR: Excuse me, your Honor.

MR. MACKEY: Excuse me.

MR. TIGAR: I object to that. I don't see how he could know that.

THE COURT: Yes. What's the source of your understanding of that?

THE WITNESS: I've seen it done many, many times, and that's -- I've discussed it with other people.

BY MR. MACKEY:

Q. In many of the mailings at Spotlight, did you notice the stamps --

THE COURT: I'm going to strike that. I don't believe that's an adequate foundation for that kind of testimony. The jury will disregard the testimony.

BY MR. MACKEY:

Q. Mr. Sweet, at any time that the Daryl Bridges account was active, did you receive any reports or complaints that it had been stolen?

A. No, I did not.

Q. Finally, Mr. Sweet, Mr. Tigar asked you some questions about what you did with the cards you bought. Do you recall that?

A. Yes.

Q. And did you give them to family members?

William Sweet - Redirect

A. Yes, I did.

Q. People you trusted?

A. Yes.

Q. And in each case, did you authorize those people once they had the card to use it?

A. Yes, I did.

MR. MACKEY: Nothing else.

THE COURT: Any recross.

MR. TIGAR: Yes, your Honor. Just one or two, your Honor.

THE COURT: All right.

RE CROSS-EXAMINATION

BY MR. TIGAR:

Q. Was the Philippines a place you could call to with a Daryl -- with a Spotlight card?

A. Prepaid card?

Q. Yes.

A. Yes, it was.

Q. And do you know how much a minute that cost?

A. I cannot recall that amount, no, I can't.

Q. All right. Well, would it be reasonable for a person to charge up their card by a hundred dollars if they were going to be calling the Philippines a lot?

A. I can't answer that. I wouldn't -- that would be a supposition on my part.

William Sweet - Recross

Q. Okay. Do you know -- I understand. Did it cost a lot more to call the Philippines than it did to call New York?

A. Yes, it did.

MR. TIGAR: Thank you very much, your Honor.

MR. MACKEY: Nothing else.

THE COURT: Witness now excused?

MR. MACKEY: Yes, your Honor.

THE COURT: Is that agreed.

MR. TIGAR: Yes, your Honor.

THE COURT: You may step down, you're excused.

THE WITNESS: All right.

THE COURT: We will take our afternoon recess at this time, members of the jury, and again of 20 minutes' duration and again remembering the caution and following the caution regularly and routinely given to keep open minds, avoiding discussion of the case or anything about it among yourselves and with all others and avoiding anything outside of our evidence which could in any way influence you in your decisions. You're excused now, 20 minutes.

(Jury out at 3:35 p.m.)

THE COURT: The factual Stipulation No. 26 appears to be dated today. I hadn't seen it before. It does have Mr. Nichols' signature on it, does it?

MR. WOODS: Yes, your Honor.

MR. TIGAR: Yes, your Honor, it does.

THE COURT: All right. Thank you. We'll be in recess, 20 minutes.

(Recess at 3:36 p.m.)

(Reconvened at 3:54 p.m.)

THE COURT: Be seated, please.

(Jury in at 3:55 p.m.)

THE COURT: Next, please.

MR. MACKEY: United States would call John Hensley.

THE COURT: All right.

THE COURTROOM DEPUTY: Raise your right hand, please.

(John Hensley affirmed.)

THE COURTROOM DEPUTY: Would you have a seat, please. Would you state your full name for the record and

spell your last name.

THE WITNESS: John E. Hensley, H-E-N-S-L-E-Y.

THE COURT: You may proceed.

MR. ORENSTEIN: Thank you.

DIRECT EXAMINATION

BY MR. ORENSTEIN:

Q. Good afternoon, Mr. Hensley. Would you tell the jury where you live, please.

A. Los Angeles, California.

Q. How are you employed there?

A. I'm the special agent in charge, U.S. Customs Service, Los Angeles field division.

John Hensley - Direct

Q. How long have you worked for the Customs Service?

A. 28 years.

Q. Can you describe for the jury what it is that the Customs Service does?

A. Customs Service protects the borders of the United States, protects the revenues of the United States on importations and exportations, and generally protects the citizenry from crimes within the statutory authority of the Customs Service.

Q. So does the Customs Service have agents who are involved in criminal law enforcement?

A. Yes, we do. We have about 2800 special agents who are 1811 criminal investigators.

Q. 1811. That's a statutory designation?

A. Criminal investigators. Yes, it is.

Q. How long have you been in charge of the Los Angeles office?

A. Just under two years.

Q. Prior to taking over at the Los Angeles office, what was your position with the Customs Service?

A. I was the special agent in charge of the Dallas field division.

Q. Now, does the Dallas field division have jurisdiction over a particular area?

A. Yes, it does. It runs the northern part of the state of Texas and the entire state of Oklahoma.

Q. And as special agent in charge of the Dallas division, did

John Hensley - Direct

you have supervisory responsibility over the offices in Oklahoma?

A. Yes, I did.

Q. Did the Customs Service have an office in Oklahoma City in April of 1995?

A. Yes, we did.

Q. And where was that located, please.

A. It was located in the Murrah Federal Building in downtown Oklahoma City.

Q. And could you describe generally how large an office it had in the Murrah Building?

in the Murrah Building:

A. Yes. It was about 1500 square feet. It was on the fifth floor of the Murrah Federal Building and housed six special agents -- excuse me. Five special agents and one office assistant.

Q. And did the people who worked for the Customs Service in the Murrah Building have any particular focus to their activities?

A. Yes, they did.

Q. Can you describe that, please.

A. Yes. The focus in that particular office was the investigation of frauds against the revenue, narcotics enforcement, smuggling, money laundering.

Q. Now, you told us that the Customs offices in Oklahoma City were on the fifth floor of the Murrah Building. Is that

John Hensley - Direct
correct?

A. That's correct.

MR. ORENSTEIN: If I could have the computer display to show the fifth floor. It should be up there.

BY MR. ORENSTEIN:

Q. Okay. Do you see that in front of you, sir?

A. Yes, I do.

Q. If you would use this floor plan, which is part of Government's Exhibit 952, and I believe you have a light pen there. If you would explain to the ladies and gentlemen of the jury who worked in the Customs office in the Murrah Building.

A. Okay. If I can, I can trace it probably from the entranceway. That's the reception entranceway. As you turn this way, it's the file room, then the break room. This is the evidence storage room, coming around to Terry Wilson's office, who was the resident agent in charge. Coming this way is the conference room.

The next area is an open area which had divided work stations. The first station was Claude Medearis, senior special agent. The next station was Dale Edwards, a special agent, and the last in the open area was Cynthia Gonyea.

The office on the end was occupied by Paul Ice, senior special agent. Next to Paul was Priscilla Salyers, the office manager. Behind Priscilla was the computer room. Next to that was the holding cell. Next to that was the back door, and then

John Hensley - Direct
the witness interview room. And that is the entire office.

Q. That's all on the fifth floor of the Murrah Building; correct?

A. Yes, it is.

Q. Now, let me direct your attention to April 19 of 1995. Where did you begin your day?

A. I was in Austin, Texas, at the state capitol complex at a meeting.

Q. And while you were at that meeting, did you learn of the explosion at the Murrah Building?

A. Yes, I did.

Q. What did you do?

A. I was in the company of one of our pilots; and upon making some phone calls and finding out the seriousness of the explosion, I asked the pilot to fly me directly to Oklahoma City. So we left Austin, Texas, and flew directly to Oklahoma City. I arrived shortly before noon on April 19.

Q. Once you arrived, did you attempt to account for the six Customs Service employees who were stationed in the Murrah Building?

A. Yes, I did.

Q. And did you find any of them?

A. Yes. I found Terry Wilson, I found Dale Edwards, and I found Cynthia Gonyea. And I located but did not see at that time by middle afternoon Priscilla Salyers.

John Hensley - Direct

Q. Do you know where she had been?

A. Yes. She had been in the building and had been taken to the emergency room at a local hospital in Oklahoma City.

Q. Were you able to locate Agents Ice and Medearis?

A. No. We ultimately were not able to locate them on that day.

Q. Were they killed in the bombing of the building?

A. Yes, they were.

Q. Agent Hensley, before coming to court today, did you look at an item marked Government's Exhibit 952E, which is a copy of that floor plan that's on your screen, and affix to that name plates showing where Agents Ice and Medearis worked?

A. Yes, I did.

MR. ORENSTEIN: Your Honor, we offer 952E with those name plates. We won't display it here.

MR. WOODS: No objection.

THE COURT: All right. 952.

MR. ORENSTEIN: We had offered it before with some name plates. We're offering it with these.

THE COURT: E, did you say?

MR. ORENSTEIN: Yes, sir.

THE COURT: E, received.

BY MR. ORENSTEIN:

Q. Also before coming to court today, Agent Hensley, did you look at Government's Exhibit 1067, a chart bearing photographs

John Hensley - Direct

of Agents Ice and Medearis?

A. Yes, I did.

Q. Does that chart bear fair and accurate photographs of the way Agents Ice and Medearis looked before they were killed in the bombing?

A. Yes, it does.

MR. ORENSTEIN: Your Honor, we offer Government's Exhibit 1067.

MR. WOODS: No objection subject to our prior objections.

THE COURT: Yes. It's received.

MR. ORENSTEIN: May I ask Agent Tongate to come up and display the chart.

THE COURT: Yes.

BY MR. ORENSTEIN:

Q. Agent Hensley, I'd like to go through this chart and describe for the ladies and gentlemen of the jury who each of these men was, how long he served the Customs Service, and what he did.

A. Okay. The agent on my far right is Paul Douglas Ice. Paul was a senior special agent in the office in Oklahoma City. He had been an agent just under ten years, coming on the job in early 1986.

Q. And what kind of job responsibilities did he have?

A. He was the lead agent on two large narcotics cases, also on

John Hensley - Direct

a major smuggling case, and he had several other cases assigned to him. I believe his caseload that he was carrying at the time were about nine criminal cases.

Q. And could you describe who is in the next photograph?

A. The next is Claude Arthur Medearis. Claude was just recently promoted at that time to senior special agent. He was also carrying narcotics cases and smuggling cases, and he had eight active investigations that he was working at that time, criminal investigations.

Q. And I'm sorry: How long had he been working for the Customs Service?

A. Just under ten years. He came on almost within two months of Paul Ice, so they came on together.

Q. Now, on April 19, 1995, how many investigative -- criminal investigative agents did the Customs Service have stationed in Oklahoma City?

A. There were a total of five with one office manager.

Q. And what percentage of its law enforcement officers did the Customs Service lose in Oklahoma City on April 19?

A. Approximately 40 percent.

Q. In addition to the loss of personnel, did the bombing affect the ability of the Customs Service to fulfill its responsibility in Oklahoma City in other ways?

A. Yes, it affected not only Oklahoma City but throughout the service.

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Q. What was the effect on Oklahoma City, first of all?

A. The loss of the agents and their case-working ability, the knowledge that those agents had, the files that were created by these agents, the other office files and historical documents

those agents, the other office files and historical documents, and certain pieces of evidence linked to other investigations.

Q. Were there any criminal investigations ongoing at the time of the bombing that had to be terminated because of the bombing?

A. Yes.

Q. Were there others that were significantly impaired or delayed as a result of the bombing?

A. Yes. It -- at the time of the bombing, all of those cases -- all the cases, including those being worked by other agents not killed in the bombing, were terminated because of the explosion. And at a later time, several cases were reconstructed and moved forward but not all of them. Many of them were closed permanently.

Q. Now, prior to the bombing, what was the normal -- approximately the normal caseload for an agent of the Customs Service in the Oklahoma city office?

A. The average caseload was around eight to twelve cases, and that was a continuous amount. We would close a case, open a

case; but the average caseload was between eight and twelve cases.

Q. Were the surviving agents in the Oklahoma City office able

John Hensley - Direct

to maintain that caseload in the months following the bombing?

A. No, they were not.

Q. Now, in addition to the impact on the Oklahoma City office, you mentioned that there was an impact beyond the Oklahoma City office. Can you describe what that was?

A. Yes. Several of the cases had collateral leads in other areas, were linked to other investigations throughout the United States. Those cases were severely hampered.

The Dallas office, for instance, 45 agents were moved from Dallas to Oklahoma City for a period of almost 30 days during the investigation following the bombing. And personnel from headquarters in other offices were also moved into Oklahoma City, taking them away from their other duties.

Q. Finally, Agent Hensley, on the morning of April 19, 1995, was Special Agent Paul Ice a law enforcement officer of the United States engaged in the performance of his official duties for the Customs Service?

A. Yes, he was.

Q. And on that same morning, was Special Agent Claude Medearis an officer, law enforcement officer of the United States engaged in the performance of his official duties for the Customs Service?

A. Yes, he was.

MR. ORENSTEIN: Thank you, your Honor. I have nothing further.

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THE COURT: Mr. Woods?

MR. WOODS: Thank you, your Honor.
If Mr. Tongate was to have a seat, that's fine with
me.

THE COURT: All right. You can put that down and
take
a seat.

CROSS-EXAMINATION

BY MR. WOODS:

Q. Good afternoon, Agent Hensley.

A. Good afternoon.

Q. My name is Ron Woods. I'm one of the lawyers that was
appointed by the senior federal judge in Oklahoma City shortly
after May 9, 1995, when Terry Nichols was charged with being
responsible for this bombing. You and I have known each other
for a number of years; is that correct?

A. That's correct.

Q. However, we've never talked about your activities in this
case, have we?

A. That's correct.

Q. You told the jury that you got to Oklahoma City the morning
of the 19th before noon. Is that correct?

A. That's correct.

Q. And how late did you -- how many days did you stay there
before you left?

A. I was there almost a month.

John Hensley - Cross

Q. Without leaving?

A. One trip to Dallas to pick up additional clothes and then
return.

Q. Okay. Now, did you set up a command post while you were
there in Oklahoma City for you and the other Customs people who
flew in?

A. Yes, we did.

Q. And where did you locate your command post?

A. It was at the Customs National Aviation Center at or near
Will Rogers Airport.

Q. Okay. Did anybody share that command post with you, other
agencies?

A. Yes.

Q. And who was that?

A. Initially, Secret Service; and the Bureau of Alcohol,
Tobacco, Firearms had command posts at that facility until they
moved to another location.

Q. Now, is it true that those three agencies that you
mentioned are part of the Treasury Department?

A. Yes, they are.

Q. Okay. Would you tell the jury what the distinction is
between law enforcement agents that work for the Treasury
Department and those that work for the Justice Department.

A. The series itself in terms of the criminal investigator
series is the same. They're 1811 series criminal

John Hensley - Cross

investigators. However, the agents in the Treasury Department, the bureaus, work effectively for the Secretary of the Treasury. Most of the statutes worked within the Treasury Department have some basis in revenue, whether it's counterfeit, or Marijuana Tax Stamp Act, or some other law.

The agents in the Justice Department work for the Attorney General, even though the -- they are independent agencies with their own agency held, such as the Director of the FBI or the Director of the Administration of DEA.

Q. Is it true, then, that the FBI and DEA and INS are all within the Justice Department?

A. That's correct.

Q. And then under the Treasury Department we have your agency, Customs, Secret Service, and the ATF? Is that correct?

A. And IRS.

Q. And IRS. And you were sharing your command post with ATF and Secret Service. Was IRS involved at all in your investigating?

A. No, they were not.

Q. Do you know whether or not they had offices in Murrah Building?

A. I don't know.

Q. Okay. Now, did you go down to the scene? You, of course, were on the scene there that first day on the 19th. Did you go down to the scene pretty much every day after that?

John Hensley - Cross

A. Yes, I did.

Q. Now, there were agents from FBI and DEA and ATF and Customs that were all there investigating the crime scene. Is that correct?

A. That's correct.

Q. What about Secret Service? Did they have agents investigating the crime scene, to your knowledge?

A. As far as I know, they participated in the command center but did not have agents in the actual search teams or interview teams.

Q. Okay. Now, do you know where the FBI command center was?

A. Yes, I do.

Q. And would you tell the jury where that was, based on your recollection?

A. It's approximately five to six blocks away from the Murrah Building. It was in a telephone building command-switching center, I believe is what it was that the telephone company allowed the federal government to use.

Q. Was that on the first day, when they had a mobile trailer there, mobile home?

A. The mobile home was the first part, but it was moved that same day into the phone building probably about 4:00 that afternoon.

Q. All right. I'm going to show you what's previously been

admitted into evidence which I have as 940, Government's

John Hensley - Cross

Exhibit 940, which is a map of the downtown area surrounding the federal building. And if you would pick up that pen that's there and click it on the side. That will remove these -- that red mark. Is it removing it? Just click it on the side.

There you go.

Now, can you for the benefit of the jury point out -- are you acclimated here as to where the Murrah Building was?

A. Yes.

Q. Can you point out where the FBI command post was that first day?

A. I guess I haven't been in Oklahoma City for quite a while. I can't exactly remember exactly where it was.

Q. Okay. Do you recall a parking lot right across the street from the part of the building that was bombed?

A. Yes, I do.

Q. Okay. And can you point that out for the jury?

A. Yes, I can.

Q. Now, did you notice that parking lot when you first got there before noon on the 19th?

A. Yes, I did.

Q. Can you describe for the jury what you saw when you first saw that parking lot, what the conditions were and what you saw in it?

A. In the parking lot was tremendous amount of damaged vehicles, some moved sideways, some burned, debris, rocks.

John Hensley - Cross

Some of the vehicles were still smoking, although none were on fire. I saw fire equipment, police vehicles. It was a pretty crowded location.

Q. Had the fires been put out from what you could tell?

A. Yes, they were.

Q. And you mentioned cars that had been on fire. Were these all extinguished from what you could tell?

A. Yes, they seemed to be. There was some with smoke, but they seemed to all be extinguished.

Q. And could you tell from the fire equipment -- fire department equipment that was on hand whether or not they had used water from street hydrants or chemicals to put those fires out?

A. There were both there. There was a white debris on the ground, although I did not see anybody using it, foam equipment. There was some white debris on the ground, and there was also water; so my assumption would be both, but I did not see it myself.

Q. When you say "white debris," can you describe for the jury what that was?

A. The white debris was much like would come out of a fire extinguisher, a dry, large fire extinguisher.

Q. Okay. Now, over the course of that day and the next two

Q. Okay. Now, over the course of that day and the next two days, Thursday and Friday, were you there at the scene?

A. Yes, I was.

John Hensley - Cross

Q. What days or what day was it that Agents Ice and Medearis were found?

A. Paul Ice was found on the late evening of the 26th. I actually identified the body on the 27th -- early morning hours of the 27th. And Claude Medearis was located in the building around 6:30 on the 28th.

Q. Okay. So I assume that you were on the scene every waking moment until those two agents were located; is that correct?

A. That's true.

Q. And also with another -- with other Customs agents?

A. Yes.

Q. Were they pretty much flown in from all over the country?

A. Primarily from Dallas; but yes, from all over the country.

Q. And Dallas was your office that you were in charge of --

A. Yes.

Q. -- is that correct? Okay.

Now, originally on the 19th, had ATF started out -- first, would you explain based on your knowledge of the Treasury Department what the jurisdiction of the ATF is, what criminal violations they investigate?

A. They investigate several violations. They regulate and control alcohol production, tobacco, tobacco tax. They have jurisdiction on firearms registration, the domestic movement of firearms; and they also have jurisdiction in arsons and bombings.

John Hensley - Cross

Q. Bombings?

A. Yes.

Q. Okay. Now, do you know whether or not they started out tagging the evidence that was found around the bomb scene originally?

A. I don't think at the outset they did, but very shortly thereafter they did.

Q. All right. And did there come a time when the FBI went around and removed all those tags and put FBI tags on the items?

A. I don't remember.

Q. But to your memory, ATF was the one that was originally putting the tags on items?

A. I believe they did place some tags. I don't know if it was a lot of tags, but I do know that they placed some tags.

Q. Okay. And did ATF bring in a number of people from out of the city of Oklahoma City?

A. Yes. The FB -- excuse me. The ATF brought in their National Response Team.

Q. Okay. And what is the ETB team, if you know, within the ATF designation?

A. I'm not sure.

Q. Okay. They were sharing the space with you, the command center, for how long, sir?

A. About the first four days or five days, and then they moved

John Hensley - Cross
out.

Q. Do you know where they moved?

A. Another building, but I'm not exactly sure where it is in Oklahoma City.

Q. Was it closer to the Murrah Building?

A. Yes, it was. It was further downtown than ours.

Q. Now, do you know where the FBI field office was in Oklahoma City?

A. Yes, I do.

Q. And can you tell the jury where that was?

A. Yes. The field office is -- in Penn Place, which is on the north -- north loop of the city; and it's not in the downtown area per se. It's not that far away, but it's not in downtown.

Q. So the FBI did not have an office in the Murrah Building, to your knowledge?

A. No, they did not.

Q. It was several miles away. Can you give any estimation how far away it was?

A. Probably 7 or 8.

Q. Okay. Was that parking lot across the street from the building used as -- during that following week from the 19th to the 26th? Was that used as a forming area or where people gathered and equipment was gathered, or can you just give the jury a sense of how that parking lot was used over that next week from the 19th through the 26th?

John Hensley - Cross

A. Originally it was -- the evidence was reviewed there; and then after that, more closely to the brick wall of the building, which was adjacent to the parking lot, was a staging area for the teams as they came on shift.

Q. Okay. Now, were you there when the ATF brought a Ryder truck to the scene?

A. Yes.

Q. Okay. Can you tell the jury approximately when that was?

A. It was a few days after the actual bombing itself. I don't remember the exact date.

Q. Was it within the first week?

A. I believe it would have been at the end of the first week. That's my best recollection.

Q. So are we talking this evening -- if the bombing was on the

19th, which was a Wednesday, are you talking into the next week, early part of that week, Monday, Tuesday, Wednesday?

A. Yes, I am.

Q. Now, did you happen to go down and examine the Ryder truck

and its contents, or just -- not examine it, but did you see it when it was opened up?

A. I saw the truck from a distance. I didn't actually go up for a close look-see.

Q. Can you tell the jury where it was parked when it was brought to the crime scene?

A. When I saw it, it was in a parking lot approximately a

John Hensley - Cross

block and a half from the crime scene.

Q. And do you know where the YMCA building is in relation to the Murrah building?

MR. WOODS: If I could just have this on one more time.

BY MR. WOODS:

Q. Can you point out to the jury where the YMCA is?

Okay.

A. The -- when I saw the van, it was not there, but approximately in this area here.

Q. Okay. Do you know where it had been before you located it at that location? Do you know where it had previously been?

A. No, I did not.

Q. About what time during the day did you see it?

A. It would have been in the morning prior to noon, probably late morning.

Q. Okay. And did you ever see -- was this supposedly the same size of van as the truck that had been used?

A. Yes.

Q. Was that your understanding?

A. Yes.

MR. ORENSTEIN: Objection, Judge. Hearsay.

THE COURT: What?

MR. ORENSTEIN: He's answered, so I'll withdraw the objection.

John Hensley - Cross

THE COURT: All right.

BY MR. WOODS:

Q. Did you see the back doors open and the contents inside?

A. The back doors were open. I didn't really note the inside. I was doing other things, so I didn't really go up to the van itself.

Q. Okay. What was your understanding of the purpose of this Ryder truck and the contents being on the crime scene?

MR. ORENSTEIN: Objection, your Honor.

THE COURT: Overruled.

THE WITNESS: The purpose was a reconstruction, as I understood it, of the vehicle. ATF was doing a reconstruction.

MR. WOODS: Your Honor, may I hand the witness Defense Exhibit 1634, which is a series of 10 photos?

MR. ORENSTEIN: Your Honor, I'd like to see those, please.

THE COURT: Show them to counsel

THE COURT: Show them to counsel.

MR. WOODS: I gave copies this morning.

THE COURT: Show them to counsel.

Oh, they have them.

How are these marked, Mr. Woods?

MR. WOODS: It's Defense Exhibit D163 -- I'm trying

to

recall it from memory, your Honor.

THE COURTROOM DEPUTY: 1634.

MR. WOODS: And they're Bates' stamped 1 through 10.

John Hensley - Cross

THE COURT: All right.

BY MR. WOODS:

Q. Mr. Hensley, I'll ask you, if you will, just look at each of those items without commenting yet.

Now, sir, do those photographs accurately depict the scene as you observed the truck in the downtown area there?

A. It looks to be at a different location. It's the same type of truck that I saw, and there were agents around it.

Q. And do those photographs depict agents with their law enforcement designation standing around the truck?

A. Yes.

Q. And is that the same type of scene that you saw at the crime scene?

A. Yes.

Q. Can you from looking at those buildings that are pictured behind the vehicle -- can you give us an idea of where it is that these photographs were taken?

A. This looks to be behind the main command post, which was the phone building.

Q. All right. Now, if you would look at No. 9, the one that's Bates' stamped No. 9. Without describing the building, do you recognize the building in the background?

A. No, I don't.

MR. WOODS: Okay. Your Honor, may it please the Court, the defense would offer into evidence Defense Exhibit

John Hensley - Cross

1634 and the series of 10 photos Bates stamps 1 through 10.

MR. ORENSTEIN: May I voir dire briefly?

THE COURT: You may.

VOIR DIRE EXAMINATION

BY MR. ORENSTEIN:

Q. Agent Hensley, with respect to these photographs, you say these do not depict a truck where you saw it in the questions that Mr. Woods was asking you?

A. That's correct.

Q. So you did not see these scenes?

A. No, I did not.

Q. There are some pictures showing the inside of the truck. You said that you had seen the truck with a door open but you didn't see what was inside of it?

A. That's correct.

Q. So you can't attest to anything about photographs of the inside of the truck?

A. That's correct.

Q. Did you see the truck close up, or from a distance?

A. From somewhat of a distance.

Q. So if there were any pieces of paper or something affixed to the truck, you couldn't read what was on those pieces of paper?

A. That's correct.

MR. ORENSTEIN: Your Honor, on that basis, I object.

John Hensley - Voir Dire

THE COURT: Sustained.

CROSS-EXAMINATION CONTINUED

BY MR. WOODS:

Q. Agent Hensley, how many days did you see the truck in the downtown area?

A. I believe I saw it probably a couple of times.

Q. And what days were -- was it that you saw the truck?

A. They both would have been fairly close together in that period of, say, five or six days after the initial explosion. I'm not really sure which days I saw them.

Q. Was it always in the same location?

A. No. It was at two different locations.

Q. And what was the second location you saw it in?

A. It seemed to be on the south side of the bomb site, but I saw that at a distance; and I don't remember anything other than it seemed to be the same truck.

Q. Okay. When you say the south side of the bomb site, where are you referring to?

A. There was a parking lot where agents coming on shift or police officers or firemen parked which was close to the Salvation Army coffee trailer. It was somewhere in that area. That's the best I could tell you.

Q. Okay. Can you --

MR. WOODS: If I may have this downtown map on again.

BY MR. WOODS:

John Hensley - Cross

Q. Can you designate where the other location was that you saw the Ryder truck?

A. I believe it was in this area here.

Q. Okay. Now, where did you see it first? Which location?

A. I believe I saw it at this location here, in my normal walking route.

Q. Which one?

A. This location, which is the other side of the YMCA.

Q. And then the second location was in the lot across the street from the Murrah Building?

A. Yes. Well, actually across and south of it.

Q. And that's one of the staging areas where the agents that

were coming on duty would meet to get their assignments?

A. For us, it was just a reserve parking facility for government vehicles.

Q. Did you see -- you mentioned the fact that it was a gathering point. What do you mean by that?

A. That's where police vehicles and other people involved in the search and evacuation, evidence-gathering, etc., would stage vehicles.

Q. And then they would walk from that area over to the Murrah Building?

A. Yes, they would.

Q. Okay. Now, when you were there for a week before the bodies were found up at the Murrah Building, did you have to go

John Hensley - Cross

over to the parking lot across the street from it to get a full view of the whole building?

A. I'm not sure exactly how to answer that. You could see it from most any corner or up the street from it.

Q. Sure. In front of it, there was a crater, was there not?

A. Yes, there was.

Q. Do you know when that crater was covered over and filled in and covered over based on your recollection of being on the scene?

A. Well, it was covered over fairly quickly. When it was fully filled in, I'm not exactly sure.

Q. Was it filled in before it was covered over?

A. Yes, it was covered over before it was filled in so people didn't fall in the hole.

Q. And there were cranes and fire ladders there in front of the building; is that correct?

A. There was everything in front of the building.

Q. Okay. So if you wanted to have a view of the building, would one place be that you could see the whole building be across the street in the parking lot?

A. Yes. That's one place.

Q. Okay. Now, back to that second location where you saw the truck: Do those photographs reflect that position of the truck with the YMCA in the background?

A. Yes, it appears to.

John Hensley - Cross

MR. WOODS: Okay. Then we would reoffer the photos, your Honor, at this time.

THE COURT: You haven't overcome the objection.

MR. WOODS: All right.

BY MR. WOODS:

Q. When you say it appears to, are you recognizing the YMCA --

THE COURT: He's talked about locations. The photographs include a lot more than just the locations.

MR. WOODS: Yes, your Honor.

BY MR. WOODS:

Q. The position of the truck with the crane and ladders

Q. The condition of the truck with the agents walking around it: Is that a scene that you saw when you observed the truck and agents?

A. Yes.

Q. Okay. As to the doors being open: Did you ever see it with the doors open?

A. The doors were open when I saw the truck on one occasion, on the first occasion; but I didn't really -- I wasn't close enough to actually look inside and see what was there.

MR. WOODS: All right. Then, your Honor, we would withdraw those photographs that show the interior contents up at the front of the truck. We would offer those photographs that depict the --

THE COURT: Which are we talking about?

MR. WOODS: Yes, your Honor.

John Hensley - Cross

THE COURT: Let me have the exhibits.

I need the exhibits.

MR. WOODS: We would withdraw No. 4. We would withdraw No. 6. And No. 5 shows some of the -- some of the contents, your Honor.

THE COURT: I sustain the objection to all of them.

MR. WOODS: All right.

BY MR. WOODS:

Q. Do you know how many days the truck stayed on the crime scene, Agent Hensley?

A. No, I do not.

Q. Was it there past the 26th, one week after the bombing?

A. I didn't see it after the 26th.

Q. Okay. And how many days, then, did you see it there?

A. Over probably a three-day period.

Q. Okay. And do you know whether or not, based on your knowledge, the ATF had created a mock bomb inside of it with fertilizer?

MR. ORENSTEIN: I'll object since it's not personal knowledge.

THE COURT: Sustained.

BY MR. WOODS:

Q. Well, based on your personal knowledge, do you know whether or not the ATF created a mock bomb with fertilizer?

A. No, I do not.

MR. WOODS: Okay. Nice to you see you, again, sir.

Thank you.

No further questions.

THE COURT: Any redirect?

MR. ORENSTEIN: Nothing further, your Honor. The witness is excused.

THE COURT: Agree to excuse the witness?

MR. WOODS: Yes, your Honor.

THE COURT: You may step down. You're excused.

Next, please.

MR. MACKEY: Your Honor, we would call John Kane.

THE COURT: All right.

THE COURTROOM DEPUTY: Raise your right hand, please.

THE COURTROOM DEPUTY: RAISE your right hand, please.
(John Kane affirmed.)

THE COURTROOM DEPUTY: Would you have a seat, please.

Would you state your full name for the record and spell your last name.

THE WITNESS: John Kane, K-A-N-E.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Proceed.

MR. GOELMAN: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. GOELMAN:

Q. Good afternoon, Mr. Kane.

A. Good afternoon.

John Kane - Direct

Q. Where do you live?

A. Orlando, Florida.

Q. Are you married?

A. Yes, I am.

Q. Do you have any kids?

A. I have a 14-year-old son and an 18-year-old daughter.

Q. What do you do in Orlando?

A. I operate a telecommunications consulting business.

Q. How long have you been involved in the telecommunications industry?

A. Approximately 25 years.

Q. And during this quarter century that you've been involved in the industry, did you at one time establish a debit card business?

A. Yes, I did.

Q. Was one of the debit cards that you sold Daryl Bridges a debit card offered by The Spotlight magazine?

A. Yes, it was.

Q. I want to go back and talk briefly about your background in the telecommunications business. You said that you've been in the industry for 25 years?

A. Yes.

Q. Would you briefly describe some of the things that you've done in the telecommunications industry?

A. Sure. I started in the telecommunications business

John Kane - Direct

actually installing telephone services for businesses in the New York area. I did that for approximately ten years. In about 1983, I got involved in the long distance business as that business became a business through divestiture and deregulation that took place through regulatory events in this country, spent quite a lot of time managing long distance companies, fixing them, growing them, taking them public; been involved in a lot of merger and acquisition work in the telecommunications area as well.

Q. So you've been involved on both sides of the industry, the installation of the actual hardware and the provision, the

selling, of time on the long distance wires?

A. That would be correct, yes.

Q. Were you ever asked to testify before Congress on issues of importance to the industry?

A. About four years ago, I testified before Senator Hollings when he was conducting hearings on telecommunications legislation on a bill called 1822, which eventually was not passed. Subsequently, similar legislation was passed the next year. At the time, I was the president of a trade association called ACTA, which is America's Carriers Telecommunications Association, and I was representing about 150 small long distance companies before Congress at that hearing.

Q. Mr. Kane, can you tell us what a debit card is.

A. A debit card is a device by which a person can make

John Kane - Direct

telephone calls. They pay for the calls in advance, prepayment or prepayment card. It's kind of the opposite of a credit card, where you would pay for calls in arrears, which most people are familiar with. A debit card in the United States is a fairly new concept, has been probably only in use here since about 1992, going into 1993.

Q. When did you start your debit card business?

A. Late in '92.

Q. Is there a reason that debit cards were not widely used in the United States before that?

A. Primarily two reasons. One was that the United States is pretty much a credit-based society and prepayment is not something that's just all that popular, although it's becoming more popular in recent years. Debit card industry this year will probably be about a \$2 1/2 billion revenue just in the United States.

Q. Was there another reason that you --

A. The second reason was that technology in order to provide the debit card service wasn't all that readily available or adoptable to the -- to telecommunications infrastructure in the United States. Most of the rest of the world uses debit card technology that's built into the calling device. The public pay phone systems in most countries use a card that you physically have to plug into the phone before you can make your call.

John Kane - Direct

In the United States, phones are oriented towards coins, which are not real effective for making long distance calls. There is too many coins involved, and there is also no device on the phone to read the information on a prepaid calling card. It would be very expensive to upgrade approximately 2 million phones that exist in the United States to read debit cards.

Q. Because of that difference in pay phone technology, what did you do when you went about establishing your debit card

business?

A. We used an -- or developed an 800-type access, so essentially you would have to dial an 800 telephone number, which is free from most places; and by using the 800 number, you would then access one of the debit card systems. You would identify yourself to that system by entering a PIN number, and then you'd be able to make calls if you had any value left in your balance in your account.

Q. Did you use any particular software when you were establishing the 800 number debit card system?

A. Actually, I used a software system that had been developed for another telecommunications application by a company called OPUS Telecom in Framingham, Massachusetts; and through an associate of mine there, Jay Gainsboro, who was a minority partner with me in a debit card business -- he took some ideas and concepts I had about what I wanted to do in a debit card

John Kane - Direct

business and adapted his software to perform those applications.

Q. You said that when you started this debit card business they weren't widely used in this country.

A. That's correct.

Q. How did you go about marketing or selling your debit cards?

A. Well, we weren't quite sure how to go about that in the beginning, so we tried a number of different approaches. We were selling the cards out of convenience stores, trying to sell them out of check-cashing locations, on college campuses. We also entered into a number of arrangements with different affinity groups and marketing distribution channels to try to take advantage of their members.

Q. What do you mean "affinity group"?

A. An affinity group would be any association or large group that had a substantial number of members that could be accessed by common channel, such as a newsletter or direct mailing or meetings of any kind.

We would take the name of the group, put it on the debit card, and then a portion of the revenue that was created by the sale of that debit card would go back to that group in the form of a commission.

Q. Was Liberty Lobby or Spotlight magazine one of those affinity groups that you contracted with?

A. Yes, they were.

John Kane - Direct

Q. Did you personally market to Liberty Lobby?

A. No, I didn't.

Q. And when you were running the debit card platform, did you know what kind of publication Spotlight newspaper was?

A. I had no idea.

Q. Did each affinity group have its own 800 number, Mr. Kane?

A. Yes. Each one had a custom 800 number that was for their use only, which was associated with a set of voice prompts that

use only, which was associated with a set of voice prompts that identified the group to the caller so they -- they had the brand recognition or affinity recognition when they called in.

Q. And how many different 800 numbers did you have in running your debit card platform?

A. We probably had somewhere between 50 and 60.

Q. Mr. Kane, what was your position at the time of the Oklahoma City bombing?

A. I was senior vice president, operations, for West Coast Telecommunications, which was about \$150-million-a-year, publicly held, telecommunications company.

Q. And were you still managing the debit card system that you had put into place in 1992?

A. Yes. The operations side of it.

Q. After the bombing in Oklahoma City, did you subsequently become aware that one of your debit cards might have been involved in the bombing?

A. Yes.

John Kane - Direct

Q. How did you become aware of this?

A. I was called.

MR. TIGAR: Excuse me, your Honor. I object to that.

THE COURT: Sustained.

BY MR. GOELMAN:

Q. Now, did anyone except for the holders of the Spotlight card have -- dial this same 800 number, Mr. Kane?

A. No.

Q. Do you know what this 800 number was?

A. It was (800) 793-3377, I believe.

Q. And after the bombing, were you contacted by investigators, Mr. Kane?

A. Yes.

Q. What was it that they wanted?

MR. TIGAR: Object to the hearsay, your Honor.

THE COURT: Sustained.

BY MR. GOELMAN:

Q. After talking to the investigators, Mr. Kane, did you take certain steps to provide information to federal investigators?

A. Yes, I did.

Q. Can you tell us what those steps were?

A. We conducted some searches of our databases and business records to try to ascertain as to whether some telephone numbers that they had given us were resident in any of those databases.

John Kane - Direct

Q. And how did you go about doing that?

A. We took the phone numbers that they provided to us. We input them into our systems and essentially asked the systems if they matched any records to those numbers.

Q. And did the systems match any records to those numbers?

A. Not initially.

Q. Did they after your initial search?

A. After we could not match the first two records that we were provided with, we happened to be looking at some of the output from one of the systems; and I noticed that there was a call that originated from a similar number as to one of the numbers that was provided to us by the investigators.

I contacted the -- one of my sources in the industry and found out that the number --

MR. TIGAR: Excuse me, your Honor. Object to what he found out from a source.

THE COURT: Sustained.

BY MR. GOELMAN:

Q. Do you remember the number that was called, Mr. Kane?

A. The number that we found was a number that was called from -- and I believe it was --

Q. Do you remember the number that was called to?

A. From that number?

Q. Yes.

A. Yes.

John Kane - Direct

Q. That first call that you discovered?

A. Yes. It was (913) 258-3400.

Q. Before coming to court today, did you review the business records of Southwest Bell to determine who the subscriber was at the time of that phone call?

A. Yes, I did.

Q. Who was it?

A. Terry Nichols.

Q. And when you found that first phone call, did you provide it to investigators?

A. Yes, I did.

Q. Did they ask you to do something else at that point?

A. They asked me for all the subscriber records for the account that had made those phone calls. And we provided them with somewhere in excess of 680 telephone records that were associated with the account that had made that phone call.

Q. And did you determine which particular account of yours made that phone call?

A. Yes, we did.

Q. What information did you find out about it?

A. We found out that the account was listed to a Daryl Bridges and that the card -- the prepaid calling card had been made to a Decker, Michigan, address under that name.

MR. GOELMAN: Court's indulgence.

THE COURT: Yes.

John Kane - Direct

BY MR. GOELMAN:

Q. Mr. Kane, if you could look inside that folder, I believe you'll find Government's Exhibit 484. It's already been admitted into evidence.

A. I have it.

Q. Do you recognize what that is?

A. This is a fulfillment package that was mailed out to subscribers that were sold by The Spotlight magazine.

Q. And what exactly is a fulfillment package?

A. Well, essentially it contains a prepaid calling card, which is a cardboard knockout in this particular type of fulfillment package. It includes instructions on how to use the card, and it also includes some payment stubs. If the subscriber would like to add value to the card, they could fill out the stub, enclose the check, and mail it in to The Spotlight. More value would be added to their prepaid card.

Q. What name was that card purchased under?

A. Daryl Bridges.

Q. And what's the address?

A. 3616 North Van Dyke Road, Decker, Michigan, 40426.

Q. Could you take the fulfillment package out of there and look on the inside of the cover there.

Are those accurate instructions for how to use this particular calling card?

A. The preprinted ones, or the handwritten ones?

John Kane - Direct

Q. The preprinted ones.

A. Yes, they are.

Q. Okay. I want you to look -- see if you can find Government's Exhibit 1717, please. It's an address book.

Actually, Mr. Kane, I'll just show you 1717A, which has already been admitted into evidence. If you look on your computer screen, that should be popping up.

Can you read that? Is that too small?

A. I think I could read it. It says -- top line says, "Daryl --" "Bridges, Daryl, 1-800-793-3377."

Q. Mr. Kane, do you recognize that particular 1-800 number?

A. That's the 800 access number for the prepaid calling card platform for Spotlight.

Q. And for any other organizations, or just for Spotlight?

A. Just for Spotlight.

Q. Okay. Go on?

A. It says, "Assist 800-576-8896."

Q. Do you recognize this particular 800 number?

A. That's an 800 custom service number for the debit card customer service group.

Q. Okay.

A. And the last number is 567577365775 -- I think 32.

Q. How many digits did the PIN numbers that your 800 cards had connected to them have?

A. The Spotlight calling program had a 14-digit PIN number,

John Kane - Direct

and this is the PIN number from the Daryl Bridges account.

Q. Mr. Kane, do you have any personal knowledge where Government's Exhibit 484 and 1717 came from?

GOVERNMENT'S EXHIBIT 484 AND 1/1/7 CAME FROM?

A. No idea.

Q. But whoever had these, did they have the knowledge and capability of making calls charged to the Daryl Bridges debit card?

A. I would say so.

Q. And did they also have the knowledge and ability to reach personnel that WCT provided for customer service for the Spotlight debit card?

A. I would say so.

Q. Mr. Kane, I'd like to talk a little bit about mechanics of how a debit card actually works. What happens if someone tries to make a call and there is simply not enough money in the debit card account?

A. They'll get a recording from the system that will advise them that they have an insufficient balance to make the call.

Q. Will the call be put through anyway?

A. No, it will not.

Q. So it would be physically impossible to make that call?

A. Yes, it should be.

Q. Are you familiar with the technical process by which the system checks to make sure if there is enough money in the account before it puts a call through?

John Kane - Direct

A. Yes.

Q. I want to show you what's been marked for identification as Government's Exhibit 504. Does that depict an explanation of the basic process by which the system works?

A. Yes.

Q. Would that be helpful to explain to the jury the basic process?

A. Yes, it would.

MR. GOELMAN: Your Honor, I move to admit Government 504 for demonstrative purposes only.

MR. TIGAR: No objection, your Honor.

THE COURT: 504 may be used for that purpose.

BY MR. GOELMAN:

Q. Starting from the upper left-hand corner, Mr. Kane, can you trace the path a phone call takes when it goes into the WCT debit card system?

A. The left-hand telephone in this picture would be the originating caller. A person at that location would pick up the phone, they would dial the 800 number. The 800 number would be routed to the WCT box, the larger red box. WCT would then put that call into a -- into the yellowish box called 3911, which would be a part of the WCT switch.

The call would be then further routed down to the

Opus

box, down at the bottom, where a balance check and further call processing could take place.

John Kane - Direct

If there was an appropriate balance in the account, the call could then be further routed back into the blue box and WCT and out to the phone on the right-hand side.

Q. I heard you use the term "WCT switch." Is that what is represented by the big rectangle in the middle of the screen?

A. That's correct.

Q. What exactly is a switch?

A. In this particular case, this is a large telecommunications switch. It happens to be located in Los Angeles, California. It has approximately 30,000 phone lines associated with it.

Q. Is Government's Exhibit 504 a pretty simplistic version of that process?

A. Yes, it is.

Q. Why don't you take a look at Government's Exhibit 505. Tell me if that's a slight upgrade.

A. It's a significant upgrade.

Q. And would this help you explain a little bit more about the process to the jury?

A. Sure.

MR. GOELMAN: Your Honor, I move to admit 505 for demonstrative purposes.

THE COURT: All right.

MR. TIGAR: May I inquire, your Honor?

THE COURT: Yes, you may.

VOIR DIRE EXAMINATION

John Kane - Voir Dire

BY MR. TIGAR:

Q. Hello, Mr. Kane. My name is Michael Tigar. I'm one of the lawyers appointed to help Terry Nichols.

Oh, excuse me. Go ahead.

You're looking at this exhibit, and it depicts at the bottom some computers. Is that right?

A. Yes, sir.

Q. Now, during a part of every business day, these computers were rebooted; is that right?

A. That's correct.

Q. And during the period 1993 through April 17, 1995 -- during the time the computers were being rebooted, certain data was lost; is that correct?

A. That's my understanding, yes.

Q. All right. So that when you are using this to demonstrate, you aren't -- would not be saying that the Opus billing could accurately keep track of every single one of the calls initiated by someone with a Spotlight card, are you?

A. No.

MR. TIGAR: With that understanding, your Honor, for demonstrative purposes, we have no objection.

THE COURT: All right. You may proceed with 505.

MR. GOELMAN: Thank you, your Honor.

DIRECT EXAMINATION CONTINUED

BY MR. GOELMAN:

John Kane - Direct

Q. Mr. Kane, will you click your pen a couple times to erase the marks on the screen.

Does Government's Exhibit 505 depict the path that every phone call coming into the debit card system takes?

A. Yes, it does.

MR. GOELMAN: Your Honor, we have an enlargement which has been numbered Government's Exhibit 506. Since Mr. Kane is going to be referring to this basic schematic throughout his testimony, I'd ask that Agent Tongate be allowed to put it up on the easel, although we can do it tomorrow --

THE COURT: Well, we're not in session tomorrow. You mean Wednesday?

MR. GOELMAN: Wednesday. I won't be here.

THE COURT: You won't be here on Wednesday?

MR. GOELMAN: No, I won't be here tomorrow.

THE COURT: Don't be so sure.

Well, I don't know -- sure. It's all right. We've only got five minutes to go here.

MR. TIGAR: Your Honor, we have no objection to using it. It will be helpful for cross-examination as well.

THE COURT: All right. Let's put it up.

MR. GOELMAN: I'll put it up first thing on Wednesday and just continue right now.

THE COURT: All right.

BY MR. GOELMAN:

John Kane - Direct

Q. Now, using this exhibit, Mr. Kane, can you tell us where the phone call goes when it first comes in to the local phone company?

A. Yes. This picture, again starting with the left-hand-most telephone, would represent where the originating call was taking place from. Line No. 1 would demonstrate where the call was first connected to, and that would be the local telephone company.

Everybody's telephone is connected to a local telephone company when you first make a telephone call. The local telephone company would look at the 800 number, which would be the dialed number in this case, and would not know where to route that call to. Local telephone companies do not keep that information in their local switching equipment, so they need to go off to a third-party data warehousing company, which is NASC, and look up that number in their database so that the number can be routed to the appropriate long distance carrier for completion.

Q. In this case, who is the appropriate long distance carrier?

A. It would be WCT.

Q. Okay. So what happens when the phone call comes into the WCT switch?

A. So using Arrow 4 to represent that connection, the local telephone company would then hand the call to the WCT switch. Once it was in the WCT switch, the WCT switch would again look

John Kane - Direct

at the 800 number that was dialed, make a determination from its database as to what to do with that call. 800 number for Spotlight would have been routed to the -- over Arrow 5 to the Opus computer system.

The Opus computer system would then start to play voice prompts that the caller would hear, and the caller would then react to those voice prompts by putting in their PIN number and the long distance number they wish to call so that they could complete their transaction.

Q. Assuming it was an active PIN number, what would happen after that?

A. If it was an active PIN number and the caller dialed a long distance number, the Opus system would through Arrow 6 attempt to make an outbound call to connect the incoming caller to the destination telephone at the end of Arrow 7 through the distant local telephone company.

Q. Okay. Mr. Kane, how long would Steps 1 through 5 take in real-person time?

A. At that time, Steps 1 through 5 should have taken someplace between 7 and 10 seconds.

Q. Would all those steps take place before the caller heard any voice prompt?

A. Yes, they would.

Q. How long would the whole thing take place from the time that the telephone on the left is picked up until the time that

John Kane - Direct

the call goes through, if there is sufficient money?

A. Depends really a lot on how quickly the caller put in their PIN number. They have to dial 14 digits. Then they have to dial another 10 digits to make a long distance call. The overall time before the call could be processed would probably be at least 15 seconds, probably closer to 20, although I have seen calls that went on for almost a minute before the person left the Opus system to be connected.

Q. Inside the Opus box there is a picture of five different computers.

A. Yes.

Q. Can you explain why that that's the case?

A. The Opus system was five different PCs, four call-processing PCs that were physically connected to the WCT switch and a central PC that housed the database, the account balance information, and other technical information that was necessary for the call processing PCs to function.

Q. So the four computers in the corners are the ones that actually put the calls through?

A. Yes.

Q. And the computer in the middle is the one that kept track of the account information?

A. That's a good representation.

MR. GOELMAN: Your Honor, I'm about to launch into

MR. GOELMAN: Your Honor, I'm about to launch into some serious computer minutia here. Would the Court like me to continue?

THE COURT: No.

MR. GOELMAN: Not a threat, just --

THE COURT: We'll wait till Wednesday for that.

You may step down now, Mr. Kane.

And, members of the jury, we'll take the recess until Wednesday, recognizing that tomorrow is a national holiday. And, of course, it's one of those times again where I worry about things, like what are jurors doing. But we expect that you will do something to your own choosing other than to look at any materials which might influence or affect you in any way in this case or to discuss the case with anyone, recognizing, of course, once again, as I'm sure you do, that you must maintain the position that you came in here with as you told us that you could, decide according to the law and the evidence and what's being presented to you in the course of this trial. So we expect you to continue that.

And I would just repeat what I said before: In the event that somehow you stumble across something or inadvertently encounter something that would relate to the case or the subject matter of it, the way in which you should handle that is to just give me a note as to what happened without discussing it with other jurors.

I mention that simply so that you would know what to do if it should happen.

But with those cautions, then, members of the jury, you're now excused until 8:45 Wednesday morning.

You're excused.

(Jury out at 5:00 p.m.)

THE COURT: I guess we'll recess till 8:45.

You don't have to be here tomorrow, Mr. Goelman.

MR. GOELMAN: Thank you, your Honor.

THE COURT: Recess.

(Recess at 5:01 p.m.)

* * * * *

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484	7883	7883			
485-488	7887	7887			
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488A	7887	7887			
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490A	7887	7887			
493A	7887	7887			
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502A	7887	7887			
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Exhibit	Offered	Received	Refused	Reserved	Withdrawn
D1634, 1-10	7957				
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REPORTERS' CERTIFICATE

We certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. Dated at Denver, Colorado, this 10th day of November, 1997.

Paul Zuckerman

Kara Spitler

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