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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

Case No. 5:06-cr-22-Oc-10GRJ

January 22, 2008
Ocala, Florida

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WESLEY TRENT SNIPES,
EDDIE RAY KAHN and
DOUGLAS P. ROSILE,

Defendants.

_____ /

TRANSCRIPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE WM. TERRELL HODGES,
SENIOR UNITED STATES DISTRICT JUDGE, and a Jury

Appearances of Counsel:

For the Government:

Mr. Robert E. O'Neill
Mr. M. Scotland Morris
Mr. Jeffrey A. McLellan

For Defendant Snipes:

Mr. Robert G. Bernhoft
Mr. Robert E. Barnes
Ms. Linda G. Moreno
Mr. Daniel R. Meachum
Ms. Kanan B. Henry

1 Appearances of Counsel (continued):

2 For Defendant Kahn:

3 Mr. Michael William Nielsen, standby counsel

4 For Defendant Rosile:

5 Mr. David Anthony Wilson

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Reported by: Dennis Miracle, Official Reporter, and
 Kelly Owen McCall, Freelance Reporter

P R O C E E D I N G S

(Jury present.)

THE COURT: Thank you.

Be seated, please, members of the jury, and good morning to you. I appreciate your promptness and I think we're ready to proceed.

Is the government ready to call the next witness?

Mr. McLellan.

MR. McLELLAN: Yes, Your Honor. The government calls Craig Alexander.

*** CRAIG ALEXANDER was sworn

by the Deputy Clerk. ***

THE DEPUTY CLERK: Have a seat. Please state your full name, and spell your last name for the record.

THE WITNESS: Craig Andrew Alexander,
A-l-e-x-a-n-d-e-r.

CRAIG ANDREW ALEXANDER,
having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. McLELLAN:

Q Good morning, Mr. Alexander.

A Good morning.

Q Where are you employed?

A New Line Cinema.

Q And where is that located?

1 A Los Angeles, California.

2 Q And what does New Line Cinema do?

3 A We make and distribute motion pictures, film.

4 Q And what is your job title with New Line?

5 A Senior vice-president, business and legal affairs.

6 Q Are you also an attorney?

7 A I am.

8 Q How long have you worked for New Line Cinema?

9 A Over eight years, just over eight years.

10 Q Just generally, what are your duties with New Line?

11 A They have evolved a bit. They started -- I was in-house
12 legal counsel, responsible for negotiating and drafting
13 contracts. And now I am principally involved in negotiating
14 the terms of the contracts, and there's other people who draft
15 them now.

16 Q Do those duties involve the procurement of services for
17 New Line Cinema?

18 A Yes, they do.

19 Q On the part of what sort of workers or providers of those
20 services?

21 A Actors, writers, directors, producers. That's about it.

22 Q In the course of your duties, did you ever deal with
23 Wesley Snipes?

24 A I did.

25 Q Did you ever speak with him?

1 A I did.

2 Q Under what circumstances?

3 A Telephone conversation one time when Mr. Snipes called my
4 office.

5 Q Now, ordinarily, did you deal with Mr. Snipes in the
6 context of contract negotiations?

7 A Yes, through his attorneys.

8 Q Did Wesley Snipes make motion pictures for New Line
9 Cinema?

10 A Yes. He starred in them.

11 Q What were his three biggest movies with New Line?

12 A Blade I, Blade II and Blade III, I believe.

13 Q Were you served with a subpoena from the government in
14 this case, calling for records of contracts involving Wesley
15 Snipes?

16 A I was.

17 Q Okay. Please direct your attention to Number 71-1. It
18 should be in front of you.

19 A Yes.

20 Q Do you see that there?

21 A Yes, I do.

22 Q What is that?

23 A This is the actor loan-out agreement for Blade I.

24 Q Okay. And taking a look at 71-2, what is that?

25 A It's the actor loan-out agreement for Blade II.

1 Q And how about 71-3?

2 A The actor loan-out agreement for Blade III.

3 MR. McLELLAN: The government offers 71-1, 71-2 and
4 71-3 to be received into evidence, Your Honor.

5 MR. BARNES: No objection, Your Honor.

6 THE COURT: All three are received.

7 BY MR. McLELLAN:

8 Q Mr. Alexander, taking a look at 71-1, the Blade I
9 contract, what is the caption on that, on that document.

10 A It's "Actor loan-out agreement, Agreement Blade, Wesley
11 Snipes."

12 Q Okay. And please read the first paragraph.

13 A "Agreement dated as of the 7th day of May 1996 between
14 Juno Pix, Inc., Company, and Amen Ra Films, Inc., Lender,
15 f/s/o," for the services of, "Wesley Snipes, Artist, in the
16 motion picture presently entitled Blade, the Picture."

17 Q Okay. This is called by its caption a loan-out agreement.
18 Just generally, what is a loan-out agreement?

19 A A loan-out agreement is -- it's a contract for services,
20 but it's not directly with an individual; rather through a
21 loan-out corporation or company that supplies us with the
22 services of the individual.

23 In this case, Amen Ra Films is the contracting party and
24 they provide us the services of Wesley Snipes.

25 Q So is -- it says here Amen Ra Films, Inc., Lender.

1 A Yes.

2 Q Is that then the loan-out company in this transaction?

3 A It is.

4 Q And I see the other party is Juno Pix, Incorporated?

5 A Yes.

6 Q What is Juno Pix?

7 A It is a subsidiary of New Line Cinema.

8 Q Okay. What was the purpose of this contract?

9 A This was to engage the services of Wesley Snipes for both
10 acting and producing.

11 Q And who is Wesley Snipes to provide those services to?

12 A In this case, to Juno Pix, the producer of the "Blade"
13 movie.

14 Q Directing your attention to page three of the contract.

15 A Yes, sir.

16 Q There is a section there called "compensation."

17 A Yes.

18 Q I guess it's Paragraph 6. Could you please read the first
19 paragraph, underneath 6.

20 A "Conditioned upon Lender's and Artist's full performance
21 of all required services and material obligations here under,
22 and subject to the terms and conditions of this agreement and
23 applicable law, then Company shall pay the Lender the
24 following."

25 Q Please continue, and read the 6(A), along with it's

1 caption.

2 A "Fixed compensation. Company shall pay to Lender the sum
3 of ten million dollars, the Fixed Compensation, which shall
4 accrue in equal weekly installments over the scheduled period
5 of principal photography of the Picture, commencing on the
6 start date. The fixed compensation includes payment for the
7 rights granted to Company and for the acting services rendered
8 during the guaranteed period, preproduction and rehearsal
9 period, and for all publicity and promotional services
10 rendered by Artist. The fixed compensation shall be payable
11 to Lender on Company's normal payday, one week in arrears."

12 Q Okay. Looking forward a couple of pages to page six,
13 there is a Paragraph 9(A). Do you see that?

14 A Yes, sir.

15 Q Okay. Please read the caption there, and then the
16 Subsection (a) of that paragraph.

17 A "Producing fees, slash, credit. Producing fee. Lender
18 shall be paid a producing fee of 150,000 dollars, which shall
19 accrue and be payable on a customary 20/60/10/10 basis.
20 Producing fee is pay or play on the same basis as the fixed
21 compensation is pay or play, pursuant to Paragraph 7."

22 Q Okay. And what is a producing fee?

23 A That's a -- it's a payment for producing services.

24 Q Okay. And does this contract call for Mr. Snipes to
25 provide those services?

1 Let me ask you this. Does it call for him to be paid this
2 fee?

3 A Yes, it does. I am not sure it gets into the specifics of
4 what services are -- he is to provide. I know it does for the
5 acting.

6 Q Taking a look at page 12 of the agreement, Paragraph 14,
7 please read the caption and the first paragraph of that
8 provision.

9 A "Travel and expenses. Lender represents and warrants that
10 Artist's current place of residence is Windermere --" Oh, I'm
11 sorry.

12 "Travel and expenses. Lender represents and warrants that
13 Artist's current place of residence is Windermere, Florida.
14 If Artist's services are required by Company more than
15 75 miles from such place of residence, occasion, then Artist
16 shall be entitled to the following in connection with Artist's
17 services."

18 Q Okay. And, just generally, the subsections after that,
19 what do those contain?

20 A They talk about his -- the type -- the travel, the number
21 of plane tickets and for flying him, how much -- what his
22 weekly allowance, expense allowance will be, how much we will
23 pay for his living expenses; all of this if we require
24 services outside of Windermere.

25 Q Okay. Taking a look at page 20, who appears to have

1 signed this agreement.

2 A On behalf of Juno Pix, that is Ben Zinken's signature; and
3 on behalf of Amen Ra Films, it appears Wesley Snipes.

4 Q Okay. And what is his title on that signature?

5 A President.

6 Q Okay. And he is signing on behalf of what entity?

7 A Amen Ra Films, Inc.

8 Q Taking a look at page 35 of that document, there is a --
9 this one is captioned "Certificate of Employment." What is
10 the purpose of this section of the document?

11 A It is a short, stand-alone agreement that ensures --
12 transfers all the results and proceeds of Mr. Snipes' services
13 relating to the picture to Juno Pix, just a short document
14 that provides for that.

15 Q Okay. And then taking a look at the next page, 36.

16 A Yes.

17 Q Who appears to have signed that agreement?

18 A On behalf of Amen Ra Films, Wesley Snipes, individually
19 and apparently in his capacity as president of the company.

20 Q And for Juno Pix?

21 A That's Ben Zinkin again.

22 Q Okay. There is a document that starts at page 37, it says
23 at the top: "As of May the 7th, 1996."

24 A Yes.

25 Q Do you see that document?

1 A I do.

2 Q It is a letter from I guess -- who is the letter from or
3 who is it signed by?

4 A It's from Wesley Snipes.

5 Q Okay. And to whom is it addressed?

6 A Juno Pix.

7 Q Okay. Now, what is this document?

8 A This is what we commonly refer to as an inducement letter.
9 When you have a loan-out agreement to which an individual is
10 not a party -- in this case, Mr. Snipes is not a direct party
11 to the loan-out agreement -- we have the individual sign this
12 inducement letter that, among other things, has the individual
13 acknowledge the terms of the loan-out agreement and agree to
14 be bound by them.

15 Q Okay. So is Mr. Snipes indicating in here that he has
16 certain understandings?

17 A Yes.

18 Q What kinds of things does he indicate that he understands?

19 A Well, he understands the terms of the agreement, and he
20 acknowledges that he has an employment agreement with Amen Ra
21 Films, that they can, in fact, provide his services.

22 Q And taking a look at, I guess, page 38, whose signature
23 does that appear to be?

24 A Wesley Snipes.

25 Q Directing your attention to Government's Exhibit 71-2, do

1 you have that there?

2 A I do.

3 Q Okay. What is that?

4 A The actor loan-out agreement for Mr. Snipes' services on
5 Blade II.

6 Q Okay. Please read the first paragraph.

7 A "Agreement dated as of the 23rd day of January 2001,
8 between Avery Pix, Inc., Company, and Kymberlyte Production
9 Services International, Inc., Lender, f/s/o, for the services
10 of Wesley Snipes, Artist, in the motion picture presently
11 entitled Blade II, the Picture."

12 Q Okay. And what is Avery Pix?

13 A That is a subsidiary of New Line Productions, Inc., which
14 is a subsidiary of New Line Cinema.

15 Q And what is your understanding of what Kymberlyte
16 Production Services International was?

17 A Mr. Snipes' loan-out company.

18 Q Okay. Taking a look at, I guess, on the second page,
19 6(A), I guess it's the section called "Compensation," could
20 you please read the paragraph under where it says "Fixed
21 Compensation."

22 A "Company shall pay to Lender the sum of 13 million
23 dollars, the fixed compensation. Three million dollars of the
24 fixed compensation shall be deferred and payable in accordance
25 with Paragraph 6(A) below. Ten million dollars of the fixed

1 compensation, the undeferred fixed compensation, shall accrue
2 in equal weekly installments over the scheduled period of
3 principal photography of the picture commencing on the start
4 date, and shall be payable to Lender on Company's normal
5 payday, one week in arrears. The undeferred fixed
6 compensation includes payment for the rights granted to
7 Company and for the acting services rendered during the
8 guaranteed period, preproduction and rehearsal periods, and
9 for all publicity and promotional services rendered by
10 Artist."

11 Q Okay. What does this term "fixed compensation" mean in
12 this context?

13 A It refers to the guaranteed compensation for his services
14 as opposed to contingent compensation, which is based on the
15 performance of the picture.

16 Q Now, is there some provision in here for something like
17 contingent compensation?

18 A There is in Paragraph 6(A).

19 Q And by the "performance" of the picture, what do you mean
20 by that?

21 A How much money the picture makes for the studio through
22 theatrical and home video and television exploitation.

23 Q Is there -- pursuant to this paragraph on fixed
24 compensation, is there some guaranteed compensation to
25 Mr. Snipes in this context?

1 A There is. In this case, it's ten million dollars.

2 Q Okay. Taking a look at I guess it is page six, 9(A),
3 producing fee credit.

4 A Yes.

5 Q Do you have that in front of you?

6 A I do.

7 Q Can you please -- there is a Subparagraph (a) under there,
8 producing fee. Could you please read that paragraph.

9 A "Producing fee. Lender shall be paid a producing fee of
10 350,000 dollars, the producing fee. 200,000 dollars of the
11 producing fee shall be deferred and payable in accordance with
12 Paragraph 6(A) above. 150,000 dollars, the undeferred
13 producing fee, of the producing fee shall accrue and be
14 payable on a customary 20/60/10/10 basis. The undeferred
15 producing fee is pay or play on the same basis as the
16 undeferred fixed compensation is pay or play, pursuant to
17 Paragraph 7 above."

18 Q Okay. Again, taking a look at this provision of the
19 contract, is there some guaranteed producing fee here versus
20 contingent producing fee?

21 A Yes. It's 150,000 dollars is the guarantee.

22 Q Take a look at page 11. There is a paragraph 14, travel
23 and expenses. Do you see that?

24 A Yes.

25 Q What's the first sentence underneath that caption?

1 A "Lender represents and warrants that Artist's current
2 place of residence is Windermere, Florida."

3 Q Okay. And, again, is this like the Blade I contract, in
4 that it provides for certain amenities for Mr. Snipes?

5 A It does. It is very similar.

6 Q Taking a look at page 14 of the agreement.

7 A Yes.

8 Q Okay. Is this the signature page for this loan-out
9 agreement?

10 A It is.

11 Q Okay. It's -- just focusing right at the very top, it
12 might be a little bit hard for you to make out. Can you make
13 out a fax date on this document, in the upper left corner?

14 A It looks like April 2002.

15 Q Okay. And I guess if you turn it upside down and take a
16 look at the very bottom of it, it looks like there's another
17 fax line on that. Can you make that one out?

18 A April 16th, 2002.

19 Q And who appears to be the fax sender, according to this
20 line?

21 A Amen Ra Films.

22 Q Now, there are -- appear to be a couple of signatures on
23 this document. Who signs, if you can make out, for Kymberlyte
24 Production Services International?

25 A That looks like Carmen Baker.

1 Q And beneath that, who appears to have signed there?

2 A Wesley Snipes.

3 Q Okay. Taking a look forward to page 27 of the document,
4 it says at the top: "As of June 23rd, 2001."

5 A Yes.

6 Q Okay. What is this?

7 A This is another inducement letter.

8 Q And taking a look at, I guess, the second page of it, who
9 appears to have signed it?

10 A Wesley Snipes.

11 Q And, generally, what is Mr. Snipes representing by this
12 letter?

13 A Again, it's that he agrees that there is an employment
14 agreement with, in this case, Kymberlyte Production Services
15 and agrees to the terms of the actor loan-out agreement and to
16 be bound by that.

17 Q There are some documents that are appended to the
18 agreement. If you flip forward, eventually you get to one
19 that's captioned "M & S Finance and Trust, S.A." Do you see
20 that? It's at Bates Number WS 18487.

21 A I believe I have --

22 Q It starts out: "To whom it may concern."

23 A Yes, I have that one here.

24 Q Please read the first paragraph of that letter.

25 A "I will preface my letter by informing you that in

1 March 1999, M & S Finance and Trust, S.A. purchased Amen Ra
2 Films, Inc., a Florida corporation, and is therefore the
3 lawful title holder and rightful owner to all rights and
4 assets, including but not limited to, trademark, properties
5 and accounts receivables.

6 Q Okay. And who appears to have signed here?

7 A Carmen Baker.

8 Q In what capacity?

9 A Agent.

10 Q Do you remember getting this letter?

11 A I do.

12 Q And did it cause you some concern?

13 A It did.

14 Q How so?

15 A Under the original Blade I agreement, there was a
16 prenegotiated fee structure for a sequel; Blade II, in this
17 case. And it provided that money would be paid to Amen Ra
18 Films.

19 Subsequently, when we went to paper the Blade II
20 agreement, we were told that the loan-out company would be
21 Kymberlyte Production Services in lieu of Amen Ra Films. And
22 I was concerned that Amen Ra would have had an expectation
23 that they would have been entitled to the fee we paid for
24 Mr. Snipes' services on Blade II.

25 Q And, you know, taking a look at this letter, did this --

1 you know, how did the text of this letter cause you this
2 concern?

3 A Well, it mentions that it had acquired, purchased Amen Ra,
4 and was the rightful owner of all rights and assets, including
5 trademarks, properties and accounts receivables. And I
6 thought that they perhaps expected that the ten-million-dollar
7 fee for Blade II would be some sort of receivable that they
8 had an expectation that they would have been paid.

9 Q And what did you do to try to address that situation?

10 A I had -- I required confirmation from Amen Ra Films that
11 they did not -- that they waived any rights they had to any
12 Blade II payments, and got that in writing.

13 Q Taking a look a couple of pages forward, there is another
14 document captioned "M & S Finance and Trust, S.A." It's at WS
15 18484. Do you see that document?

16 A Yes.

17 Q Okay. Was this a document that you received in response
18 to your expressed concerns?

19 A Yes.

20 Q And to whom is it addressed?

21 A To Ben Zinkin.

22 Q And who was he?

23 A He is the general counsel and senior executive
24 vice-president of New Line.

25 Q And underneath the salutation "Dear Sir," please read the

1 text of this letter.

2 A "Reference is made to that certain agreement dated as of
3 May 7th, 1996 between Juno Pix, Inc., on the hand, and Amen Ra
4 Films, Inc., Amen Ra, for the services of Wesley Snipes, on
5 the other hand, the Agreement. M & S Finance and Trust, S.A.,
6 M & S, acknowledges that the sequel as such term is defined in
7 the agreement starring Wesley Snipes was produced and has been
8 theatrically released, and that all payments in connection
9 with Mr. Snipes' services on that sequel have been and will be
10 made to Kymberlyte Productions Services International, Inc.,
11 Kymberlyte, unless otherwise notified by Kymberlyte in
12 writing. M & S hereby release Juno Pix, Inc. and its parent
13 subsidiaries affiliates, licensees, successors, assigns and
14 designees from any and all of its obligations to Amen Ra in
15 connection with the sequel. M & S acknowledges and agrees
16 that M & S has no claim to any moneys payable to Kymberlyte or
17 any other party in connection with Mr. Snipes or anyone else's
18 services on the sequel, and that it will not make any claim,
19 whether in court or otherwise, to any such moneys."

20 Q And who appears to have signed this letter?

21 A Eric Schwoerer, president, and also Carmen Baker, as agent
22 of M & S Finance and Trust.

23 Q Did you draft any kind of a document to further satisfy
24 yourself that these releases had been given?

25 A I did. I drafted one between Amen Ra and Juno.

1 Q Taking a look at the next page, this document captioned
2 "Amendment and Release," is that the document?

3 A That is.

4 Q Okay. And taking a look at the page following, who
5 appears to have signed that?

6 A It looks like Carmen Baker, as secretary of Amen Ra Films,
7 and Wesley Snipes.

8 Q Okay. And in what capacity is he signing?

9 A As former president.

10 Q Okay. And what's the gist of this amendment and release
11 that you had them execute?

12 A It deletes from the Blade I agreement Paragraph 21, which
13 was the paragraph that addressed a sequel.

14 Q Okay. And taking a look at a couple of pages forward,
15 there is a letter on Avery Pix letterhead. It is at WS 18489,
16 dated April 15th, 2002. Do you see that?

17 A Yeah.

18 Q And taking a look at the second page of that letter, who
19 appears to have signed it?

20 A On behalf of Avery Pix, it's Judd Funk, who is -- I am
21 trying to remember what his title was at the time -- the
22 executive vice-president of New Line, business affairs; and
23 Kymberlyte, on behalf of Kymberlyte Production Services,
24 Carmen Baker, as comptroller, and Wesley Snipes.

25 Q And this is on behalf of which entity are they signing?

1 A Kymberlyte Production Services.

2 Q Taking a look at the first page, second paragraph,
3 designated 2, please read that.

4 A "Lender and Artist have requested that Avery advance
5 Lender one million dollars, the Advance."

6 Q Okay. Again, who is the "lender" here?

7 A Kymberlyte Production Services International.

8 Q Okay. And what's the gist of this letter? What's being
9 agreed here?

10 A New Line agreed to advance Kymberlyte one million dollars
11 of any contingent compensation that would have been due from
12 the performance of Blade II, based on the performance of Blade
13 II.

14 Q Okay. Taking a look forward, this is at Bates Number
15 18493, there is a caption there, it is captioned "New Line
16 Cinema," a fax dated April 18, 2002.

17 A Yes.

18 Q Do you see that document?

19 A I do.

20 Q What is that?

21 A Those were wire instructions instructing us where to wire
22 the million dollars' advance just referred to.

23 Q Okay. And have you signed this document?

24 A Yes, I did.

25 Q And it says "Dear Lori." Who is this document being sent

1 to?

2 A To Lori Davis.

3 Q Who was she?

4 A She was Mr. Snipes' assistant at the time.

5 Q And at the bottom of that page, it says "confirmed." Who
6 seems to be confirming and for what entity?

7 A Looks like Lori Davis on behalf of Kymberlyte Production
8 Services International, Inc., in her capacity as its agent.

9 THE COURT: What exhibit are you referring to now,
10 Mr. McLellan?

11 MR. McLELLAN: This is Government's Exhibit 72-2,
12 Your Honor. I'm sorry. It is 71-2.

13 THE COURT: Go ahead then.

14 MR. McLELLAN: It is towards the end of it.

15 BY MR. McLELLAN:

16 Q Okay. And what bank is the money to be wired to?

17 A Bank of America.

18 Q And in what location?

19 A Las Vegas Nevada.

20 Q Directing your attention to Government's Exhibit 72-3.

21 MR. McLELLAN: I'm sorry, Your Honor. I am
22 told this is --

23 Do you have 71-3 in front of you, Mr. Alexander,
24 or --

25 THE WITNESS: Yes; 71-3.

1 MR. McLELLAN: I'm sorry. I have been referring to
2 Exhibit 71-1 and 71-2 so far, Your Honor, and this is now
3 71-3. I apologize.

4 THE COURT: Fine. Go ahead.

5 BY MR. McLELLAN:

6 Q Okay. And what is this document?

7 A This is the actor loan-out agreement for Blade III.

8 Q Okay. And please read the first paragraph.

9 A "Agreement dated as of the 5th day of June 2003 between
10 Avery Pix, Inc., Company, and Swiss Sterling Trust, A.G.,
11 Lender, f/s/o," for the services, "of Wesley Snipes, Artist,
12 in the motion picture presently entitled Blade III, the
13 Picture."

14 Q And taking a look at page three of the document, Paragraph
15 6(a), fixed compensation --

16 A Yes.

17 Q -- please read that paragraph.

18 A "Company shall pay to Lender the sum of 13 million
19 dollars, the fixed compensation, less the hold fee. For
20 purposes hereof, the fixed compensation less the hold fee
21 shall be referred to as the adjusted fixed compensation. The
22 adjusted fixed compensation shall accrue in equal weekly
23 installments over the scheduled period of principal
24 photography of the motion picture, commencing on the start
25 date, and shall be payable to Lender on company's normal

1 payday, one week in arrears. The adjusted fixed compensation
2 includes payment for the rights granted to Company and for the
3 acting services rendered during the picture services period,
4 preproduction and rehearsal periods, and for all publicity and
5 promotional services rendered by Artist. Ten million dollars
6 of the fixed compensation shall be in advance against and
7 shall be deductible from the participation, as defined below,
8 payable pursuant to Paragraph 6(A)(a) below."

9 Q In taking a look at page seven of the document, where it
10 says "Producing Fee Credit," Paragraph 9(A), and then there is
11 a Subparagraph (a), Producing Fee, please read that paragraph.

12 A "Lender shall be paid a producing fee of 550,000 dollars,
13 the Producing Fee. The Producing Fee shall accrue and be
14 payable on a customary 20/60/10/10 basis. The producing fee
15 is pay or play on the same basis as the adjusted fixed
16 compensation is pay or play, pursuant to Paragraph 7 above."

17 "20/60/10/10," by the way, is just the payment schedule,
18 first percentages of 100 percent. It's a shorthand.

19 Q Has New Line Cinema paid Mr. Snipes this producing fee?

20 A It has not.

21 Q And why not?

22 A We were instructed not to pay while Mr. Snipes, through
23 his representatives, applied for a Canadian tax waiver, which
24 is not uncommon for producers.

25 And by the time we were requested to pay, we were in a

1 dispute as to whether or not he had rendered all of his
2 services, and so we withheld payment.

3 Q Is there litigation ongoing in regard to this fee?

4 A There is.

5 Q And who is suing who in this case?

6 A Swiss Sterling Trust and Mr. Snipes is suing New Line and
7 various other entities.

8 Q Taking a look at Paragraph 14, I guess it's at page 13 of
9 the document, travel and expenses, the first paragraph there.

10 A Yes.

11 Q Which residence is given for the artist?

12 A Windermere, Florida.

13 Q Taking a look at page 16, is that the signature page for
14 this loan-out agreement?

15 A That is.

16 Q Okay. And what's the date on those signatures?

17 A September 18th, 2003.

18 Q And if you can make it out, what are the entities and who
19 seems to be signing for which one?

20 A Avery Pix, it appears that is Judd Funk's signature again,
21 executive vice-president, business and legal affairs; and then
22 on behalf of Swiss Sterling Trust, A.G., it looks like John
23 Dupont and Wesley Snipes. And Kymberlyte Production Services
24 International also acknowledged the effect of 1(A) only, and
25 that is Lori Davis.

1 Q Okay. There is a -- at WS 18559, flipping forward a few
2 pages, there is a fax from the law offices of Armstrong,
3 Hirsch, Jackoway, Tarman and Wettheimer (phonetic). Do you
4 see that, toward the end of the document?

5 A That's part of this document? Oh, yeah. I'm sorry.

6 Q It is -- I'm sorry -- WS 18559.

7 A Yes.

8 Q Okay. And what is this document?

9 A Wire instructions.

10 Q Okay. And what's the purpose of these wire instructions
11 in this context?

12 A This is instructing us where to make payments, the Blade
13 III payments.

14 Q Okay. And in the middle there, could you read the text
15 following where it says the wire instructions.

16 A "Beneficiary, SST Swiss Sterling Trust, A.G. Address, P.
17 O. Box 3699, 14 Rue Duron (phonetic), 1211 Geneva-3,
18 Switzerland.

19 Q Okay. And then taking a look at what it says for tax ID
20 number?

21 A It says: "There is no tax ID number since it is a trust."

22 Q Okay. And then flipping forward a little bit further, WS
23 18565, there is a letter there dated July the 2nd, 2003. Do
24 you see that?

25 A Yes.

1 Q And to whom is that letter addressed?

2 A It's addressed to Barry Hirsch, Mr. Snipes' lawyer, and to
3 myself.

4 Q Okay. And what is it in regard to?

5 A This is a letter -- I think it is in regard to a subpoena
6 that we were released to turn over documents to the
7 government, requesting that -- instructing us not to do so.

8 Q And who seems to have signed it?

9 A Mr. Pethur Baraka the vice-president, executive accounts,
10 legal department, Sterling Bank and Trust, S.A.

11 Q Mr. Alexander, we've gone over three movie contracts here,
12 have we not?

13 A Yes, we have.

14 Q And whose services were those contracts to ensure?

15 A Wesley Snipes.

16 Q Was he paid for those services?

17 A He was.

18 MR. McLELLAN: That's all for this witness at this
19 time, Your Honor.

20 THE COURT: Mr. Barnes?

21 MR. BARNES: Yes, Your Honor. Could I ask for a
22 brief ten-minute recess to conference with co-counsel
23 concerning some matters about cross-examination?

24 THE COURT: All right. Let's pause and take a
25 ten-minute break then, members of the jury.

1 (Short recess taken.)

2 (Jury present.)

3 THE COURT: Thank you. Be seated, members of the
4 jury.

5 Mr. Barnes?

6 MR. BARNES: Yes, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. BARNES:

9 Q. In your experience, you -- you have experience with a lot
10 of artists who sign contracts, right?

11 A. Yes, I do.

12 Q. And those artists include artists who are actors,
13 directors, screen writers, producers?

14 A. Yes.

15 Q. Is it frequently the case that the artists don't
16 understand all the legal language in their contracts?

17 A. I don't think so, but I wouldn't -- really wouldn't know.

18 Q. Well, when you normally are signing a contract with the
19 artist, you normally work through lawyers and other
20 professionals?

21 A. Yes, I do.

22 Q. Are you aware of artists having multiple residences?

23 A. Yes, I am.

24 Q. And the reference in the contract was where the person's
25 residence was for travel purposes and travel expenses,

1 correct?

2 A. I'd have to look back in the language. It usually says
3 something like "principal place of residence." I don't know
4 if it says it in this case, but that's...

5 Q. You need to look back at it?

6 A. Sure.

7 Q. Go ahead. Go ahead and look back at it. See if it says
8 "principal place of residence."

9 (Pause.)

10 A. In this case it says "current place of residence."

11 Q. Okay. Also, New Line has payroll records where they pay
12 the individuals, correct?

13 A. Yes, they do.

14 MR. BARNES: Could we go to Government Exhibit 16,
15 please?

16 Go to WS-03975. Could you blow up the top? Could
17 you blow that up at the very top?

18 Go down -- I'm sorry -- toward the bottom.

19 BY MR. BARNES:

20 Q. Can you see where it says "total for Amen RA, tax year
21 2000"?

22 A. I can't see -- my eyes aren't that good.

23 MR. BARNES: Could you blow that line up?

24 BY MR. BARNES:

25 Q. "Total for Amen RA, Incorporated, for year 2000"?

1 A. Yes.

2 Q. Okay.

3 MR. BARNES: And then could you go down to the next
4 section? Right there. That works. Blow that up.

5 BY MR. BARNES:

6 Q. Whose name is listed there? Do you see a name listed
7 there? It has Wesley Snipes?

8 A. Snipes, Wesley. Yeah.

9 Q. And by "resident state," what resident state is listed?
10 Does that say New York?

11 A. It says New York, yes, sir.

12 MR. BARNES: Can we go down to the next page? And
13 go to the top, and highlight the same section to the left.

14 BY MR. BARNES:

15 Q. And what resident state is listed there for Mr. Snipes?

16 A. Again, it says New York.

17 MR. BARNES: Go to the next one.

18 BY MR. BARNES:

19 Q. And what resident state is listed there for Mr. Snipes?

20 A. New York.

21 MR. BARNES: Go to the next one.

22 BY MR. BARNES:

23 Q. And what resident state is listed there for Mr. Snipes?

24 A. New York.

25 MR. BARNES: Go to the next one.

1 BY MR. BARNES:

2 Q. And what resident state is listed there for Mr. Snipes?

3 A. New York.

4 MR. BARNES: Go to the next one.

5 BY MR. BARNES:

6 Q. What resident state is listed there for Mr. Snipes?

7 A. New York.

8 MR. BARNES: Go to the next one.

9 BY MR. BARNES:

10 Q. What resident state is listed there for Mr. Snipes?

11 A. New York.

12 MR. BARNES: Go to the next one.

13 BY MR. BARNES:

14 Q. What resident state is listed there for Mr. Snipes?

15 A. New York.

16 MR. BARNES: Go to the next one.

17 BY MR. BARNES:

18 Q. What resident state is listed there for Mr. Snipes?

19 A. New York.

20 MR. BARNES: The next one.

21 BY MR. BARNES:

22 Q. What resident state is listed -- oh.

23 MR. BARNES: Go to the next page. The top, same
24 sections.

25 BY MR. BARNES:

1 Q. What resident state is listed there for Mr. Snipes?

2 A. New York.

3 MR. BARNES: Go to the next one.

4 BY MR. BARNES:

5 Q. What resident state is listed there for Mr. Snipes?

6 A. New York.

7 Q. And this is the 2001 period, is that right? The check
8 dates and the seq. dates are listed as 2001? Do you see that?

9 A. Yes. It appears so, yes.

10 Q. And what resident state is listed there for Mr. Snipes?

11 A. New York.

12 MR. BARNES: Go to the next one.

13 BY MR. BARNES:

14 Q. What resident state is listed there for Mr. Snipes?

15 A. New York.

16 MR. BARNES: Go to the next one.

17 BY MR. BARNES:

18 Q. What resident state is listed there for Mr. Snipes?

19 A. New York.

20 MR. BARNES: Go to the next one.

21 BY MR. BARNES:

22 Q. What resident state is listed there for Mr. Snipes?

23 A. New York.

24 MR. BARNES: Go to the next one.

25 BY MR. BARNES:

1 Q. What resident state is listed there for Mr. Snipes?

2 A. New York.

3 MR. BARNES: Go to the next one. Go to the next
4 page, to the top.

5 BY MR. BARNES:

6 Q. What resident state is listed there for Mr. Snipes?

7 A. New York.

8 MR. BARNES: Go to the next one.

9 BY MR. BARNES:

10 Q. What resident state is listed there for Mr. Snipes?

11 A. New York.

12 MR. BARNES: Go down to the next highlighted section
13 where I think it says "total payments," that next, sort of,
14 top paragraph there. Yeah, that right there.

15 BY MR. BARNES:

16 Q. And this is the total -- does it have a year there?

17 MR. BARNES: Well, just go down -- go down to the
18 next entry for Mr. Snipes.

19 BY MR. BARNES:

20 Q. And the resident state for Mr. Snipes listed there?

21 A. New York.

22 MR. BARNES: Go down to the next paragraph.

23 BY MR. BARNES:

24 Q. What resident state is listed there for Mr. Snipes?

25 A. New York.

1 Q. And is that a movie that you know of called One Night
2 Stand?

3 A. Yes, it is.

4 Q. Is that a movie Mr. Snipes' loan-out company contracted
5 with New Line for the purposes of his services?

6 A. Based on that, it appears so. I don't know -- I'm not
7 familiar with his contract on that picture.

8 Q. You weren't personally involved in that one?

9 A. No.

10 Q. Okay.

11 MR. BARNES: Go down to the next entry.

12 BY MR. BARNES:

13 Q. And what resident state is listed there for Mr. Snipes?

14 A. New York.

15 MR. BARNES: Go down to the next entry.

16 BY MR. BARNES:

17 Q. Again, is his residence listed as the state of New York?

18 A. It is.

19 MR. BARNES: Next page. Go down to the -- right
20 there. That's fine.

21 BY MR. BARNES:

22 Q. Residence still listed as the state of New York?

23 A. Yes, it is.

24 Q. And what movie does that say there? Does that say
25 Blade II?

1 A. Yes, it does.

2 Q. Thank you.

3 MR. BARNES: Go down to the next entry.

4 BY MR. BARNES:

5 Q. What resident state is listed for Mr. Snipes in that
6 entry?

7 A. New York.

8 Q. And that also is for Blade II?

9 A. It appears so, yes.

10 MR. BARNES: Go down to the next entry.

11 BY MR. BARNES:

12 Q. Which residence -- state of residence is listed for
13 Mr. Snipes in that entry?

14 A. New York.

15 Q. And that also is for Blade II?

16 A. Yes.

17 MR. BARNES: Next entry.

18 BY MR. BARNES:

19 Q. What state of residence is listed for Mr. Snipes in that
20 entry?

21 A. New York.

22 MR. BARNES: Next entry.

23 BY MR. BARNES:

24 Q. Same, New York again?

25 A. Uh-huh. Yes.

1 MR. BARNES: Go down to the next entry.

2 BY MR. BARNES:

3 Q. New York again?

4 A. Yes.

5 MR. BARNES: Next entry -- or next page, I believe.

6 THE WITNESS: New York.

7 BY MR. BARNES:

8 Q. New York again?

9 A. Yes.

10 MR. BARNES: Next page.

11 BY MR. BARNES:

12 Q. New York again?

13 A. Yes.

14 MR. BARNES: Next entry.

15 BY MR. BARNES:

16 Q. New York again?

17 A. Yes.

18 MR. BARNES: Next entry.

19 BY MR. BARNES:

20 Q. New York again?

21 A. Yes, sir.

22 MR. BARNES: Next entry.

23 BY MR. BARNES:

24 Q. New York again?

25 A. Yes.

1 MR. BARNES: Next entry.

2 BY MR. BARNES:

3 Q. New York again?

4 A. Yes.

5 MR. BARNES: Go down to the --

6 BY MR. BARNES:

7 Q. New York again?

8 A. Yes.

9 MR. BARNES: Go down to the next page. Scroll down.
10 The second entry, right there.

11 BY MR. BARNES:

12 Q. What state of residence is listed there for Mr. Snipes?

13 A. New York.

14 Q. And what movie is listed there?

15 A. Blade.

16 Q. Thank you.

17 MR. BARNES: Next entry.

18 BY MR. BARNES:

19 Q. And Blade II; state of residence for Mr. Snipes listed as
20 New York?

21 A. Yes.

22 MR. BARNES: Next page. Scroll down. Scroll down
23 to the last entry. Not that one, the one up before it.

24 BY MR. BARNES:

25 Q. And is that another entry for Mr. Snipes for work on Blade

1 listed as the state of residence in New York?

2 A. Yes.

3 Q. And that's as of December of '01? See at the bottom --

4 A. Yes.

5 Q. -- the check date?

6 MR. BARNES: Next page. Go down to the -- go to the
7 top -- the top left-hand -- or the middle -- I'm sorry --
8 yeah, the top left hand right there. Right. The total for
9 Kymberlyte Production.

10 BY MR. BARNES:

11 Q. Does that have -- does that say "total for Kimberlyte
12 Production Services International for year 2001"? Can you
13 read that?

14 A. Yes, that's what it says.

15 Q. Okay. And Kimberlyte was the loan-out company paid for
16 Mr. Snipes' services on Blade II?

17 A. Yes, sir.

18 MR. BARNES: Could we go down to the next entry?

19 BY MR. BARNES:

20 Q. And does that list Mr. Snipes' work on Blade II and it
21 lists his state of residence as New York?

22 A. It does.

23 Q. And lists as work state of California? The one -- the
24 entry --

25 A. Oh. Yes, it does. Next to it, yeah.

1 MR. BARNES: Scroll down. Keep scrolling down.

2 Scroll down one more.

3 BY MR. BARNES:

4 Q. Is that another entry for Mr. Snipes' work on One Night
5 Stand, listed as residence of New York?

6 A. Yes.

7 Q. And that check entry is for April of 2002, correct? Can
8 you see that?

9 MR. BARNES: Can you blow that up?

10 THE WITNESS: I'm sorry. It looks like --

11 BY MR. BARNES:

12 Q. Check date, work date?

13 A. It looks like January to me.

14 Q. January 14, 2002; does that look right?

15 A. Yeah. You said April.

16 Q. All right.

17 A. I think it's January.

18 MR. BARNES: Scroll downward. Can we go to the last
19 entry?

20 BY MR. BARNES:

21 Q. Does that also have a check date of May of '02, at the
22 bottom left?

23 A. This is an eye test. It's either a three or a five. It's
24 either March or May.

25 Q. Does it also list Mr. Snipes' residence as New York?

1 A. Yes.

2 Q. It says something about a residual payment. What's a
3 residual payment?

4 A. It's a -- it's a -- pursuant -- as a member of the Screen
5 Actors Guild, there are residuals paid when a picture is
6 exhibited on television, let's say, or home video.

7 Q. And pursuant to --

8 A. Actors are entitled to residual payments for the
9 downstream exploitation of the film.

10 Q. And that depends on the contracts, though? If the
11 contract required payment to a loan-out company, that's who
12 the payment would be made to, correct?

13 A. You know, actually residuals aren't paid pursuant to the
14 contract. They are paid pursuant to the Guild -- the Screen
15 Actors Guild, the union that he's a member of, and I do not
16 know --

17 Q. You don't know who --

18 A. -- off the top of my head how it's determined who the
19 payment gets made to.

20 Q. Okay. Under Mr. Snipes' name, is there two companies
21 listed, one Amen RA and one Juno Pix?

22 A. Yeah.

23 Q. And those are the companies involved with the -- Amen RA
24 was the loan-out company involved in Blade for Mr. Snipes'
25 services, for the --

1 A. Blade I, yeah.

2 Q. For Blade I?

3 A. Yes.

4 Q. And Juno Pix was -- you said that was a subsidiary. Did I
5 understand that right?

6 A. That's a subsidiary of New Line Cinema. It's the company
7 responsible for hiring all the personnel to make the picture.

8 Q. Are loan-out companies commonplace in Hollywood?

9 A. They are.

10 Q. And what about subsidiary companies; are they commonplace?

11 A. They are.

12 Q. And so when you -- when there's a loan-out company
13 involved, you pay the loan-out company rather than the actor,
14 correct?

15 A. Correct.

16 Q. And the subsidiary -- when you're forming a subsidiary
17 company, you're not trying to do anything fishy or deceptive,
18 right?

19 A. No.

20 Q. Why do you have a subsidiary company?

21 A. There are various reasons, depending on financing for the
22 picture. Sometimes it's to protect trademarks and other
23 intellectual property.

24 Q. Sometimes does it have involvement with limiting liability
25 or getting the best beneficial tax structure?

1 A. Yes.

2 MR. BARNES: Can we go down to the next page? Keep
3 going down. That's good. Pick the bottom one. Right there.

4 BY MR. BARNES:

5 Q. Does this have December of 2002 in the bottom left?

6 A. It does, yeah.

7 Q. And that has Mr. Snipes' state of residence as New York,
8 correct?

9 A. It does.

10 MR. BARNES: Go down to the next page. Go down to
11 the last entry.

12 Not that entry. I'm sorry. The one before it, the
13 last Snipes entry.

14 BY MR. BARNES:

15 Q. Does this have a date of May of '03?

16 A. Yes.

17 MR. BARNES: And can we scan over a little bit to
18 include the resident state?

19 BY MR. BARNES:

20 Q. What resident state is listed for Mr. Snipes?

21 A. New York.

22 Q. Are you familiar with the area code 310?

23 A. I am.

24 Q. Where is that area code located?

25 A. It's part of Los Angeles. West Los Angeles.

1 Q. What about the area code 212?

2 A. New York.

3 Q. So if there were phone numbers to be contacted to reach
4 Mr. Snipes at 310 or 212, that would be Los Angeles or
5 New York?

6 A. Yes.

7 Q. Have you ever met Mr. Snipes in Florida?

8 A. No.

9 Q. Has -- when you engaged in any telephone conferences or
10 personal meetings -- or personal meetings of any kind, you
11 never met with him in Florida, correct?

12 A. No.

13 Q. Okay. You mentioned that in Blade III there were a whole
14 bunch of entities involved, is that correct?

15 A. In Blade III there were a whole bunch of entities
16 involved?

17 Q. Well, you mentioned that there were several different
18 entities involved for Blade I, Blade II and Blade III, and you
19 had to make sure the right entities received the right
20 payments, is that correct?

21 A. I think that was -- it was Blade II where it was a
22 little -- where I had to terminate the Amen RA and -- and -- I
23 had to set up an amendment and release Amen RA.

24 Blade III was Kimberlyte and Avery. I'm sorry. Blade III
25 was -- Swiss Sterling Trust, I believe, and Avery were the two

1 entities.

2 Q. In fact, in the litigation between -- that's currently
3 involving New Line about payment of those entities, one of the
4 plaintiffs is the Swiss entity, correct?

5 A. Yes, it is.

6 Q. And that Swiss entity is a separate plaintiff from
7 Mr. Snipes, correct?

8 A. Yes, listed.

9 Q. The -- and when you were trying to resolve these issues
10 about the release, you didn't go just directly to Mr. Snipes,
11 right? In other words, you went to the lawyers or the agents
12 or the individuals representing the entities?

13 A. I went through Mr. Snipes' lawyers, yeah.

14 Q. Okay. So you went through his lawyers to find out which
15 entities were responsible for which payments and to work out
16 any sort of legal dispute?

17 A. Yes.

18 MR. BARNES: One moment, Your Honor.

19 (Pause.)

20 BY MR. BARNES:

21 Q. When you make payments to various loan-out companies or
22 subsidiaries, you don't know where those payments ultimately
23 go, correct? They are -- let me -- let me rephrase.

24 You're making a payment to the loan-out or the -- let me
25 give you an example. You've worked with a law firm before,

1 correct?

2 A. Yes.

3 Q. If I make a payment to the law firm for your services, I
4 don't know what the law firm is paying you for your services,
5 correct?

6 A. Correct.

7 Q. And that is the same situation when you're paying loan-out
8 companies or subsidiaries for the services of an artist or an
9 actor?

10 A. Not -- yes and no. I mean, typically these loan-out
11 companies are -- typically in the industry the loan-out
12 company is a pass-through corporation which is set up for tax
13 purposes and the -- the understanding is that that money goes
14 to the artist ultimately.

15 Q. So --

16 A. I mean, I can't say specifically in this case, but
17 generally that money goes to the artist whose services were --
18 that are being provided to us.

19 Q. Okay. But you, yourself, are not personally involved in
20 that part of the process?

21 A. No. No. We make payment to a loan-out company, and then
22 ultimately how they distribute the funds is up to them.

23 Q. And this is commonplace within the industry for artists to
24 have these loan-out companies to do these negotiations for
25 their services?

1 A. It is for people getting paid over a certain amount. From
2 my understanding, it's beneficial from a tax perspective to do
3 it this way, yes.

4 Q. And that's based on what tax professionals, lawyers and
5 accountants advise?

6 A. I assume so, yes.

7 MR. BARNES: No further questions, Your Honor.

8 THE COURT: Mr. Wilson?

9 MR. WILSON: No questions, Your Honor.

10 THE COURT: Redirect, Mr. McLellan?

11 MR. McLELLAN: Briefly, Your Honor.

12 REDIRECT EXAMINATION

13 BY MR. McLELLAN:

14 Q. Mr. Alexander, did you ever have occasion to meet with
15 Mr. Snipes for business purposes?

16 A. Not in person.

17 Q. We were looking at these Blade I, Blade II and Blade III
18 contracts. Each of these contracts has attached to it one of
19 these so-called "inducement letters," does it not?

20 A. Yes, it does.

21 Q. Okay. Directing your attention to Exhibit 71-3, the
22 Blade III contract, Page 30 of that document --

23 A. Yes.

24 Q. -- is that an inducement letter?

25 A. It is.

1 Q. And taking a look at the next page of it, is that -- is
2 that signed by Mr. Snipes?

3 A. It is.

4 Q. Okay.

5 MR. McLELLAN: This is WS-18528.

6 BY MR. McLELLAN:

7 Q. Okay. Does Mr. Snipes make certain representations in
8 this inducement letter?

9 A. He does.

10 Q. Okay. Let's take a look at the representation he makes in
11 Paragraph 2. Could you please read that?

12 A. "That the undersigned is familiar with each and all of the
13 terms, covenants and conditions of the agreement and hereby
14 consents to the execution thereof; that the undersigned shall
15 perform and comply with all of the terms, covenants and
16 conditions of the agreement on the part of the undersigned to
17 be performed and complied with even if the employment
18 agreement should hereafter expire, be terminated, whether by
19 the undersigned or by lender, or be suspended; that the
20 representations and warranties of lender relating to the
21 services of the undersigned contained in the agreement are
22 true and that the undersigned has granted to lender all of the
23 applicable rights granted by lender to you under the
24 agreement."

25 Q. Okay. What is the -- what's the gist of this

1 representation on the part of Mr. Snipes here?

2 A. The gist of it is that he'll comply with all -- with the
3 contractual terms and the actor loan-out agreement regardless
4 of whether or not the lender-artist relationship continues.

5 Q. So why is it important that something like this be
6 enforced regardless of whether the lender or artist
7 relationship continues?

8 A. Because what the company is contracting for is for the
9 artist to provide services and we would -- we would not want
10 to be in a position where the artist could -- could refuse to
11 provide the services and disavow the contract for those
12 services just because we -- we agree to enter into this
13 loan-out arrangement rather than have them personally bound by
14 the -- by the principal agreement.

15 Q. Okay. The loan-out here is Swiss Sterling Trust, is it
16 not?

17 A. Yes, Swiss Sterling Trust.

18 Q. Okay. If something happens and Swiss Sterling Trust went
19 under, under the terms of this inducement letter, what sort of
20 performance will still be expected of Mr. Snipes?

21 A. The exact performance specified in the principal agreement
22 as if nothing -- as if there had been no change. We would
23 just in that case make payments directly to Mr. Snipes instead
24 of Swiss Sterling Trust.

25 Q. Counsel was showing you these payroll records.

1 A. Yeah.

2 Q. I think you -- you may recall he was running through them
3 and showing you that there -- there appeared to be New York
4 designation --

5 A. Yes.

6 Q. -- on those payroll records. Did you see Mr. Snipes'
7 signature on any of those payroll records?

8 A. Did not, no.

9 Q. But Mr. Snipes does sign these loan-out agreements, does
10 he not?

11 A. I believe he does, yes.

12 Q. And taking a look at, again, the Blade III contract,
13 Government's Exhibit 71-3, Page 13 --

14 MR. McLELLAN: That would be Bates Number 18511.

15 BY MR. McLELLAN:

16 Q. Okay. This is one of these contracts signed by
17 Mr. Snipes, is it not?

18 A. It is.

19 Q. Okay. Paragraph 14, travel and expenses --

20 A. Yes.

21 Q. -- I think I had you refer to the first paragraph here on
22 your direct examination -- what does it give as the artist's
23 current place of residence?

24 A. Windermere, Florida.

25 Q. Okay. And then what's this provision beneath that about

1 75 miles; could you -- could you explain that?

2 A. That's the standard after which we'd be responsible for
3 paying for artists' housing and food and any kind of travel
4 associated with -- with going more than 75 miles from -- from
5 Windermere.

6 Q. Okay. So, for example, are these -- these Subparagraphs A
7 through, I guess, onto the next page F, are those these
8 amenities that are provided?

9 A. Yes, they are.

10 Q. Okay. So what's -- what's the first amenity there under
11 Subparagraph A?

12 A. That's a -- that's an air travel provision that says if
13 he -- if he's -- it says if he's required to go more than
14 75 miles from Windermere that we would fly him first-class;
15 and if he's gone from Windermere more than -- more than 14
16 consecutive days, we provide him with three additional
17 first-class, round-trip tickets.

18 Q. Okay. And for provision B, what does he receive there?

19 A. He receives \$5,000 a week for housing and food.

20 Q. And taking a look at provision C, what is -- what is --
21 what does he receive there?

22 A. Five hundred dollars a week for his chef to purchase food
23 to cook for him.

24 Q. Okay. And what about D, just generally?

25 A. This talks about ground transportation, so he has a right

1 to approve his driver, and we specify the fee.

2 Q. Okay. And what about E; what does that provide for?

3 A. It provides for two rental cars for him to use while he's
4 away from Windermere.

5 Q. Of what type?

6 A. Two top-of-the-line rental cars: Lincoln Navigator and/or
7 Mercedes. It includes insurance.

8 MR. McLELLAN: We can just show this one on the
9 screen.

10 BY MR. McLELLAN:

11 Q. Directing your attention to Government's Exhibit 2-5, do
12 you recognize that document?

13 A. I do. It appears to be the complaint filed on behalf --
14 or filed against New Line Cinema and New Line Productions,
15 Avery Pix and ABC Corporation, et cetera.

16 Q. Is this this litigation that you were mentioning in your
17 direct testimony?

18 A. It is, yeah.

19 Q. Okay. And taking a look at the second page of that
20 document, there's a -- if --

21 MR. McLELLAN: If we could focus on Paragraph 5 at
22 the very bottom?

23 BY MR. McLELLAN:

24 Q. Can you make out the wording of that paragraph?

25 A. "Plaintiff Snipes is a natural person and is a citizen and

1 resident of the State of Florida. At all times herein
2 mentioned plaintiff Snipes was a lead actor and associate
3 producer of Blade: Trinity."

4 MR. McLELLAN: Begging the Court's indulgence?

5 (Pause.)

6 MR. McLELLAN: That's all for this witness,
7 Your Honor.

8 THE COURT: Anything further of the witness,
9 Mr. Barnes?

10 MR. BARNES: Yes, Judge.

11 THE COURT: Recross.

12 RECCROSS EXAMINATION

13 BY MR. BARNES:

14 Q. Where were the Blade films made? Where were they actually
15 filmed, the actual filming production?

16 A. Yeah, I'm trying to -- you know, I don't know where
17 Blade I was --

18 Q. Okay.

19 A. -- filmed. Blade II was in the Czech Republic, I believe
20 Prague, principally.

21 Q. Okay.

22 A. And Blade III, Vancouver, Canada, I believe.

23 Q. Okay. So all of them were 75 -- they were 75 miles away
24 from New York, 75 miles away from Windermere, and 75 miles
25 away from Beverly Hills?

1 A. Yes.

2 Q. You referenced this loan-out company and the actor.
3 Basically when you do a contract with a loan-out company,
4 you're not doing the contract with the artist themselves
5 directly, right?

6 In other words, you were mentioning the reason why you
7 needed an indemnification of some sort is because they are not
8 signing on the bottom line for themselves; it's the loan-out
9 company doing so?

10 A. The artist does not -- the principal artist doesn't sign
11 the loan-out contract. The --

12 Q. So your concern is that you pay money to the loan-out
13 contract (sic); and if there's some problem with the loan-out
14 contract -- company paying Mr. Snipes, you want to make sure
15 Mr. Snipes is there filming anyway?

16 A. That's one of the reasons, yeah.

17 Q. You want to guarantee his participation in the film no
18 matter what?

19 A. I want to guarantee that he's going to comply with all the
20 terms of the main agreement.

21 Q. His obligations through the loan-out company to perform?

22 A. Yes.

23 Q. Are you familiar with New Line requiring people to sign an
24 I-9 form?

25 A. Yes.

1 Q. And that is where they have to list their residence for
2 purposes of payroll purposes?

3 A. Yes.

4 Q. And so if the payroll company was listing Mr. Snipes'
5 residence as New York, that would be based on an I-9 filled
6 out by Mr. Snipes listing New York as his residence?

7 A. I would assume that that's where that comes from, but I
8 don't have first-hand knowledge of that, but...

9 MR. BARNES: No further questions, Your Honor.

10 THE COURT: Mr. Wilson?

11 MR. WILSON: No questions.

12 THE COURT: Thank you, Mr. Alexander. You may step
13 down, sir.

14 THE WITNESS: Thank you.

15 THE COURT: Mr. Morris?

16 MR. MORRIS: Your Honor, at this time the
17 United States calls Mark Patterson.

18 *** MARK PATTERSON was sworn by the Deputy Clerk ***

19 THE DEPUTY CLERK: Please have a seat.

20 Please state your full name, and spell your last
21 name for the record.

22 THE WITNESS: My name is Mark Patterson,

23 P-A-T-T-E-R-S-O-N.

24 MARK PATTERSON,

25 being duly sworn, testified as follows:

DIRECT EXAMINATION

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BY MR. MORRIS:

Q. Good morning, Mr. Patterson.

A. Good morning.

Q. What state and city do you currently reside in?

A. I live in Philadelphia, Pennsylvania.

Q. And what sort of business or occupation are you in?

A. I'm a computer consultant.

Q. How long have you been doing that kind of work?

A. About eight years.

Q. Have you received training in that line of work?

A. Yes. I'm certified by Microsoft.

Q. I notice your voice is a little low. Could you please speak up a little bit --

A. Surely.

Q. -- and into the microphone?

A. Sure. Yes. I'm certified by Microsoft.

Q. In the past did you own a house in Sorrento, Florida?

A. Yes, I did.

Q. And do you recall the address of that house?

A. Yeah. It's 32504 Wekiva Pines Boulevard in Sorrento, Florida.

Q. What county is Sorrento, Florida, in?

A. Lake County.

Q. From approximately what period of time did you own that

1 residence?

2 A. I owned it from 1992 to 2004, April 2004, when I sold it.

3 Q. And when you say you owned it, were there other people who
4 owned it as well?

5 A. Yes, it was -- my parents owned it as well as myself.

6 Q. What type of property was it?

7 A. It was a country home located on five acres.

8 Q. At some point did you rent that home to Eddie Kahn?

9 A. Yes, in June 1996.

10 Q. You began renting in June of '96?

11 A. Yes.

12 Q. And when did you stop renting the house to Mr. Kahn?

13 A. In March of 2004.

14 Q. Do you know who lived there during that time period?

15 A. Eddie, his wife, Kookie, and their two children.

16 Q. Now, I assume that Mr. Kahn paid you rent?

17 A. Yes, he did.

18 Q. In what form did he make payment to you for rent?

19 A. Mostly money orders, and periodically I would get
20 travelers' checks.

21 Q. Did you ever get paid by a check drawn on a bank account?

22 A. No, never.

23 Q. Now, you said that you stopped renting the home, I
24 believe, in March of 2004, is that correct?

25 A. That's correct.

1 Q. What happened that led up to that?

2 A. My mother received a report that Eddie was gone and that
3 the children were moving furniture out of the house and that
4 someone was burning something behind the house.

5 Q. What did you do?

6 A. I immediately called down there to check the situation. I
7 didn't get an answer. And then I proceeded to call a real
8 estate agent to see what my options were when someone skipped
9 out on the lease.

10 Q. After that what did you do?

11 A. I -- I -- I was contacted -- I called down there on
12 Wednesday, and I got ahold of a Sharon Williamson who was
13 living in the house at that time.

14 Q. Do you know what, if any, relationship she had to
15 Mr. Kahn?

16 A. I don't know what the relationship was. It was her and
17 her husband that were staying there. What they said to me was
18 that --

19 MR. BERNHOFT: Objection, hearsay, Your Honor.

20 THE COURT: Just a moment. Don't testify as to what
21 someone else may have told you, please --

22 THE WITNESS: Okay.

23 THE COURT: -- Mr. Patterson. You may testify as to
24 what you did.

25 Put another question, Mr. Morris.

1 MR. MORRIS: Yes, Your Honor.

2 BY MR. MORRIS:

3 Q. After you spoke with Ms. Williamson, what did you do?

4 A. I received an email from -- from Eddie.

5 Q. From Eddie Kahn?

6 A. Yes.

7 MR. MORRIS: May I approach, Your Honor?

8 THE COURT: You may.

9 BY MR. MORRIS:

10 Q. Mr. Patterson, I'm showing you what's been marked for
11 identification as Government's Exhibit 116. Do you see that
12 document, sir?

13 A. Yes, I do.

14 Q. Do you recognize it?

15 A. Yes, I do.

16 Q. What do you recognize it to be?

17 A. That was the email that I received from Eddie.

18 Q. And specifically is this a printout of the electronic
19 email that you received on your computer?

20 A. Yes, it is.

21 Q. And is that printout of the email in substantially the
22 same form and is the contents substantially the same as when
23 you received the email on your computer?

24 A. Yes. I printed out the headers.

25 MR. MORRIS: At this time the United States would

1 offer into evidence Government's Exhibit 116.

2 MR. BERNHOFT: Your Honor, no objection as to
3 substance, but we would request a 105 limiting instruction to
4 the jury respecting this evidence.

5 THE COURT: Let me see the exhibit, please.

6 (Pause.)

7 THE COURT: What do you say to that request,
8 Mr. Morris?

9 MR. MORRIS: Your Honor, this exhibit is being
10 offered with regard to Mr. Kahn.

11 THE COURT: All right. Then I will receive in
12 evidence Government Exhibit Number 116, members of the jury,
13 which you might make a note, please -- and we will note on the
14 exhibit tab, Madam Clerk -- that it's being received only with
15 respect to Mr. Kahn and not with respect to either Mr. Snipes
16 or Mr. Rosile and should be considered only as you consider
17 the case of Mr. Kahn and should not be considered as you
18 consider the other two defendants.

19 MR. MORRIS: May we publish the exhibit now,
20 Your Honor?

21 THE COURT: You may.

22 BY MR. MORRIS:

23 Q. Mr. Patterson, while we're waiting for the lights to come
24 down so it's easier to see on the screen, if you could direct
25 your attention to the top -- very top portion. Thank you.

1 I believe you referred to header information, is that
2 correct?

3 A. That's correct.

4 Q. And is what we see up on the screen right now at the top,
5 is that the header information you were referring to?

6 A. Yes, it is.

7 Q. Now, is this information usually present in an email
8 transmission?

9 A. It's present in every email, but it's only viewable if you
10 specifically look for it.

11 Q. Based on your training and experience, you knew how to do
12 that?

13 A. Yes, I did.

14 Q. And did you cause this header information to be printed
15 out on this email?

16 A. Yes, I did.

17 Q. Okay.

18 MR. MORRIS: And if we could scroll down, please.

19 Stop, please. Go back up a little bit. Thank you.

20 BY MR. MORRIS:

21 Q. What is the date that this email was sent on?

22 A. It's 17 March 2004.

23 Q. And what does it say as the subject?

24 A. "Sorrento home."

25 Q. And who is it to?

1 A. It's to me, Mark underscore Patterson at Comcast dot net.

2 Q. And then going down to the salutation, would you read the
3 salutation and the first paragraph?

4 A. "Dear Mark, Connie and Bill" --

5 Q. I'm sorry. Let me stop you. "Mark" refers to you, I take
6 it?

7 A. Yes.

8 Q. And "Connie and Bill" are who?

9 A. My mother and father.

10 Q. Thank you. Please continue.

11 A. "I am writing to let you know that Kookie and I are
12 traveling and will be traveling for some time. We had to
13 leave rather unexpectedly because of intense pressure that was
14 being put on us by the Internal Revenue Service."

15 Q. Would you read the next two sentences?

16 A. "The IRS got a judge to force us to stop assisting people
17 with IRS matters. Now they are trying to get a grand jury to
18 indict us for alleged tax crimes."

19 Q. And would you go down to the bottom paragraph?

20 MR. MORRIS: If we could scroll down?

21 BY MR. MORRIS:

22 Q. Would you read the bottom paragraph and the concluding
23 signature?

24 A. "We are very sorry we have to leave under these
25 conditions. Please forgive us. If you need to contact us,

1 please use this email. Sincerely, Eddie Kahn."

2 Q. Now, going back up to the header information, based on
3 your knowledge and your experience, were you able to use this
4 header information to determine where this email was being
5 sent from?

6 A. Yes, I was.

7 Q. How did you do that?

8 A. Every email in the header has -- the sender has an IP
9 address; the receiver has an IP address, and the email servers
10 in between that handle the email have IP addresses.

11 Q. And what does "IP" stand for?

12 A. Every computer on the Internet has an IP address. It's a
13 a 12 or 16 digit number that each computer on the Internet is
14 assigned. You can't be on the Internet without having an IP
15 address.

16 So what the header does is it records the IP address of
17 the sender, the receiver, and the email servers that handle
18 that particular correspondence.

19 Q. And based on the information that you're able to get from
20 the header for this email, were you able to determine where
21 this email originated from?

22 A. Yes, I did. I did what's called a trace route, and what
23 that is is I just -- it's just a simple command, trace the
24 route, and it will trace from my computer back to the
25 originating IP, and that traced back to Panama.

1 Q. The country of Panama?

2 A. The country of Panama.

3 Q. So that's where this email was sent from?

4 A. According to the headers, yes.

5 Q. Thank you.

6 Now, after you received this email, what did you do?

7 A. I contacted officer Ken Colt of the Internal Revenue
8 Service and --

9 Q. Why did you contact him?

10 A. Well, I had been -- in the year 2000 I had been served a
11 summons to produce all financial records dealing with the rent
12 payments from the Kahns.

13 Q. Let me stop you there. The request -- who did that come
14 from -- the -- for documents?

15 A. Ken Colt from -- in the year 2000 I received a summons
16 from Ken Colt from the IRS to produce all the payments that I
17 have concerning Eddie Kahn and the rent.

18 Q. So Revenue Officer Colt was trying to get information
19 about Eddie Kahn from you, is that correct?

20 A. Yeah, they had -- in the near 2000.

21 Q. Okay. And so you contacted Revenue Officer Colt when you
22 got this email?

23 A. Yes, I did.

24 Q. And what did you do?

25 A. He asked me to fax or email it to him.

1 Q. Is that what you did?

2 A. Yes, I did.

3 Q. After you contacted Revenue Officer Colt, what did you do?

4 A. I started to -- I came back down to Florida to sell my
5 house. Okay? I mean, I -- my family -- we loaded up and
6 about a week later we made it back down to Florida, and we --
7 we took possession of the house again.

8 Q. So you had to travel from Philadelphia down to Florida?

9 A. Yes, we did.

10 Q. When you arrived at the house in Sorrento, Florida, that
11 you had been renting to Mr. Kahn, what did you see?

12 A. The first thing I was concerned about was there was a
13 metal drum out back where that -- something was being burned
14 inside, and that was the first thing I inspected. It was
15 smoldering.

16 And then once I determined that it wasn't a fire hazard --
17 because there's three acres of forest right behind the
18 property where it backs up to -- and then I went in the house
19 and did an inspection of the property and saw it.

20 Q. What did you do after you inspected the inside of the
21 house?

22 A. I came back out again, and the -- and the drum had been
23 moved over to the side. And it had been -- there was a --
24 there's a service road on the side of the property, and it had
25 been dumped over there onto its side.

1 Q. And did you look in the drum?

2 A. Yeah. It was kind of spilled out, and it was -- I was
3 checking, again, to see if it was smoldering. On the top was
4 ashes. But once it tilted over, then I could see there was
5 half-burnt documents inside it.

6 Q. How full was the drum, would you say?

7 A. It was about half full.

8 Q. Half full of burned documents?

9 A. Yes.

10 Q. Thank you.

11 MR. MORRIS: Those are my questions.

12 THE COURT: Any cross, counsel?

13 MR. BERNHOFT: Your Honor, no questions on cross.

14 THE COURT: Mr. Wilson?

15 MR. WILSON: No questions, Judge.

16 THE COURT: Thank you, Mr. Patterson. You may step
17 down, sir.

18 Members of the jury, it's the middle of the morning.
19 It's about the time we would take our morning recess, but we
20 paused earlier for the break. Anyone feel the need of an
21 additional break? Just raise your hand if you do. Otherwise,
22 we'll just go on.

23 All right. Next witness, Mr. Morris, please.

24 MR. MORRIS: Yes, Your Honor. The United States
25 calls Paris Johnson.

1 *** PARIS JOHNSON, III, was sworn by the Deputy Clerk ***

2 THE DEPUTY CLERK: Please have a seat.

3 Please state your full name, and spell your last
4 name for the record.

5 THE WITNESS: Yes. Paris Johnson, III. Johnson,
6 J-O-H-N-S-O-N.

7 PARIS JOHNSON, III,
8 being duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. MORRIS:

11 Q. Good morning, Mr. Johnson.

12 A. Good morning.

13 Q. How are you employed?

14 A. I'm a supervisory Special Agent with the Federal Bureau of
15 Investigation.

16 Q. How long have you been an FBI agent?

17 A. Since May of 1990.

18 Q. And what are your current duties as an FBI agent?

19 A. I'm the FBI legal attache assigned to the U.S. Embassy in
20 Panama. I have the area of responsibility of Panama,
21 Costa Rica and Nicaragua.

22 Q. Would you tell us about the duties of a legal attache?

23 A. I work with the -- of course, with the FBI field offices,
24 other federal and local U.S. law enforcement agencies, and the
25 host government law enforcement and intelligence agencies.

1 Q. And where are you physically stationed?

2 A. At the U.S. Embassy in Panama.

3 Q. How long have you been a legal attache in Panama?

4 A. I've been assigned to the office for two years.

5 Q. What's your current title?

6 A. Legal attache.

7 Q. Did you have a title before that relating to that
8 position?

9 A. Yes. I was promoted to legal attache in February of 2007.
10 Before that, I was the assistant legal attache.

11 Q. So you worked under the supervision of someone else when
12 you were an assistant legal attache?

13 A. That's correct.

14 Q. As a legal attache, do you sometimes deal with the
15 expulsion of United States citizens from the host country?

16 A. Yes, I do.

17 Q. Have you dealt with such expulsions in the course of your
18 duties?

19 A. Yes, I have.

20 Q. Approximately how many United States citizens have you
21 dealt with that are in expulsion from Panama?

22 A. Probably ten to 15.

23 Q. Okay. In October of 2006 were you notified that there was
24 a United States Indictment and arrest warrant for Eddie Kahn?

25 A. Yes, I was.

1 Q. And were you also --

2 MR. BERNHOFT: Excuse me. With respect to this
3 witness and the testimony, the defense would respectfully
4 request a 105 limiting instruction, sir.

5 MR. MORRIS: No objection.

6 THE COURT: With respect to the testimony of Special
7 Agent Johnson, then, members of the jury, you are specifically
8 instructed that you should consider his testimony and give it
9 such weight as you think it is entitled to receive only with
10 respect to your consideration of the case pertaining to the
11 defendant Kahn and not with respect to either Mr. Snipes or
12 Mr. Rosile.

13 MR. MORRIS: Thank you, Your Honor.

14 BY MR. MORRIS:

15 Q. Again, Special Agent Johnson, in October of 2006, were you
16 notified that there was an Indictment and arrest warrant out
17 of the United States for Mr. Kahn?

18 A. Yes.

19 Q. And were you also notified that he was in Panama?

20 A. Yes.

21 Q. Okay. What actions did you take based on that?

22 A. I liaised with the immigration officials from Panama and
23 also the United States Marshals in the U.S., along with
24 special agents from the IRS.

25 Q. What actions did you take regarding Mr. Kahn, if any?

1 A. Mr. Kahn was detained by the immigration officials. And I
2 spoke to the deputy director on the 31st of October and he --
3 we made arrangements to have -- they brought Mr. Kahn to the
4 airport in Panama City, and I arranged to meet them there and
5 to escort Mr. Kahn on the first of November back from
6 Panama City to Miami.

7 Q. And what was your understanding as to why Mr. Kahn was in
8 the custody of the immigration authorities and being turned
9 over to you?

10 A. They were made aware that Mr. Kahn had an outstanding
11 warrant in the United States, and they revoked his visa and
12 they wanted Mr. Kahn out of the country.

13 Q. And you said that you made arrangements to meet at the
14 airport, is that right?

15 A. Yes.

16 Q. What happened?

17 A. The immigration officials brought Mr. Kahn to the airport.
18 I arranged the purchase of tickets. Myself and a Panamanian
19 officer escorted Mr. Kahn onto an American Airlines flight,
20 and we brought him to Miami.

21 Q. You and an immigration official from Panama flew with
22 Mr. Kahn?

23 A. It was a Panamanian officer; it was not an immigration
24 official. The immigration officials brought him to the plane,
25 and I had a Panamanian police officer with me.

1 Q. Where did you fly from and to?

2 A. From Panama City, Tocumen airport, to Miami airport.

3 Q. Once you got to Miami, what did you do?

4 A. There were -- Custom and Border Patrol, Marshals and
5 special agents from the IRS were present, and I turned
6 Mr. Kahn over to them.

7 Q. Thank you.

8 MR. MORRIS: Those are my questions.

9 THE COURT: Any questions?

10 MR. BERNHOFT: No cross on behalf of Mr. Snipes,
11 Judge.

12 MR. WILSON: No questions, Judge.

13 THE COURT: Thank you, Agent Johnson. You may step
14 down, sir.

15 THE WITNESS: Thank you, sir.

16 MR. O'NEILL: Your Honor, the government calls
17 Dr. John Barsa.

18 MR. WILSON: Your Honor, I have a motion to make
19 with respect to this witness.

20 THE COURT: All right. Come to sidebar, then,
21 please, Mr. Wilson.

22 AT SIDEBAR:

23 THE COURT: Yes, Mr. Wilson?

24 MR. WILSON: Your Honor, there are a number of
25 witnesses the government, I anticipate, is going to present

1 who were individuals that Mr. Rosile prepared 861 tax returns
2 for among other financial documents. They were not members of
3 the American Rights Litigators. They had no connection with
4 American Rights Litigators.

5 This is 404(b) testimony, information that these
6 witnesses are going to testify about, which I have not been
7 provided any notice of previously.

8 It's outside the scope of the conspiracy, and it's
9 not relevant. And the prejudicial value greatly outweighs any
10 probative value that they could have given the fact that
11 there's no connection with American Rights Litigators or the
12 conspiracy.

13 They merely are attempting to introduce these
14 witnesses to show that Mr. Rosile was preparing other 861
15 returns for people that were not within the American Rights
16 Litigators organization.

17 MR. BERNHOFT: Judge, very briefly, we join on 402,
18 403 grounds.

19 MR. O'NEILL: Judge, there have been -- there are
20 four witnesses in sequence. Two are married, have separate
21 things to say. All three had tax returns prepared by
22 Mr. Rosile. The government does not contend it's 404(b).
23 This evidence goes directly to willfulness, which, as the
24 Court knows, for both of the counts Mr. Rosile is charged in,
25 the government must prove willfulness.

1 In each a relevance argument. A 402 analysis just
2 doesn't hold water, Judge, because it -- as the Court knows,
3 it's just any tendency to show a fact that exists. The only
4 issue would be whether it would be 40 -- in the government's
5 view, a 403, whether the probativeness is outweighed by the
6 prejudice.

7 In this particular case the government must prove --
8 the government must prove that defendant Rosile willfully
9 filed with -- joined this conspiracy and willfully was
10 involved in Count Two, which was the false 1040X.

11 In these particular instances, Your Honor, he files
12 tax returns with -- for these individuals with this 861
13 position and on two occasions files two separate returns, one
14 properly done and one done with an 861, clearly showing --
15 because on one case the woman is applying for a bank loan. On
16 the other, the man has child custody issues with his ex-wife.

17 And so in each of these cases it goes right to the
18 fact that he's totally aware of his obligations as an
19 accountant to prepare these properly within the confines of
20 the law, and he does not do so. So the government's
21 contention goes to willfulness.

22 THE COURT: Well, if it does, I don't see that that
23 takes it out of 404(b), Mr. O'Neill, because one of the bases
24 for the admission of acts other than those specifically
25 charged in the Indictment is that it relates to intent or

1 state of mind, in this case willfulness.

2 Let me excuse the jury for a minute while we discuss
3 and consider this.

4 IN OPEN COURT:

5 THE COURT: Members of the jury, you're going to get
6 a morning break after all. I need to discuss this matter with
7 counsel for a few minutes. And as a matter of convenience to
8 us and to you and not to keep you just sitting there waiting,
9 we'll pause and take a 15-minute break, and you may retire to
10 the jury room.

11 (Jury absent.)

12 THE COURT: Be seated, please. Give me just a
13 moment.

14 (Pause.)

15 THE COURT: Mr. O'Neill?

16 MR. O'NEILL: Yes, sir.

17 THE COURT: Was the substance of this intended
18 testimony disclosed to the defense on request before trial
19 under 404(b)?

20 MR. O'NEILL: Judge, the government specifically did
21 not make a 404(b) disclosure. The government would note --
22 Your Honor, the government would note in its brief -- bench
23 brief that it filed prior to trial -- in this case on the
24 issue of willfulness, we specifically talked about a number of
25 items that we would contend, based on Eleventh Circuit

1 precedent, are not within a 404(b) analysis, but the Eleventh
2 Circuit has countenanced these as part of the conspiracy.
3 These are incidents that occurred during the course of the
4 conspiracy.

5 And the government -- if I can read it, Your Honor?
6 At the outset it should be noted that nearly all of these acts
7 and omissions took place during the period of the conspiracy
8 as specified in the Indictment, that is, 1999 through
9 October 12, 2006. Thus, they are not prior acts which
10 typically are the subject of Rule 404(b) analysis. See
11 United States versus Maxwell, 34 F.3d 1006, 1009, Eleventh
12 Circuit, 1994. Quotation -- not quotation -- excuse me --
13 parentheses, observing that precedents are ample in the
14 Eleventh Circuit for the admission of evidence of prior drug
15 dealing under Rule 404(b). Indeed, these acts and omissions
16 form an integral and natural part of the account of
17 circumstances regarding the conspiracy charged in the
18 Indictment. The Eleventh Circuit has long endorsed this
19 exception to the rule against admission of other acts. See
20 United States versus Weeks, W-E-E-K-S, 716 F.2d 830, 832,
21 Eleventh Circuit, 1983, parentheses again, noting that
22 evidence of an uncharged offense is not considered extrinsic
23 under Rule 404(b) if it arose out of the same transaction or
24 series of transactions as the charged offense.

25 THE COURT: Well, that's the problem right there at

1 the end, if it arose out of the same series of transactions
2 charged as an offense. And as I understand the proffer at
3 sidebar, the testimony of the witness you have called would be
4 outside the charged conspiracy, would it not?

5 MR. O'NEILL: It's within the time frame of the
6 charged conspiracy, but it does not relate to the -- it is not
7 part of the conspiracy between the three conspirators charged.

8 THE COURT: Well, then I think that brings it --
9 what were you reading from, Mr. O'Neill?

10 MR. O'NEILL: Judge, that was the bench brief that
11 the government filed in this case, United States' response in
12 opposition to defendant Snipes' motion to bar all 404(b)
13 evidence against Snipes from trial.

14 THE COURT: Well, it seems to me this testimony
15 would be squarely within 404(b). I'm obliged to sustain the
16 objection.

17 Now, that does not mean that there are not
18 circumstances under which it may develop that the
19 United States may resort to this evidence by way of -- well,
20 other means of proof or perhaps even calling these witnesses,
21 depending on what develops after this point. But at the
22 moment, it seems to me, it's 404(b) material, which might be
23 admissible to prove willfulness, but advance notice would be
24 required, so I sustain the objection.

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

1 THE COURT: Let's take the balance of the recess
2 time.

3 (A recess was taken.)

4 (Jury absent.)

5 THE COURT: Thank you. Be seated, please.

6 Marshal Rivera, come to the lectern, if you will.

7 MARSHAL RIVERA: Yes, Your Honor.

8 THE COURT: Did you speak to Mr. Kahn this morning
9 about whether he wished to come to court or not?

10 MARSHAL RIVERA: Yes, Your Honor. I spoke to him
11 between 7:30, 7:45 this morning. I asked him if he was going
12 to participate today, and he said no.

13 And I also notified the jail, as per the Court's
14 instructions, that if in the event he wants to participate at
15 any time, to contact the Marshals Service, and we will bring
16 him in. I gave them contact number for 24 hours, so they are
17 aware.

18 THE COURT: All right. And I think you said before
19 that you are taking Mr. Kahn expedited daily copy of the
20 transcript and proceedings.

21 MARSHAL RIVERA: Yes, Your Honor. I went to see him
22 on Friday afternoon, and I took him the transcripts. And I
23 will see him again -- when I see him tomorrow morning, I will
24 deliver his new transcripts and his new paperwork.

25 THE COURT: Thank you, Marshal Rivera.

1 Is the government ready to proceed? Mr. McLellan?

2 MR. McLELLAN: Yes, Your Honor.

3 THE COURT: Seat the jury, please, for us.

4 (Jury present.)

5 THE COURT: Thank you. Be seated, please, members
6 of the jury. I appreciate your patience.

7 We are ready to proceed. Will you call your next
8 witness, Mr. McLellan, please.

9 MR. McLELLAN: Government calls Special Agent
10 Cameron Lalli.

11 *** CAMERON LALLI was sworn
12 by the Deputy Clerk. ***

13 THE DEPUTY CLERK: Please have a seat. Please state
14 your full name, and spell your last name for the record.

15 THE WITNESS: Cameron Lalli, L-a-l-l-i.

16 CAMERON LALLI,
17 having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. McLELLAN:

20 Q Special Agent Lalli, how are you employed?

21 A I'm a special agent with the Internal Revenue Service,
22 criminal investigation division.

23 Q And where is your assigned post of duty?

24 A Fort Myers, Florida.

25 Q How long have you been a special agent with the IRS

1 criminal investigation?

2 A Approximately nine-and-a-half years.

3 Q In the course of your duties as a special agent, did you
4 become familiar with the name Wesley Snipes?

5 A Yes.

6 Q When were you assigned to the Snipes investigation?

7 A It was approximately April of 2002.

8 Q What prompted IRS criminal investigation to open an
9 investigation on Wesley Snipes?

10 MR. BARNES: Objection, Your Honor; 402, 403 and
11 701.

12 THE COURT: I am inclined to overrule the objection
13 on those grounds.

14 You may answer, Agent Lalli.

15 A The 1997 amended tax return citing the 861 claim was
16 received in my office.

17 Q I will be showing you here Government's Exhibit 64-2.
18 Let's take a look at the top of that, please.

19 MR. McLELLAN: May it please the Court, would it be
20 possible to dim the lights for the exhibit?

21 THE COURT: It will hopefully, Madam Clerk.

22 BY MR. McLELLAN:

23 Q Special Agent Lalli, is that the document in question?

24 A Yes, sir.

25 Q Okay. Directing your attention to the section on income

1 in the middle of the document, what does this amended return
2 do with regard to the income reported for Mr. Snipes for this
3 tax year?

4 A It backs it out. It zeros it out to zero.

5 Q In taking a look, if we can focus on Line 10, okay, can
6 you make out that line, Special Agent Lalli?

7 A Yes, sir.

8 Q And what does it do to the total tax?

9 A The total tax is zero.

10 Q Okay. And taking a look at the refund line, 23 -- I'm
11 sorry -- 22, okay, what refund does this amended return call
12 for?

13 A 7,360,755 dollars.

14 Q Let's take a look at where the signatures appear on this
15 document. Who appears to have signed as the preparer.

16 A The preparer is Douglas P. Rosile.

17 Q And how about the taxpayer?

18 A Wesley Snipes.

19 Q Taking a look at the jurat, the first several words of the
20 line on the declaration there, what does this -- what do those
21 first words read?

22 A "Under no penalties of perjury."

23 Q Is that the proper declaration to be put on a tax return?

24 A No.

25 Q How is it different?

1 A Well, they inserted the word "no."

2 Q Okay. In the course of your duties, did you also come to
3 know the name Douglas Rosile?

4 A Yes, sir.

5 Q Were you assigned to investigate Douglas Rosile?

6 A I was.

7 Q In the course of your duties, did you also come to know
8 the name Eddie Ray Kahn?

9 A Yes, sir.

10 Q Were you assigned to investigate Eddie Ray Kahn?

11 A I was.

12 Q Okay. Getting back to this 1997 claim for 7.3 million
13 refund prepared by Mr. Rosile and filed by Mr. Snipes, once
14 you had been provided with this document, did you then look
15 into Mr. Snipes' tax filing history?

16 A I did.

17 Q And what did you determine?

18 A I determined that at that point he had not filed a tax
19 return for 1999 and for 2000.

20 Q What about his prior years?

21 A He had filed all the tax returns up and through 1998.

22 Q Did you have evidence that Wesley Snipes was receiving
23 income in these non-filing years?

24 A I did.

25 Q What kind of evidence did you have?

1 A We have reports that we get through our -- the computer
2 system that indicates payers were paying, made payments to
3 him.

4 Q At the time you started your investigation, what time
5 frame are we talking about here?

6 A It's April of 2002, approximately.

7 Q Were there any powers-of-attorney in place for people to
8 represent Mr. Snipes before the Internal Revenue Service?

9 A Yes, sir.

10 Q Who were those people with those powers-of-attorney?

11 A At that time, it was members of American Rights
12 Litigators, Milton Baxley and Brian Malatesta.

13 Q To your knowledge, was there some link between Misters
14 Baxley and Malatesta?

15 A Well, they both were -- they worked for American Rights
16 Litigators and Eddie Kahn.

17 Q Where was American Rights Litigators located?

18 A It was initially in Mount Plymouth, Florida and then they
19 moved to Mount Dora, Florida.

20 Q Okay. What county is Mount Plymouth in?

21 A Lake County.

22 Q How about Mount Dora?

23 A Lake County.

24 Q Is American Rights Litigators also known as "ARL"?

25 A Yes.

1 Q What kind of services did it offer?

2 A They would correspond to the IRS for their clients based
3 on any kind of tax issue they had. If they owed money, if
4 they didn't file a tax return, or any type of correspondence
5 the IRS would send the clients, they would provide a service
6 to respond to the IRS.

7 Q And who ran ARL?

8 A Eddie Kahn.

9 Q Now, you work for the criminal investigation division of
10 the Internal Revenue Service Internal Revenue Service, do you
11 not?

12 A Yes, sir.

13 Q At the time, was any other part of the IRS or had any
14 other part of the IRS been looking into the activities of
15 Douglas Rosile?

16 A Civil division --

17 MR. WILSON: Objection; relevance. This is 404(b),
18 also.

19 THE COURT: Well, I don't perceive that at the
20 moment. I will overrule the objection presently.

21 Put another question. Go ahead, Mr. McLellan.

22 BY MR. McLELLAN:

23 Q What was the civil division doing?

24 A Well, I believe they were working on an injunction to stop
25 Mr. Rosile from filing the 861 claims.

1 Q And why were they concerned about his activities?

2 A Well, the amount of claims that were --

3 MR. WILSON: Objection; relevance.

4 THE COURT: Sustained.

5 BY MR. McLELLAN:

6 Q Special Agent Lalli, was there any link between Douglas
7 Rosile and American Rights Litigators?

8 A Yes.

9 Q What was that link?

10 A Douglas Rosile prepared the 861 amended returns for ARL
11 clients.

12 Q Did the civil part of the Internal Revenue Service
13 ultimately apply to do anything about the activities of
14 Douglas Rosile?

15 MR. WILSON: Objection; relevance as to what the
16 civil --

17 THE COURT: What's the government's theory of
18 relevance to this, Mr. McLellan?

19 MR. McLELLAN: It is notice to the defendants, Your
20 Honor, as to the proprietary of their activities.

21 THE COURT: Well, establish a time frame in your
22 predicate then, and I will reserve ruling on the objection.

23 BY MR. McLELLAN:

24 Q In the -- we were just talking about the spring of 2002.
25 Do you recall when the application was made for some kind of

1 court relief with regard to Mr. Rosile?

2 A I believe it was June of 2002.

3 Q Could that have been when the relief was granted?

4 A It might have been.

5 Q So is this around the same time frame as you are
6 initiating your investigation?

7 A Yes, sir.

8 Q And what kind of relief was the government trying to get
9 with regard to --

10 MR. WILSON: Objection; relevance.

11 THE COURT: I will overrule that objection.

12 BY MR. McLELLAN:

13 Q What kind of relief was the government trying to get with
14 regard to Mr. Rosile's activities?

15 A They were trying to get him to stop filing these amended
16 claims with the IRS.

17 Q Now, do you know if this application that the government
18 made got any publicity?

19 MR. WILSON: Objection; relevance.

20 THE COURT: I will sustain that objection, Mr.
21 McLellan.

22 MR. McLELLAN: Your Honor, may I make a point in at
23 that respect? This -- again, the publicity surrounding this
24 is relevant to notice to the defendants, Your Honor.

25 THE COURT: It seems to me it would be indirect and

1 subject to Rule 403, Mr. McLellan. There are other means of
2 approaching that point. I will sustain that objection.

3 MR. McLELLAN: Thank you, Your Honor.

4 BY MR. McLELLAN:

5 Q At the commencement of your investigation, did you at any
6 time attempt to contact Mr. Snipes or his representatives?

7 A I did.

8 Q What was your first attempt to contact him or his
9 representatives?

10 A My first attempt, I believe, was the end of April of '02,
11 I tried to contact -- was trying to contact Mr. Snipes; but in
12 the process, trying to go through attorneys that he -- that I
13 believe were his attorneys.

14 Q Okay. And what was the name of the attorney that you
15 undertook to contact?

16 A I spoke with Mr. Londell McMillian.

17 Q And where was he located?

18 A In New York.

19 Q And what was your understanding of the capacity in which
20 he acted for Mr. Snipes?

21 A I just understood to believe it was his entertainment
22 attorney.

23 Q Did you try through Mr. McMillian to arrange an interview
24 with Mr. Snipes?

25 A I did.

1 Q How did that go?

2 A Well, it took numerous phone calls. I was trying to get
3 Mr. McMillian to give me a power-of-attorney so I could speak
4 with Mr. McMillian about the Snipes situation. And it took
5 several phone calls until finally Mr. McMillian arranged a
6 phone conference with Mr. Snipes.

7 Q Well, let me back up a little bit. Did you actually end
8 up getting a power-of-attorney naming Mr. McMillian for
9 practices before the IRS to represent Mr. Snipes?

10 A I don't remember if we did get the power-of- attorney. We
11 did get verbal authority over the phone to have a conversation
12 with him.

13 Q And was there some controversy over powers-of-attorney and
14 -- that you mentioned had already been established for
15 Mr. Snipes?

16 A Well, they had asked about why I wasn't going through the
17 powers-of-attorney listed for ARL, Milton Baxley and Brian
18 Malatesta.

19 Q Well, what was the position of your office regarding the
20 case of Mr. Snipes and dealing with, on the criminal case,
21 these ARL folks?

22 A Well, we weren't -- you know, Mr. Baxley was not a
23 satisfactory power-of-attorney to deal with at this point
24 regarding my investigation with ARL and all the employees and
25 people associated with ARL.

1 Q Did you refuse to deal with him in this matter?

2 A Yes.

3 Q Did you finally get to speak with Mr. Snipes and his
4 lawyer?

5 A I did.

6 Q When was that?

7 A It was the end of May of 2002.

8 Q Okay. And who was involved in that conversation?

9 A Mr. McMillian, Mr. Snipes and my immediate supervisor,
10 Steven Pelletier, and myself.

11 Q And how was the communication arranged? Was this an
12 in-person meeting?

13 A No. It was over the phone.

14 Q Would you characterize that as a conference call?

15 A It was a conference call.

16 Q At the beginning of the interview, did you inform
17 Mr. Snipes of anything?

18 A I read him his non-custodial rights. He was under
19 criminal investigation.

20 Q And, just generally, what reminders are contained within
21 those, the reading of those rights?

22 A That he has the right to an attorney, has the right to
23 remain silent, and basically the -- you know, informing him he
24 is under criminal investigation.

25 Q Now, these are -- you called these non-custodial rights.

1 Is this something that's sort of an in-house practice of the
2 Internal Revenue Service?

3 A Well, yes. At this point, it is considered what we call
4 an administrative investigation. And these are one of the
5 requirements that we -- if someone is under investigation, we
6 contact them and read them their non-custodial rights.

7 Q Okay. Is this different from the Miranda rights that are
8 so well-known?

9 A Yes.

10 Q Now, during that interview, did you inform Mr. Snipes
11 about the nature of your investigation into his tax affairs?

12 A I informed him what I was looking into.

13 Q And what did you tell him?

14 A I told him, you know, he was under investigation for
15 possibly tax evasion, failure to file taxes, conspiracy,
16 filing false claims.

17 Q And on that day when you told Mr. Snipes that he was under
18 criminal investigation for tax crimes, what was his response?

19 A His response to me was: "Very interesting."

20 THE COURT: I don't understand the answer, Agent
21 Lalli.

22 THE WITNESS: I'm sorry?

23 THE COURT: I said I don't understand your answer.

24 When you said "very interesting," were those Mr. Snipes' words
25 or your reaction --

1 THE WITNESS: No.

2 THE COURT: -- to what he said?

3 THE WITNESS: Those were Mr. Snipes' words to me.

4 BY MR. McLELLAN:

5 Q So he, in fact, told you that your reading of a list of
6 crimes for which he was being investigated was "very
7 interesting"?

8 A Correct.

9 Q Very interesting to him?

10 A I guess that's what he meant. I don't know.

11 Q Did you tell him anything else at that point?

12 A You know, we just told him that we weren't going to be
13 dealing with Mr. Baxley through ARL. And he wanted a list of
14 questions that -- I requested an interview, an in-person
15 interview with him, that I needed to meet with him and discuss
16 this, these issues.

17 Q Well, let me ask you this. Do you ordinarily try to have
18 a face-to-face meeting with people you are investigating?

19 A Yes.

20 Q Is that the usual practice?

21 A Yes, that's the practice.

22 Q I'm sorry. You were saying what else had come up at this
23 point in your -- in the interview?

24 A Just the issue about the power-of-attorney.

25 Q Well, you were refusing to deal with Mr. Baxley from ARL;

1 is that correct?

2 A Yes.

3 Q Why was that?

4 A Well, he was part of the investigation that I was
5 conducting into ARL. I mean, he was the power-of-attorney,
6 and yet -- what they said lawyer for that group. And the
7 history of his activities and ARL activities with the IRS, I
8 knew we're not going to get anywhere.

9 Q And was that proper conduct on your part, under the
10 procedures of the Internal Revenue Service?

11 A It is allowed to bypass the power-of-attorney if you feel
12 that it is going to hinder your investigation.

13 Q Now, was Mr. Snipes and -- or his counsel, were they
14 trying to get you to deal with ARL in this context?

15 A They had mentioned that you know why weren't we going
16 through his POA, and we replied.

17 Q Did you ever have an interview with Mr. Snipes after that
18 phone interview?

19 A No.

20 Q What follow-up did you do with Mr. Snipes or in regards to
21 his case after you had that conference call?

22 A I followed that up with a letter to him a couple of weeks
23 later, requesting that I hadn't heard from him, that I needed
24 to know what attorney he was going to be dealing with. That
25 was returned to my office, return to sender.

1 I tried to -- at that point, it is still an administrative
2 case. I tried to summons the corporate records at Amen Ra in
3 New York.

4 Q Well, let me stop you there. What was your understanding
5 at the time of what Amen Ra was?

6 A Well, Amen Ra was Mr. Snipes' company or loan-out company
7 that he used with his films.

8 Q Okay. And what were you trying to get from Amen Ra?

9 A I was trying to get the corporate records.

10 Q And how would that help you with your investigation?

11 A To look into the financial aspects of any income of the
12 films or how he was conducting his business.

13 Q Okay. And what was the -- so what action did you take?

14 A Well, I sent, by certified mail, summonses to the
15 corporate offices in New York.

16 Q Let me ask you, what is a summons?

17 A A summons is similar to a subpoena, but it is
18 administrative. It's what the IRS issues for records.

19 Q By means of a summons, can you compel people to produce
20 records?

21 A Yes, sir.

22 Q What else can you compel them to do with a summons?

23 A You can compel them to show up in person.

24 Q And so you had sent a summons to the Amen Ra office by
25 certified mail. What was the fate of that summons?

1 A It was refused, not accepted.

2 Q How did you determine that?

3 A It was returned to my office refused. And then I called
4 and talked to the carrier who delivered the mail.

5 Q Okay. Once the summons was refused, what came next in
6 your investigation?

7 A At that point, it was a grand jury investigation now, and
8 then I started to issue subpoenas for records.

9 Q And what are grand jury subpoenas?

10 A The grand jury subpoenas are a request from the sitting
11 grand jury for records, for whatever records that you are
12 trying to obtain; bank records, company records.

13 Q Now, you called them "requests." Are they more like
14 commands?

15 A Well, they are, yes.

16 Q So when people get them, are they obligated to respond?

17 A They are.

18 Q And to whom were these subpoenas issued?

19 A I issued them to all the financial institutions, movie
20 studios, anything associated with Mr. Snipes and his
21 corporations.

22 Q And did you start getting information back in response to
23 these subpoenas?

24 A Well, I did, except for the subpoenas that were served
25 on -- well, what at that time I thought was the corporate

1 officers.

2 Q Well, let me ask you about that next. Did you identify
3 corporate officers for Amen Ra?

4 A I did.

5 Q And who were they?

6 A I believe they were Sandra Farrior and Carmen Baker.

7 Q Do you know what their positions were supposed to be with
8 the company?

9 A Based on the various documents, some said secretary, some
10 said president, some -- you know, whatever the documents had
11 on them.

12 Q And were these bank documents?

13 A Well, I believe they were probably articles of
14 incorporation, public documents that had their names on them.

15 Q Okay. So you -- by these sources, you determined the
16 names of --

17 A Right, right. I believe some of the bank records that had
18 started coming in had names on there, like treasurer, or
19 somehow associated them with the companies.

20 Q Okay. So now you had identified individuals who
21 apparently were officers of Amen Ra; is that correct?

22 A Correct.

23 Q Okay. Did you try to subpoena them?

24 A I did.

25 Q With what result?

1 A Well, the ones issued to Sandra Farrior were --

2 Q Let me ask you this. Did you get a grand jury subpoena
3 issued to Sandra Farrior?

4 A Yes.

5 Q And did you cause somebody to attempt to serve that grand
6 jury subpoena on her?

7 A Yes.

8 Q Okay. And what were the circumstances that ensued? Who
9 was trying to do it?

10 A Agent -- an IRS special agent in New York.

11 Q Okay. And what was the result?

12 A The subpoenas were thrown out on the front lawn.

13 Q By whom?

14 A By Sandra Farrior.

15 Q What later happened to those subpoenas?

16 A They were then mailed back from Sandra Farrior to my
17 colleague, Special Agent Graf.

18 Q After that, did you talk to Sandra Farrior on the
19 telephone?

20 A I did.

21 Q What did she tell you about the business records?

22 MR. BARNES: Objection, Your Honor; hearsay.

23 THE COURT: Sustained.

24 BY MR. McLELLAN:

25 Q Did you ever succeed in getting records from Amen Ra

1 Films?

2 A No.

3 Q You testified that the IRS sought an injunction against

4 Douglas Rosile --

5 A Yes, sir.

6 Q -- to stop him from preparing these 861 returns.

7 Approximately, what proportion of those returns were for ARL

8 customers?

9 A Approximately 90 percent.

10 Q Did you eventually collect those returns?

11 A I did.

12 Q Special Agent Lalli, do you recognize those boxes?

13 A I do.

14 Q What is in those boxes?

15 A There is over 200 1040X claims citing 861 theory or

16 position.

17 Q Were those certified by the Internal Revenue Service?

18 A Yes, sir.

19 Q Have you looked at every one of those returns?

20 A Every one.

21 Q Does every one of them have the 861 argument on them?

22 A Yes, sir.

23 Q Does every one of them zero out the income?

24 A Yes, sir.

25 Q Did you prepare summaries of the returns in those boxes?

1 A I did.

2 Q Directing your attention to document marked for
3 identification purposes 90-1. Just take a moment and see if
4 you can find it in that pile there.

5 Special Agent Lalli, do you have 90-1 in front of you?

6 A Yes, sir.

7 Q And how is that captioned?

8 A "Summary of 861 claim returns prepared by Douglas Rosile."

9 Q Did you prepare that summary?

10 A Yes, I did.

11 Q Okay. Directing your attention to document marked for
12 identification Number 90-3, could you take a look at that,
13 please. And how was that one captioned?

14 A "Summary of Section 861 claims paid out, dash, applied."

15 Q Now, do both of these summaries cover the certified
16 returns that are in those boxes, those boxes being marked for
17 identification 90-2, one of two, and 90-2, two of two, do they
18 pertain to those certified records?

19 A Yes, sir.

20 MR. McLELLAN: The government moves that 90-1, 90-2
21 and 90-3 be received into evidence.

22 MR. BARNES: Objection, Your Honor.

23 MR. WILSON: Objection.

24 MR. BARNES: I believe this is the subject of
25 Mr. Wilson's earlier 404(b) motion. And we would additionally

1 request, if it is to be admitted, a 105 instruction.

2 MR. WILSON: Your Honor, there is 404(b) in these
3 documents that they are attempting to enter into evidence,
4 404(b) documents in those boxes --

5 THE COURT: All right. Just a moment, counsel.

6 I will need to discuss this for a minute with
7 counsel, members of the jury, and it's almost lunch time. I
8 think we can save some time by accomplishing two things at
9 once here.

10 Excuse you for lunch until 1:15, and I will try and
11 resolve this and we will be ready to proceed when you return
12 from lunch.

13 (Jury absent.)

14 THE COURT: Be seated everyone, please.

15 All I have before me on this, of course, is the
16 Government's Exhibit list. 90-1 is described as a summary of
17 tax refund claims prepared by Mr. Rosile. 90-2 is described
18 as the refund claims themselves, 1040 and 1040X, prepared by
19 Mr. Rosile. And it is not clear to me what 90-3 is.

20 What is Exhibit 90-3, Agent Lalli, please?

21 THE WITNESS: I'm sorry?

22 THE COURT: What is the exhibit?

23 (Tendered to the Court.)

24 THE COURT: That, too, is a summary exhibit.

25 You can return it to the witness, Madam Clerk.

1 Are you offering the returns themselves, Mr.
2 McLellan, as Government's Exhibit 90-2?

3 MR. McLELLAN: Yes, Your Honor. Of course, under
4 Rule 1006, the Court may receive just the summary, Your Honor.

5 THE COURT: I understand. Well, as I remarked
6 earlier, it seems to me, if we can reduce the size and weight
7 of this record, it behooves me to do so.

8 MR. McLELLAN: Yes, Your Honor.

9 THE COURT: But, now, the objection is that the
10 summary includes and the returns themselves include returns
11 prepared by Mr. Rosile apparently for persons other than those
12 who participated in or were members of American Rights
13 Litigators or the other organization mentioned in the
14 indictment.

15 What do you say to that?

16 MR. McLELLAN: That is correct, Your Honor.
17 Approximately ten percent of the returns listed on Exhibit
18 90-1 were prepared for non-ARL customers. However, Exhibit
19 90-3 contains only ARL customers.

20 Your Honor, Special Agent Lalli can certainly --
21 he's got full documentation to identify who is who among
22 these --

23 THE COURT: Do I understand then that 90-1 and 90-3
24 are both summary exhibits that overlap each other?

25 MR. McLELLAN: Yes, your Honor. 90-3 is a sub-set

1 of 90-1 with certain specific information that has to do with
2 the splitting up of refunds that were obtained.

3 THE COURT: All right. Well, for the same reason
4 that I sustained earlier objection to such returns, it
5 seems --

6 Well, did the government give pretrial notice under
7 404(b) to any of these returns, Mr. McLellan?

8 MR. McLELLAN: No, Your Honor.

9 THE COURT: Then I am inclined to sustain the
10 objection to that part of 90-1 and 90-2 that contained returns
11 or refund claims made by or on behalf of taxpayers who were
12 not members of or utilizing the services of ARL or GLGM.

13 But will overrule the objection to the extent that
14 it was going to 90-3, and receive it in evidence.

15 MR. McLELLAN: Begging the Court's indulgence, Your
16 Honor.

17 THE COURT: Yes, Mr. McLellan.

18 MR. McLELLAN: Your Honor, for the Court's
19 information, the government is prepared to generate a revised
20 Exhibit 90-1 that excludes all non-ARL customers. The
21 government would intend to offer the revised and redacted
22 exhibit --

23 THE COURT: Well, that's what I understood 90-3 was
24 already. Did I misunderstand?

25 MR. McLELLAN: Well, Your Honor, 90-3 is -- consists

1 solely of ARL customers as it stands, whereas 90-1 has that
2 10 percent non-ARL component to it.

3 However, overnight the government is quite prepared
4 to redact any non-ARL customers from the analysis and the
5 summary of 90-1, and the government would propose to re-offer
6 that exhibit in its entirety tomorrow.

7 THE COURT: Well, I understand, but my point of
8 confusion is, once that's done, would not 90-1 and 90-3 be
9 identical?

10 MR. McLELLAN: No, Your Honor. The 90-3 contains
11 a -- the rather small sub-set of individuals who were
12 customers of American Rights Litigators who successfully
13 obtained a refund check in response to the false claims.

14 THE COURT: Oh, I see. All right. Well, then
15 tender that, if that's what you wish to do, before those
16 exhibits are offered or re-offered, and I will hear any
17 objections that might be made at that time.

18 But it would seem to me that that would cure the one
19 that's presently being made. And -- but until that's done, as
20 I say, I sustain the objection to 90-1 and 90-2.

21 And we will stop for lunch until 1:15.

22 (The luncheon recess was taken.)

23 (Jury present.)

24 THE COURT: Thank you. Be seated, please, members
25 of the jury.

1 All right. Mr. McLellan, you may continue.

2 MR. WILSON: Your Honor, I have a motion.

3 THE COURT: Yes, Mr. Wilson?

4 MR. WILSON: Your Honor, I have a motion with
5 respect to some of the -- one of the documents in particular
6 that's being testified about, that being the injunction. And
7 I'm concerned that, before I have an adequate opportunity to
8 address the admissibility of this document, that there's going
9 to be a substantial amount of prejudice that accrues in the
10 interim.

11 THE COURT: Well, make your objections as we go
12 along, Mr. Wilson, and I'll pass on them.

13 MR. WILSON: Thank you.

14 THE COURT: Go ahead, Mr. McLellan.

15 BY MR. McLELLAN:

16 Q. Special Agent Lalli, did there come a time when American
17 Rights Litigators moved offices?

18 A. Yes, sir.

19 Q. Where did they go?

20 A. They moved from Mount Plymouth, Florida, to Mount Dora,
21 Florida.

22 Q. Okay. And did American Rights Litigators also change its
23 name at that time?

24 A. They did.

25 Q. To what?

1 A. Guiding Life (sic) of God Ministries.

2 Q. What sort of services did Guiding Light of God Ministries
3 offer?

4 A. The same ones that American Rights Litigators provided.

5 Q. What, if anything, was the civil part of the IRS trying to
6 do about that?

7 A. Well, the civil part was trying to stop them from
8 operating.

9 Q. Okay. And what measures did they take to try to
10 accomplish that?

11 A. They got a civil injunction.

12 Q. What was the first thing they did? How did they obtain
13 the injunction? Did they apply to the Court?

14 A. Applied to the Court, yes.

15 Q. Okay. And when was that application made?

16 A. End of December of 2003.

17 Q. And did the Court grant any preliminary relief in that
18 matter?

19 A. Well, they were instructed not to basically conduct any
20 type of business for their clients to the IRS.

21 Q. And who was instructing who in this case?

22 A. The judge was instructing ARL -- or Guiding Light of God
23 Ministries at that time.

24 Q. Okay. Now, was Eddie Kahn named in that action?

25 A. Eddie Kahn was, yes.

1 Q. Around the time this civil action was taking place, did
2 you seek the permission of the Court to do anything on the
3 criminal side regarding Eddie Kahn and Guiding Light of God
4 Ministries?

5 A. I was seeking to get a search warrant of the business
6 premises.

7 Q. Okay. How did you go about doing that?

8 A. I applied to the Court for an affidavit for a search
9 warrant.

10 Q. And what premises were you seeking to search pursuant to
11 that search warrant?

12 A. The Guiding Light of God Ministries' business offices.

13 Q. And where were those located?

14 A. In Mount Dora, Florida.

15 Q. Just generally, what did the Court grant permission for
16 you to search for?

17 A. Business records, the corporate records, financial
18 records, computer records -- basically everything that was
19 operating that business.

20 Q. And what role did you play in the execution of that search
21 warrant?

22 A. Well, I'm the case agent on that, and I was the lead
23 agent. Team leader is what they call it.

24 Q. And when was that warrant executed?

25 A. February 13th of 2004.

1 Q. Okay. Please describe your entry on the premises.

2 A. An employee was noticed going into the building. Their
3 offices were on the second floor of Mount Dora which is --
4 it's an antique-type town with a lot of antique shops -- there
5 on the second floor of this -- this building.

6 An employee was observed going up. We went in the
7 building, identified ourselves as federal agents, and
8 conducted a search warrant.

9 Q. Okay. What time of day was this?

10 A. It was 8:00 in the morning.

11 Q. Please describe the premises of Guiding Light of God
12 Ministries.

13 A. Several different offices containing business records -- a
14 typical office setting, desk, computers, fax machines,
15 copiers, file cabinets.

16 Q. Okay. Let me direct your attention to a document
17 previously marked Number 78. Do you have that there?

18 A. Yes, I do.

19 Q. And do you recognize that?

20 A. Yes, I do.

21 Q. What is it?

22 A. It's a sketch of the layout of the offices of Guiding
23 Light of God Ministries.

24 Q. Would you call that a floor plan?

25 A. It is a floor plan.

1 Q. Is that a fair and accurate representation of what that
2 business looked like on that day?

3 A. Yes, sir.

4 MR. McLELLAN: Government offers the document
5 previously marked Number 78 into evidence, Your Honor.

6 MR. BARNES: No objection, Judge.

7 MR. WILSON: No objection, Your Honor.

8 THE COURT: It's received.

9 BY MR. McLELLAN:

10 Q. Special Agent Lalli, please take a look at Exhibits 81-1
11 through 81-5.

12 (Pause.)

13 A. Okay.

14 Q. What are those things?

15 A. These are photos of the inside of the business -- filing
16 cabinets, computers, various rooms in the offices.

17 Q. Are those photos fair and accurate representations of what
18 the offices looked like the day the warrant was executed?

19 A. Yes, sir.

20 MR. McLELLAN: At this time the government offers
21 documents previously marked 81-1 through 81-5 into evidence,
22 Your Honor.

23 MR. BARNES: No objection, Judge.

24 MR. WILSON: No objection.

25 THE COURT: Each is received.

1 MR. McLELLAN: Please publish 81-1.

2 BY MR. McLELLAN:

3 Q. Special Agent Lalli, is that part of the filing system at
4 Guiding Light of God Ministries?

5 A. Yes.

6 Q. Okay. Directing your attention to 81-2 --

7 MR. McLELLAN: Also, please publish that.

8 BY MR. McLELLAN:

9 Q. -- what are those?

10 A. Those are client records kept in -- each client file had a
11 folder. They are all stacked up.

12 Q. Okay. And taking a look at 81-3, what are those?

13 A. Those are computers -- or I guess they refer to them as
14 servers -- on the bottom there.

15 Q. And taking a look at 81-4, what are those?

16 A. More file cabinets.

17 Q. And 81-5, what is depicted there?

18 A. There's some boxes of records to the left there and then
19 the wiring for all the computers and servers for the business.

20 Q. Did there appear to be a filing system at GLGM?

21 A. Each client had a client number and a file, a folder.

22 Q. Did you seize anything at the premises?

23 A. Yes.

24 Q. Approximately how many boxes of records did you seize?

25 A. Two hundred and fifty-nine.

1 Q. Besides paper records, did you seize anything else at the
2 execution of the warrant?

3 A. The computers. We -- our computer specialist copied the
4 hard drives. There was approximately 25 computers that were
5 copied.

6 Q. Okay. Directing your attention to a document previously
7 marked Number 84 --

8 A. Okay.

9 Q. -- flip through that. And can you identify that document?

10 A. This is the return service of the search warrant affidavit
11 that has the inventory listing attached to it.

12 Q. And what are the items -- generally speaking, what are
13 those items listed in the -- in that inventory?

14 A. Client files, financial records, and all the other
15 documents taken from the business offices.

16 MR. McLELLAN: At this time, Your Honor, the
17 government offers Number 84 into evidence.

18 MR. BARNES: No objection, Judge.

19 MR. WILSON: No objection, Your Honor.

20 THE COURT: It's received.

21 BY MR. McLELLAN:

22 Q. Special Agent Lalli, did you examine the client files that
23 were seized in the execution of this warrant?

24 A. I did.

25 Q. Did you end up identifying client files among the files

1 seized for the three defendants in this case?

2 A. Yes.

3 Q. Did you also seize business records regarding the
4 operation of Guiding Light of God Ministries?

5 A. Yes.

6 Q. Directing your attention to a document marked Number 72 --

7 A. Okay.

8 Q. -- what is that?

9 A. This is a message log -- message phone book, and it
10 appears to be Eddie Kahn's message phone book.

11 Q. Okay. Taking a look at Number 73 --

12 A. Okay.

13 Q. -- what papers are in there?

14 A. This is a -- there's a flyer for one of Eddie Kahn's
15 seminars. There's a checklist for the seminar, where the
16 seminar's going to be and the different costs associated with
17 attending the seminar, and a checklist of different items
18 that -- the videos and books that they sell at the seminar.

19 Q. Okay. And Item Number 74, what is that?

20 A. Seventy-four is a file that is labeled "Eddie's
21 expatriation docs."

22 Q. Okay. And are there papers in there dealing with
23 Eddie Kahn?

24 A. Yes, sir.

25 Q. Okay. Taking a look at Number 75, what is that?

1 A. This lists -- these are job descriptions and duties of
2 American Rights Litigators.

3 Q. Okay. And Number 76?

4 A. This is the Secretary of State records from the State of
5 Nevada for the office of Guiding Light of God Ministries.

6 Q. Taking a look next at Exhibit Number 77-1 -- and 2 and 3
7 ought to be similar -- what are those?

8 A. These are letters that were sent from American Rights
9 Litigators to clients that were returned stating that they are
10 changing the name to Guiding Light of God Ministries.

11 Q. And just -- are you looking at 77-1?

12 A. Yes, I am.

13 Q. Please take a look at 77-2 and 3, and make sure they are
14 the same thing.

15 (Pause.)

16 A. Yes, just different clients.

17 Q. Okay. Directing your attention to documents Number 79-1,
18 79-2, what's 79-1?

19 A. Well, at the top it's labeled "red sheet," and it's split
20 up in three columns. The left-hand column is "IRS letters."
21 The middle column cites "description," and the right-hand side
22 is "response."

23 This appears to be what ARL would respond to when they
24 would receive an IRS letter.

25 Q. Okay. And 79-2, what is that?

1 A. It appears to be the same type of document, just has an
2 updated date.

3 Q. Okay. Please set 79-1 and 79-2 aside, and take a look at
4 Number 80. What is that?

5 A. This is a steno book. It has "meeting minutes" on the
6 front. And there's just notes regarding various meetings that
7 were held at ARL.

8 Q. Okay. And Number 82 --

9 A. Okay.

10 Q. -- what is that?

11 A. This is -- it's titled "disclaimer for bills of exchange
12 and UCC-based papers slash processes." It's --

13 Q. Does it -- I'm sorry?

14 A. It appears to be some type of information sheet that would
15 have gone out with the bill of exchange information.

16 Q. And taking a look at Number 85, what is that document?

17 A. This is a letter from Eddie Kahn to the chief legal
18 counsel of the Internal Revenue Service.

19 Q. Does it also contain another piece of correspondence?

20 A. It's a response back from the Office of Chief Counsel to
21 Eddie Kahn.

22 Q. Okay. And taking a look at Number 86 --

23 A. Okay.

24 Q. -- that purple folder, what -- what is the caption on that
25 folder?

1 A. It says "758," and it says "Rosile," comma, "Douglas."

2 Q. Is that the Douglas Rosile client file?

3 A. Yes.

4 Q. Okay. And does that contain Subparts 86-1 through 86-7?

5 A. Yes.

6 Q. Okay. Taking a look at Number 87, the next document --

7 A. Okay.

8 Q. -- what's the caption on that file folder?

9 A. It has the number 2586. It has "Snipes," comma,
10 "Wesley T."

11 Q. Okay. Is that the Wesley Snipes client file?

12 A. Yes, sir.

13 Q. And does that have subparts thereof numbered in sequence
14 marked in there 87-1 through 87-42?

15 A. Yes, sir.

16 Q. Taking a look at Number 88, what is that?

17 A. This is a client file for Margaret Maycon.

18 Q. Okay. Within that are there a couple of subparts, 88-1
19 and 88-2?

20 A. Yes. Yes.

21 Q. What is 88-1, just generally?

22 A. This is a letter from Doug Rosile to the IRS.

23 Q. Is that 88-1?

24 A. Yes.

25 Q. Okay. And what's 88-2?

1 A. 88-2 is a letter from American Rights Litigators to
2 clients that talks about the filing of amended claims citing
3 861.

4 Q. Okay. Taking a look at the next file, Number 89 --

5 A. Okay.

6 Q. -- what's the caption on there?

7 A. It says "Robert Combs."

8 Q. Who do you know Robert Combs to be?

9 A. Robert Combs is a revenue agent out of the Maitland,
10 Florida, office.

11 Q. What involvement has he had with Eddie Kahn?

12 A. Well, he's been trying to do an examination on Eddie for
13 quite a long time.

14 Q. Now, does that file contain subparts 89-1, 89-2 and 89-3?

15 A. Yes.

16 Q. Okay. What's Item Number 91?

17 A. It's a binder that's labeled "ARL trust."

18 Q. Okay. And does that have Subparts 91-1 through 91-5?

19 A. Yes.

20 Q. Just generally, what is -- what is the subject matter of
21 the documents in that binder?

22 A. American Rights Litigators' irrevocable trust agreement.

23 Q. Are those documents pertaining to the founding of American
24 Rights Litigators?

25 A. Yes.

1 Q. Taking a look at Item Number 92 -- do you see that there?

2 A. Yes.

3 Q. What is that?

4 A. This is a letter to Mr. Kahn, and it's on Affordable
5 Accounting and Tax Service letterhead.

6 Q. And what do you know Affordable Accounting to be?

7 A. Douglas Rosile ran Affordable Accounting and Tax Service.

8 Q. Taking a look at Number 93, what is that document?

9 A. This is a client file for Edward Wilkie.

10 Q. Okay. And taking a look at -- does that have Subparts
11 93-1, 2 and 3?

12 A. Yes.

13 Q. Okay. Taking a look at 93-2, what is that document?

14 A. This is a letter to Mr. Wilkie from Douglas Rosile.

15 Q. Okay. What's 93-3?

16 A. This is a letter to Ed Wilkie from Douglas Rosile.

17 Q. Okay. Turning to Number 94, what's the caption on that
18 file?

19 A. It says "Doug Rosile."

20 Q. Does that have Subparts 94-1 through 94-5?

21 A. Yes, sir.

22 Q. Generally, what's the nature of the documents in that
23 file?

24 A. Well, there's a newspaper article regarding the
25 injunction, a summons from the IRS, an agreement between

1 Doug Rosile and ARL, some client lists with some dollar
2 amounts to them.

3 Q. Okay. Thank you.

4 Turning to Item Number 95, what's the caption on that
5 file?

6 A. It says "amended return."

7 Q. Does it have Subparts 95-1 through 95-7?

8 A. Yes, sir.

9 Q. Are those documents pertaining to payments to Douglas
10 Rosile?

11 A. They are.

12 Q. Number 96, taking a look at that, what is that?

13 A. This is a client file for Kenneth Bradley.

14 Q. Okay. Does that contain correspondence dealing with a
15 1996 amended return?

16 A. Yes, it does.

17 Q. Taking a look at Number 97 --

18 A. Okay.

19 Q. -- what's the caption on that file?

20 A. It says "determination list."

21 Q. Okay. Taking a look at 97-1, does that contain checks
22 from Milton Baxley to the IRS for various customers?

23 (Pause.)

24 A. Yes. I just don't see the Exhibit 97-1 sheet.

25 (Pause.)

1 Q. Does that contain checks from Milton Baxley to the IRS for
2 various customers?

3 A. Yes, it does.

4 Q. Do those include Wesley Snipes?

5 A. Yes, it does.

6 Q. Taking a look at 97-2, what is that document?

7 A. It's a list of clients with a column "paid" and a "sent"
8 column.

9 Q. Okay. Is there any indication as to the nature of the
10 list?

11 Well, let me ask you this: Which file was it in?

12 A. It's in the "determination list" file.

13 Q. Okay. Turning to 98-1, what is that document?

14 A. This is a letter to Mr. Baxley from the IRS, Director,
15 Area 16, SBSE Compliance.

16 Q. Is it regarding Mr. Snipes?

17 A. Yes.

18 Q. Was it received at ARL?

19 A. Yes.

20 Q. Taking a look at 99-1, what is that?

21 A. This is a Pitney-Bowes agreement.

22 Q. And who are the parties?

23 A. Eddie Kahn and American Rights Litigators.

24 Q. Okay. And what's 99-2?

25 A. This is a Pitney-Bowes delivery service record for

1 American Rights Litigators.

2 Q. All right. Turning to 100-1, what is that?

3 A. This is a fax to Eddie Kahn from Lori Davis.

4 Q. And 100-2, what is that?

5 A. This is a fax to Eddie Kahn from Lori Davis.

6 Q. Turning to 101, what is that?

7 A. This is a Guiding Light of God Ministries reminder notice
8 for annual donation for Wesley Snipes.

9 Q. How about 102; what is that?

10 A. On the folder it says Wes F-L dot info.

11 Q. Okay. Please take a look at the contents. Is that a
12 client file devoted to Wesley Snipes?

13 A. Yes, it is.

14 Q. Turning to 103, what is that document?

15 A. It's a folder that has a tab that says "1.861" and then,
16 in red, it says "Wes."

17 Q. Is that another client file devoted to Wesley Snipes?

18 A. Yes, sir.

19 MR. McLELLAN: The government moves that the
20 following list of exhibits be received into evidence. I refer
21 to the exhibits in sequence, Your Honor, as they appear on the
22 government's exhibit list.

23 THE COURT: All right.

24 MR. McLELLAN: There are certain exceptions,
25 Your Honor, where things have already been received into

1 evidence, and I necessarily have to, sort of, skip over those.

2 I will note them as I -- as I make my motion.

3 Numbers 72 through 77-3.

4 I believe 78 has already been received.

5 79-1 through 80.

6 I believe 81 and the subparts thereof have already
7 been received.

8 Number 82.

9 The government is not offering Number 83.

10 I believe Number 84 has already been offered and
11 received.

12 Numbers 86 through 89-3.

13 MR. MORRIS: Jeff, 85.

14 MR. McLELLAN: Begging the Court's indulgence?

15 (Pause.)

16 MR. McLELLAN: I'm sorry, Your Honor. The
17 government also offers Number 85.

18 I think I may have already said I'm offering 86
19 through 89-3.

20 The government offers Exhibit 87 and all its
21 subparts. However, I believe this is the Snipes -- Wesley
22 Snipes' main client file.

23 I believe, however, that on Mr. Snipes' motion, a
24 number of subparts of this file have already been received
25 into evidence. So my motion would exclude those subparts

1 already received, which include, I believe, 87-2, 10, 11, 20,
2 21, 23, 27, 26 and 28. But the -- the other -- I'm moving for
3 the admission of the other subparts of that file.

4 I believe 90-1 through 90-3 have already been
5 received.

6 I move for the admission of 91 through 103, although
7 I believe that 98 subpart two is already in evidence.

8 That's my motion, Your Honor.

9 THE COURT: Let's go back to the very beginning,
10 Mr. McLellan. You said 72 through 73-3; is that -- did I hear
11 that correctly?

12 MR. McLELLAN: Yes, Your Honor.

13 (Pause.)

14 MR. McLELLAN: I'm sorry. I apologize. It's 72
15 through 77-3, Your Honor.

16 THE COURT: 77-3.

17 And then picking up with 79-1, I think you said --

18 MR. McLELLAN: Yes, Your Honor.

19 THE COURT: -- which is already in evidence, I
20 believe.

21 Is there any objection to any of those exhibits,
22 counsel?

23 MR. BARNES: Yes, Your Honor. I assume -- well,
24 both 902 and 803. I assume they are going to introduce these
25 records under 803 dash 6, but I haven't heard the foundation

1 established for that for purposes, Your Honor.

2 And as to 902, I don't believe he's identified each
3 individual exhibit he's looked at as coming from the search
4 warrant. I assume he's going to do that pursuant to the Bates
5 numbers, but I haven't heard that testimony either at this
6 time.

7 Otherwise, Your Honor, as to separate exhibits'
8 specific objections, Exhibit 72, that has a lot of auxiliary
9 unrelated material and it -- .

10 THE COURT: Seventy-two is already in evidence, I
11 think.

12 MR. BARNES: If that's the case -- Exhibit 74, 402
13 and 403 grounds.

14 Exhibit 77-1 through 77-3, 402 and 403 grounds.

15 THE COURT: Well, I'm inclined to overrule -- you
16 did say, Agent Lalli, that all of these exhibits that you've
17 just identified were seized upon the execution of the search
18 warrant you described?

19 THE WITNESS: Yes, Your Honor.

20 THE COURT: I'm inclined to overrule those
21 objections. They can be renewed subsequently in the form of a
22 motion to strike, perhaps, but at the moment I'm inclined to
23 overrule those objections and receive in evidence those
24 exhibits just enumerated by Mr. McLellan. That would be 72
25 through 77-3.

1 79-1 is already in evidence.

2 80, 82.

3 84 is already in evidence.

4 85 --

5 MR. BARNES: Your Honor, briefly, on 85, I do have a
6 402 and 403 objection based on the time of when that letter
7 was sent.

8 THE COURT: Well, what do you say to that,
9 Mr. McLellan, as to that exhibit?

10 MR. McLELLAN: Your Honor, this is evidence of
11 notice to Mr. Kahn in the form of --

12 THE COURT: I understand, but what is its relevance
13 to the other defendants given its date?

14 MR. McLELLAN: Well, Your Honor, its -- its
15 relevance is only as to defendant Kahn.

16 THE COURT: All right. You might make a note,
17 members of the jury, that I will restrict consideration of
18 Government Exhibit 85 to the case of Mr. Kahn only, and it
19 should not be considered in any way as you review the evidence
20 and consider the evidence as to Mr. Snipes and/or Mr. Rosile.

21 That means that 86 through 89-3 -- wait a minute.
22 Let me understand that.

23 Starting with 86, which exhibits were offered,
24 again, Mr. McLellan? 86 through what?

25 MR. McLELLAN: Your Honor, I said 86 through 89-3.

1 However, contained within that is -- are a number of parts of
2 Exhibit 87 that have already been received.

3 THE COURT: Well, I show 87-2 as in evidence -- it
4 may be the only one -- and then 87, in all of its iterations,
5 some of which are in evidence already, will be received.

6 MR. McLELLAN: Your Honor, does that include the
7 exhibits from 86 as well -- or does that include Exhibit 86 as
8 well?

9 THE COURT: Yes.

10 MR. WILSON: Your Honor, I have an objection to 86.

11 THE COURT: What is your objection to 86,
12 Mr. Wilson?

13 MR. WILSON: Your Honor, the objection as to Exhibit
14 Number 86 is that within that file there is contained 404(b)
15 information, information that's outside the scope of this
16 conspiracy -- the alleged conspiracy.

17 THE COURT: I'll reserve ruling on that one until I
18 can examine the exhibit, then.

19 MR. WILSON: And with respect to 86-1, I have an
20 objection. That, likewise, is 404(b) evidence without prior
21 notice and is outside the scope of the alleged conspiracy,
22 subsequent to the dates.

23 THE COURT: That's dated in March of 2002, according
24 to the exhibit list.

25 MR. WILSON: That's correct, Your Honor. And while

1 it hasn't been elicited yet, which is -- I attempted to
2 address with the Court earlier the fact that Mr. Rosile left
3 this organization well before that.

4 THE COURT: Well --

5 MR. WILSON: The government has offered it for
6 notice. It didn't occur until after he left the organization,
7 so it couldn't be noticed. And it's, again, 404(b). I have
8 not received any notice whatsoever regarding their intention
9 to offer any of this 404(b) information.

10 THE COURT: Well, I think the objection assumes a
11 fact in issue. I'm inclined to overrule that objection, and
12 I'll receive it in evidence, as I think I've already said,
13 down through Government Exhibit 103 of those that were
14 offered.

15 MR. McLELLAN: That was the government's offer,
16 Your Honor.

17 THE COURT: All right. They are received in
18 evidence.

19 BY MR. McLELLAN:

20 Q. Special Agent Lalli, do you have Numbers 104 and 105 in
21 front of you?

22 A. Yes.

23 Q. What is Number 104?

24 A. This is a handwriting exemplar for Douglas Rosile.

25 Q. What's the date on that document?

1 A. February 8th of 2006.

2 Q. Were you present when Mr. Rosile provided that exemplar?

3 A. Yes, sir.

4 Q. What is Number 105?

5 A. It's a handwriting exemplar for Wesley Snipes.

6 Q. And the date of that one?

7 A. June 6th of 2006.

8 Q. Were you present when that exemplar was given?

9 A. Yes, sir.

10 MR. McLELLAN: The government offers Numbers 104 and
11 105 to be received into evidence, Your Honor.

12 MR. BARNES: As to 105, Your Honor, we just maintain
13 our objection from pretrial motions.

14 THE COURT: All right.

15 MR. WILSON: No objection to 104, Your Honor.

16 THE COURT: Then I'll adopt the rulings previously
17 made in that respect and receive in evidence Government
18 Exhibits 104 and 105.

19 BY MR. McLELLAN:

20 Q. Special Agent Lalli, I direct your attention to -- back to
21 Government's Exhibit Number 73.

22 MR. McLELLAN: Can you publish that, please?

23 (Pause.)

24 MR. McLELLAN: Begging the Court's indulgence?

25 (Pause.)

1 BY MR. McLELLAN:

2 Q. What's the caption on that file?

3 A. It says "Romulus, Michigan, seminar."

4 Q. Okay. What's the date?

5 A. 6-22 of 2002.

6 Q. Okay. Taking a look at the first piece of paper in
7 there --

8 MR. McLELLAN: For publishing purposes, maybe we
9 could move on to the next piece of paper.

10 BY MR. McLELLAN:

11 Q. Okay. Focusing on the top of the document, what's the
12 caption say?

13 A. It says "Eddie Kahn tax seminar."

14 Q. And what does it say beneath that?

15 A. "Do you fear the IRS? If you fear a public servant, then
16 he is not your servant but rather your master."

17 Q. And in the middle of the page, it says "attend this
18 seminar and learn." Could you please read what it says under
19 "attend this seminar and learn"?

20 A. "How to verify bureaucrat has the authority over you that
21 he claims to have prior to submitting to you his demands. How
22 to put all bureaucrats and politicians back in their proper
23 role as public servants. Difference between a right and a
24 privilege and why not knowing the difference literally puts
25 you in bondage. About real-life examples of defeating

1 bureaucrats who exceeded their authority. The actual
2 documents that were used will be given to you at the seminar.
3 About status. Not knowing your proper status can be
4 detrimental to your liberty. You will receive documents that
5 prove the IRS is not an agency of the United States
6 government. Proven techniques for successfully dealing with
7 the IRS. How to confidently go on the offensive and win.
8 Knowledge" --

9 Q. Please continue.

10 A. "Knowledge is power. If you're ready to discover the
11 truth about income taxes and how to take control of your
12 relationship with the IRS, attend this seminar. Copy and
13 distribute this flyer. Tell your friends about this event.
14 Save \$10 by pre registering."

15 Q. Okay. And at the bottom of the page, I think there's some
16 information given about Eddie Kahn. Could you please read
17 that?

18 A. "Presenting Eddie Kahn. Eddie Kahn, internationally known
19 as an author and lecturer, has researched tax systems for over
20 20 years. A much sought after speaker, Mr. Kahn travels
21 extensively to conduct seminars based on his how-to book, no
22 enforcement statutes slash IRS regulations applicable for
23 individual income tax. His seminars and educational materials
24 have shown thousands how to understand our tax system and how
25 to take a proactive and successful stance with the IRS.

1 "Mr. Kahn is the founder of American Rights Litigators,
2 ARL, founded in 1996 and located in Mount Plymouth, Florida.
3 ARL is a professional organization that utilizes aggressive
4 CPAs and attorneys dedicated to legally representing and
5 protecting the rights of American citizens.

6 >Note: Eddie Kahn's educational materials will be
7 available for purchase at this event."

8 Q. Okay. Turning to Government's Exhibit Number 74 --
9 okay -- what's the caption on that file?

10 A. It says "Eddie's expatriation docs."

11 Q. Are there Post-It notes on the front of that document?

12 A. Yes.

13 Q. And what do those say?

14 A. It says, "Send to Department of Justice, Florida, SOS,
15 Chief ACS, Atlanta. Make sure these are in EK's file to" -- I
16 don't know what --

17 Q. Okay.

18 A. Tanya, maybe.

19 Q. Okay. Taking a look at the first page, you should see
20 something that says "declaration of non-juristic status."

21 A. Yes.

22 Q. And who does that seem to be from, taking a look at the
23 bottom of it?

24 A. Eddie Kahn.

25 Q. And who is it addressed to?

1 A. Charles Rossotti.

2 Q. And please read the first couple of paragraphs of that
3 letter.

4 A. "Commissioner Rossotti: Please find enclosed a copy of my
5 notice to your superiors, Secretary of the Treasury Paul H.
6 O'Neill. This notice served upon you is to be made a
7 permanent part of the IRS slash TDA slash AIMS slash IMF
8 record in the administrative of the IRS files for account
9 number 454-68-8645.

10 "Please be advised that I am no longer a Fourteenth
11 Amendment citizen of the corporate United States," in paren,
12 "United States citizen," close paren.

13 "Concurred with by the President of the United States, I
14 am solely a citizen of the Texas Republic and, therefore,
15 claim my sovereignty. Hence, I am no longer a juristic person
16 under your principal, the international banking system called
17 the Federal Reserve."

18 Q. Okay. Skipping over the next paragraph but reading the
19 following one that starts out with "please send," please read
20 that.

21 A. "Please send all monies I have sent to the Federal
22 Reserve, federal taxation, and Social Security regarding the
23 above account number to me care of the below address.

24 "Please be advised that henceforth any, all monies
25 tendered to me in lieu of the money of account are received

1 without prejudice," paren, "Uniform Commercial Code Section
2 1-207," close paren.

3 "Be further advised that I am governed solely by the
4 common law," paren, "UCC Section 1-103 colon six," comma, "and
5 its filial relations in the state statutes. This document
6 shall establish a debt owed to me by you and your principal."

7 Q. Please read the next paragraph.

8 A. "Moreover, as you well know, the IRS, its principal, the
9 Federal Reserve, and the principal's army, the bar, British
10 Accreditation Regency Association, have conspired to overthrow
11 the American government of We, the People.

12 "Thus, I have unearthed the vested interest of the bar
13 association and its puppet government as to prosecute and
14 support the status quo regarding income taxation. Thus,
15 evidence of treason, deception, criminality, fraud and
16 collusion has been found.

17 Q. Okay. And there's -- I think the page following should be
18 a letter dated August the 28th, 2002 --

19 A. Okay.

20 Q. -- to the Secretary of State in Austin, Texas.

21 A. Yes.

22 Q. Special Agent Lalli, who is the sender of that letter to
23 the Secretary of State?

24 A. Eddie Kahn.

25 Q. And what's the date on it?

1 A. It's dated August 28th of 2002.

2 Q. Okay. Please read the first three paragraphs.

3 A. "Dear Secretary Shea. I am writing as a sovereign Texas
4 State citizen for the purpose of seeing if you are able and
5 willing to issue a letter of Texas citizenship with the
6 official seal of Texas and your signature contained in the
7 document.

8 "Having checked with the Secretary of State of the
9 United States regarding the wording on the passport issued by
10 that department, I have found that the citizen slash national
11 mentioned therein is for purposes of denoting a Fourteenth
12 Amendment citizen pursuant to a recent letter received by me.

13 "I am not a Fourteenth Amendment citizen pursuant to
14 several decisions of the United States Supreme Court because I
15 am not a person of color, nor have I volunteered into such
16 status."

17 Q. Okay. Taking a look at Government's Exhibit Number 75,
18 this general information document for American Rights
19 Litigators -- do you have that?

20 A. Yes.

21 Q. Okay. What address is given for American Rights
22 Litigators?

23 A. 25525 State Road 46, Suite 2, Mount Plymouth, Florida,
24 32776.

25 Q. Okay. Flip forward, please, to -- there's a general

1 manager job description contained in there.

2 A. Okay.

3 Q. There should be a big cover page, and then the following
4 page should have the description.

5 A. Yes.

6 Q. Okay. Please read the duties of the general manager of
7 American Rights Litigators.

8 A. "General duties. One. Overseeing all facets of ARL.

9 "Two. Overseeing directly the research department.

10 "Three. Overseeing and approving the accounts receivable
11 and accounts payable.

12 "Four. General counsel for ARL staff-related materials
13 and activities.

14 "Five. Review and approve of all letter revisions.

15 "Six. Approve all leaves of absence.

16 "Seven. Approval of contract terminations.

17 And "eight, communicate in person, telephone or by letter
18 with clients and IRS."

19 Q. Taking a look at Exhibit 76 --

20 A. Okay.

21 Q. -- what is this?

22 A. Certificate of existence with status in good standing.

23 Q. Okay. Where does it -- who issued -- who issued this
24 certificate?

25 A. Secretary -- the Secretary of State in the State of

1 Nevada.

2 Q. Let's take a look at the second paragraph on the front
3 page. What -- please read that one.

4 A. "I further certify that the records of the Nevada
5 Secretary of State, at the date of this certificate, evidence
6 the office of the presiding overseer of the Guiding Light of
7 God Ministries and successors, a corporation sole, as a
8 corporation sole duly organized under the laws of Nevada and
9 existing under and by virtue of the laws of the State of
10 Nevada since May 27, 2003, and is in good standing in this
11 state."

12 Q. Okay. I think a page in you'll see something called an
13 asseveration of truth, comma, vow of poverty.

14 A. Yes, sir.

15 Q. Who appears to have signed that document?

16 A. Eddie Ray.

17 Q. And what appears to be that mark next to where it says
18 "Eddie Ray"?

19 A. I believe that's his thumbprint.

20 Q. Okay. And taking a look at that signature, in what
21 capacity has Eddie Ray signed this document as to his
22 signature?

23 A. Overseer for Christ.

24 Q. Okay. Please read the first paragraph of this document.

25 A. "I, Eddie Ray Kahn, do hereby, this 3rd day of April, in

1 the year of our Lord, 2003, affirm that I, Eddie Ray Kahn, in
2 this day taking this vow of poverty.

3 "Further as of this date, I, Eddie Ray Kahn, am accepting
4 the post of overseer of the Guiding Light of God Ministries in
5 the service of my creator.

6 "I, Eddie Ray Kahn, do this day bequeath and gift all
7 right, title, interest and/or claim to all property, real or
8 personal, to this Washington State corporation sole, Guiding
9 Light of God Ministries.

10 "As of this date I, Eddie Ray Kahn, am no longer involving
11 the (sic) myself in commerce in the person of Eddie Ray Kahn
12 and/or in my individual capacity."

13 Q. And what does the next paragraph say, please?

14 A. "Guiding Light of God Ministries henceforth is providing
15 my daily needs. I, Eddie Ray Kahn, am a steward over the
16 property held in Guiding Light of God Ministries to the glory
17 and honor of my creator. The property is a product of His
18 guidance. The property comes directly from my creator and
19 shall enure to my successor in office."

20 Q. What is the -- what -- please read the second-to-last
21 paragraph.

22 A. "Prosperity may be considered a noble goal for those who
23 strive for it. However, the poverty I, Eddie Ray Kahn, choose
24 will better groom my soul to accept God's direction as a
25 blueprint for how I, Eddie Ray Kahn, must live to be able to

1 serve him better. This vow supersedes any previous vows or
2 declarations."

3 Q. Okay. The next page in the document should be a notice of
4 appointment. Do you see that there?

5 A. Yes.

6 Q. Okay. Taking a look at the bottom of it, who -- who
7 signed there as overseer?

8 A. Eddie Ray Kahn.

9 Q. What appears next to that signature?

10 A. His thumbprint.

11 Q. And can you make out the witness names?

12 A. Steven Hunter and Danny True.

13 Q. Okay. Do you know those names?

14 A. Yes.

15 Q. Who are those people?

16 A. They work for Eddie Ray and American Rights Litigators and
17 Guiding Light of God Ministries in the research department.

18 Q. Okay. Please read the first paragraph of that notice of
19 appointment.

20 A. "Whereas the undersigned being members of the body of
21 Jesus Christ through their belief and confession of him for
22 the forgiveness of their sins before the Father, believing and
23 practicing that wherever two or more gathered in his name
24 there he is in the midst of them, according to Matthew 18:20."

25 Q. Okay. Please read the last paragraph.

1 A. "Let it be known to all that the undersigned as priests of
2 Jesus Christ do acknowledge the appointment by God of
3 Eddie Ray Kahn as a priest and hereby appoint him
4 nunc pro tunc as the overseer of Guiding Light of God
5 Ministries and successors a corporation sole established
6 May 12, 2003."

7 Q. Okay. Directing your attention to Government's Exhibit
8 Number 77-1 -- and I'll be talking about 2 and 3 as well so
9 you might want to grab those.

10 Do you see an envelope there of 77-1?

11 A. Yes.

12 Q. Okay. Let's take a look at that envelope. What's the
13 letterhead on that envelope?

14 A. It says "American Rights Litigators."

15 Q. Okay. And to whom is that addressed?

16 A. William Moeshlin.

17 Q. Okay. And taking a look at the front of the envelope,
18 there's -- there's a caption in the lower right-hand corner.
19 Where does that caption appear to have come from?

20 I guess it's a mark. What does it say?

21 A. It says "return to sender."

22 Q. What else does it say?

23 A. "Box closed, unable to forward, return to sender."

24 Q. Is this mail that was returned to ARL?

25 A. Yes.

1 Q. Okay. Taking a look at the contents of this one, there --
2 there should be an orange page on the first page of the
3 mailing. It starts out at the top "Dear Patron."

4 A. Yes.

5 Q. Okay. Please read the beginning of that.

6 A. "Dear Patrons: Please direct further inquiries to Office
7 of the Presiding Overseer of the Guiding Light of God
8 Ministries, GLGM, and successors, a corporation sole. Mailing
9 address: Post Office Box 1365, Mount Dora, Florida, 32756."

10 Q. Thank you.

11 And on the second page there's a letter that was enclosed.

12 Do you see that caption or that -- I guess it's -- the
13 salutation is "Dear ARL Members."

14 A. Yes.

15 Q. Okay. Please read that letter up to the point where it
16 says "special notice."

17 A. "I am writing to let you know that there are some changes
18 that are taking place in our office at this time. Because we
19 have always been a Christian organization, we are very happy
20 and excited about these changes. We feel that God is guiding
21 us in this direction, and we are simply following his lead.

22 "As most of you know, American Rights Litigators, ARL, has
23 never been run as a business because it has never been a
24 business. It was set up as a ministry to help people that
25 felt they were being harassed by the IRS or they felt

1 incompetent to respond to IRS demand letters.

2 "For seven years ARL members have had a lawyer and a CPA
3 that would take their power of attorney, POA, and correspond
4 with the IRS on their behalf to try and resolve any IRS
5 problem. However, we have always wanted an official religious
6 vehicle to operate under.

7 "As a result of that desire, Eddie has set up a
8 corporation sole which is a religious office that will support
9 the ministry. All the beneficial shares, as well as all of
10 the assets of ARL, have been gifted to the ministry, as well
11 as those of Eddie Kahn and Associates, LLC. Those two
12 entities are currently being phased out.

13 "The official name of the ministry is Office of the
14 Presiding Overseer of the Guiding Light of God Ministries and
15 successors, a corporation sole. A mouthful, isn't it?

16 "GLGM has its own address and phone numbers, which are on
17 the attached flyer. Eddie Ray Kahn is the presiding overseer
18 of the corporation sole. All of the staff at ARL have agreed
19 to work with GLGM. All current memberships will be honored,
20 and the services will be essentially the same.

21 "The changeover will take place on Friday, the 22nd of
22 August. That day there will be a small number of workers at
23 ARL to take care of emergencies. Everyone else will be at the
24 GLGM office getting prepared for the official opening date of
25 Monday, August 25.

1 "Please help us out by not calling the ARL office on
2 Friday unless it is something that just will not wait until
3 Monday. However, if it is an urgent matter, by all means,
4 call the office.

5 "Changes. One. Because GLGM is a ministry, it will not
6 charge for services rendered. There will be a requested
7 donation for services rendered as well as an annual donation
8 request. The funds requested will be the same as what you are
9 now paying.

10 "Reason. We have costs that are fixed that must be
11 provided for if we are to continue to help the people who come
12 to us. If the requested donations come in, we will be able to
13 provide those services.

14 "Two. All checks will be made out to Guiding Light of God
15 Ministries or Eddie Kahn, overseer.

16 "Three. Another service. GLGM will assist individuals
17 who want to set up their own ministries by providing them with
18 the appropriate paperwork in support. It will also assist
19 Christian churches who have incorporated under IRS Code
20 501(c)(3) to change that status to that of a true church
21 status with the appropriate paperwork and support."

22 Q. Okay. And what does the last line of the letter above
23 the -- where it says "thank you" say?

24 A. "A copy of this letter, the attached flyer, and all
25 succeeding updates will be posted on the Eddie Kahn dot com

1 website."

2 Q. And who's the sender here under "thank you"?

3 A. It says "ARL staff."

4 Q. Okay. Taking a look at Government's Exhibit Number 77-2,
5 is that another envelope that got sent back by the Post Office
6 to ARL?

7 A. Yes.

8 Q. Okay. And does it contain within it the same mailing as
9 we were just looking at?

10 A. Yes.

11 Q. Okay. Taking a look at Government's Exhibit Number 77-3,
12 is that also an envelope that's been returned to sender at
13 ARL?

14 A. Yes, it is.

15 Q. Okay. And does it also contain this "Dear ARL Members"
16 letter?

17 A. Yes.

18 Q. Okay. Now, taking a look at Government's Exhibit Number
19 79-1 -- do you have that? -- what is the caption and the date
20 on that document?

21 A. "Red sheet, 12-1-2003."

22 Q. Okay. And what are the headers indicating what's in each
23 of these three columns?

24 A. The left column says -- header says "IRS letters." The
25 middle is "description," and to the right is "response."

1 Q. Okay. And just for example purposes, let's take a look at
2 the ones listed under "IRS letters" beginning "inquiries."
3 What are the ones listed in that section?

4 A. CP515, CP1615, CP2501, CP518, letter 2050, letter 2566,
5 CP515.

6 Q. Okay. Let me ask you, do you recognize any of these types
7 of letters?

8 A. I mean, I would have to see the letter to know what they
9 are. I know that the IRS sends out letters that have these CP
10 notices on them. I couldn't -- I'd have to see the letter.

11 Q. Taking a look at the description, what's -- what's the
12 description there for CP515?

13 A. It says "request for 1040 or filing 1040."

14 Q. Okay. What's the description given for the CP2501 series?

15 A. "Request for 1040 only."

16 Q. Okay. And what about the description for letter 2050?

17 A. "Request for tax return and/or money."

18 Q. Okay. Now, taking a look at the "response" column, does
19 this list a type of response for each one of these IRS
20 letters?

21 A. Yes.

22 Q. How many pages is this red sheet?

23 (Pause.)

24 A. It looks likes eight pages.

25 Q. So there's eight single-spaced pages listing IRS letters

1 and ARL responses?

2 A. Yes.

3 Q. Okay. If you flip forward in that document, you should
4 get to a list of letters with columns marked "Eddie," "David,"
5 I believe "Allan" and "Carrie" -- Do you see that there? --
6 handwritten, I think.

7 A. Yes.

8 Q. Okay. What is the first -- what's contained in the first
9 column on the left-hand side of that table, or what are the
10 things that are listed there?

11 A. It looks like a date and a time and a response.

12 Q. So are these various ARL responses?

13 A. It appears to be.

14 Q. Okay. And what's the caption on the first column after
15 that, handwritten?

16 A. It says "Eddie."

17 Q. Okay. What does it say there on the diagonal above
18 "Eddie"?

19 A. It says "approved."

20 Q. Okay. And what's the next column? What's the name there?

21 A. "David."

22 Q. And what does his diagonal say?

23 A. "Installed in master file."

24 Q. Okay. What does the next one say?

25 A. It looks likes "Allan."

1 Q. What is his diagonal designation?

2 A. "First client letter check."

3 Q. And what's the last name there?

4 A. "Carrie."

5 Q. And what does it say on the diagonal?

6 A. "Letter ready for use."

7 Q. Okay. Taking a look down there below where it says
8 "Eddie" and "approved," do there appear check marks next to
9 certain of these letters?

10 A. Yes.

11 Q. Directing your attention to Government's Exhibit
12 previously marked Number 82 --

13 A. Okay.

14 Q. -- what is that document?

15 A. It's styled "disclaimer for bills of exchange and
16 UCC-based paper processes."

17 Q. Please read the first two paragraphs.

18 A. "Guiding Light of God Ministries, GLGM, is a Christian
19 ministry and organization established to assist men and women
20 in their pursuit of truth and freedom as Americans. The truth
21 shall set you free, Jn. 8:32. Jesus Christ said and it is our
22 intention to bring into light the truth regarding our
23 relationship to government, more specifically regarding tax
24 matters.

25 "We believe that every American should pay all lawful

1 taxes that are due. Romans 13:6-9 states, For because of this
2 you always pay taxes, for rulers are servants of God, devoting
3 themselves to this very thing. Render to all what is due
4 them, tax to whom tax is due, custom to whom custom, fear to
5 whom fear, honor to whom honor."

6 Q. Okay. Please read the third paragraph from the bottom of
7 this document.

8 A. "Assisting our patrons with the preparation of UCC
9 filings, bills of exchange, and other papers may not always be
10 appreciated by those in government agencies or government
11 instrumentalities due to lack of understanding or otherwise.

12 "Though we do not advocate or prepare documentation that
13 is unlawful, use of bills of exchange may result in a phone
14 call or visit from IRS and/or Treasury personnel alleging that
15 the bills of exchange are fraudulent instruments even though
16 current bills of exchange specifically state on them 'void
17 where prohibited by law.' Several patrons have experienced
18 this recently."

19 Q. And what does the last paragraph say?

20 A. "Though the use of bills of exchange and other commercial
21 processes have lawful foundation, our patrons who use such
22 papers assume the risk of having to speak to the use of such
23 papers. It is your responsibility to pursue understanding as
24 much as possible the character, content and purpose of the
25 papers with which we assist and/or prepare for you. Your use

1 of such papers is at your own risk. We cannot and will not
2 assume risk that may arise from use of various UCC papers and
3 processes."

4 Q. Directing your attention to Government's Exhibit Number
5 85, what is that document?

6 A. This is a letter from Eddie Kahn to Kenneth Gideon, Chief
7 Legal Counsel for Internal Revenue Service.

8 Q. What's the date on that letter?

9 A. September 27th of 1982.

10 Q. And where in the IRS is this office located, according to
11 the --

12 A. Washington, D.C.

13 Q. -- address given here?

14 And what is Mr. Kahn's inquiry here? Please read the
15 letter.

16 MR. BARNES: Your Honor, we would just request the
17 105 instruction now be given to the jury.

18 THE COURT: What do you say to that, Mr. McLellan?

19 MR. McLELLAN: No objection, Your Honor.

20 THE COURT: I'll instruct the jury that this exhibit
21 also should be considered only with respect to your
22 consideration of the case of Mr. Kahn and not the other --
23 either of the other two defendants.

24 BY MR. McLELLAN:

25 Q. Please proceed.

1 A. "Dear Sir: I have some questions concerning the 1040 tax
2 form that I would like for you to answer.

3 "Number one. What is the definition of income?

4 "Number two. Is compensation, wages, salaries,
5 commissions, et cetera, income, or is compensation a source of
6 income?

7 "Number three. Is the source of income taxed as income?

8 "Number four. Can I fill out a 1040 tax form without
9 giving up any of my constitutional rights?

10 "Answers to these questions as soon as possible would be
11 appreciated. Sincerely, Eddie Kahn."

12 Q. Okay. Flipping forward, do you see a response from the
13 Office of Chief Counsel, Internal Revenue Service, Washington,
14 D.C.?

15 A. Yes, sir.

16 Q. Let me ask you this: Who -- or what is the Office of
17 Chief Counsel? Who works there?

18 A. It's attorneys for the IRS.

19 Q. And to whom is this addressed?

20 A. To Mr. Kahn.

21 Q. And what's the date on it?

22 A. October 15th of 1982.

23 Q. Please read the letter.

24 A. "Dear Mr. Kahn: This letter is in response to your letter
25 dated September 27, 1982, addressed to Kenneth Gideon, Chief

1 Counsel of the Internal Revenue Service. It has been referred
2 to this office for reply.

3 "Your letter asks four questions. They were: What is the
4 definition of income? Two. Is compensation, wages, salaries,
5 commissions, et cetera, income, or is compensation a source of
6 income? Three. Is the source of income taxed as income?
7 Four. Can I fill out a 1040 tax form without giving up any of
8 my constitutional rights?

9 "In reference to your first question, Section 61 of the
10 Internal Revenue Code of 1954 provides a definition of gross
11 income. It is income from whatever source derived. A listing
12 of items includable in income under Section 61 indicates that
13 items such as compensation for services, including fees,
14 commissions, and similar items, are income. See Commissioner
15 versus Duerstein, 363 U.S. 278, 1960.

16 "Your second question has been answered by the Supreme
17 Court in Commissioner versus Glenshaw Glass Company, 348
18 United States 426, 1955. The Court referred to Section 22(a)
19 of the Internal Revenue Code of 1939. This section was one of
20 the forerunners of Section 61. It explained that gross income
21 includes gains, profits, and income derived from salaries,
22 wages or compensation for personal service of whatever kind
23 and whatever form paid or from professions, vocations, trades,
24 businesses, commerce or sales or dealings in property, whether
25 real or personal, growing out of ownership or use of or

1 interest in such property; also from interest, rent,
2 dividends, securities or the transaction of any business
3 carried on for gain or profit, or gains or profits, and income
4 derived from any source whatever. Glenshaw at 429."

5 Q. Let me stop you there, Special Agent Lalli. Taking a look
6 at the paragraph that starts out "one does not give up" -- do
7 you see that?

8 A. Yes.

9 Q. Please read that one.

10 A. "One does not give up any constitutional rights by filling
11 out an individual income tax return Form 1040. See
12 United States versus Porth, 426 F.2d 519, Tenth Circuit,
13 1970."

14 Q. And beneath that is there another sentence of text for the
15 next paragraph?

16 A. "If you wish to read the cases cited above, they can be
17 found in a law library near you."

18 Q. Okay. And taking a look at the next page, who signed that
19 letter?

20 A. Arnold Kaufman, Assistant Director, Tax Litigation
21 Division.

22 Q. Directing your attention to Government's Exhibit Number 86
23 and the subparts of that, just generally, what is that file?

24 A. This is Douglas Rosile's client file.

25 Q. And what was his client number?

1 A. Seven fifty-eight.

2 Q. And what's contained at Government's Exhibit Number 86-1
3 within this file?

4 A. This complaint for permanent injunction and other relief.

5 MR. WILSON: Objection, relevance, Your Honor. This
6 is the same objection I've interposed previously. I'm just
7 restating it for the record. I'm objecting to the relevance
8 as far as the timeliness of this document.

9 THE COURT: The record will so reflect, Mr. Wilson,
10 and I'll make the same ruling.

11 We're at the midpoint of the morning -- of the
12 afternoon, rather, members of the jury, and I had agreed to
13 take a break about this time in order to permit one of the
14 lawyers to accomplish a task out of the building that's going
15 to take a few minutes, I understand. And so we'll pause now
16 for our afternoon break, and you may retire to the jury room
17 at this time for that purpose.

18 (A recess was taken.)

19 (Jury present.)

20 THE COURT: Thank you. Be seated, members of the
21 jury. Appreciate your patience.

22 All right, Mr. McLellan, you may continue.

23 MR. McLELLAN: Thank you, Your Honor.

24 BY MR. McLELLAN:

25 Q Special Agent Lalli, I believe we were looking at

1 Government's Exhibit 86-1, the complaint for permanent
2 injunction and other relief.

3 MR. McLELLAN: May it please the Court, could the
4 lights be dimmed for projection purposes?

5 THE DEPUTY CLERK: He went back to do it.

6 MR. McLELLAN: Thank you.

7 BY MR. McLELLAN:

8 Q Special Agent Lalli, where was this document filed?

9 A Middle District of Florida.

10 Q And can you tell by the date stamp the date of it?

11 A It looks like March 14th of 2002.

12 Q Okay. And who are the parties, the plaintiff and the
13 defendant here?

14 A United States of America, plaintiff, versus Douglas P.
15 Rosile, Senior, defendant.

16 Q And what's the first paragraph under -- I'm sorry. Please
17 read the caption, and then the parentheses underneath that
18 caption for the document.

19 A "Complaint for Permanent Injunction and Other Relief,
20 Injunctive Relief Requested."

21 Q Okay. And what does the paragraph beneath that say?

22 A "Plaintiff, United States of America, for its complaint
23 against Douglas P. Rosile, Senior, Rosile, states as follows."

24 Q Okay. And then skipping to Paragraph 2 beneath -- in the
25 section "Jurisdiction and Venue," please read the part that

1 says: "This complaint."

2 A "This complaint is brought by the United States of America
3 pursuant to IRC Section 7402(a), 7470 and a 7478 to restrain
4 and enjoin the Defendant from, (a), Further acting as a
5 Federal income tax return preparer; (b) Understating
6 taxpayers' liability as prohibited by IRC Section 6694; (c),
7 Engaging in activity subject to penalty under IRC Section
8 6700, including organizing or selling a plan or arrangement,
9 and, in connection with that activity, making a statement
10 regarding the excludability of income that he knows or has
11 reason to know is false or fraudulent as to any material
12 matter."

13 Q Thank you. Now --

14 THE COURT: Well, wait just a minute, Mr. McLellan,
15 if you will, please. Let me look at something here.

16 Come to side-bar a minute, counsel.

17 AT SIDE-BAR:

18 THE COURT: An objection has been made by Mr. Wilson
19 to this exhibit. What's the exhibit number?

20 MR. McLELLAN: It's 86-1, Your Honor.

21 THE COURT: On grounds of relevance, with the
22 objection being centered on the date of these proceedings,
23 which is subsequent to the alleged commission of the offense
24 charged in Count Two, and does not seem to be on a subject
25 that I can see of any overt act alleged in the indictment.

1 What is the relevance of this proceeding against
2 Mr. Rosile in 2002, Mr. McLellan?

3 MR. McLELLAN: Well, this, Your Honor, is contained
4 in the Douglas Rosile client file maintained at American
5 Rights Litigators. Therefore, it is a notice to the operators
6 of American Rights Litigators, specifically Eddie Kahn, that
7 the government has taken exception to this theory of
8 non-filing of income tax returns, and that that is, therefore,
9 improper under the law.

10 So we have notice to Mr. Rosile, Your Honor, and
11 also notice to Eddie Kahn in this connection.

12 THE COURT: Yeah, but what --

13 MR. McLELLAN: Your Honor, there is years of
14 non-filing that we have alleged -- I'm sorry -- years of the
15 conspiracy cover years of non-filing of income tax returns.

16 This is a refutation of the theory that underpins
17 the non-filing of these income tax returns, and it is notice
18 to Mr. Rosile and Mr. Kahn that that theory is invalid.

19 MR. WILSON: Judge, with all due respect, that is
20 incorrect.

21 THE COURT: Well, how is it incorrect, Mr. Wilson?

22 MR. WILSON: It is incorrect, Your Honor, because
23 Mr. Rosile left American Rights Litigators in December of
24 2001, or November. The injunctive relief sought by this
25 complaint occurred well after he left American Rights

1 Litigators. How that got into his client file, we don't know.

2 THE COURT: The problem with that, Mr. Wilson, is
3 that simply not taking part is not a withdrawal.

4 MR. BARNES: We have one addition, Your Honor. The
5 injunction action is related to the filing of false claims.
6 There was no filing of false claim after that date.

7 Second, it does not relate to the non-filing of
8 returns. The injunction action, the entire action is about
9 preventing Mr. Rosile from filing anymore 1040X's. No 1040X's
10 were filed after that date, Your Honor, so that it wouldn't be
11 notice for that particular purpose.

12 We would be making a separate 105 request,
13 otherwise, Your Honor.

14 MR. McLELLAN: Your Honor, by its terms, the 861
15 theory indicates that one necessarily has no income on an
16 ongoing basis under that theory, and, therefore, one would
17 have no obligation to file income tax returns.

18 The filing of returns under those who practice the
19 861 position is simply to obtain refunds of taxes previously
20 paid. The position implies that one need not file income tax
21 returns on an ongoing basis. It is a rationale for that.

22 THE COURT: The problem is non-filing of returns as
23 distinguished from the making of the false claims is --

24 MR. McLELLAN: May I also add something, Your Honor?
25 The client file, which we are about to present, contains all

1 manner of correspondence from American Rights Litigators to
2 the Internal Revenue Service on behalf of Defendant Snipes
3 defying the efforts of the Internal Revenue Service to get
4 income tax returns for the 1999 and 2000 income tax returns.

5 THE COURT: But that's a totally different subject,
6 I think, than the one that we are talking about at the moment,
7 Mr. McLellan.

8 Let me suggest that you leave this exhibit and go on
9 to some other examination of the witness so that the jury
10 isn't kept waiting and we can discuss this later in the day or
11 at some other time.

12 IN OPEN COURT:

13 THE COURT: Go ahead, Mr. McLellan.

14 MR. McLELLAN: Yes, Your Honor.

15 BY MR. McLELLAN:

16 Q Special Agent Lalli, leaving that last exhibit and turning
17 to Government's Exhibit 86-3, do you have that before you?

18 A Yes.

19 Q What is that document?

20 A This is a summons in the matter of Douglas P. Rosile,
21 Senior.

22 Q And to whom is it addressed?

23 A It is addressed to Douglas P. Rosile.

24 Q And what's a summons?

25 A A summons is, as discussed before, a document to examine

1 records, papers, in-person testimony.

2 Q And this says: "You are hereby summonsed." Could you
3 just read the rest of that line, please.

4 A "You are hereby summonsed and required to appear before
5 Kathleen Arth or her designee, an officer of the Internal
6 Revenue Service, to give testimony and to bring with you and
7 to produce for examination the following books, records and
8 papers and other data relating to the tax liability or the
9 collection of the tax liability, or for the purpose of
10 inquiring into any offense connected with the administration
11 or enforcement of the Internal Revenue laws concerning the
12 person identified above for the period shown."

13 Q Okay. And what's contained in the blank space beneath
14 that?

15 A It says see "Exhibit A."

16 Q Okay. Flipping forward to the Exhibit A that's at Bates
17 120-00463, please read the first paragraph of Exhibit A.

18 A "All manuals, operation handbooks, prospectuses, offering
19 documents or other documents written by you or provided by
20 you, as an individual or acting on behalf of any other group,
21 which were offered to any investors, clients or purchasers,
22 and which describe the plan, operations, theories and/or
23 evidence supporting your use and advocacy of the income tax
24 laws under, but not limited to, IRC Section 861, claiming that
25 wages are tax exempt and not gross income, hereafter referred

1 to as the IRC 861 position. This shall include all such items
2 provided by you to any employees, agents, staff or clients
3 that either work with you, for you or on your behalf."

4 Q Okay. Directing your attention to the first page of the
5 summons, is there a stamp on the back of that page?

6 That would be at SW 120-00455. It ought to be right on
7 the back of the first page of Government's Exhibit 86-3.

8 MR. McLELLAN: I will withdraw that question.

9 BY MR. McLELLAN:

10 Q Taking a look at the signature at the bottom of the first
11 page of the summons, do you see that there?

12 A Yes.

13 Q Who appears to have signed as the Internal Revenue agent?

14 A Kathleen Arth.

15 Q Who do you know Kathleen Arth to be?

16 A A revenue agent out of the Sarasota, Florida office.

17 Q Okay. And what is the date on this summons?

18 A It looks like September 17th, 2001.

19 Q Okay. Directing your attention to Government's Exhibit
20 86-4, now, what is that document?

21 A This is a letter from Milton H. Baxley, II, to the
22 Internal Revenue Service, district director.

23 Q And what's the date on that?

24 A September 19th, 2001.

25 Q And please read the caption.

1 A "Implied Legal Notice of Misapplication of Title 26 USC
2 7602, Violation of Title 18 Section 287, Signing of False
3 Documents, Violation of Title 18 Section 1341 mail fraud,
4 Violation of Title 18, Section 499."

5 BY THE COURT:

6 Q And what's the subject of this letter?

7 A It's a 2039 summons.

8 Q Okay. And taking a look above the subject, who is this in
9 regard to?

10 A Regard to Douglas P. Rosile.

11 Q Please read the first and second paragraphs.

12 A "Dear District Director: I have power-of-attorney, POA,
13 to resolve all Federal tax matters for Douglas P. Rosile.
14 This letter will serve as implied legal notice to Revenue
15 Agent Kathleen Arth, Sarasota, and the district director and
16 acting group manager, Mary Resser, that the summons served
17 against Douglas P. Rosile herein after 'Client' is
18 unauthorized by statute and in error. The IRS summons Form
19 2039, dated 9/17/01 used Section 7602, authority to summon, of
20 the Internal Revenue Code as the reference for legal evidence
21 of authority of law to summon our client for the gathering of
22 information leading to the collection of a tax."

23 Q Okay. And now please read the following -- the paragraph
24 that follows.

25 A "It appears that you are intentionally trying to harass

1 and intimidate my client by circumventing the
2 power-of-attorney. These actions will not be tolerated."

3 Q And the next paragraph.

4 A "Do not send letters of this sort to my client. Direct
5 all correspondence to myself or Bryan D. Malatesta, CPA, as we
6 are active representatives for Douglas P. Rosile, and have
7 authority to resolve any IRS problem on his behalf."

8 Q Okay. And the next paragraph.

9 A "Ignoring the Form 2848 and affidavit of incompetence will
10 be a clear violation of the law, and we will file a complaint
11 with the treasury inspector general for tax administration and
12 ask that you be terminated pursuant to Section 1203 of the
13 Restructuring and Reform Act of 1998."

14 Q Special Agent Lalli, what is the treasury inspector
15 general for tax administration?

16 A It's like the inspection -- they investigate, typically,
17 like IRS personnel, if there is some wrongdoing there; or,
18 also, if they have to look into matters where -- like in this
19 instance, where they are filing complaints against IRS
20 personnel, they have to look into those and investigate.

21 Q Taking a look at the second page of this document, just
22 generally, does this have all sorts of legal-looking citations
23 in it?

24 A On 86-4?

25 Q It starts out: Further, 26 USC 7433," the first complete

1 paragraph. It should be the page -- the second page of 86-4.

2 A I only have one page with that.

3 Q Okay. Let's move onto Exhibit 87 and its subparts.

4 What's Exhibit 87?

5 A This is the client file for Wesley Snipes.

6 Q Okay. And what's his client number?

7 A 2586.

8 Q Okay. You've gone through the documents seized during the
9 execution of the warrant. Is this Mr. Snipes' main client
10 file?

11 A Yes, it is.

12 Q Are there other client files?

13 A I believe there is a client file for Amen Ra.

14 Q Taking a look at Government's Exhibit 87-1, what's the --
15 who appears to have signed that document and what's the date
16 received there?

17 A Wesley Snipes. It was received on March 2nd of 2000.

18 Q Can you make out what it says on that "paid" stamp?

19 A It says "200, slash, 506."

20 Q Okay. And the caption at the top, is that an American
21 Rights Litigators document?

22 A Yes.

23 Q Okay. And what's the -- please read what it says: "How
24 to create," and thereafter.

25 A "How to create a wall between you and the IRS. If you are

1 tired of the stress and shock of receiving mail and phone
2 calls from the IRS, we have the solution."

3 Q Okay. And taking a look at the form that's filled in
4 there, whose name appears on it?

5 A Wesley T. Snipes.

6 Q And what address?

7 A 9711 Deacon Court, Windermere, County Orange, State of
8 Florida.

9 Q Okay. And there is a line there for: "Please circle the
10 tax years you have filed a return"?

11 A Yes.

12 Q Which ones are circled there?

13 A 1990, '91, '92, '93, '94, '95, '96, '97 and '98.

14 Q Okay. And is there a -- you see a calculation below that
15 for fees. Please go over that.

16 A It has 150 dollars, ARL annual POA fee; and a 50-dollar
17 response letter; "50 dollars" in parentheses and "IMF" in
18 parentheses.

19 Q Okay. And is there a total beneath it?

20 A Total of 200 dollars.

21 Q Okay. Taking a look at Government's Exhibit 87-2, does
22 that appear to be a letter from Wesley T. Snipes?

23 A Yes, it is.

24 Q Who appears to have signed it?

25 A Wesley T. Snipes.

1 Q And to whom is it addressed?

2 A Internal Revenue Service.

3 Q On what date?

4 A March 3rd of 2000.

5 Q And is that the next day, after this POA is stamped as
6 received?

7 A Yes.

8 Q Okay. Now, please read the text of this letter.

9 A "Enclosed please find a power-of-attorney form authorizing
10 those listed to serve as my attorney in fact regarding any IRS
11 matters that may arise. As you can see from the enclosed
12 affidavit of incompetence, I am unable to understand, much
13 less properly answer your questions and, therefore, must
14 insist that you direct all inquiries to my attorneys in fact.
15 Since I am in the process of sending or have already sent my
16 pertinent books and records to Mount Plymouth, Florida, please
17 transfer my file to the Maitland or Ocala, Florida district
18 servicing Mount Plymouth, and direct all future correspondence
19 to 25525 SR 46, Suite 2, Mount Plymouth, Florida, 32776. In
20 the event it becomes necessary for the IRS agents in Florida
21 to meet with my attorneys in fact, they will have a telephone
22 number where I can be reached at that time to answer any
23 questions that my attorneys in fact may be unable to answer.
24 Thank you, Wesley T. Snipes."

25 Q Okay. Taking a look again at the middle of this

1 paragraph, it says: Since I am in the process of sending or
2 have already sent my pertinent books and records to Mount
3 Plymouth, Florida." Do you see that there?

4 A Yes, sir.

5 Q As a special agent of IRS CI, do you know what books and
6 records look like?

7 A Yes.

8 Q Have you searched the files seized from American Rights
9 Litigators/Guiding Light of God's Ministries, the execution of
10 that warrant for information pertaining to Wesley Snipes?

11 A Yes.

12 Q And documents pertaining to Wesley Snipes?

13 A Yes.

14 Q Did you find any books or records of Wesley Snipes' on
15 those premises?

16 A No.

17 Q Directing your attention to Government's Exhibit 87-5,
18 does this consist of a document with a Post-It note on it?

19 A Yes, it does.

20 Q Okay. And what does the Post-It note say?

21 A It says "no," and there is a dollar sign, and "sent."

22 Q So taking a look at what's being projected, is that -- can
23 we go back -- does that Post-It note on this screen here
24 appear on the actual exhibit as affixed to this 1040X for
25 1996, which is the next page on the projection?

1 A Yes.

2 Q Let's take a look at the 1996 1040X. It says this return
3 is for which calendar year? Upper right-hand corner.

4 A 1996.

5 Q Okay. Is this an amended U.S. individual income tax
6 return similar to the 1997 amended individual income tax
7 return we were looking at earlier that is Government's Exhibit
8 64-2?

9 A Yes.

10 Q And in whose name is this return?

11 A Wesley Snipes.

12 Q Okay. And then taking a look at the columns, there is a
13 Column A for originally reported and Column B for net change.

14 A Yes.

15 Q What does this -- what's the net change -- well, let me
16 ask you this. What's the gross income reported as originally
17 reported for Line 1, Column A?

18 A That's the adjusted gross income line, and it's 13,387,378
19 dollars.

20 Q Okay. And then what's the net change proposed by this
21 document?

22 A Well, it brings the taxable income down to zero.

23 Q Okay. And taking a look at the total tax line, what was
24 the originally reported total tax given here at Line 10?

25 A Line 10 shows 8,008,316 dollars.

1 Q And what's the net change supposed to be here?

2 A It looks like they are -- the change is four million --

3 Q I'm sorry. Directing your attention to Column B there,
4 again still on Line 10, what decrease are they proposing to
5 the net tax?

6 A 8,008,316 dollars.

7 Q Does that take away all the tax?

8 A Yes.

9 Q Okay. And then finally taking a look at Line 22, what
10 goes on that line?

11 A Well, that's the amount that they want refunded back to
12 the taxpayer.

13 Q And what's the figure there?

14 A 4,032,806 dollars.

15 Q And who appears to have signed here as the taxpayer?

16 A Wesley T. Snipes.

17 Q And on what date?

18 A April 19th of 2000.

19 Q Again, what does that sticky note say on -- over the top
20 of that document?

21 A It says "no," dollar sign, "sent."

22 Q Okay. Directing your attention to Government's Exhibit
23 87-6, this is a letter from the Internal Revenue Service?

24 A Yes.

25 Q Okay. And what's the date of this letter in the upper

1 left-hand corner?

2 A June 1st of 2000.

3 Q Okay. And in the caption there, this is for which tax
4 period?

5 A Tax period ended 1996.

6 Q And to whom is this addressed?

7 A Wesley Snipes.

8 Q Okay. And what's the rest of the address there?

9 A Starr & Company, 350 Park Avenue, New York, New York.

10 Q Okay. And after "Dear Taxpayer," what does the -- please
11 read the first paragraph.

12 A "We have determined that the information you sent is
13 frivolous and your position has no basis in law. Claims, such
14 as yours, have been considered and rejected repeatedly as
15 without merit by the Federal courts including the Supreme
16 Court of the United States. Therefore, we will not respond to
17 future correspondence concerning these issues."

18 Q Okay. And flipping forward to the second page of this
19 document, please read the paragraph at the top.

20 A "If you send us a corrected return, we will disregard the
21 previous document filed and not assess the frivolous return
22 penalty. Enclosed are individual income tax forms for your
23 use. If you do not respond within 30 days or if you file
24 another document taking a frivolous position, we will assess
25 the frivolous return penalty on each document filed. Once the

1 penalty is assessed, IRS will bill you for 500 dollars for
2 each frivolous document filed. You will be required to pay
3 the full penalty prior to any reconsideration."

4 Q Okay. And what was the date on the -- on that letter,
5 again?

6 A June 1st, 2000.

7 Q Okay. Directing your attention to Government's Exhibit
8 87-7, what is this document?

9 A This is a letter from Ray Pope to the IRS.

10 Q Okay. And what's the date of it?

11 A June 29th of 2000.

12 Q And who is the person named here?

13 A Ray Pope.

14 Q I'm sorry. Who is the person within the Internal Revenue
15 Service named as the addressee?

16 A Chief Loretta Keegan.

17 Q Okay. Taking a look back on 87-6, is that the person who
18 signed the warning letter?

19 A Yes.

20 Q Okay. And this, in the upper right-hand corner there, it
21 gives a subject. What's the subject?

22 A Implied notice civil penalty.

23 Q And what years?

24 A 1996.

25 Q Okay. And please read the first paragraph of this letter.

1 A "Dear Director: I have power-of-attorney for Wesley T.
2 Snipes and am authorized to resolve the instant matter on
3 behalf of our client with the IRS. I have reviewed my
4 client's file and have determined that your presentment has
5 been issued in error due to a lack of authority by the IRS for
6 its application and lack of authority of collection when
7 relating to penalties under the provisions of the Internal
8 Revenue Code, IRC, and corresponding regulations."

9 Q Okay. And taking a look at the second page of this
10 document, who is the name written as the sender under
11 "regards"?

12 A Ray Pope.

13 Q Okay. And is there a cc indicated there?

14 A Wesley T. Snipes.

15 Q Taking a look at Exhibit 87-8, what is that document?

16 A It appears to be a UCC financing statement.

17 Q What was the date it was filed?

18 A July 27th of 2000.

19 Q Where was it filed?

20 A Texas Secretary of State.

21 Q And who is it -- I guess who is supposed to be the debtor
22 here?

23 A Wesley Snipes.

24 Q At what address?

25 A 9711 Deacon Court, Windermere, Florida.

1 Q And taking a look at the bottom of the document there, who
2 is signing as the debtor, apparently?

3 A Wesley Snipes.

4 Q And who is signing as the secured party?

5 A Wesley Trent, semicolon, Snipes.

6 Q And taking a look at 87-9, what's the date on this
7 document?

8 A July 30th of 2000.

9 Q And to who is it addressed?

10 A It is addressed to Lawrence H. Summers.

11 Q At what address?

12 A 1500 Pennsylvania Avenue, Washington, D.C.

13 Q Okay. And skipping to the last paragraph there, what does
14 it say for total amount?

15 A The total amount of this non-negotiable acceptance for
16 value in the enclosed filing is one million dollars.

17 Q Okay. And who is the signatory?

18 A Wesley Trent, semicolon, Snipes.

19 Q And taking a look at the next page, has this got the same
20 date as the previous one?

21 A July 30th, 2000.

22 Q And what's the caption there under the addressee?

23 A "Non-negotiable bill of exchange in accord with HJR-192."

24 Q And this is regarding what?

25 A Chargeback of personal treasury direct account.

1 Q And please read the first paragraph.

2 A "Enclosed are documents, copies, from my examination of my
3 commercial agreements which are listed on the enclosed,
4 accounting, with receipts and other evidence that I have
5 accepted for value, all related endorsements front and back to
6 include those in accord with UCC-3-149. The total amount of
7 non-negotiable chargeback enclosed is one million dollars."

8 Q And who appears to have signed this document?

9 A Wesley Trent, semicolon, Snipes.

10 Q Okay. And what is on the next page? Just generally, what
11 is that document?

12 A Oh, it's a birth certificate.

13 Q Okay. And is it --

14 A For Wesley Trent Snipes.

15 Q Okay. And what about the next page?

16 A Florida drivers license for Wesley Trent Snipes.

17 Q And the next one?

18 A Social Security card for Wesley Trent Snipes.

19 Q Taking a look at 87-10, who appears to be the sender here?

20 A Wesley T. Snipes.

21 Q And who appears to be the signator?

22 A Wesley T. Snipes.

23 Q Now let's take a look at Exhibit 87-2 and this one, are
24 they identical, except for the date, as far as the text is
25 concerned?

1 A As far as the text, yes. The addresses are different on
2 the -- to the IRS.

3 Q But 87-10 is in September and 87-2 is in March of 2000?

4 A Yes.

5 Q Okay. So this has, again, this line regarding having sent
6 books and records to Mount Plymouth, Florida?

7 A That's correct.

8 Q Taking a look at 87-11, what's the caption on this thing?

9 A It says: "Affidavit of incompetency."

10 Q Okay. And who seems to have signed as the affiant?

11 A Wesley T., semicolon, Snipes.

12 Q Please read the opening line, and then the first four
13 items there on the affidavit of incompetency?

14 A "I, Wesley T. Snipes, after being duly cautioned and
15 sworn, do hereby depose and say:

16 "Affiant's name is Wesley T. Snipes.

17 "Affiant does not understand Title 26 Internal Revenue
18 Code, and does not know if it applies to Affiant.

19 "Affiant does not understand Title 26 Code of Federal
20 Regulations and does not know if it applies to Affiant.

21 "Affiant has never received a notice from the Internal
22 Revenue Service stating Affiant is a taxpayer."

23 Q And does this appear to be notarized?

24 A Yes.

25 Q What was the date of it being notarized?

1 A October 17th of 2000.

2 Q Taking a look at 87-13, what is that document, at least
3 the first page of it?

4 A This looks like a fax cover sheet to Daniel Googins from
5 Lori Davis.

6 Q Okay. On what letterhead?

7 A Amen Ra Films.

8 Q And what's the date of it?

9 A It's dated April 1, 2002.

10 Q And after "re," what does it say there?

11 A "From WS."

12 Q And what does Lori Davis' annotation say here?

13 A "Daniel, please find the attached document for your
14 perusal. Regards, Lori."

15 Q And what is the -- what is that document?

16 A It's the amended Form 1040X for 1997.

17 Q Does it contain all the signatures?

18 A No. There is no signatures on this one.

19 Q Taking a look at 87-15, who is the sender of this
20 document?

21 A The IRS.

22 Q Specifically in the upper left-hand corner, what does it
23 say?

24 A Department of Treasury, Internal Revenue Service,
25 Holtsville, New York.

1 Q And in the upper right-hand corner, what does it give for
2 the number of this notice?

3 A CP-515.

4 Q And what does it give for the date of the notice?

5 A March 12th, 2001.

6 Q And taxpayer identification number?

7 A [REDACTED].

8 Q And for what tax form?

9 A 1040.

10 Q And for what year tax period?

11 A 1999.

12 Q Okay. And what's typed in as the name of the addressee
13 here?

14 A Wesley Snipes.

15 Q And what's handwritten below it?

16 A Care of Milton H. Baxley, II, 25525 SR 46, Suite 2, Mount
17 Plymouth, Florida.

18 Q Okay. And what's the ZIP code there?

19 A 32776.

20 Q Okay. And what's the caption on this document?

21 A "Request for your tax return."

22 Q And just please read the first three paragraphs following
23 that.

24 A "We have no record of receiving the following tax return:
25 Form Number 1040, tax period ended 1999, titled U.S.

1 individual income tax return. The information below has been
2 reported to us by some of your payers and may not be all
3 inclusive. Please be sure to report all of your income when
4 filing your tax return."

5 Q Yeah, please -- for the lines that have some number on
6 them in there, please, you know, read the name of the line and
7 the amount.

8 A It has wages of 552 dollars; dividends of 108,705;
9 interest of 3,391 dollars; stock sales, 10,173,926; and other
10 income, 19,206.

11 Q Let me ask you, how could the Internal Revenue Service
12 find out about this income to Wesley Snipes?

13 A Well, it's reported by the payees of these different
14 institutions.

15 Q Would that be the payors?

16 A The payors, yes.

17 Q And so how do they -- just generally, how do they go about
18 reporting these kinds of -- these forms of income to the IRS?

19 A Well, there's -- you know, there might be a 1099 or they
20 would have -- like the wages, you know, typically would be
21 shown on a W-2 income. So all that information -- the
22 dividends, probably from the bank or investment accounts is
23 all reported to the IRS.

24 Q Okay. Does the income reflected here for these items,
25 does any of it come from an income tax return filed by Wesley

1 Snipes?

2 A No.

3 Q Okay. And right below this list of income items, what's
4 the instruction there?

5 A "If you have not filed this tax return, please: Prepare
6 your tax return, sign the return, attach your payment for any
7 tax due, send it to us today."

8 Q Okay. And flipping forward, I think to the fourth page
9 following, it's at SW 09603574, is this form attached to the
10 letter we were just discussing?

11 A Yes, it is.

12 Q Okay. And whose name is on there?

13 A Wesley Snipes.

14 Q For which tax period?

15 A 1999.

16 Q And for which tax form?

17 A 1040.

18 Q Okay. And under "information about your return," what do
19 the first couple of lines there say?

20 A "Please complete as necessary and return this entire page.
21 If you are not required to file, please complete this
22 section."

23 And it has: "My filing status was: Single, married
24 filing joint, qualified widow/widower with dependent child,
25 head of household, or married filing separate."

1 Q Okay. And does the rest of this section contain various
2 information blanks to send to the Internal Revenue Service?

3 A Yes.

4 Q And what does the last paragraph there say, above the line
5 for the signature?

6 A "Under penalties of perjury, I declare that, to the best
7 of my knowledge and belief, the information provided on this
8 form is true, correct and complete."

9 Q Okay. Taking a look at Exhibit 87-16, is that a print-out
10 of an e-mail?

11 A Yes.

12 Q And whose -- well, there is a sort of a caption line above
13 it. It says "EKA." Do you know what "EKA" is?

14 A I believe that's Eddie Kahn and Associates.

15 Q And who is this e-mail from?

16 A Charis.

17 Q And what's her e-mail address?

18 A Charis at Eddie Kahn.com.

19 Q And what's the date on this?

20 A April 6th, 2001.

21 Q And to whom is this addressed, as far as an e-mail address
22 is concerned? You can just spell it.

23 A C-h-i-n-a-k-a at media one.net.

24 Q And what's the subject?

25 A "Request for tax return for 1999."

1 Q Okay. And so please read the date and all the way through
2 the e-mail up until the end of Item Number 1.

3 A "April 6th, 2001. Wesley, we received a CP-515 letter
4 request for your tax return for the year 1999 from the
5 Internal Revenue Service addressed to you. There is a new
6 CP-515 response I am using for myself personally that you
7 might want to do for the following reasons."

8 Q Okay. And what does Item 1 say?

9 A "One, it is a very proactive approach which puts the
10 burden of proof entirely on the shoulders of the assistant
11 chief counsel, paren, income tax and accounting, close paren.
12 In other words, he is one of the top lawyers representing the
13 IRS."

14 Q Okay. And taking a look at the second-to-the-last
15 paragraph there before the closing, what does that paragraph
16 say?

17 A "Additionally, your personal power-of-attorney has expired
18 as of March 2nd, 2001. If you would like to renew it, the fee
19 is 150 dollars. Amen Ra Films, Inc. has also expired. A
20 company renewal fee is 200 dollars. The total funds for
21 renewal of both POA's would be 350 dollars. Total funds for
22 the determination letter is 325 dollars."

23 Q And what does the last paragraph say?

24 A "As soon as the moneys are received, your POA can proceed
25 on your behalf. Please let me know something as soon as

1 possible."

2 Q And who sent it?

3 A It says: "Thank you, Eddie Kahn."

4 Q Okay. And the first paragraph refers to a CP-515. Taking
5 a look back at Exhibit 87-15, is that a CP-515?

6 A Yes.

7 Q Okay. And just one other thing about this. Taking a look
8 at the fourth paragraph from the bottom, "We can answer,"
9 could you please read that.

10 A "We can answer the CP-515 with our standard response or we
11 can do the determination letter. The total funds needed for a
12 standard CP-515 response is 50 dollars. The IRS charges 275
13 dollars for the determination letter. Your power-of-attorney
14 charge is 50 dollars to send the letter on your behalf. Total
15 cost, 325 dollars."

16 Q Okay. And that e-mail was sent on what date?

17 A April 6th, 2001.

18 Q What's the date on Exhibit 87-17?

19 A The receipt date is April 10th, 2001.

20 Q And what's the caption there?

21 A It says "receipt."

22 Q And who is the sender?

23 A Lori Davis for W. Snipes.

24 Q And who is the recipient?

25 A American Rights Litigators, Attention E. Kahn.

1 Q Okay. And what are the items covered by this receipt?

2 A Payment for renewal of personal power-of-attorney for W.
3 Snipes, 150 dollars; payment for company renewal fee, Amen Ra
4 Films, Inc., 200 dollars; payment for determination letter for
5 W. Snipes, 275 dollars; payment for power-of- attorney to send
6 letter on behalf of W. Snipes, 50 dollars. Total received by
7 ARL, 675 dollars, USD.

8 Q And does there appear to be a signature at the bottom
9 there?

10 A Eddie Kahn.

11 Q And what is the date for that?

12 A April 11th, 2001.

13 Q And what's the -- above that signature, what does that
14 line say?

15 A "Your funds have been received and credited to your
16 accounts."

17 Q Okay. Let's look at Exhibit 87-19 in the upper left-hand
18 corner. Can you tell me the particulars of who is accepting
19 this letter?

20 A Department of the Treasury, Internal Revenue Service.

21 Q Okay. What location?

22 A Doraville, Georgia.

23 Q What's the date of this letter?

24 A May 19th, 2001.

25 Q Okay. And to whom is it addressed?

1 A Wesley Snipes.

2 Q Is it care of someone?

3 A Care of Milton H. Baxley, II.

4 Q Is it at that address in Mount Plymouth?

5 A Mount Plymouth, yes.

6 Q What's the caption on this letter?

7 A "Please call us about your overdue taxes or tax returns."

8 Q And what does the first paragraph say?

9 A "We have no record that you responded to our previous
10 notices. As a result, your account has been assigned to this
11 office for enforcement action, which could include seizing
12 your wages or property. It's important that we hear from you
13 within ten days from the date of this letter."

14 Q Taking a look at the second page of this document, does
15 that indicate the type of tax, the period ending, and the name
16 of the return that the letter is in regard to?

17 A Yes.

18 Q What are they?

19 A Type of tax is 1040, period ending is 1999, and the name
20 of the return is U.S. individual income tax return.

21 Q Let's look at 87-20. What's the date of this one?

22 A June 29th, 2001.

23 Q And who -- whose name is there as the sender?

24 A Milton H. Baxley, II.

25 Q And where is it addressed?

1 A It is addressed to the Internal Revenue Service, Attention
2 CC PA T, into Washington, D.C.

3 Q Okay. So there is no letter -- there is no name of a
4 person on here, is there?

5 A I don't see one.

6 Q Okay. And then taking a look at the column to the right
7 of that, this is in regards to whom?

8 A Wesley T. Snipes.

9 Q And for what tax years?

10 A 1999 and 2000.

11 Q Now, taking a look at the line beneath the first
12 paragraph, please read that one line, and then the two
13 paragraphs following it.

14 A "My request is this: Please issue a letter of
15 determination as to whether or not my client was made liable
16 for the individual income tax imposed by 26 USC Section 1 for
17 each of the above listed years. I hereby request a copy of
18 the findings of fact and conclusions of law that you will use
19 as a basis of your determination pursuant to the
20 Administrative Procedures Act, specifically 5 USC 556 D. I
21 ask for the determination letter to be sent within 30 days of
22 the date on this letter. If more time is needed, please make
23 a written request and it will be granted."

24 Q And a couple of paragraphs down, there is a line there
25 that starts with: "Enclosed." Please read that.

1 A "Enclosed is a check for 275 dollars, paid pursuant to the
2 schedule of user fees for the requested determination."

3 Q Taking a look at Exhibit 87-22, do you see a date on that
4 document?

5 A It's dated July 6th, 2001.

6 Q Okay. And how does that compare to the date on the
7 document we were just looking at, 87-20?

8 A 87-20 is dated June 29th, 2001.

9 Q Okay. So who is this letter from?

10 A It says from the Internal Revenue Service office of chief
11 counsel, Washington, D.C.

12 Q And who is the addressee here?

13 A Wesley T. Snipes, care of Milton H. Baxley, II, Mount
14 Plymouth Florida address.

15 Q Now, please read the first paragraph of the letter.

16 A "Dear Taxpayer: This is in reply to your recent
17 correspondence. The national office does not issue
18 determination letters. Determination letters are issued by
19 the appropriate operating division. See pages 11, 33 and 66
20 in the enclosed copy of Revenue Procedure 2001-1. Therefore,
21 we are forwarding your correspondence to the district director
22 listed below for a response."

23 Q Okay. And taking a look at the next page, is that an
24 attachment to this letter?

25 A Yes.

1 Q Okay. And what does the first paragraph say?

2 A "Revenue Procedure 2001-1 provides instructions for
3 requesting rulings from the national office involving issues
4 under the jurisdictions of chief counsel."

5 Q Please continue.

6 A "We want to bring to your attention the following
7 procedural items."

8 Q And what is the first item?

9 A "One, a deletion statement must accompany each ruling
10 request to assist the service in making the deletions required
11 by Section 6110(C) of the code from the text of rulings to be
12 made open to public inspection."

13 Q Okay. Thank you for that one. And please read Number 2.

14 A Two, a request for a ruling and any factual information or
15 change in the ruling request submitted at a later time must be
16 accompanied by a perjury declaration in the following form:

17 "Under penalties of perjury, I declare that I have
18 examined this request, including accompanying documents, and,
19 to the best of my knowledge and belief, the request contains
20 all the relevant facts relating to the request, and such facts
21 are true, correct and complete.

22 "This declaration must be signed by the taxpayer.
23 Declarations signed by the taxpayer's representative are not
24 acceptable."

25 Q Okay. And taking a look at the first page of the letter

1 that this instruction is attached to, what is this letter
2 about?

3 A Determination letter.

4 Q Taking a look at 87-25, is that another letter from the
5 Department of the Treasury to Wesley Snipes?

6 A Yes, it is, care of Milton Baxley, II, the Mount Plymouth
7 address.

8 Q Okay. And taking a look at the upper right-hand corner,
9 what is the date of this notice?

10 A September 3rd, 2001.

11 Q What does it say after that on that line?

12 A CP-540.

13 Q Okay. And what form is this in regard to?

14 A 1040.

15 Q For which tax period?

16 A 1999.

17 Q Okay. And what does the first paragraph of this letter
18 say?

19 A "According to our records, you have not filed your Form
20 1040 for tax year 1999 and have not paid the amount of tax,
21 penalty and interest you owe on that form."

22 Q Okay. And skipping down to -- there is an important
23 notice about backup withholding there. What does that notice
24 say?

25 A "If you do not respond to this notice, you may become

1 subject to backup withholding. This means that we may notify
2 your bank or other dividend and interest payers to withhold
3 30.5 percent of those payments. To avoid this action, please
4 respond to this notice promptly."

5 Q I'm sorry. And taking a look at the lower right-hand
6 corner, what was the date of this notice again for 87-25?

7 A In the upper right-hand corner it --

8 Q Well, either upper right or lower right.

9 A September 3rd, 2001.

10 Q Okay. Taking a look at 87-26, is this another one of
11 these notices?

12 A Yes, it is.

13 Q And what's the date of this notice?

14 A This is October 1, 2001.

15 Q And which form is it in regard to?

16 A 1040.

17 Q For which tax period?

18 A 1999.

19 Q And to whom is it addressed?

20 A Wesley Snipes, care of Milton Baxley, II, the Mount
21 Plymouth, Florida address.

22 Q And does the text of this -- taking a look at 87-26 and
23 87-25, does the text of these letters each contain the same
24 warnings?

25 A Yes, they do.

1 Q But the dates are different?

2 A Correct.

3 Q Direct your attention to Exhibit 87-27. What is that?

4 A This is a letter from Milton H. Baxley, II, to Internal
5 Revenue Service, Chief ACS, in Chamblee, Georgia.

6 Q Okay. And comparing that with the -- with these two
7 CP-540 warnings that we were just looking at, how does that
8 address compare with the address given for the part of the IRS
9 that sent those letters?

10 A It has the same Chamblee, Georgia, city and state.

11 Q Okay. And what does this -- in the upper right-hand
12 corner there, next to the addressee, who is this letter in
13 regard to?

14 A Wesley T. Snipes.

15 Q And for what tax year?

16 A 1999.

17 Q What does it give as the subject?

18 A CP-540.

19 Q And please read the first paragraph.

20 A "I have power-of-attorney to act on behalf of Wesley T.
21 Snipes regarding Federal tax matters with the Internal Revenue
22 Service. I am in receipt of your CP-504 letter of September
23 3, 2001."

24 Q And what does the first sentence of the next paragraph
25 say?

1 A "In your letter, you state that if my client is not
2 required to file a return, to explain why."

3 Q And what does the second sentence there say?

4 A "According to the director of the Internal Revenue Service
5 Center in Philadelphia, the law does not require individuals
6 to file a Form 1040."

7 Q And what does the final paragraph of that letter say?

8 A "My intention is to assist you in this matter. I will
9 advise my client to pay in full any tax claim due upon your
10 timely proof of claim."

11 Q Taking a look at Exhibit 87-28, what is that document?

12 A This is a letter from Milton H. Baxley, II to the Internal
13 Revenue Service, Chief ACS, Atlanta, Georgia.

14 Q Okay. And this is in regard to whom?

15 A It is in regard to Wesley T. Snipes.

16 Q For which tax year?

17 A 1999.

18 Q And what's the subject here?

19 A Determination of status request.

20 Q And please read the first paragraph.

21 A "I have power-of-attorney regarding Federal tax matters
22 for Wesley T. Snipes. I have received your CP-540 of 10/1/01
23 and 10/13/01 regarding my client."

24 Q Okay. And what does the first sentence of the last
25 paragraph say?

1 A "According to the cited policy statement, my client is not
2 required to file any returns or reports prior to the receipt
3 of the determination of status letter from the IRS as Wesley
4 T. Snipes could not possibly know what forms or returns, if
5 any, would be applicable to him until the determination is
6 received."

7 Q What's the next sentence?

8 A "Therefore, I request that further correspondence and
9 collection activities cease until the IRS has issued its
10 determination of status letter for my client."

11 Q And who is this -- whose name is on the bottom of this
12 letter as a sender?

13 A Milton H. Baxley, II.

14 Q And who is it copied to underneath that?

15 A Wesley T. Snipes.

16 MR. McLELLAN: Your Honor, might I suggest that this
17 would be an appropriate point in which to break?

18 THE COURT: Indeed, you might, Mr. McLellan.

19 It is within two or three minutes of 5:00, members
20 of the jury, so this is an appropriate time to stop for the
21 day.

22 Agent Lalli, you may step down from there.

23 And recess until 9:00 tomorrow morning. My thanks
24 to you for your patient attention today. We will stop now,
25 members of the jury, and resume again tomorrow morning at

1 9:00.

2 THE COURT SECURITY OFFICER: All rise.

3 (Jury absent.)

4 THE COURT: Be seated, please.

5 Earlier in the afternoon, I had suggested that
6 government counsel abandon, temporarily at least, examination
7 of the witness concerning Government's Exhibit 86-1 until I
8 could further consider the objection made by Mr. Wilson on
9 grounds of relevance.

10 While it is true -- and this was the subject of my
11 concern -- that the exhibit, which constitutes a complaint for
12 injunctive relief against Mr. Rosile that was apparently filed
13 in the Tampa Division in mid-March of 2002, occurred after the
14 filing of Mr. Snipes' amended return for 1997 that was filed
15 in 2001, as charged in Count Two, the alleged conspiracy
16 offense continued, at least according to the charge, until the
17 return of the indictment in 2006, such that the alleged
18 failure to file or failures to file, as charged in Counts
19 Three through Eight of the indictment, as well as overt acts,
20 39, et sequentes, of Count One occurred after March of 2002.

21 And then it does seem to me there would be some
22 relevance with respect to the exhibit, absent a legal
23 withdrawal from the conspiracy. And I have heard no evidence
24 of that.

25 It may well be that Mr. Rosile played a limited role

1 or no personal role at all after March of 2002, but as a
2 matter of law, if, in fact, he enjoined the conspiracy, which
3 continued into 2006, and had not effected a withdrawal under
4 the law, which would require evidence of complete repudiation,
5 communication to other alleged conspirators and perhaps even
6 law enforcement itself, then it seems to me the exhibit would
7 have relevance.

8 And I will lift any restriction from the
9 government's use, further use of the exhibit, if it wishes to
10 pursue it. It's already in evidence as Government's Exhibit
11 87-1.

12 We will start again with the case at 9:00 in the
13 morning.

14 Now, I think we slowed down a bit today. What
15 progress are we making in the government's case, gentlemen?
16 Who can speak to this? Mr. Morris?

17 MR. MORRIS: Your Honor, I would say that we are
18 still on pace or even ahead of where we expected to be.

19 THE COURT: All right. Then we will recess until
20 9:00 tomorrow morning.

21 MR. WILSON: Your Honor, with all due respect, may I
22 be heard for purposes of the record with respect to the
23 exhibit that the Court has just ruled on?

24 THE COURT: As you just stated, Mr. Wilson, I have
25 ruled on it. I think your objection is clear on the record.

1 I don't intend to engage in argument with counsel about it.

2 MR. WILSON: Not at all, Your Honor. Just there are
3 additional issues that are 404(b) that are contained within
4 that document, references to activities well outside the
5 conspiracy; names of individuals who have nothing to do with
6 this conspiracy; activities of Mr. Rosile's practice that have
7 nothing to do with this conspiracy.

8 To the extent that those are presented to the jury,
9 it is 404(b) and it is highly prejudicial. If the Court reads
10 that document, it clearly refers to other individuals, other
11 acts outside the scope of preparing 861 returns.

12 THE COURT: Well, all right. What do you say to
13 that, Mr. McLellan?

14 It may well be that the probative value of that
15 exhibit is overcome by the potential prejudice with respect to
16 some of its detailed allegations.

17 MR. McLELLAN: Well, Your Honor, this document is
18 being offered to show notice. To the extent that the Court
19 would consider excluding it in light of counsel's argument,
20 the government would agree to appropriate redaction.

21 THE COURT: Well, I think that would be prudent. It
22 is the filing of the complaint --

23 What action was taken by the court with respect to
24 that? Is that -- that's not part of the exhibit. The exhibit
25 consists strictly of the complaint, right?

1 MR. McLELLAN: Yes, Your Honor. The Court issued a
2 preliminary injunction, I believe, in June of 2002, followed
3 by a final injunction, I believe, in 2006 perhaps.

4 THE COURT: Well, I think the government is wise to
5 restrict its offer to the complaint. And I think it would be
6 prudent to redact it with respect to its detailed allegations
7 and restrict it to the probative value that you seek to derive
8 from it, which is notice concerning the so-called 861
9 argument.

10 MR. McLELLAN: Your Honor, in fact, at the moment
11 the objection was received by the Court initially, that was as
12 far as I was intending to go with the document.

13 THE COURT: All right.

14 MR. McLELLAN: So the government will, you know,
15 make the appropriate redactions.

16 THE COURT: Work with counsel and see if you can
17 redact it.

18 MR. McLELLAN: Thank you, Your Honor.

19 THE COURT: We will recess until 9:00.

20 (Thereupon, the proceedings in this case for this
21 date were concluded at this time.)
22
23
24
25

Exhibit:	Admitted:
Government's Exhibits 71-1 through 71-3	6
Government's Exhibit 116	59
Government's Exhibit 90-3	99
Government's Exhibit 78	105
Government's Exhibits 81-1 through 81-5	105
Government's Exhibit 84	107
Government's Exhibits 72 through 77-3, 80, 82 and 85	120
Government's Exhibits 86-1 through 89-3 and 91 through 103	122
Government's Exhibits 104 and 105	123

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