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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 23, 2008  
Ocala, Florida

UNITED STATES OF AMERICA,

Plaintiff,

vs.

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

Defendants.

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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, members of the jury, and good morning. Again, I appreciate your promptness.

And I think we are ready to proceed. When we stopped yesterday, Agent Lalli was testifying on direct examination.

Mr. McLellan, you may continue.

CAMERON LALLI,

having been previously duly sworn, testified as follows:

DIRECT EXAMINATION (cont'd)

BY MR. McLELLAN:

Q Special Agent Lalli, directing your attention to Government's Exhibit 87-29, what is that document?

A It's a CP-541. It's a notice from the Internal Revenue Service to Wesley Snipes.

Q Okay. And what is the date of that notice?

A October 29th, 2001.

Q And what's the --

MR. McLELLAN: May it please the Court, could the lights possibly be dimmed?

THE COURT: Yes, indeed.

BY MR. McLELLAN:

Q Taking a look at the upper left-hand corner of that document, what part of the Internal Revenue Service did this

1       come from?

2       A     Department of the Treasury.

3       Q     And whereabouts?

4       A     Out of Chamblee, Georgia, 39901.

5       Q     Okay.  And this is for Form 1040 for which tax period?

6       A     1999.

7       Q     All right.  And how is it addressed?

8       A     It's addressed to Wesley Snipes, care of Milton H. Baxley,  
9       II, with the Mount Plymouth, Florida address.

10      Q     Okay.  Please read the first three paragraphs of the  
11      letter.

12      A     "Backup withholding notification.  Our records show that  
13      you did not timely file the income tax return reporting all  
14      your income from interest, dividends or patronage dividends  
15      you received for the tax year 1999 or that you did not pay the  
16      tax penalty and interest you owed on this income on time.

17             "We have written to you before about this problem.  You  
18      are now subject to backup withholding.  We are instructing all  
19      payers of dividends and interest that we have on record for  
20      you to begin withholding 30.5 percent of those payments.

21             "If you open a new account with another payer and certify  
22      that you are not subject to backup withholding, you may be  
23      subject to a fine of 1,000 dollars and up to one year in  
24      prison."

25      Q     Special Agent Lalli, please turn to 87-30.  What is the

1 caption on that document?

2 A It says: "American Rights Litigators, Accounts Receivable  
3 Detail, Client 2586, Snipes, Wesley T."

4 Q Then what is the date on that document?

5 A It looks like Friday, December 7th, 2001.

6 Q Does that appear to be a printout from the ARL computer  
7 system?

8 A Yes.

9 Q Okay. Let's take a look at the columns. What are the  
10 things contained in the first column, according to the header?

11 A It says "item description."

12 Q And in the second column?

13 A The date.

14 Q And the rest of the columns, could you lay those out for  
15 us.

16 A The charge, and the credit column, and then the balance.

17 Q Okay. And, generally speaking, what are the kinds of  
18 items that are listed in the item description?

19 A There is annual membership fee, response letters, other  
20 annual membership fees, and additional response letters that  
21 apparently were sent from ARL.

22 Q Okay. And taking a look at the third row underneath the  
23 header row, does this document also reflect payments to ARL?

24 A Yes, it does.

25 Q Okay. So, for example, where it says Check Number 506,

1 what is the amount of the credit for that?

2 A 200 dollars.

3 Q And do you see another one below that? What else is  
4 reflected as far as payment?

5 A 150 dollars on April 11th, 2001.

6 Q And does the fourth column appear to contain a running  
7 balance?

8 A Yes, it does.

9 Q And what is the total there?

10 A The total at the bottom is 350 dollars.

11 Q Okay. And what's handwritten on that document?

12 A "Wesley, your account is currently negative 350 dollars.  
13 Please remit. If you have any questions, please call.  
14 Thanks, Bridgett."

15 Q And in the lower right-hand corner, does there look to  
16 be -- perhaps it is an upside-down paid stamp?

17 A Yes.

18 Q Okay. And what figures appear there?

19 A 400, slash, 2321.

20 Q Okay. And if you could turn the document upside down,  
21 does there appear to be a fax header at the bottom of the  
22 document?

23 A Yes, there is.

24 Q And where did this fax appear to come from?

25 A Amen Ra Films.

1 Q Okay. Turning to Government's Exhibit 87-31, what is that  
2 document?

3 A This is a Form 2848, power of attorney.

4 Q And who is giving the power of attorney here? Who is the  
5 taxpayer?

6 A Wesley T. Snipes.

7 Q And who is the representative listed?

8 A Daniel J. Googins.

9 Q Okay. And in the section under "tax matters," what are  
10 the tax matters listed there?

11 A Income tax and civil penalty, Form 1040, and it has the  
12 years '85 through 2004.

13 Q And taking a look at the second page of this document, who  
14 appears to have signed it as taxpayer?

15 A Wesley T. Snipes.

16 Q On what date?

17 A February 5th, 2002.

18 Q And taking a look at part two, the declaration of the  
19 representative, who appears to have signed there?

20 A Daniel Googins.

21 Q And what's the date?

22 A February 5th, 2002.

23 Q As a result of your investigation, did you come to know  
24 who Daniel Googins was?

25 A Yes.

1 Q Who is Daniel Googins?

2 A Daniel Googins worked for ARL. And my understanding is he  
3 was to determine whether Mr. Snipes was to get the refund  
4 regarding the claim that he filed with the IRS.

5 Q Taking a look at Government's Exhibit 87-32, what is that  
6 document?

7 A This is a Form 8599, request for missing information  
8 regarding refund.

9 Q Okay. And whose name is on there?

10 A Wesley Snipes.

11 Q And what address is given for him?

12 A The Mount Plymouth address of ARL.

13 Q Please read the first sentence of the notice -- or I'm  
14 sorry -- of the request.

15 A "We are returning your inquiry of 2/7/02 regarding your  
16 refund check because we need more information to process it."

17 Q And there is -- I see an "X" there, and something  
18 handwritten in there. Could you read what it says there.

19 A "Due to your inquiry, we traced your 1996 and 1997 tax  
20 years refund. Please see attached correspondence."

21 Q And if you flip forward in that exhibit, do you see any  
22 correspondence attached to that notice?

23 A Yes.

24 Q Or I'm sorry; to that request?

25 A Yes.



1 Q At the top of that document, it says "Brian D. Malatesta,  
2 CPA." Who is Brian Malatesta?

3 A He was the other power of attorney with Milton Baxley. He  
4 worked for ARL.

5 Q Okay. And when was this document received at the Internal  
6 Revenue Service?

7 A October 9th, 2001.

8 Q Okay. And taking a look at the right-hand column here,  
9 who is this in regards to?

10 A Wesley T. Snipes.

11 Q And what's the subject?

12 A Refunds for 1996 and 1997.

13 Q And please read the text of the letter.

14 A "I have power of attorney to act on behalf of Wesley T.  
15 Snipes regarding tax matters with the Internal Revenue  
16 Service. We have not received the refunds due on the subject  
17 tax years. Please check your files and advise the disposition  
18 of these returns."

19 Q And at the bottom of that page, is this copied to anybody?

20 A Wesley T. Snipes.

21 Q Taking a look at Government's Exhibit 87-33, and there is  
22 an acknowledgement document there. What does it say  
23 underneath "power of attorney"?

24 A "I, Wesley T. Snipes, 301 North Canon Drive, Suite 228,  
25 Beverly Hills, California, 90210, do hereby appoint Daniel J.

1 Googins, 25525 State Road 46, Suite 2, Mount Plymouth,  
2 Florida, 32776, as my attorney in fact to correspond with and  
3 to receive information from the Internal Revenue Service  
4 regarding any and all of my tax matters and for such purpose  
5 to act for me in my name and place without limitation on the  
6 powers necessary to carry out this purpose of attorney in  
7 fact."

8 Q And who appears to have signed this?

9 A Wesley Trent Snipes.

10 Q And who appears to have signed as attorney in fact?

11 A Daniel Googins.

12 Q And what state is the notarization from?

13 A New York.

14 Q Okay. Taking a look at 87-36, what is that?

15 A This is a renewal application for American Rights  
16 Litigators.

17 Q Okay. And what was the expiration date listed on here?

18 A March 2nd, 2002.

19 Q Okay. And when was this renewal received at ARL?

20 A February 27th, 2002.

21 Q And what does the first couple of sentences say under  
22 "Dear Valued Client"?

23 A "Your ARL membership has or will soon expire. If you wish  
24 to have your power of attorney, POA, services continued,  
25 please fill out the renewal application below and include a

1 check or money order for 150 dollars per year for a single  
2 person; 200 dollars per year for husband and wife, if joint;  
3 200 per year for corporations, partnerships and trusts."

4 Q Okay. And taking a look at the bottom right-hand corner,  
5 did this renewal get paid?

6 A It's stamped "paid."

7 Q In what amount?

8 A 150 dollars.

9 Q I'm sorry. And when does this appear to have been  
10 received?

11 A The received date is February 27th, 2002.

12 Q Okay. Please take a look at 87-37. Is that a fax from  
13 Amen Ra Films?

14 A Yes, it is.

15 Q And to whom is it addressed?

16 A To Eddie Kahn.

17 Q And who from?

18 A Lori Davis.

19 Q And what's is it in regard to?

20 A It says: "From WS," and states: "Mr. Kahn, please find  
21 the attached document for your perusal. Regards, Lori Davis."

22 THE COURT: Mr. McLellan, the exhibit list of the  
23 United States describes a different document as Government's  
24 Exhibit 87-37.

25 MR. McLELLAN: Begging the Court's indulgence, I

1 will consult.

2           Your Honor, I believe the description describes the  
3 page following this fax cover sheet, which we will turn to  
4 next with the witness.

5           THE COURT: I see. All right. Go ahead.

6 BY MR. McLELLAN:

7 Q Taking a look at that document, what is that?

8 A This is a letter from me to Londell McMillian.

9 Q And what's the date of that letter?

10 A April 30th, 2002.

11 Q Who is Londell McMillian?

12 A He was -- I understood him to be the entertainment  
13 attorney for Mr. Snipes.

14 Q Okay. And what was -- please read the text of your  
15 letter.

16 A "Dear Mr. McMillian: Per our conversation earlier this  
17 afternoon, I am sending you this request for power of attorney  
18 for Wesley Snipes. In order to disclose information to you  
19 concerning my reasons to speak with Mr. Snipes, I need the  
20 attached Form 2848 for the tax years 1996 through 2001  
21 completed by you and signed by Mr. Snipes.

22 "I appreciate your cooperation in this matter. If you  
23 have any questions, please contact F. Cameron Lalli, Special  
24 Agent, at," and then my phone number.

25 Q Okay. Does your letterhead -- taking a look at your

1 letterhead there, does that identify you as writing from IRS  
2 criminal investigation?

3 A Yes.

4 Q And looking forward -- or I'm sorry. Looking back to the  
5 fax cover sheet for this, does this appear that Lori Davis  
6 from Amen Ra Films for Wesley Snipes was sending this  
7 document -- sending your letter to Eddie Kahn?

8 A Yes.

9 Q And flipping forward, do you see a fax from CID, Fort  
10 Myers?

11 A Yes.

12 Q And is that your fax to Londell McMillian?

13 A Yes, it is.

14 Q And flipping forward, what's that document?

15 A My business card is the next document.

16 Q That's SW 09603459. Taking a look at Exhibit 87-38, the  
17 second page of that document, what is that?

18 A This is a UCC financing statement for Wesley Snipes.

19 Q Okay. And from what state? If you look at the first  
20 page --

21 A I believe it's Florida.

22 Q And when was it filed?

23 A July 23rd, 2002.

24 Q Okay. Taking a look at 87-39, please, what is that?

25 A That's -- it looks like a little note from Lori Davis to

1 Mr. Googins.

2 Q Okay. Please read the text of it.

3 A "Mr. Googins, as discussed please credit this amount to WS  
4 account with you, slash, ARL. Please let me know if you need  
5 anything else." And then there is a phone number,  
6 (310)867-4200. "Take care, Lori."

7 Q And is that date stamped?

8 A It's June 28th of 2002.

9 Q And what does it say in the paid stamp there?

10 A It says "MO" and, slash, 400 dollars.

11 Q And is there a little parentheses text underneath there?

12 A It's "UCC," question mark in parentheses.

13 Q In the lower right-hand corner, does it bear Mr. Snipes'  
14 client number?

15 A Yes.

16 Q And what's the letterhead on this?

17 A Amen Ra Films.

18 Q Taking a look at 87-40, what is that document?

19 A This is a letter from the State of Florida Department of  
20 Revenue to Wesley Snipes in care of Amen Ra Films in New York.

21 Q And what is the -- what does the first sentence of this  
22 say?

23 A "Please be advised that a tax warrant, copy enclosed, has  
24 been recorded and filed with the Clerk of the Circuit Court in  
25 Leon County, Florida against you and/or your company pursuant

1 to Chapter 199 Florida Statutes."

2 Q And taking a look at the second page of it, is that some  
3 sort of an accounting for that warrant?

4 A Yes.

5 Q What's the total?

6 A Grand total is \$27,485.31.

7 Q Okay. Taking a look at 87-41, what is that?

8 A "Actual constructive notice, non-negotiable chargeback."

9 Q Who is it addressed to?

10 A Mr. Paul O'Neil, Secretary of the Treasury.

11 Q And flipping forward a couple of pages, do you see  
12 something captioned "Registered Bill of Exchange"?

13 A Yes.

14 Q And who is it addressed to?

15 A Paul O'Neil, Secretary in Charge.

16 Q And at the bottom of the first paragraph, what's the total  
17 amount of this bill of exchange enclosed?

18 A \$27,485.31.

19 Q Who appears to have signed this?

20 A Wesley Snipes.

21 Q And flipping forward is there -- those documents from the  
22 Department of Revenue for the State of Florida, are those  
23 there, or copies of them?

24 A Yes.

25 Q And do they have these non-negotiable stamps on them?

1 A Yes, they do.

2 Q Okay. Looking at 87-42, what is this document?

3 A This is a renewal application for American Rights  
4 Litigators for Wesley Snipes.

5 Q Okay. And what did it give as the expiration date?

6 A March 1st of 2003.

7 Q Okay. And under the current information on file, what  
8 does it give as the name?

9 A Wesley T. Snipes.

10 Q And what's the e-mail address there, if you can just maybe  
11 spell it.

12 A C-h-i-n-a-k-a at a-t-t-b-i.com.

13 Q And does there appear to be an amount paid on that paid  
14 stamp?

15 A Yes.

16 Q What is the amount?

17 A \$313.65.

18 Q And when was this renewal received?

19 A March 24th of 2003.

20 Q Special Agent Lalli, I would like you to turn back to  
21 Government's Exhibit 86-1, if you will.

22 MR. McLELLAN: Your Honor, for the record, this  
23 document has been redacted and it now consists of a single  
24 page.

25 THE COURT: All right. The record will so reflect.



1           MR. McLELLAN: And that would be the first page of  
2 the document.

3           MR. WILSON: And, Your Honor, I maintain my  
4 objection as to relevance.

5           THE COURT: Okay. The record will so reflect,  
6 Mr. Wilson.

7 BY MR. McLELLAN:

8 Q Special Agent Lalli, what court was this document filed  
9 in?

10 A Middle District of Florida Tampa division.

11 Q Okay. On what date?

12 A March 14th of 2002.

13 Q And who was the plaintiff?

14 A United States of America.

15 Q And who was the defendant?

16 A Douglas P. Rosile, Senior.

17 Q Okay. And what's the caption on there?

18 A "Complaint for a Permanent Injunction and Other Relief.  
19 Injunctive Relief Requested."

20 Q Please read the text to the bottom of the page.

21 A "Plaintiff, United States of America, for its complaint  
22 against Defendant, Douglas P. Rosile, Senior, Rosile, states  
23 as follows: Jurisdiction and venue. Jurisdiction is  
24 conferred --"

25 Q You can just skip over the legal citations there. What

1 does it say at 2?

2 A "This complaint is brought by the United States of America  
3 pursuant to IRC Section 7402(a), 7407 and 7408 to restrain and  
4 enjoin the defendant from:

5 "(a), Further acting as a Federal income tax preparer;

6 "(b), Understating taxpayers' liabilities as prohibited by  
7 IRC 6694;

8 "(c), Engaging in activity subject to penalty under IRC  
9 Section 6700, including organizing or selling a plan or  
10 arrangement, and, in connection with that activity, making a  
11 statement regarding the excludability of income that he knows  
12 or has reason to know is false or fraudulent as to any  
13 material matter;

14 (d), Engaging in activity subject to penalty under IRC  
15 Section 6701, including preparing."

16 Q And, Special Agent Lalli, directing your attention to  
17 Government's Exhibit 90-1.

18 MR. McLELLAN: Your Honor for the record, this  
19 document --

20 BY MR. McLELLAN:

21 Q Special Agent Lalli, what's the caption on this document?

22 A "Summary of 861 Claim Returns Prepared by Douglas Rosile."

23 MR. McLELLAN: Your Honor, for the record, this  
24 document is now redacted as agreed upon yesterday.

25 THE COURT: Which exhibit is it, Mr. McLellan?

1 MR. McLELLAN: This is 90-1.

2 THE COURT: All right. Go ahead.

3 MR. McLELLAN: Begging the Court's indulgence.

4 BY MR. McLELLAN:

5 Q Okay. Taking a look at Exhibit 90-1 --

6 THE COURT: Yesterday I had excluded 90-1, as well  
7 as 90-2. I take it you are simply offering 90-1 now in its  
8 redacted form?

9 MR. McLELLAN: Yes, Your Honor.

10 THE COURT: I will receive it in evidence.

11 BY MR. McLELLAN:

12 Q And, Special Agent Lalli, taking a look at 90-3, what is  
13 that?

14 A 90-3 is a summary of Section 861 claims paid out or  
15 applied.

16 Q And is each person whose information is listed on this  
17 summary a client of American Rights Litigators?

18 A Yes, sir.

19 MR. McLELLAN: And, Your Honor, the government moves  
20 that 90-3 also be received.

21 MR. BARNES: No objection.

22 MR. WILSON: No objection.

23 THE COURT: It's received.

24 MR. McLELLAN: Could the first page of 90-1 please  
25 be published.

1 BY MR. McLELLAN:

2 Q Special Agent Lalli, what information do you have in the  
3 columns of this summary?

4 A The first column is the name of the client; the second  
5 column is the year that the claim would have been filed for;  
6 the claim date it would have been filed; the form number,  
7 either 1040X or 1040; and then the claim amount, the amount  
8 that they are trying to claim for a refund.

9 Q So taking a look at the rows of this summary, what order  
10 are these clients listed in?

11 A Alphabetical.

12 Q Okay. So they -- what's the first one?

13 A Pam Adalian.

14 Q And then flipping forward 16 pages, please, what's the  
15 last one?

16 A Dewey Zwicker.

17 Q Okay. Returning to the first page, okay, according to  
18 your column, where it says "form number," there are -- I guess  
19 there are 1040X's and 1040's there?

20 A Yes, sir.

21 Q Okay. Now, I see there is a claim amount next to those  
22 Forms 1040X, but you don't have a claim amount listed to those  
23 Forms 1040. What is the reason for that?

24 A Well, the reason for that is that you would have to go and  
25 check the tax that was on the module or applied for that year,

1 or the tax that would have been applied had they not zeroed  
2 out the taxable income.

3 Q Okay. And is it basically it would have been very  
4 difficult to calculate that for this number of people?

5 A That's correct.

6 Q Okay. So all we have got here for the claim amount then  
7 are claims placed on amended returns; is that correct?

8 A That's correct.

9 Q Now, as for these persons listed on this summary, were  
10 they all members of American Rights Litigators?

11 A Yes.

12 Q Okay. Taking a look -- just flip forward until we get to  
13 the S'es. Okay. Does Mr. Snipes appear in this summary?

14 A Yes, he does.

15 Q Okay. And taking a look at -- what claim amount do you  
16 have here for him?

17 A \$7,360,755.

18 Q And what was the year on the return?

19 A It was 1997, claim date of April 14th, 2001, and it was a  
20 Form 1040X.

21 Q Okay. And taking a look at the last page, all right,  
22 what's your total number of claims that you have summarized  
23 here?

24 A There is 232 1040X claims.

25 Q Okay. And what's your total claim amount?

1 A It's \$11,213,947.

2 Q Okay. Now, were each of these claims prepared by Douglas  
3 Rosile?

4 A Yes.

5 Q Was each signed by Douglas Rosile?

6 A Yes.

7 Q Were they all based on this 861 position?

8 A Yes.

9 Q Did they all zero out the income?

10 A Yes.

11 Q Directing your attention to Government's Exhibit 90-3,  
12 okay, what is that?

13 A This is the summary of the 861 claims that were paid out  
14 or applied.

15 Q Okay. What do you mean that these claims were paid out or  
16 applied?

17 A They went through the system and a refund was issued.

18 Q Do you mean the IRS actually sent out a refund in response  
19 to these claims?

20 A The ones listed here, yes.

21 Q Okay. And are these folks who were members of American  
22 Rights Litigators?

23 A Yes.

24 Q Okay. So what's contained in the various columns here?

25 A The left column is the client, and you have the year, the

1 form number, the claim amount. There is a refund and applied,  
2 so if either it was refunded or if they owed tax in other  
3 years, part of that refund would be applied to their other tax  
4 liability.

5 Q Does that mean if, for some reason, they had some previous  
6 liability, they might not actually get a check?

7 A That's true.

8 Q But would they get credit for the tax somehow on what they  
9 previously owed?

10 A Yes.

11 Q Okay. And what's the second-to-the-last column?

12 A The next column shows that 20 percent was paid to ARL,  
13 where the client would have paid 20 percent of the refund to  
14 ARL. And then the last column is the amount that was paid to  
15 Douglas Rosile from ARL for his 10 percent of the cut.

16 Q Okay. Directing your attention to Government's Exhibit 88  
17 and its subparts, what is that?

18 A Okay.

19 Q Is that one of these client files?

20 A Yes, sir.

21 Q And whose is it?

22 A "Margaret Maicon" is on the folder. The correspondence  
23 inside says Lawrence and Margaret Maicon.

24 Q Okay. And taking a look back at Exhibit 90-3, do those  
25 folks appear in your summary of 861 claims that were paid out?

1 A Yes, they do.

2 Q Okay. Now, at 88-1, is there a letter there from Douglas  
3 P. Rosile?

4 A Yes.

5 Q What does the caption say?

6 Or I'm sorry. What does the letterhead say?

7 A Douglas P. Rosile, accountant, slash, tax consultant, 452  
8 Glen Oak Road, Venice, Florida, 34293.

9 Q And to whom is it addressed?

10 A Internal Revenue Service, Chief Taxpayer Relations,  
11 Atlanta, Georgia.

12 Q And what does the letter say?

13 A "Regarding Larry Maicon, Forms 1040X 1997, 1998 and 1999.

14 "Dear Sirs: I am writing on behalf of the above-  
15 captioned taxpayer as the preparer of the above-captioned  
16 return as to the status of the return. It has been  
17 approximately four months since the return was/were filed and  
18 the taxpayer has not received either the check or an  
19 explanation as to when they can expect it.

20 "I have not enclosed a POA at this time as you may respond  
21 directly to the taxpayer. Sincerely yours, Douglas P.  
22 Rosile."

23 Q Okay. Flipping forward in that file, do you see a letter  
24 from American Rights Litigators, "Dear Client"?

25 A Yes.



1 Q Please read that letter.

2 A "Dear Client: We have had many of our clients ask what if  
3 I have paid money during the last three years, can I get that  
4 money back. The answer might very well be yes. If you would  
5 like to file current returns or amended returns to try and get  
6 refunds for the previous three years, an accountant that  
7 assists our clients will prepare your return.

8 "The request for a refund is based on the premise that all  
9 taxable sources of income are listed in the Internal Revenue  
10 Service Regulation 26 CFR 1.861-8. The sources are primarily  
11 from Guam, Puerto Rico, the Virgin islands, Merchant Marine  
12 Act, et cetera. Enclosed is the complete list, as well as  
13 three activities that could generate taxable income. If you  
14 had money coming from any of those sources, it would be  
15 taxable. Please let the accountant know if you had money  
16 coming from any of those sources or activities prior to filing  
17 the return.

18 "The refund checks, if any should be issued, will come to  
19 you. The cost, 100 dollars per return, one 1040 return per  
20 year, plus 20 percent of any moneys returned. In the event  
21 you choose to amend or file payroll returns, the cost is 100  
22 dollars per quarter process.

23 "Returns can be amended for 1997 until April 15th, 2001.  
24 After that date, you can only amend back to 1998 to get  
25 refunds.

1           "The checks for processing the amended returns should be  
2 made out to American Rights Litigators or ARL. The completed  
3 returns for previous years that you want to have amendments  
4 processed and for all unfiled years must be sent in with your  
5 money. The accountant will use the numbers directly from your  
6 returns. Do not send any receipts or other verification of  
7 expenses or income, except copies of W-2's and 1099's. You  
8 are making the determination of the taxability of the source  
9 of your income.

10           "If you have any questions, call the office and ask for  
11 the accountant, Doug Rosile.

12           "Important note: Please understand that there are no  
13 guarantees that you will receive any money back. The amended  
14 or current returns will not be done by ARL staff, but rather  
15 by the accountant, Doug Rosile. So if you have any questions  
16 regarding any of the returns, please call and ask for  
17 Mr. Rosile.

18           "The refund check will be sent to you made out in your  
19 name. The 20-percent portion of the refund will be on your  
20 honor to pay it, as there is no contract. Sincerely, ARL  
21 Staff."

22           Q Does this bear another one of these upside-down paid  
23 stamps in the bottom right-hand corner?

24           A Yes.

25           Q And what figure is contained in the left-hand portion of

1 that paid stamp?

2 A "2458."

3 Q Directing your attention to your summary Exhibit 90-3 --  
4 I'm sorry. Could you read that, read that paid amount again,  
5 please?

6 A "2458."

7 Q Okay. Taking a look at your summary, 90-3, does that  
8 contain a line for Lawrence and Margaret Maicon?

9 A Yes.

10 Q And in the refunded -- does that indicate that they had  
11 some amount refunded?

12 A Yes, sir.

13 Q Okay. And what does it list as the 20 percent paid to  
14 ARL?

15 A \$2,458.

16 Q Is that the same amount listed as paid on the stamp?

17 A Yes.

18 Q Okay. Taking a look at Government's Exhibit 89.

19 A Okay.

20 Q What's the name on that file?

21 A Robert Combs.

22 Q And who do you know Robert Combs to be?

23 A He is a revenue agent out of the Maitland office.

24 Q Is this a file kept at ARL on the revenue agent Robert  
25 Combs?

1 A Yes.

2 Q What do you know about Revenue Agent Combs' activities in  
3 regard to Eddie Kahn and ARL?

4 A Well, he's been trying to do an examination, he was trying  
5 to get books and records, he was trying to, you know, get him  
6 to file tax returns.

7 Q Let's take a look forward in that file. It's at -- it's  
8 this document called "Conditional Acceptance." It's at SW  
9 255-00255. Do you see that document?

10 A Yes.

11 Q Okay. What's the date at the top of that document?

12 A March 1st, 2002.

13 Q And who is it from?

14 A Eddie Kahn.

15 Q And who is it addressed to?

16 A Robert Combs.

17 Q And what does it say about him there?

18 A Regarding letter dated February 22nd, 2002.

19 Q Okay. What does it say after the name Robert Combs in the  
20 "to"?

21 A Robert Combs, d/b/a Tax Agent, Internal Revenue Service,  
22 850 Trafalgar Court, Suite 200, Maitland, Florida, 32751.

23 Q Okay. And what's it in regard to?

24 A Well, this says "conditional acceptance."

25 Q I'm sorry. There's an RE column there.

1 A Letter dated February 22nd, 2002.

2 Q And this is this conditional acceptance. Please read the  
3 first paragraph of this document.

4 A "Thank you for your offer/draft of February 22nd, 2002  
5 regarding the document dated February 22nd, 2002. This is a  
6 timely response to your offer/draft. The undersigned does  
7 hereby conditionally accept for value the offer/draft.  
8 Hereinafter the offer/draft, all charges are conditionally  
9 accepted for value upon statement and proof of claim that the  
10 undersigned has contracted or volunteered to act as  
11 accommodation party, attornor, attornee, surety or bailie for  
12 an artificial entity named Eddie Kahn or any form of item  
13 sonans for this name."

14 Q Taking a look at the fourth paragraph, please read the  
15 first two sentences of that.

16 A "Your failure to respond timely to the statements and  
17 questions attached hereto will be by operation of law deemed a  
18 commercial dishonor of the undersigned conditional acceptance  
19 for value and his promise to perform on any claim due the  
20 Internal Revenue Service.

21 "You are hereby advised to consult with legal counsel as  
22 to the significance of such legal dishonor. Your response to  
23 the facts set forth herein by affidavit, true, correct,  
24 complete and not misleading, under penalty of perjury, must be  
25 in like form.

1            "If you cannot certify these conditions precedent to prove  
2 your claim to your authority and your agreement, or if there  
3 is no response or an incomplete response on your part, that  
4 will be considered tender by the undersigned and  
5 non-acceptance of payment or offer to pay by you and/or the  
6 principal and, thus, finally conclude this matter in law by  
7 the agreement of the parties."

8            Q    Okay. And taking a look at the next page, what does the  
9 last paragraph say?

10           A    "Attached hereto please find two affidavits entitled  
11 'Negative Averment' and 'Certificate of Service' executed by  
12 the undersigned regarding this matter."

13           Q    And who appears to have signed it?

14           A    Eddie Kahn.

15           Q    And in what capacity?

16           A    "Affiant in his private capacity, secured party, holder."

17           Q    Okay. Now, flipping forward, we see this attachment to  
18 Mr. Kahn's letter, this notice of negative -- I'm sorry --  
19 "Affidavit of Negative Averment." What does it say it's in  
20 support of?

21           A    "Conditional acceptance of March 1, 2002."

22           Q    And what does the first paragraph say?

23           A    "Comes now Eddie Kahn, a living man, to make the following  
24 commercial statement pursuant to Matthew 5:34-37, KJV, and  
25 under full commercial liability."

1 Q Okay. And what does -- I'll just ask you about some of  
2 these items. What does Item 1 say?

3 A "The undersigned, Eddie Kahn, is your affiant and over the  
4 age of 18 years and is competent to testify."

5 Q And Number 7?

6 A "Your affiant has not seen any proof of claim of  
7 involvement in commerce or commercial activities with the  
8 United States, U.S.A., America, U.S., Lake County, and the  
9 State of Florida.

10 Q And Number 8?

11 A "Your affiant is not accepting any insurance/assurance  
12 benefits from the United States, U.S.A., America, U.S., or the  
13 State of Florida."

14 Q Number 12?

15 A "Your affiant is the secured party/creditor over the  
16 person/debtor named in the offer/draft by way of a UCC  
17 financing statement filed with the Texas Secretary of State's  
18 office under Registered File Number 01-0119657."

19 Q And Number 13?

20 A "Your affiant has not seen a superior claim that  
21 controverts the UCC financing statement identified supra  
22 regarding the person/debtor Eddie Kahn, a transmitting  
23 utility."

24 Q And taking a look at the affidavit of certificate of  
25 service on the next page, who was this sent to?

1 A Robert Combs, Internal Revenue Service; Valerie Liu,  
2 Internal Revenue Service; and Jeffrey Ehrlich, area counsel  
3 for Internal Revenue Service.

4 Q Okay. And who appears to have signed this affidavit?

5 A Eddie Kahn.

6 Q Okay. And taking a look at the next page, it's captioned  
7 "Notice of Affidavit of Negative Averment and Forfeiture of  
8 Corporate Insurance Benefits." Please read Items 1 through 5.

9 A "The undersigned owes his highest alliance to his Creator  
10 by way of the debt paid through his son, a kinsman redeemer,  
11 which has redeemed him from the bondage of the world into  
12 which he was birthed and has been delivered to this world as a  
13 bond servant of his saviour and redeemer.

14 "Two, Therefore, the undersigned heretofore, to wit, nunc  
15 pro tunc, must terminate, waive, decline forfeit all benefits  
16 of the compelled performance of the liabilities to all  
17 admiralty contracts and commercial liabilities to these  
18 corporations/nations: Vatican City, Crown of England, United  
19 Nations, NWO, U.S.A., U.S., United States, United States of  
20 America, America, North America, State of Florida, Lake  
21 County, and the City of Sorrento."

22 Q Okay. Could you please read Number 4.

23 A "The undersigned is private, a living soul, not a public  
24 vassal."

25 Q And Number 5.



1 A "The undersigned is exempt from levy and holds all natural  
2 rights due him by international law, laws of the de jure  
3 United States, 1789, et sequentes, Florida State, Lake County,  
4 and Sorrento City."

5 Q And who seems to have signed this?

6 A Eddie Kahn.

7 Q Okay. Flipping forward, there is a document there. It is  
8 an IRS Department of the Treasury letter. This is dated  
9 February 22nd, 2002.

10 A Yes.

11 Q Has Mr. Kahn attached this to his correspondence to the  
12 IRS?

13 A Yes.

14 Q Okay. And does it have one of these stamps on it?

15 A Yes.

16 Q Okay. I am just going to direct your attention to some of  
17 the -- a little bit of the text of the letter. This is a  
18 letter to Eddie Kahn; is that correct?

19 A Yes.

20 Q Okay. And what was the date of this letter?

21 A February 22nd, 2002.

22 Q Okay. And flipping forward, I guess, to page nine of this  
23 document, it's at SW 25500269. Okay. Who signs here as a --  
24 under "Sincerely"?

25 A There is no signature. It just has "Robert Combs,

1 Internal Revenue Service Agent."

2 Q Okay. And who is it cc'ed to?

3 A Milton H. Baxley, II.

4 Q Okay. And the stamp here is pretty good. Could you read  
5 what that stamp says?

6 A "Conditionally accepted for value upon proof of claim  
7 within ten days, date February 27th, 2002, signed Eddie Kahn,  
8 Employer ID Number 45468-8645, exempt from levy."

9 Q Has this stamp been placed upon a letter to Eddie Kahn  
10 from Robert Combs of the Internal Revenue Service?

11 A Yes.

12 Q And has this been attached to this covering material we  
13 were just going through, this conditional acceptance and this  
14 negative averment?

15 A Yes.

16 Q And was that sent back to the Internal Revenue Service?

17 A Yes.

18 Q Okay. So let's see if we can make out some of the text  
19 here. Please read the first three paragraphs of the letter.

20 Well, who is it made out to? It says "dear" who?

21 A Are you referring to the first page of the document?

22 Q First page of the letter, yes.

23 A Dear Robert Combs?

24 Q I'm sorry. So this is sent to Eddie Kahn at what address?

25 A 32504 Wekiva Pines Boulevard, Sorrento, Florida.

1 Q And it says: "Dear Mr. Eddie Kahn." What does it say  
2 below that?

3 A "This is in reply to your correspondence dated  
4 February 14th, 2002 to the Internal Revenue Service."

5 Q All right. And what's the -- I guess -- do there appear  
6 to be various citations to cases in here?

7 A Yes, sir.

8 Q Okay. Let's just take a look at the first couple of them.  
9 Could you please read the first one.

10 A The first paragraph after "This is in reply"?

11 Q Please read the first -- that paragraph and the one  
12 following.

13 A "The Federal taxation system depends on correct" -- it's  
14 got a stamp over it -- "assessment of all taxpayers. Tax  
15 returns are not vehicles for expressing personal, religious or  
16 other beliefs. The Internal Revenue Service is not the  
17 appropriate forum for expressing concern over government  
18 spending policies. Congress has found that unauthorized and  
19 unfounded tax protestations on returns significantly impugn  
20 the efficiency and integrity of the tax system. McKee versus  
21 Commissioner, 85 TC 9248."

22 Q And I guess taking a look at the rest of the text on the  
23 first page, is that -- are those quotations from legal cases?

24 A Well, yeah. There is Schiff versus Commissioner --

25 Q Just generally --

1 A Yes. Yes.

2 Q And taking a look at the next page, page two of nine, is  
3 that more legal citations from Mr. Combs to Mr. Kahn?

4 A Yes, sir.

5 Q How about three of nine?

6 A More of the same.

7 Q And does that go all the way in the same fashion, all the  
8 way through to page nine of nine?

9 I guess -- I'm sorry; through page eight of nine?

10 A Yes, sir.

11 Q And then what does the text say on page nine of nine, in  
12 closing?

13 A "This reply to your concerns with respect to the Code, the  
14 authority of the Internal Revenue Service, and the  
15 requirements to file income tax returns and pay income tax is  
16 comprehensive. There will be no further replies regarding the  
17 validity of the Code or the authority of the Internal Revenue  
18 Service to administer and enforce the laws. The courts have  
19 stated in unison that such arguments are utterly without merit  
20 and have absolutely no basis in law.

21 "As a revenue agent employed by the Internal Revenue  
22 Service, I am authorized to conduct an examination to  
23 determine your income tax liabilities. Your cooperation and  
24 assistance during such examination is voluntary. I will  
25 initiate a determination of your income tax liability based

1 upon a reconstruction of records, documents and information  
2 obtained from third-party record keepers. Please be advised  
3 that such a reconstruction might result in liabilities that  
4 differ from a determination based upon your original books and  
5 records."

6 Q Okay. Taking a look at 89-2, is that another letter from  
7 Robert Combs to Eddie Kahn?

8 A Yes, it is.

9 Q What's the date on that?

10 A March 22nd, 2000.

11 Q And taking a look at the first paragraph, what is  
12 Mr. Combs trying to do here?

13 A "The Internal Revenue Service has no record of receiving  
14 income tax returns for the years listed for the enclosed  
15 letter 729. Please refer to such letter and respond as  
16 requested. Your Federal income tax liability for the year  
17 ending 12/31/98 has been assigned for examination. An  
18 appointment date has been set for such examination."

19 Q Okay. And -- okay. Taking a look forward to Exhibit 91,  
20 ARL Trust binder, do you have that before you?

21 A I am getting that. Okay.

22 Q This is -- is this what it says on the spine of the  
23 binder, "ARL Trust"?

24 A Yes, sir.

25 Q Okay. Taking a look at the first -- I guess it would be

1 the second page inside of it. There is a document called the  
2 "American Rights Litigators Irrevocable Trust Agreement."  
3 It's at SW 04400687.

4 Okay. What does the first paragraph of this say?

5 A "This agreement of trust, effective the 27th day of  
6 July 1996, documents an agreement between Mark Rodgers,  
7 Grantor, and Eddie Kahn, Executive Trustee."

8 Q Okay. Taking a look at Paragraph 2, what's the first  
9 sentence there?

10 A "The Grantor does hereby irrevocably transfer and assign  
11 unto the Trustee assets as set forth on the attached Exhibit A  
12 to have, to hold and to operate in trust, subject to all of  
13 the terms and conditions hereinafter set forth."

14 Q Okay. And there is -- if you look below there, there is a  
15 subpart with the numeral "2" in front of it. Could you please  
16 read the first sentence of that.

17 A "The Trustee shall operate the business herein acquired as  
18 referenced in Exhibit A, and invest the trust estate,  
19 including all income derived therefrom for the benefit of BHL  
20 Trust and its beneficiaries."

21 Q Okay. And taking a look at Paragraph Numbered 3, what  
22 does that say?

23 A "Upon the death of Eddie Kahn, the property comprising  
24 such trust estate, whether principal or accumulated income,  
25 shall be divided and apportioned by the Trustee into separate

1 accounts equal in number to the number of beneficiaries listed  
2 in Item 2 above."

3 Q Okay. And turning to page seven of the document, this is  
4 SW 04400693, Item Number 11, please read that.

5 A "The trust hereby created shall be deemed a pure, private,  
6 non-statutory, non-associated, unincorporated business trust  
7 organization, commonly known as a Massachusetts trust, and  
8 shall in all respects be governed by the laws of Florida,  
9 unless said laws conflict with the common law under which this  
10 agreement was created."

11 Q And please read the second-to-the-last paragraph, Number  
12 16.

13 A "No document, record, bank account or any other written  
14 information dealing with the internal affairs of this trust  
15 shall be disclosed to any third party, except upon formal  
16 written approval of the written beneficiaries."

17 Q Okay. And who appears to have signed here, if you can  
18 make out any of these names?

19 A Allen Tanguay, Mark Rodgers, Thomas Roberts, and Eddie  
20 Kahn.

21 Q And in what capacity does Eddie Kahn sign?

22 A Executive trustee.

23 Q Okay. Taking a look at the first page of 91-5, What does  
24 that say?

25 A "This document, pursuant to the God-given, unalienable

1 rights of individuals, and as presently secured by the  
2 Constitution for the United States of America by common law  
3 right of contract, creates American Rights Litigators, a pure,  
4 private, non-statutory, non-associated, unincorporated  
5 business trust organization, UBTO."

6 Q Taking a look at Exhibit 91-1, does this binder also  
7 contain an IRS document?

8 A Yes, it does.

9 Q This is at SW 0440677. Okay. What is that document?

10 A This is a letter from the Internal Revenue Service,  
11 Atlanta, Georgia, to American Rights Litigators, to Eddie  
12 Kahn, executive trustee.

13 "We have assigned you an employer identification number,  
14 EIN."

15 Q Okay. And what's an EIN?

16 A It is an employment identification number. It is like a  
17 Social Security number for an individual, but it's for a  
18 business.

19 Q And what purpose does the EIN serve for the Internal  
20 Revenue Service?

21 A Well, that's how they would file any tax returns and keep  
22 an account on that business or entity.

23 Q Okay. If the business had employees, what role would the  
24 EIN play with the IRS?

25 A I guess for Social Security purposes.



1 Q Does it allow the business to report the tax matters of  
2 the employees to the Internal Revenue Service?

3 A That's correct.

4 Q Okay. And what does it say -- taking a look at the middle  
5 paragraph, what does it say there, "based on"?

6 A "Based on the information shown on your Form SS-4, you  
7 must file the following forms by the date we show: Form 1041,  
8 April 15th, 1997."

9 Q Taking a look at Exhibit 92, taking a look at the  
10 letterhead, where does this letter originate?

11 A This is from Affordable Accounting Tax Service.

12 Q And in the course of your investigation, did you come to  
13 know anything about the Affordable Accounting Tax Service?

14 A Well, this is the tax service that Douglas Rosile operated  
15 out of Venice, Florida.

16 Q And what's the date on this letter?

17 A May 1st, 1997.

18 Q And to whom was it addressed?

19 A It is addressed to American Rights Litigators, Mount Dora,  
20 Florida, to Mr. Kahn.

21 Q And please read the text of it.

22 A "I have been trying to reach you or your office by phone  
23 and fax since April 20th. I have a potential problem with the  
24 IRS that I would like you to handle, slash, represent me. I  
25 realize you may be busy or that my problem may not be one you

1 want to tackle, but I certainly was impressed with your  
2 presentation in Clearwater on the 18th. My being an  
3 accountant does not reflect some love of the IRS or the  
4 Federal bureaucracy, but more a lack of knowing what the law  
5 really is. I can assure you I hate the IRS.

6 "I would certainly like to have you speak to a group of my  
7 clients and I would also like to hire you to represent me and  
8 the company I work for. After hearing your remarks, I may  
9 never file another tax return. If you would like to have  
10 branch office here in southwest Florida, I would be very  
11 interested in working it for you. Please contact me as soon  
12 as possible."

13 Q Okay. Now, the signature is blacked out on this document,  
14 is it not?

15 A Yes.

16 Q Is that the way it came when you seized it?

17 A No.

18 Q Did you take a look at the income tax returns for  
19 Affordable Accounting?

20 A I did.

21 Q And who signs for Affordable Accounting as the operator of  
22 that business?

23 A Douglas Rosile.

24 Q Taking a look at Government's Exhibit 94, file titled  
25 "Doug Rosile," does this file contain correspondence

1       indicating Mr. Rosile's relationship with American Rights  
2       Litigators?

3       A     There is letters to that effect.

4       Q     Okay.  Let's take a look at 94-3.

5       A     Okay.

6       Q     Okay.  What's the caption on this document?

7       A     "Agreement between Doug Rosile and ARL."

8       Q     And 1 through 5, please read the provisions of this  
9       agreement.

10      A     "One, Doug gets paid 100 dollars for each day he works at  
11      the ARL office.

12            "Two, Doug gets paid 50 dollars for each return that he  
13      prepares and files for ARL clients.

14            "Three, ARL gets 50 dollars for each return that Doug  
15      prepares and files for ARL clients.

16            "Four, Doug gets paid 10 percent of moneys refunded to ARL  
17      clients for returns that he prepared and filed.

18            "Five, ARL gets 10 percent of moneys refunded to ARL  
19      clients for returns that Doug prepared and filed."

20      Q     Please carry on.

21      A     "Refund moneys to be paid within 45 days of receipt by  
22      ARL.

23            "Doug will answer phone calls regarding amended returns  
24      and normal tax inquiries.

25            "Doug will be in the ARL office two to three days a week

1 and will work with Renee or whoever is assigned to work with  
2 him regarding amended returns and will inform her of his ARL  
3 working schedule at least two weeks in advance." And: "As of  
4 March 13th, 2001."

5 Q Okay. And this is -- it's got signature blocks for which  
6 individuals?

7 A Eddie Kahn, general manager, ARL, and Doug Rosile.

8 Q Okay. Taking a look at the last -- or I'm sorry -- at  
9 94-4.

10 A Yes.

11 Q Does this appear to be some accounting of payments due to  
12 Doug Rosile?

13 A Yes, sir.

14 Q All right. What are -- what's contained in the first  
15 column of this document?

16 A Check number.

17 Q Okay. And then under "name," do you remember -- do you  
18 recognize the names of these individuals listed here?

19 A Yes.

20 Q Okay. Are these some of the individuals that are  
21 contained in the summary of claims that we were looking at  
22 earlier?

23 A Yes, sir.

24 Q And just indicate what the header is for each of the  
25 remaining columns.

1 A You have "amount received," and you have "due to ARL," and  
2 then you would have "due to Doug," and then there is a "Doug  
3 paid," and "Milton paid."

4 Q Okay. Taking a look at Exhibit 95, just what does the  
5 caption, the label on the file say?

6 A It says "amended return."

7 Q Okay. Contained within that, are there various subparts  
8 that contain checks?

9 A Yes.

10 Q Let's look at some of those. Let's take a look at 95-1.  
11 Okay. The item on the bottom, what does that appear to be?

12 A This is a check to American Rights Litigators from J.  
13 Psencik Enterprises.

14 Q Okay. And in what amount?

15 A \$5,265.80, it looks like.

16 Q Did these folks manage to get a refund with one of these  
17 861 returns?

18 A Yes.

19 Q What's the item above it?

20 A That is a check from American Rights Litigators to Doug  
21 Rosile.

22 Q In what amount?

23 A \$2,632.90.

24 Q And for what?

25 A That would be in for -- it says "Psencik."

1 Q Is that the same name as the people who paid ARL?

2 A Yes.

3 Q And who signed that?

4 A Eddie Kahn, trustee.

5 Q Okay. Taking a look at 95-2, is that another accounting  
6 of refunds and another check to Doug Rosile?

7 A Yes, it is.

8 Q Okay. And which account is the check drawn on, or in  
9 whose name is the account?

10 A It's American Rights Litigators.

11 Q And what is the amount of the check?

12 A \$1,963.

13 Q And what's the date?

14 A September 20th, 2001.

15 Q And who was it signed by?

16 A Kathleen Kahn.

17 Q And who do you know Kathleen Kahn to be?

18 A Eddie Kahn's wife.

19 Q Taking a look at Exhibit 95-4, what is that?

20 A This is a check from American Rights Litigators to Doug  
21 Rosile.

22 Q And in what amount?

23 A \$1,100.

24 Q And what does it say it's for?

25 A Twenty-two returns.

1 Q Okay. And is that signed by Kathleen Kahn again?

2 A Yes.

3 Q Taking a look at 95-5, is this some accounting of what was  
4 paid to Douglas Rosile?

5 A Yes, it is.

6 Q And how many pages long is it?

7 A I have three pages.

8 Q And directing your attention to Exhibit 95-6, this is a  
9 memorandum to Doug Rosile?

10 A Yes.

11 Q Who is it from?

12 A Amie.

13 Q Who do you know Amie to be?

14 A Well, Amie Bennett worked in the ARL offices.

15 Q Okay. What's the date of this?

16 A March 25th, 2002.

17 Q And what's it in regard to?

18 A Bockrath percent on refund.

19 Q Now, is Bockrath the name of some of these people who  
20 managed to get refunds with these 861 returns?

21 A I believe so, yes.

22 Q Okay. Now, taking a look at the text, please read what  
23 the memo says.

24 A "Doug: Enclosed you will find Check Number 1227 in the  
25 amount of 500 dollars. This is your 10 percent on the check

1 that the Bockraths sent for their return refund. Thank you,  
2 Amie."

3 Q Okay. And taking a look at the next, the next page, is  
4 that this check from Bockrath, and then a check from ARL to  
5 Doug Rosile?

6 A Yes.

7 Q And does the amount of the check to Doug Rosile amount to  
8 half of what was paid to ARL?

9 A Yes.

10 Q Okay. And what was the date of the check from American  
11 Rights Litigators to Doug Rosile?

12 A March 25th, 2002.

13 Q Taking a look at Exhibit 97.

14 MR. McLELLAN: May it please the Court, would the  
15 Court consider a morning break at this point?

16 THE COURT: Yes. It is the middle of the morning,  
17 members of the jury. Let's pause for our morning break.

18 (Short recess was taken.)

19 (Jury present.)

20 THE COURT: Thank you. Be seated, please, members  
21 of the jury.

22 All right, Mr. McLellan. You may continue.

23 MR. McLELLAN: Thank you, Your Honor.

24 BY MR. McLELLAN:

25 Q. Special Agent Lalli, directing your attention back to



1 Government's Exhibit Number 92 -- do you have that there? --  
2 this Affordable Accounting letter to Eddie Kahn, I -- I'd  
3 asked you earlier about the blacked-out signature --

4 A. Yes, sir.

5 Q. -- on this document. I think my question might not have  
6 been clear. Did you black-out the signature on that exhibit?

7 A. No, I did not.

8 Q. Was it blacked out in that way when it was seized at ARL?

9 A. Yes.

10 Q. Is it ever the practice of IRS criminal investigation to  
11 change seized evidence in any way?

12 A. No, sir.

13 Q. Okay. Moving back to Government's Exhibit 97, what's the  
14 name on that file?

15 A. This has "determination list."

16 Q. How thick would you say that file is?

17 A. An inch or so.

18 Q. Okay. Taking a look at Exhibit 97-1 and the item at the  
19 top of that page, is that a check?

20 (Pause.)

21 A. Yes, it is.

22 Q. Okay. And what's the date on that check?

23 A. June 19, 2001.

24 Q. Okay. And on whose account is it drawn?

25 A. It's on a Milton H. Baxley law office IOTA trust account.

1 Q. It's \$275 to whom?

2 A. The Internal Revenue Service.

3 Q. Okay. And what's the -- in the fourth line there, what is  
4 it -- what does it say for "for"?

5 A. "Fee for determination letter, Wesley Snipes."

6 Q. Okay. And taking a look at the item below that, is it --  
7 is it similar?

8 A. Yes.

9 Q. Okay. And what does this one say for who it's for?

10 A. This is for determination fee for James Walmsley.

11 Q. Okay. And what about the one below that?

12 A. It's a determination fee for Garrett Hawks.

13 Q. Okay. Is the next page full of checks like that?

14 A. Yes, sir.

15 Q. And the next page?

16 A. Yes.

17 Q. And the next page?

18 A. Yes.

19 Q. And taking a look at the pages before that item, are there  
20 several pages of these checks with -- designated  
21 "determination" for other people?

22 A. Yes, sir.

23 Q. Do you see --

24 MR. McLELLAN: Begging the Court's indulgence.

25 (Pause.)

1 BY MR. McLELLAN:

2 Q. Okay. At 97-2 -- do you have that exhibit in front of  
3 you?

4 A. Yes, sir.

5 Q. Okay.

6 -- is this still in the file called "determination list"?

7 A. Yes.

8 Q. Okay. Is there -- do you see a list of clients there?

9 A. Yes.

10 Q. Are they all numbered?

11 A. Yes.

12 Q. And what are do the numbers go up to?

13 A. Fifty-three.

14 Q. And is there actually another one written in at the bottom  
15 there?

16 A. Yes.

17 Q. Okay. And what are the other columns in this document?

18 A. There's a "client" column with the names of the clients.  
19 There's a "paid" column and there's a "sent" column.

20 Q. Okay. And directing your attention to Line 7, whose name  
21 is there?

22 A. Wesley Snipes'.

23 Q. And is there an "X" under "paid" for Wesley Snipes?

24 A. Yes.

25 Q. Taking a look at Exhibit 98-1 --

1 A. Yes, sir.

2 Q. -- who is this letter from?

3 A. The Department of Treasury, Internal Revenue Service,  
4 Washington, D.C.

5 Q. Okay. And to whom is it addressed?

6 A. Milton H. Baxley, II.

7 Q. At what address?

8 A. 25525 State Road 46, Suite 2, Mount Plymouth, Florida,  
9 32776.

10 Q. What was at that address?

11 A. American Rights Litigators.

12 Q. Okay. And what's the date on this letter?

13 A. It's dated October 1, 2001.

14 Q. Please read the text of the letter.

15 A. "This refers to your letter dated July 25, 2001, addressed  
16 to Chief Counsel requesting a determination letter. Your  
17 request has been forwarded to this office for reply, and we  
18 regret the delay in responding to your inquiry. Revenue  
19 procedure 2001-1 addresses the procedures and the requirements  
20 of requesting letter rulings, determination letters and  
21 information letters and explains the force and effect of each  
22 type of letter. Based upon Chief Counsel's interim response,  
23 a copy of this procedure was forwarded to you.

24 "Section 6 of Revenue Procedure 2001-1 sets forth the  
25 circumstances in which the director or area manager may issue

1 determination letters. Directors issue determination letters  
2 only if the question presented is specifically answered by  
3 statute, tax treaty or regulation, or by a conclusion stated  
4 in a revenue ruling, opinion or court decision published in  
5 the Internal Revenue Bulletin.

6 "The revenue procedure further states that in income and  
7 gift tax matters directors may only issue determination  
8 letters on completed transactions that affect returns over  
9 which they have examination jurisdiction.

10 "We have checked our files and found that Mr. Snipes has  
11 not filed returns for the years 1999 and 2000. Since these  
12 returns have not been filed, they are not under the  
13 jurisdiction of the area manager.

14 "Regrettably, since your request does not meet the  
15 requirements of Section 6 of Revenue Procedure 2001-1, we  
16 cannot respond to your concerns.

17 "Based upon the above, we are returning your check and a  
18 copy of your letter for reference. If you have any questions  
19 regarding this matter, please don't hesitate to call Brian  
20 Casally, Technical Advisor, at 213-576-3994."

21 Q. And who is this letter copied to?

22 A. Wesley Snipes.

23 Q. Who does it appear to be signed by?

24 A. Teresa Franklin, Director, Area 16, SB slash SE,  
25 compliance.

1 Q. What is SB SE?

2 A. Those are, I believe, different areas of exam, compliance  
3 areas. I'm not sure what the initials stand for.

4 Q. Thank you.

5 Taking a look at Exhibit Number 99, specifically 99-2,  
6 what is that?

7 A. This is a Pitney-Bowes delivery service record.

8 Q. And what's the name on it?

9 A. It says "American Rights Litigators."

10 Q. Okay. And then taking a look down below, there's a column  
11 there that says "serial number."

12 A. Yes.

13 Q. What's the first number that appears in that "serial  
14 number" column?

15 A. It says "5521990."

16 MR. McLELLAN: May Government's Exhibit 64-2 please  
17 be published, clicking forward to the envelope, focusing on  
18 the...

19 BY MR. McLELLAN:

20 Q. Do you see a number there followed -- on this Pitney-Bowes  
21 postage meter stamp following PB? Do you see that number?

22 A. It's 5521990.

23 Q. Is that the same number as on this American Rights  
24 Litigators' Pitney-Bowes delivery service record?

25 A. Yes, sir.

1 Q. Taking a look at Exhibit 101, let's take a look at the  
2 caption of this document. What does it say up at the top?

3 A. It says "Office of the Presiding Overseer of the Guiding  
4 Light of God Ministries and successors, a corporation sole."

5 Q. Okay. And what's -- what is -- what sort of notice is  
6 this?

7 A. It's a reminder notice for annual donation.

8 Q. Okay. And who's being reminded here?

9 A. Wesley Snipes.

10 Q. And does it give a patron number?

11 A. 2586.

12 Q. Is that the same as Wesley Snipes' client number with  
13 American Rights Litigators?

14 A. Yes.

15 Q. What expiration date does it give for his membership?

16 A. March 1, 2004.

17 Q. Directing your attention to Exhibit 102, let's take a look  
18 at the label on that file.

19 A. The label says "Wes FL information" -- "info."

20 Q. Okay. Please flip through the contents of that file.

21 Does that pertain to documents having to do with Wesley  
22 Snipes?

23 A. Yes.

24 Q. Do they have to do with his dealings with the State of  
25 Florida Department of Revenue?

1 A. Yes.

2 Q. Okay. Taking a look at Exhibit 103, let's take a look at  
3 the label on that file.

4 A. This is "1.861, Wes."

5 Q. Where have you seen that 1.861 designation elsewhere in  
6 this case?

7 A. Well, that's what's designated on the second page of the  
8 Form 1040X claims.

9 Q. Okay. Now, I think that there are Post-It notes involved  
10 here. Taking a look at the first page of what's in this file,  
11 do you actually have a letter -- I'm sorry -- a fax cover  
12 sheet that has Post-It notes on it before you?

13 A. They are to the side of the folder.

14 Q. I'm sorry. So these Post-It notes appear on the inside  
15 cover of this folder, is that correct?

16 A. Yes.

17 Q. Okay. And what -- can you make out what the first one  
18 says?

19 A. It says "Tom Roberts." It says "Michael Canter, Ron  
20 Starr," and then "212-759-6556."

21 Q. And what does the other one say?

22 A. "Send" -- I can't make that -- "Attention: Michael  
23 Canter, Amen RA Films, 212-759-8775, fax," and then underline  
24 and then it has "Wesley."

25 Q. Okay. And taking a look at the next page in there, is



1 that an ARL fax cover sheet?

2 A. Yes.

3 Q. And who is it addressed to?

4 A. Michael Canter.

5 Q. Who is it from?

6 A. Eddie Kahn.

7 Q. And what's the date of it?

8 A. March 8, 2000.

9 Q. All right. Please read the text there underneath the  
10 "comments."

11 A. "Hi, Michael. Enclosed are prefaces of the code and a  
12 brief explanation of the taxable sources of income. Please  
13 refer to Title 26, Code of Federal Regulations, Section 1.861  
14 for further information. If I can be of any further  
15 assistance, please contact me or my office manager, Allen."

16 Q. Okay. Taking a look at the documents that follow, are  
17 those various legal-looking citations?

18 A. Yes, I guess you would call it that.

19 Q. Okay. Do you have Government's Exhibits 104 and 105  
20 before you?

21 A. Yes.

22 Q. Let's take a look at 104. Do you recognize that document?

23 A. Yes.

24 Q. Were you there when that document was executed?

25 A. Yes, I was.

1 Q. What is it?

2 A. This is a handwriting exemplar for Douglas Rosile.

3 Q. Okay. And how many pages is there in that exemplar?

4 (Pause.)

5 A. There appears to be 17.

6 Q. Okay. And what's on those pages, just generally?

7 A. Name, address, the alphabet, different names to write out,  
8 different paragraphs to write out, days of the week, numbers  
9 to spell out, numbers to write out.

10 Q. Did Douglas Rosile provide that handwriting exemplar?

11 A. Yes, he did.

12 Q. And what were the circumstances under which he provided  
13 that exemplar?

14 A. Well, he was subpoenaed to come to the U.S. Attorney's  
15 Office in Jacksonville and sat down with me and conducted this  
16 exemplar.

17 Q. Okay. And what is the purpose of -- let me ask you this:  
18 Are these exemplars routinely taken in tax cases?

19 A. They are.

20 Q. And what are -- what's the purpose of it?

21 A. To determine whether or not the person signing the returns  
22 or documents with the IRS is the actual person.

23 Q. Okay. Taking a look at Government's Exhibit Number 105,  
24 is that another one of these handwriting exemplars?

25 A. Yes, it is.

1 Q. Who provided the exemplar?

2 A. Wesley Snipes.

3 Q. Again, were you present when it was provided?

4 A. Yes, I was.

5 Q. And what were the circumstances of the production of that  
6 exemplar?

7 A. The same. He was subpoenaed to come to the U.S.  
8 Attorney's Office in Jacksonville and did so.

9 Q. And approximately how many -- I shouldn't say  
10 approximately -- how many pages long is that exemplar?

11 (Pause.)

12 A. This one's seven.

13 MR. McLELLAN: Begging the Court's indulgence.

14 (Pause.)

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

17 THE COURT: Mr. Barnes?

18 MR. BARNES: Yes, Your Honor. Thank you.

19 CROSS-EXAMINATION

20 BY MR. BARNES:

21 Q. Good morning, Mr. Lalli.

22 A. Good morning, sir.

23 Q. What -- the Fifth Amendment advisement that was referred  
24 to earlier, it's called advice of rights, correct?

25 A. That's correct.

1 Q. And could you read for the jury or tell the jury what that  
2 exactly says, verbatim?

3 A. I can read it from my rights card, if you wish.

4 Q. Sure. Go ahead. Take it out.

5 A. Would you like non-custodial or custodial?

6 Q. Which one did you read to Mr. Snipes?

7 A. Both.

8 Q. Okay. Read both.

9 A. "Non-custody statement of rights. At the outset of your  
10 first official meeting with the subject of an investigation,  
11 identify yourself as a special agent of the IRS and produce  
12 authorized credentials; then state, As a special agent, one of  
13 my functions is to investigate the possibility of criminal  
14 violations of the Internal Revenue laws and related offenses.

15 "In connection with my investigation of your tax liability  
16 or other matter, I would like to ask you some questions.  
17 However, first, I advise you that under the Fifth Amendment to  
18 the Constitution of the United States I cannot compel you to  
19 answer any questions or to submit any information if such  
20 answers or information might tend to incriminate you in any  
21 way.

22 "I also advise you that anything which you say and any  
23 documents which you submit may be used against you in any  
24 criminal proceeding which may be undertaken.

25 "I advise you further that you may, if you wish, seek the

1 assistance of any attorney before responding. Do you  
2 understand these rights?"

3 The in-custody statement of rights: "Before we ask you  
4 any questions, it is my duty to advise you of your rights.  
5 You have the right to remain silent. Anything you say can be  
6 used against you in court or other proceedings.

7 "You have the right to consult an attorney before making  
8 any statement or answering any question, and you may have an  
9 attorney present with you during questioning.

10 "You may have an attorney appointed by the U.S. Magistrate  
11 or the Court to represent you if you cannot afford or  
12 otherwise obtain one.

13 "If you decide to answer questions now with or without a  
14 lawyer, you still have the right to stop the questioning at  
15 any time or to stop the questioning for the purpose of  
16 consulting a lawyer.

17 "However, you may waive the right to advice of counsel and  
18 your right to remain silent, and you may answer questions or  
19 make a statement without consulting a lawyer if you do" -- "if  
20 you so desire."

21 Q. So you informed Mr. Snipes that he had the right not to  
22 submit any information to you or the IRS after that date,  
23 correct?

24 A. That's correct.

25 Q. And you told him that any information he submitted could

1 be used against him in court, correct?

2 A. That's correct.

3 Q. In fact, you are aware that a special agent gave the same  
4 advisement of rights to Mr. Rosile.

5 A. That was me, yes.

6 Q. Exactly.

7 And after that, Mr. Rosile chose to file some backdated  
8 returns that he had not previously filed, correct?

9 A. That's correct.

10 Q. And, in fact, those very returns are being used against  
11 him in this court in this very proceeding today?

12 A. I don't know if they have been presented yet but...

13 Q. They have been admitted into evidence.

14 A. Okay.

15 Q. That was your very first meeting with Mr. Snipes, correct?

16 A. The --

17 Q. That was --

18 A. I'm sorry?

19 Q. -- your first personal interaction with him?

20 A. On the phone?

21 Q. Yes.

22 A. Yes, sir.

23 Q. Had you met with him previously?

24 A. No.

25 Q. Had you talked to him on the phone previously?

1 A. No.

2 Q. Had you sent him a letter advising him that you were not  
3 going to regard his power of attorney anymore prior to that  
4 meeting?

5 A. No.

6 Q. Do you know if Mr. Snipes had received any conference  
7 concerning his civil remedies or civil issues prior to that  
8 meeting?

9 A. At that time, no.

10 Q. Had he received any audit prior to that meeting?

11 A. Not that I know of.

12 Q. Had he received any appeal prior to that meeting?

13 A. Not that I know of.

14 Q. Had he received any notice of deficiency prior to that  
15 meeting?

16 A. Not that I know of.

17 MR. BARNES: Let's go to Government Exhibit 87-11.  
18 Can we blow up the top half?

19 BY MR. BARNES:

20 Q. This was an affidavit of incompetency filled out by  
21 Mr. Snipes, correct?

22 A. Yes, sir.

23 Q. And it was filled out prior to your meeting with him,  
24 correct?

25 A. It was in his client file, so I assume so, yes.

1 Q. And the first letter that referenced this was of March of  
2 2000; do you remember that?

3 A. Yes.

4 Q. And in that letter he said that he -- in this affidavit he  
5 says he does not understand Title 26 of the Internal Revenue  
6 Code and does not understand Title 26, Code of Federal  
7 Regulations, correct?

8 A. That's what it says.

9 Q. How long have you been an employee of the Internal Revenue  
10 Service?

11 A. For over 20 years.

12 Q. Have you ever read the entire Internal Revenue Code?

13 A. No, sir.

14 Q. Have you ever read the entire Internal Code Regulations?

15 A. No, sir.

16 Q. Do you know of any IRS agent that ever has?

17 A. I don't know who would, no.

18 Q. Mr. Snipes is not a Certified Public Accountant, correct?

19 A. Not that I know of.

20 Q. He's not an attorney, correct?

21 A. Not that I know of.

22 Q. And in the letter -- he wrote a letter to the IRS  
23 informing them that he was relying on his power of attorney,  
24 correct?

25 A. I believe so.



1 Q. Earlier you were asked about pertinent documents. Did you  
2 find anything in the ARL file where ARL asked for anything  
3 from Mr. Snipes that Mr. Snipes did not provide to ARL?

4 A. All I found was his client file that we discussed and a  
5 yellow folder.

6 Q. So there was no letter in there from ARL to Mr. Snipes  
7 asking for any documents that he failed to provide?

8 A. I don't know if ARL requested that. I think there was  
9 something to some effect that he was sending the documents  
10 or...

11 Q. He sent the documents that they requested?

12 A. Yeah.

13 Q. Would you consider -- if someone had been advised that  
14 they can file a refund claim, would you consider their prior  
15 tax filings pertinent documents?

16 A. Uh-huh. Yes.

17 MR. BARNES: Could we go to Government Exhibit 87  
18 starting at SWS-3430? It will be 87SW-096-033 -- I'm sorry --  
19 -0340.

20 BY MR. BARNES:

21 Q. Did you find this information in the ARL file of  
22 Mr. Snipes?

23 A. I believe that's correct.

24 Q. And does it involve -- is it an IRS printout sheet?

25 A. It appears to be.

1 Q. And does it list various amounts that had been previously  
2 reported for Mr. Snipes?

3 A. Yes.

4 MR. BARNES: Can we go to the next page?

5 BY MR. BARNES:

6 Q. Is this another IRS printout sheet?

7 A. Yes.

8 Q. And does it also have various amounts that have been  
9 previously reported by his former CPAs for Mr. Snipes?

10 A. Yes.

11 MR. BARNES: Can we go to the next sheet?

12 BY MR. BARNES:

13 Q. Is that a similar kind of document?

14 A. Yes, sir.

15 MR. BARNES: Can we go to 3440? Can we go to the  
16 top?

17 BY MR. BARNES:

18 Q. Does this appear to be a -- the tax -- a tax return  
19 previously filed for Mr. Snipes -- part of a tax return  
20 previously filed for Mr. Snipes?

21 A. Yes, sir.

22 Q. And this was in the ARL file, correct?

23 A. Yeah, I believe it was.

24 MR. BARNES: Can we go to the next page?

25 BY MR. BARNES:

1 Q. This is part of that same former return?

2 A. Yes, sir.

3 MR. BARNES: Next page?

4 BY MR. BARNES:

5 Q. Part of the same former return?

6 A. Yes, sir.

7 MR. BARNES: Next page?

8 BY MR. BARNES:

9 Q. Part of the same former return?

10 A. Yes, sir.

11 MR. BARNES: Next page.

12 BY MR. BARNES:

13 Q. Part of the same former return?

14 A. Yes, sir.

15 MR. BARNES: Next page?

16 BY MR. BARNES:

17 Q. Part of the same former return?

18 A. Yes, sir.

19 MR. BARNES: Next page?

20 BY MR. BARNES:

21 Q. Part of the same former return?

22 A. Yes, sir.

23 MR. BARNES: Next page?

24 BY MR. BARNES:

25 Q. Part of the same former return?

1 A. Yes, sir.

2 Q. So, in fact, in the ARL file was a bunch of documents  
3 related to prior tax returns and income information that ARL  
4 had concerning Mr. Snipes, correct?

5 A. For that year, yes.

6 Q. And would a person's prior tax filing reporting be  
7 considered pertinent documents for the purposes of IRS  
8 records?

9 A. Well, to review that it would be, yeah.

10 Q. You mentioned that there were several ARL clients who --  
11 how many ARL clients -- well, one question before that.

12 Mr. Snipes was not an employee of ARL, correct?

13 A. Not that I know of.

14 Q. He was not a director of ARL, correct?

15 A. Not that I know of.

16 Q. He was a fee-paying client of ARL, correct?

17 A. Correct.

18 Q. And there were thousands of other fee-paying clients  
19 across the country, correct?

20 A. Correct.

21 Q. Some of those clients also filed 861 refund requests,  
22 correct?

23 A. They did.

24 Q. And some of them received refunds?

25 A. True.

1 Q. And you were aware that Mr. Kahn and other members of ARL  
2 advertised the fact that other of their clients were receiving  
3 refunds, correct?

4 A. True.

5 MR. BARNES: Can we go to Government Exhibit 64-2?  
6 Can we go to the bottom? Can we highlight the jurat section?

7 BY MR. BARNES:

8 Q. Mr. Snipes, when he signed this, said that he could not  
9 under penalties of perjury say whether or not accountant  
10 Rosile's position was true, correct?

11 A. Well, based on what that is, that's an insertion but  
12 that's -- if you read that --

13 Q. That's what it says?

14 A. That's what it says.

15 MR. BARNES: Can you blow up the signature sections  
16 of both Mr. Snipes and Mr. Rosile?

17 BY MR. BARNES:

18 Q. Does the date listed appear to have been written by the  
19 same -- by Mr. Rosile who signed below?

20 A. It appears to be.

21 Q. And do you know whether Mr. Snipes saw the entire return  
22 prior to his signing it?

23 A. I have no idea.

24 MR. BARNES: Can we go to the next page? Can we go  
25 to the bottom middle and highlight "amounts previously

1 reported"?

2 BY MR. BARNES:

3 Q. There's a difference, is there not, between someone making  
4 a factual claim on a return and someone making a legal claim  
5 on a return, correct?

6 A. I don't know.

7 Q. You don't know?

8 A. No.

9 Q. What does that say by "amounts"?

10 A. "Amounts previously reported not from a taxable source per  
11 26 C.F.R. 1.861-8 paren F paren 1."

12 Q. So it does not say that Mr. Snipes never received any of  
13 these monies, correct?

14 A. I can only say what the statement is, sir. I -- I --

15 Q. The statement is that the amounts that were received and  
16 reported are just not from a taxable source per this legal  
17 interpretation of a regulation, is that --

18 A. They are claiming that it's not from a taxable source.

19 Q. Correct.

20 MR. BARNES: Can we go to the next page? Go to the  
21 top.

22 BY MR. BARNES:

23 Q. This is a page Mr. McLellan did not have you read, but I  
24 want to highlight the top under "regulation disclosure  
25 statement." What does that say?

1 A. "Use this form only to disclose items or positions that  
2 are contrary to Treasury regulations."

3 Q. So this was attached to the return, correct?

4 A. Uh-huh.

5 Q. And it said that this return was being submitted and it  
6 was contrary to Treasury regulations, correct?

7 A. Well, that's what the statement says, yes.

8 MR. BARNES: Can we go to the next page?

9 BY MR. BARNES:

10 Q. Was this an attachment that was included with this  
11 request?

12 A. Yes, sir.

13 Q. Can you read from the top all the way through the first  
14 four paragraphs?

15 A. "This return is being filed on the basis of the IRS  
16 Regulation 26 C.F.R. 1.861-8 which identifies all of the  
17 taxable sources of income within the United States of America  
18 as far as I have been able to determine. None of the receipts  
19 of this taxpayer came from any of these sources.

20 "Since according to 1.861-8 paren four the taxable source  
21 must first be determined before taxable income can be  
22 determined, these receipts must therefore be exempt from  
23 Subtitle A taxes. The calculation on the attached 1040,  
24 paren, 1040X form, reflect that position.

25 "Based on those calculations, these should be" -- "there

1 should be a complete refund of all monies paid in. Should the  
2 IRS disagree with this position, please schedule an  
3 Administrative Law Judge review on this matter pursuant to the  
4 Administrative Procedures Act, 5 U.S.C. 556 paren D.

5 "The IRS, under the Freedom of Information Act, has  
6 admitted that it is subject to the Administrative Procedures  
7 Act. That being the case, the courts have ruled in numerous  
8 cases that we would be entitled to a fair trial  
9 administratively. Some of the rulings are listed below."

10 Q. Did Mr. Snipes ever receive an Administrative Law Judge  
11 review?

12 A. I don't know if he did or not.

13 Q. Okay. You told him he was under criminal investigation  
14 before you even found out if he did?

15 A. Right.

16 Q. And does this also have a quote of a court case? I  
17 believe Mr. McLellan called them "legally-looking citations."

18 A. Are you speaking about Russell Newman Manufacturing  
19 Company?

20 Q. Exactly, all of these court cases here.

21 A. Right. Right.

22 Q. And those are similar to the kinds of court cases that the  
23 IRS said in a few letters to Mr. Kahn or Mr. Rosile?

24 A. I believe so, yes.

25 Q. And when you were searching for the letters that were from



1 the IRS to Mr. Kahn or Mr. Rosile citing court cases, did you  
2 find them placed in a "funny box"?

3 A. You know, I don't know what the "funny box" is, sir. I'm  
4 a criminal investigator, and I'm -- I'm not at the Service  
5 Center. And I don't know the processes of --

6 Q. If you --

7 MR. McLELLAN: Your Honor --

8 BY MR. BARNES:

9 Q. Oh. Go ahead.

10 MR. McLELLAN: -- the witness isn't being allowed to  
11 answer the questions.

12 THE COURT: You interrupted him, Mr. Barnes.

13 Finish your answer, Agent Lalli.

14 THE WITNESS: I don't know what I was going to  
15 finish.

16 THE COURT: Put another question.

17 BY MR. BARNES:

18 Q. If someone's going to challenge total tax liability, then  
19 one procedure to do so is to put zero on a 1040X, correct?

20 A. I guess they could do that. I don't know if that's the  
21 way to do it, but I guess they could.

22 Q. Okay.

23 MR. BARNES: Can we go to Government Exhibit 87-20?

24 BY MR. BARNES:

25 Q. This was a letter attorney -- Attorney McLellan asked you

1 about this. He mentioned the name. What -- Mr. Baxley is a  
2 lawyer, correct?

3 A. Yes, sir.

4 Q. Okay.

5 A. Was a lawyer.

6 Q. The -- can you read what it says under "my request is  
7 this"?

8 A. "Please issue a letter of determination as to whether or  
9 not my client was made liable for the individual income tax  
10 imposed by 26 U.S.C. Section 1 for each of the above-listed  
11 years."

12 Q. And the next paragraph?

13 A. "I hereby request a copy of the findings of fact and  
14 conclusions of law that you will use as a basis of your  
15 determination pursuant to the Administrative Procedures Act,  
16 specifically 5 U.S.C. 556 paren D. I ask for the  
17 determination letter to be sent within 30 days of the date on  
18 this letter. If more time is needed, please make a written  
19 request and it will be granted."

20 Q. Do you know if any such findings of fact and conclusions  
21 of law were ever sent to Mr. Snipes prior to your notice of  
22 criminal investigation?

23 A. I don't know.

24 Q. Did you do any research to do that before you put  
25 Mr. Snipes under criminal investigation?

1 A. All I had was the information from the IRS files that I  
2 received. I don't think I had received that.

3 MR. BARNES: Can we go to 87-21?

4 BY MR. BARNES:

5 Q. And this was a letter from CPA Brian Malatesta, correct?

6 A. Correct.

7 Q. And he was one of the people listed as having power of  
8 attorney for Mr. Snipes, correct?

9 A. Yes, sir.

10 Q. And Mr. Snipes was never told prior to your criminal  
11 contact that Brian Malatesta was in any way unauthorized to  
12 practice before the IRS, correct?

13 A. I don't know what Mr. Snipes was told, if he was --

14 Q. So, to your knowledge, he did not have that information at  
15 the time you told him he was under criminal investigation?

16 A. I have no idea.

17 Q. Okay. Can you go to the -- start reading from the second  
18 paragraph where it says --

19 A. "In" --

20 Q. Go ahead.

21 A. "In that there is a disagreement with the initial findings  
22 by the IRS, I am requesting an examination interview pursuant  
23 to 26 C.F.R. Section 601.105 B2 and IRS Publication Number 1.

24 26 C.F.R. Section 601.105, paren B, paren two, states" --

25 Q. Are you familiar with Publication Number 1, Mr. Lalli?

1 A. No.

2 Q. Okay. So you're not familiar with the publication titled  
3 "Your Rights as a Taxpayer"?

4 A. Well, I'm not intimately familiar with the form. I know  
5 that's what it is, but I couldn't...

6 Q. You haven't read it or reviewed it?

7 A. I probably skimmed it over the past 20 years but, you  
8 know, not recently, no.

9 Q. Okay. Can you read the next paragraph?

10 A. Starting with "two"?

11 Q. No. "Office examination."

12 A. "Office examination. I. Adjustments by Examination  
13 Division at Service Center. If the taxpayer requests an  
14 interview to discuss the proposed adjustments, the case is  
15 transferred to the taxpayer's district office. If the  
16 taxpayer does not agree to proposed adjustments, regular  
17 appellate procedures apply."

18 Q. And does it -- what's the last paragraph say?

19 A. "The older Publication Number 1 included a flowchart, copy  
20 attached, showing that upon disagreement with the initial  
21 findings of the IRS, the first step of the process is the  
22 examination interview. In that the IRS has presumed my client  
23 has a tax liability, I am requesting an examination interview  
24 to investigate and determine whether or not there is a tax  
25 liability. I ask that you respond to my request for an

1 examination interview within 30 days."

2 Q. In fact, prior to you giving notice to Mr. Snipes that he  
3 was under criminal investigation, this examination interview  
4 never took place, correct?

5 A. I have no idea if it did or not.

6 MR. BARNES: Can we go to the next page? The next  
7 page? And the next one? That's okay.

8 Can we go to 87-22?

9 BY MR. BARNES:

10 Q. And is this a letter from the national office in response  
11 to Mr. Snipes' request?

12 A. Yes, sir.

13 Q. And that request was to identify which law made him liable  
14 to file a tax and pay -- to file a return and pay tax,  
15 correct?

16 A. I assume so.

17 Q. And does this letter say that they can't answer his  
18 question?

19 A. It's telling him they don't issue determination letters,  
20 and that's not...

21 Q. Okay.

22 MR. BARNES: 87-23.

23 BY MR. BARNES:

24 Q. Was this a response by Attorney Baxley on behalf of  
25 Mr. Snipes to that letter?

1 A. Appears to be, yes.

2 Q. And what does he say in the second paragraph?

3 A. "We did not submit an application for permission to change  
4 my client's accounting period for federal income tax purposes.  
5 Therefore, the entire content and focus of your letter are  
6 irrelevant and non-responsive to our letter requesting a  
7 determination of status for Wesley T. Snipes for 1999, 2000."

8 Q. And what does the next paragraph say?

9 A. "We are resubmitting a copy of the original letter  
10 requesting a determination of status and also the original  
11 check pursuant to the fee schedule for determination letters.  
12 We ask that you respond appropriately and provide my client  
13 with a determination of status letter declaring his lawful  
14 status regarding the individual income tax."

15 MR. BARNES: Can we go to Government Exhibit 98-2?  
16 I'm sorry. 98-1.

17 BY MR. BARNES:

18 Q. Does this appear to be a response letter of October 1,  
19 2001, to Mr. Baxley's request of July 25, 2001?

20 A. Appears to be, yes.

21 MR. BARNES: And can we go down -- scroll down to  
22 that fourth paragraph.

23 BY MR. BARNES:

24 Q. You do remember that the letter was asking whether  
25 Mr. Snipes had to file a return or what tax he was liable for,

1 correct?

2 A. Yes, sir.

3 Q. What is the fourth -- please read the fourth paragraph.

4 A. Is that "we" or "based upon"? I don't know. I -- I can't  
5 see the top, if that's the fourth paragraph or not.

6 Q. Oh. I'm sorry. It's where it says "we have checked" --

7 A. "We have"? "We have checked our files and found that  
8 Mr. Snipes has not filed returns for the years 1999 and 2000.  
9 Since these returns have not been filed, they are not under  
10 the jurisdiction of the area manager. Regrettably, since your  
11 request does not meet the requirements of Section 6 of Revenue  
12 Procedure 2001-1, we cannot respond to your concerns."

13 Q. So the IRS told Mr. Snipes they couldn't answer his  
14 questions about whether he had to file a return until he filed  
15 a return?

16 A. I guess, sir. I -- I really don't know. It seems to me  
17 they're responding to his previous request but...

18 Q. I'm going to show you some exhibits, defense exhibits,  
19 that come from the ARL files searched, and I would ask that  
20 you review those.

21 Do you recognize Exhibit 230? Is there a Bates number on  
22 the bottom right-hand corner?

23 A. SW033-00097?

24 Q. And does that come from the search warrant files of ARL?

25 A. I assume it would -- it did since it has a Bates number on

1 it.

2 Q. Okay. Can you go to Defense Exhibit 232? Does that have  
3 a -- how many pages is that? Is it just two pages, the top --

4 A. Two, yes, sir.

5 Q. And is there a similar Bates number on the bottom  
6 right-hand corner?

7 A. Yes, sir.

8 Q. And did this also come from the ARL business records?

9 A. I'm assuming based on the Bates number.

10 Q. Can you go to Defense Exhibit 235? And is that a  
11 four-page attachment, four pages?

12 A. Yes, sir.

13 Q. And did this also -- does this also have a search warrant  
14 Bates number on the bottom?

15 A. Yes, sir.

16 Q. Did this also come from ARL's business records?

17 A. I'm assuming so, yes.

18 Q. Go to Defense Exhibit 236. Does this also have a search  
19 warrant Bates number on the bottom?

20 A. Yes, sir.

21 Q. Did this also come from ARL's business records?

22 A. I'm assuming so, yes.

23 Q. Defense Exhibit 237. Does this also have a search warrant  
24 Bates number on the bottom right-hand corner?

25 A. Yes, sir.



1 Q. Did this also come from the ARL search warrant?

2 A. I'm assuming so.

3 Q. Defense Exhibit 240. Did this -- does this also have a  
4 search warrant Bates number on the bottom right-hand corner?

5 A. Yes, sir.

6 Q. Did this also come from the search warrant executed at  
7 ARL?

8 A. I'm assuming it did.

9 Q. Defense Exhibit 246.

10 A. Yes, sir.

11 Q. Does this also have a search warrant Bates number on the  
12 bottom right-hand corner?

13 A. Yes, sir.

14 Q. And did this also come from the search warrant executed on  
15 ARL's business records?

16 A. I'm assuming it did.

17 Q. Go to Defense Exhibit 253. Does this also have a search  
18 warrant Bates number on the bottom right-hand corner?

19 A. Yes, sir.

20 Q. And did this also come from the ARL search warrant  
21 business records?

22 A. I'm assuming so.

23 Q. Can you go to Defense Exhibit 254? Did this -- does this  
24 also have a search warrant Bates number on the bottom  
25 right-hand corner?

1 A. Yes, sir.

2 Q. And did this also come from the search warrant on ARL's  
3 business records?

4 A. I'm assuming so.

5 Q. Go to Defense Exhibit 267.

6 A. Yes, sir.

7 Q. Does this also have a search warrant Bates number on the  
8 bottom right-hand corner?

9 A. Yes.

10 Q. And did this also come from the search warrant executed at  
11 ARL?

12 A. I'm assuming so.

13 Q. Go to Defense Exhibit 271.

14 A. Yes, sir.

15 Q. Does this also have a search warrant Bates number on the  
16 bottom right-hand corner?

17 A. Yes, sir.

18 Q. And did this also come from the search warrant executed on  
19 the business records of ARL?

20 A. I'm assuming so.

21 Q. Can you go to Defense Exhibit 286?

22 A. Yes, sir.

23 Q. Does this also have a search warrant Bates number on the  
24 bottom right-hand corner?

25 A. Yes, sir.

1 Q. And did this also come from the search warrant executed on  
2 ARL's business records?

3 A. I'm assuming so.

4 Q. Go to Defense Exhibit 306.

5 A. Yes, sir.

6 Q. Does this also have a search warrant Bates number on the  
7 bottom right-hand corner?

8 A. Yes, sir.

9 Q. And did this also come from a search warrant executed on  
10 ARL's business records?

11 A. I'm assuming so.

12 Q. Go to Defense Exhibit 308.

13 A. Yes, sir.

14 Q. Does that also have a search warrant Bates number on the  
15 bottom right-hand corner?

16 A. Yes, sir.

17 Q. And did this also come from ARL's search warrant executed  
18 on ARL's business records?

19 A. I'm assuming so.

20 MR. BARNES: Your Honor, move at this time for the  
21 admission of Defense Exhibit 230, 232, 235, 236, 237, 240,  
22 246, 253, 254, 267, 271, 286, 306, and then last 308.

23 MR. McLELLAN: Objection, Your Honor.

24 THE COURT: What's the objection, Mr. McLellan?

25 MR. McLELLAN: On the grounds of relevance.

1           THE COURT: Well, let me reserve ruling on that  
2 grounds of objection until I can hear further from counsel,  
3 Mr. Barnes, and I may have to examine the exhibits in order to  
4 pass on the objection.

5           Can you continue your examination without going into  
6 those exhibits?

7           MR. BARNES: Yes, Judge.

8 BY MR. BARNES:

9 Q. You earlier previously mentioned that when you issue a  
10 summons, it's enforceable by you. Did I understand that  
11 correctly?

12 A. Well, they are to appear before me or a designate of the  
13 Internal Revenue Service.

14 Q. But the only person who has the power to enforce a summons  
15 is a Federal District Court Judge, correct?

16 A. I assume so, sir.

17 Q. And the same with a grand jury subpoena: A grand jury  
18 subpoena can only be enforced by a Federal District Court  
19 Judge, correct?

20 A. Okay.

21 Q. And at any of those summonses or subpoenas that you issued  
22 that you mentioned where you did not get a response, did you  
23 ever issue a petition to enforce or have a petition to enforce  
24 the summons be brought before a Federal District Court Judge?

25 A. No, sir.

1 Q. And did you ever bring a motion to hold anybody in  
2 contempt for not complying before a Federal District Court  
3 Judge?

4 A. No, sir.

5 Q. And what you told Mr. Snipes was that he had a right not  
6 to produce any documents pursuant to the advice of rights you  
7 gave him, correct?

8 A. That's correct.

9 Q. Would you go to -- by the way, when you went to speak with  
10 Mr. Snipes, did you go knock on his door at the Windermere  
11 home?

12 A. I tried.

13 Q. Nobody was there?

14 A. No one was home at the time.

15 THE COURT: I'm sorry, I didn't --

16 THE WITNESS: No one was home at the time,  
17 Your Honor. I did try.

18 MR. BARNES: Can we go to Government Exhibit 87-31?  
19 Can we go to the top there?

20 BY MR. BARNES:

21 Q. There were some addresses that the prosecutor had you  
22 read. I want to have you read some others.

23 What is the address there at the top left-hand corner of  
24 that power of attorney for Mr. Snipes?

25 A. 301 North Cannon Drive, Suite 228, Beverly Hills,

1 California.

2 MR. BARNES: Can we go to Government Exhibit 87-36?

3 Can we go down to the middle?

4 BY MR. BARNES:

5 Q. What address did Mr. Snipes list for his address on this  
6 renewal application to ARL?

7 A. 235 West 48th Street, Number 36-J, New York, New York.

8 Q. When you were dealing with an attorney, the attorney that  
9 you were dealing with to contact Mr. Snipes about the  
10 advisement of his rights, that attorney was located in  
11 New York City, correct?

12 A. That's correct.

13 Q. And you saw various phone numbers on faxes and other  
14 things in the ARL file. Those phone numbers were either 310  
15 or 212; do you remember that?

16 A. Yes.

17 Q. And those area codes relate to Los Angeles, California,  
18 and New York City, correct?

19 A. Correct.

20 MR. BARNES: Can we go to Government Exhibit 87-40?

21 BY MR. BARNES:

22 Q. This is something from -- involving the Florida tax  
23 issues?

24 A. Yes, sir.

25 Q. Can you go to the taxpayer record shown above, "County

1 of"? What "County of" do they have listed?

2 Does it say "out of state?" You see that, the second  
3 paragraph?

4 A. Yes. "Out of state," it says.

5 Q. In fact, the State of Florida had Mr. Snipes as in  
6 New York -- the top left-hand corner -- is that correct?

7 A. That's the address of his business office.

8 Q. They did not have Mr. Snipes living in the County of  
9 Orange, correct?

10 A. No. That says "out of state."

11 MR. BARNES: Can we go to Government Exhibit 87-42?  
12 Can we scroll down to the middle left and blow up the  
13 left-hand side? Thank you.

14 BY MR. BARNES:

15 Q. This was a renewal with ARL to remain a fee-paying client  
16 of ARL --

17 A. Yes, sir.

18 Q. -- correct?

19 And what street address did Mr. Snipes list?

20 A. 235 West 48th Street, Number 36-J, New York, New York.

21 Q. And what list did he -- what number did he put next to  
22 "home phone number"?

23 A. Well, that says 310-229-8905.

24 Q. And that is a Los Angeles-based area code, correct?

25 A. I don't know if it is or not, sir. I...

1           MR. BARNES: Your Honor, may we break for lunch a  
2 little early to review the exhibits?

3           THE COURT: You're referring to the exhibits that  
4 you've offered?

5           MR. BARNES: Yes, Judge.

6           THE COURT: Well, all right. Members of the jury,  
7 it seems we have fallen into this routine of stopping a little  
8 early for lunch, and I see no reason not to now so that I can  
9 take this matter up with counsel.

10           We'll pause for lunch until 1:15 this afternoon as  
11 usual.

12           (Jury absent.)

13           THE COURT: You may step down, Agent Lalli. We'll  
14 be in recess for lunch, as far as you're concerned, until  
15 1:15.

16           Be seated, everyone, please.

17           Mr. Barnes, give me a generic description, please,  
18 of what these exhibits are or they -- okay. I have just been  
19 handed them by the Clerk.

20           (Pause.)

21           THE COURT: Well, we may have to take these one at a  
22 time. Exhibit 230 appears to be a resume of one Ray Pope. My  
23 recollection of the exhibits, Mr. McLellan, is that Mr. Pope  
24 was, according to one of the government's exhibits, designated  
25 by Mr. Snipes as his representative.



1 MR. McLELLAN: Yes, Your Honor.

2 THE COURT: What's the basis of the objection?

3 MR. McLELLAN: This is a document that doesn't  
4 appear in any file related to Mr. Snipes. It's just, you  
5 know, among various papers in the 259 boxes seized at the  
6 office, Your Honor.

7 I mean, there's no showing, Your Honor, for example,  
8 that there's any way in which this thing was ever shown to  
9 Mr. Snipes.

10 THE COURT: What do you say to that, Mr. Barnes?

11 MR. BARNES: Your Honor, the government introduced  
12 various evidence, including evidence of other client files who  
13 were -- none of whom are defendants here.

14 They also introduced evidence about Mr. Kahn's  
15 seminar presentations, and many of these documents relate  
16 to -- presumably the government was introducing that evidence  
17 as it goes to state of mind and it's business record evidence  
18 and that its relevance was that it goes to the tax beliefs and  
19 activities of ARL. These documents all relate to that in some  
20 form.

21 As to Attorney Pope's resume, this was his resume  
22 stored there, and he was the attorney listed as power of  
23 attorney.

24 In addition, he's one of the people who wrote a  
25 letter back on behalf of Mr. Snipes to the IRS that was

1 referenced in Mr. McLellan's direct examination. So we would  
2 suggest that Exhibit 230 is relevant on the purposes to show  
3 who Attorney Pope is.

4 If the government's position is that there is no  
5 relevance unless Mr. Snipes was shown it, then we would  
6 request a 105 instruction as to all the evidence they  
7 introduced where they did not make that predicate foundational  
8 finding.

9 THE COURT: Well, the difficulty with it is, I would  
10 now have to pick and choose through those exhibits offered by  
11 the government to which, as I recall, there was no objection  
12 on the grounds of relevance or any other ground, with one or  
13 two discrete exceptions, and I made my ruling, in fact,  
14 sustaining the objection as to one or two of those exhibits,  
15 as I recall.

16 And in most of the government's exhibits, though,  
17 that I've had occasion to see published with the jury, there  
18 was evidence either inherently in the document or otherwise  
19 from one -- from which one could at least infer that  
20 Mr. Snipes either generated or adopted by his own signature or  
21 received, so it seems to me -- unless there's some way to  
22 directly correlate these exhibits to the government's  
23 exhibits, absent either evidence or testimony from which one  
24 could infer, at least, that Mr. Snipes either generated or  
25 relied upon the document, it seems to me the government

1 objection may be well taken.

2 Let's lay that one aside for a moment. For example,  
3 now, that brings us to Defense Exhibit 232. My recollection  
4 is there was a government exhibit which purported to be  
5 addressed to Mr. Snipes from which an inference could at least  
6 be drawn that he received it that made reference to this  
7 document, Mr. McLellan. Am I mistaken about that?

8 This is Exhibit 232, which is a document entitled  
9 "Your Rights as a Taxpayer." It appears to be a document  
10 generated by the Internal Revenue Service.

11 MR. McLELLAN: You are correct, Your Honor, that it  
12 is referenced in some of the exhibits that the government has  
13 been presenting.

14 THE COURT: I'd be inclined to overrule the  
15 objection as to that one, then, and receive it in evidence as  
16 Government Exhibit 232, Madam Clerk.

17 Two thirty-five.

18 MR. BARNES: As to the remainder of the exhibits,  
19 Your Honor, I could try to establish a foundation through the  
20 witness and ask him whether they mentioned -- the government  
21 brought up Mr. Kahn presenting seminars, and they presented  
22 some exhibits relevant to those seminars -- whether he is  
23 aware that these were some of the documents that Mr. Kahn  
24 would give out at those seminars.

25 THE COURT: Well, okay. Without commenting on what

1 the effect of that would be on my ruling, if you wish to  
2 pursue the predicate, I'll reserve ruling on these exhibits,  
3 then, Mr. Barnes, and we'll all go to lunch.

4 MR. BARNES: Thank you, Judge.

5 (The luncheon recess was taken.)

6 (Jury absent.)

7 THE COURT: Did you speak with Mr. Kahn this  
8 morning?

9 MARSHAL RIVERA: Yes, I did, Your Honor, at 7:10  
10 this morning. And I asked Mr. Kahn if he was going to  
11 participate in the trial. I handed him the transcript. He  
12 took the transcript and he refused to participate.

13 THE COURT: All right. Thank you.

14 MARSHAL RIVERA: You're welcome.

15 THE COURT: Seat the jury, please.

16 (Jury present.)

17 THE COURT: Thank you. Be seated, members of the  
18 jury. Are there any meatballs left over? There are.

19 Mr. Barnes.

20 MR. BARNES: Yes, Your Honor.

21 THE COURT: You may continue.

22 BY MR. BARNES:

23 Q Good afternoon, Mr. Lalli.

24 A Good afternoon, sir.

25 Q You mentioned an exhibit when the government was on direct

1 examination about seminars done by Mr. Eddie Kahn; correct?

2 A Yes, sir.

3 Q Did you look or do you have any knowledge of what  
4 documents Mr. Kahn would pass out at those seminars?

5 A Not specifically, no.

6 Q Do you have any general sense of what documents were  
7 passed out at those seminars?

8 A I -- no, not -- fliers; and I couldn't be specific on what  
9 they were.

10 Q Did you -- did they include letters from the IRS about  
11 people not having to file returns or pay tax? Do you remember  
12 that?

13 A They could have.

14 Q But did you, yourself, review any of those?

15 A I might have. I don't remember them specifically, but --

16 Q Let me show you what is marked at Defense Exhibit 235.  
17 This is a -- some documents seized from the ARL business  
18 records when you executed your search warrant; correct?

19 A According to the Bates stamps at the bottom.

20 Q Is this similar to the documents that Mr. Kahn would  
21 distribute at his seminars?

22 A I don't know if they are or not, sir.

23 Q Did the documents -- do they include language similar to  
24 what Mr. Kahn would refer to at his seminars about not being  
25 legally required to file or pay from the IRS?

1 A Well, I would have to read each one of these letters. I  
2 -- you know, my understanding, the seminars that he would  
3 conduct was to that effect, that you didn't have to file and  
4 pay taxes.

5 Q And he would show people documents from the IRS that he  
6 said confirmed his point of view?

7 A Yes, sir.

8 Q And is this one of those documents?

9 A Well, I don't know if these are the specific documents  
10 that he would do that.

11 Q Okay. Let me show you what's been marked as Defense  
12 Exhibit 236. Do you recognize that document?

13 A Not specifically, I don't.

14 Q Okay. Were you aware that Mr. Kahn had requested that the  
15 IRS attend his seminars?

16 A I was aware that he had done that; not with this specific  
17 letter, but I was aware that he had requested that people  
18 attend his seminars.

19 Q And that he asked that of the IRS commissioner back in  
20 1998? Were you aware of that?

21 A I don't know the exact day.

22 Q Let me show you what is marked as Defense Exhibit 246.  
23 Are you familiar with that document?

24 A Once again, sir, I'm --

25 Q You are not sure which documents Mr. Kahn passed out?

1 A That's correct. I did not attend any of his seminars. I  
2 have no idea what he passed out. I know that it was under the  
3 subject of not having to file and pay taxes.

4 Q And you know that he passed out various documents that he  
5 said supported his position, which were addressed from the IRS  
6 to taxpayers?

7 A I believe that he did.

8 Q You earlier referenced refund checks being issued to  
9 various ARL clients; correct?

10 A Yes, sir.

11 Q And that was based on filing the same 861 or similar 861  
12 claim as what Mr. Snipes filed?

13 A That's correct.

14 Q The difference was Mr. Snipes' claim struck out the  
15 perjury jurat, and put under no penalties of perjury?

16 A Correct.

17 Q Mr. Snipes never received any refund from the IRS for that  
18 claim, right?

19 A That's correct.

20 Q Were you aware of where Mr. Snipes was located or whether  
21 he was overseas filming between the times of March of 2001 and  
22 June of 2001?

23 A I have no idea where Mr. Snipes was during that time  
24 period.

25 MR. BARNES: Can we go to Government's Exhibit 16.

1 It will be WS 0398.

2 BY MR. BARNES:

3 Q Did you review the New Line payroll records as part of  
4 your investigation?

5 A I did.

6 Q And did you review the individual billing sheets for  
7 Mr. Snipes during that period of time?

8 A I did.

9 MR. BARNES: Could we go to WS 03980. Try WS 0 --  
10 okay. I will come back to it.

11 BY MR. BARNES:

12 Q So did you review where Mr. Snipes was filming for those  
13 New Line projects during the periods of time between March of  
14 2001 and June of 2001?

15 A In reviewing the documentation, if you are referring to  
16 the payroll, I was concerned with the amount of money coming  
17 in. I was not concerned about where he was filming or where  
18 he was located.

19 Q Okay. In the course of your review, your investigation,  
20 did you do a review of IRS files?

21 A Yes, sir.

22 Q Did you find that any of Mr. Snipes' letters or documents  
23 had ever been shredded by anyone at the IRS?

24 A I know that from the module that shows the history or  
25 where the IRS personnel can put history items into -- on the



1 computer to show either tracking or receipt of correspondence  
2 or forms or whatever, there was a comment on -- it didn't say  
3 "shredding." It said "destroyed."

4 Q What methods do they use to destroy a person's letters or  
5 documents?

6 A I have no idea how they destroy items.

7 MR. BARNES: Can we go to Government's Exhibit  
8 87-15.

9 BY MR. BARNES:

10 Q I believe this was referred to as a "warning" by Attorney  
11 McLellan. What does that say at the top? Does it say  
12 "Request for Your Tax Return"?

13 A In the middle, yes, sir.

14 Q Okay. And can we go to 87-26.

15 Are you familiar with the term CP-515? Is that a term you  
16 are familiar with?

17 A I just know that they refer to the notices that go out.

18 Q Are you aware that the words "CP" means "computer  
19 processed"?

20 A I am not aware of that, but -- I just know it as "CP." I  
21 just assume that it goes with the notice number that goes out,  
22 and somehow it's associated with a form that goes out. That's  
23 all I know.

24 Q This is just a form letter?

25 A It is a form letter.

1 MR. BARNES: Can you go to highlight paragraph four.

2 BY MR. BARNES:

3 Q Can you please read that paragraph.

4 A "If you think you are not required to file this return,  
5 please explain why on the back of the tear-off stub at the  
6 bottom of this letter and send it to us."

7 MR. BARNES: Can we go to Government's Exhibit  
8 87-27.

9 BY MR. BARNES:

10 Q Does this appear to be a response letter to that notice?

11 A It looks like that.

12 Q Can you read -- can we highlight paragraph two.

13 Could you read that paragraph?

14 A "In your letter, you state that if my client is not  
15 required to file a return to explain why. According to the  
16 director of the Internal Revenue Service Center in  
17 Philadelphia, the law does not require individuals to file a  
18 Form 1040. If this director is incorrect pursuant to 5 USC  
19 Section 556(d), please provide me with the public law that  
20 requires my client to file a Form 1040. Upon receipt of the  
21 copy of that law, I will advise my client to fill out and  
22 submit a Form 1040."

23 MR. BARNES: Can you go to the last paragraph.

24 BY MR. BARNES:

25 Q Can you read that?

1 A "My intention is to assist you in this matter. I will  
2 advise my client to pay in full any tax claim due upon your  
3 timely proof of claim."

4 Q Let me show you what is marked as Defense Exhibit 232.  
5 Is this the document I was referring to earlier, called  
6 Publication Number One, "Your Rights As a Taxpayer"?

7 A Yes, sir.

8 Q And this is the document you said you had scanned  
9 occasionally?

10 A Yes, sir.

11 MR. BARNES: Your Honor, I move for the admission of  
12 Defense Exhibit 232.

13 MR. McLELLAN: I believe that's been received, Your  
14 Honor.

15 THE COURT: I thought it was myself, Mr. Barnes.  
16 Just a moment.

17 THE DEPUTY CLERK: It's right here, Judge. We did  
18 receive it.

19 THE COURT: It is in evidence already.

20 MR. BARNES: Thank you, Judge.

21 BY MR. BARNES:

22 Q Can you read what it says at the top, starting with "Your  
23 Rights As a Taxpayer."

24 A "The first part of this publication explains some of your  
25 most important rights as a taxpayer. The second part explains

1 the examination, appeal, collection and refund processes."

2 Q And what does it say under "Declaration of Taxpayer  
3 Rights," starting with Category I?

4 A "Protection of Your Rights."

5 Q What does it say under that?

6 A "IRS employees will explain and protect your rights as a  
7 taxpayer throughout your contact with us."

8 Q Category II?

9 A "Privacy and confidentiality. The IRS will not disclose  
10 to anyone the information you give us, except as authorized by  
11 law. You have the right to know why we are asking you for  
12 information, how we will use it, and what happens if you do  
13 not provide requested information."

14 Q And can you read what it says under "The IRS mission."

15 A "Provide America's taxpayers top-quality service by  
16 helping them understand and meet their tax responsibilities  
17 and by applying the tax law with integrity and fairness to  
18 all."

19 Q Can you read what it says under "Payment of Only the  
20 Correct Amount of Tax."

21 A "You are responsible for paying only the correct amount of  
22 tax due under the law; no more, no less. If you cannot pay  
23 all of your tax when it is due, you may be able to make  
24 monthly install meant payments."

25 Q Can you read what it says under "Appeals and Judicial

1 Review."

2 A "If you disagree with us about the amount of your tax  
3 liability or certain collection actions, you have the right to  
4 ask the appeals office to review your case. You may also ask  
5 a court to review your case."

6 Q Can you turn to page two. The top left-hand side, does it  
7 have "Examinations," and in parentheses "audits" right next to  
8 it?

9 A Yes, sir.

10 Q Is that because "audit" is the same thing as an  
11 examination?

12 A Yes, sir.

13 Q One of the methods it lists for examination is listed on  
14 the bottom left. One is by mail. What's the other method?

15 A Underneath that, by interview.

16 Q Can you read that paragraph.

17 A "If we notify you that we will conduct your examination  
18 through a personal interview or you request such an interview,  
19 you have the right to ask that the examination take place at a  
20 reasonable time and place that is convenient for both you and  
21 the IRS. If our examiner proposes any changes to your return,  
22 he or she will explain the reasons for the changes. If you do  
23 not -- "

24 Q Does that start again at the beginning of the second  
25 column.

1 A Yes, sir. "Agree with these changes, you can meet with  
2 the examiner's supervisor."

3 Q Is there a section that begins "Appeals"?

4 A Yes, sir.

5 Q And what does that say?

6 A "If you do not agree with the examiner's proposed changes,  
7 you can appeal them to the appeals office of IRS."

8 Q And is there a section under "Refunds"?

9 A Yes, sir.

10 Q And could you read that.

11 A "You may file a claim for refund if you think you paid too  
12 much tax. You must generally file the claim within three  
13 years from the date you filed your original return or two  
14 years from the date you paid the tax, whichever is later. The  
15 law generally provides for interest on your refund if it is  
16 not paid within 45 days of the date you filed your return or  
17 claim for refund."

18 Q And at the time you warned Mr. Snipes that he was under  
19 criminal investigations and gave him the advice of his right  
20 to remain silent, Mr. Snipes had not received any examination  
21 interview, conference or appeal; correct?

22 A I don't know if he did or not.

23 Q So you didn't even investigate to find out if he did?

24 A Well, from the information that I had, I was going off the  
25 false claim filed and failure to file '99 and 2000 tax

1 returns.

2 Q So you didn't investigate what correspondence he had sent  
3 into the IRS?

4 A Whatever information that I received from our databases at  
5 that time. And I don't know if that information was received  
6 or not.

7 Q So you don't even remember?

8 A Correct.

9 MR. BARNES: One moment, Your Honor.

10 No further questions, Your Honor.

11 THE COURT: Mr. Wilson.

12 CROSS-EXAMINATION

13 BY MR. WILSON:

14 Q Good afternoon, Special Agent Lalli.

15 A Good afternoon, sir.

16 Q Is it Lalli?

17 A Lalli.

18 Q My name is David Wilson. I am the attorney for  
19 Mr. Rosile, and I just have a few questions to follow-up and  
20 ask you with respect to your investigation of Mr. Rosile.

21 Now, you indicated that you are a special agent with the  
22 Internal Revenue Service; is that right?

23 A That's correct.

24 Q Okay. And you have been employed by the Internal Revenue  
25 Service for approximately 20 years?

1 A That's correct.

2 Q Okay. Has your entire tenure with the Internal Revenue  
3 Service been in criminal investigations?

4 A No, sir.

5 Q Okay. How long have you been in criminal investigations?

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

7 Q Okay. And at some point in time, I assume you had some  
8 training with respect to investigative techniques; is that  
9 right?

10 A Yes, sir.

11 Q Okay. And part of your training, you attended the Federal  
12 Law Enforcement Training Center, or FLETC, in Glenco, Georgia;  
13 is that right?

14 A Yes, sir.

15 Q Okay. And how long of a program is that?

16 A Approximately six months.

17 Q Okay. And during your six months there, you were taught  
18 investigative techniques, were you not?

19 A Yes, sir.

20 Q Okay. And besides your training at Glenco, Georgia, do  
21 you have any other investigative-type training?

22 A I was with the criminal investigation division as a tax  
23 fraud investigator aid for a couple of years, so I did go to  
24 that training at Glenco, also.

25 Q And as part of your training in investigating alleged



1 criminal activity, you are taught to be thorough; is that  
2 right?

3 A Yes, sir.

4 Q And being thorough in your investigation is extremely  
5 important, is it not?

6 A Yes, sir.

7 Q Okay. Both because a thorough investigation can prove  
8 that an individual has, in fact, committed the act that's  
9 being investigated, right?

10 A Right.

11 Q And in the same vein, it could also prove that an  
12 individual being investigated may not have committed the acts  
13 that they are suspected of?

14 A That's true.

15 Q How long have you been involved in the investigation of  
16 this particular case?

17 A Since April of 2002.

18 Q Okay. So is it fair to say coming up on five years?  
19 Actually, coming up on six years; is that correct?

20 A That's correct.

21 Q Okay. I assume that in the course of your investigating  
22 this organization, American Rights Litigators, you have  
23 conducted a complete examination of Mr. Rosile's involvement  
24 with the American Rights Litigators; is that right?

25 A That's correct.

1 Q Okay. And you were able to determine the time period that  
2 Mr. Rosile was involved or associated with the American Rights  
3 Litigators, were you not?

4 A That's true.

5 Q Okay. And what were the dates that Mr. Rosile was  
6 affiliated with American Rights Litigators?

7 A Well, I believe, you know, his involvement with the 861  
8 amended claims, I show dates of filings approximately March or  
9 April of '01 through the end of December of '01. I think  
10 there was a few months after that into '02 that we saw some  
11 claims filed. So it is probably March of '02, April of '02.

12 Q So your investigation revealed to you that Mr. Rosile was  
13 affiliated with American Rights Litigators in preparing 861  
14 returns from April of 2001 through April 2002; is that  
15 correct?

16 A Approximately, yes.

17 Q Okay. Were you able to establish or locate any documents  
18 that pertained to his departure or the time he ceased his  
19 relationship with American Rights Litigators?

20 A I believe there was a letter, two letters in there. I'm  
21 not sure of the dates, if that was in '02 or -- most likely,  
22 it had to have been in '02. There was some disagreement with  
23 one of the claims, of Mr. Rosile getting paid, and I don't  
24 recall the date. He wasn't getting paid from Eddie Kahn.

25 Q Okay. But in those letters, he indicated that he had

1 severed his relationship with American Rights Litigators?

2 A According to the letters, yes.

3 Q Now, you have discussed on direct examination, I believe,  
4 two injunctions; is that correct?

5 A Yes.

6 Q Okay. And one of the injunctions, obviously, involved  
7 Mr. Rosile; is that right?

8 A Correct.

9 Q And the other injunction was an injunction to pertain to  
10 Guiding Light of God Ministries and Eddie Kahn and some other  
11 individuals; is that right?

12 A Yes, sir.

13 Q Okay. And Mr. Rosile was not named as a defendant in that  
14 action, was he not?

15 A I don't think he was in that one.

16 MR. WILSON: Can we pull up Exhibit 64-2.

17 BY MR. WILSON:

18 Q Agent Lalli, I am asking you to look at Government's  
19 Exhibit 64-2. Obviously, this is the 1040X that we have been  
20 discussing that was prepared by Mr. Rosile, involved  
21 Mr. Snipes.

22 And I assume that you have reviewed this particular  
23 document quite a bit; is that right?

24 A Yes, sir.

25 Q And you are very familiar with the contents of the

1 document?

2 A Yes, sir.

3 Q Okay. Being that it's a 1040X, it is, I assume, a  
4 document that's filed to amend a prior income tax return; is  
5 that right?

6 A Yes, sir.

7 Q Okay. And the actual form that it's intended to amend is  
8 a Form 1040; is that right?

9 A Correct.

10 Q Okay. And I assume that you have reviewed the Form 1040  
11 that corresponds to this 1040X; is that right?

12 A Yes, sir.

13 MR. WILSON: Okay. And if we can go to the portion  
14 that has the amounts; 1, 2, 3, 4. Can you highlight that,  
15 please.

16 BY MR. WILSON:

17 Q In this document, in the first column, Number 1, there is  
18 a figure in the amount of I believe 19,238,192 dollars; is  
19 that right?

20 A Yes.

21 Q Okay. Were you able to establish that that number  
22 corresponded with the income that was reported on the 1040  
23 that this amends?

24 A I believe that's correct. I would have to see the return  
25 again, but I believe that's correct.

1 Q Well, you don't have any reason to believe it is  
2 incorrect?

3 A Right.

4 Q In other words, the numbers that are reflected in that  
5 first column, from 1 through 12, are consistent with the  
6 actual numbers that were initially reported on Mr. Snipes'  
7 1040 form?

8 A Yes, sir.

9 Q Okay. So there was no changing of those numbers?

10 A No.

11 Q Now, the change occurs when the 861 position is  
12 interposed, and then the numbers that were previously reported  
13 then become negative numbers; is that right?

14 A Yes, sir.

15 Q Okay. And the -- obviously, the effect of that is to make  
16 the tax liability zero?

17 A Yes, sir.

18 Q Okay. And, in essence, then seek a refund of money that  
19 was actually paid into the government?

20 A Yes.

21 Q Okay. And in the numbers that are reflected as negative  
22 numbers, they correspond to the positive numbers that were  
23 actually paid in or reported on the original 1040?

24 A Right.

25 MR. WILSON: Can we turn to the next page of that

1 document. In Part 2, there is a statement. I don't know if  
2 you can highlight the amounts previously reported.

3 BY MR. WILSON:

4 Q And this -- in essence, this is the statement that you  
5 have read into the record previously, that said: "Amounts  
6 previously reported not from a taxable source per 26 CFR  
7 1.861-8(f)(1)."

8 This is an explanation of the changes; is that correct?

9 A Yes, sir.

10 Q And below that, it says: "See attached." So there is a  
11 document that's attached to this form that further details  
12 that particular explanation of changes; is that right?

13 A Yes, sir.

14 MR. WILSON: Can we turn that to the next page,  
15 please. Can we scroll to the top of this page.

16 BY MR. WILSON:

17 Q Now, I know that you have been asked about this document  
18 previously, but I just want to follow up to make sure I  
19 understood your answers.

20 This document is an 8275-R; is that correct?

21 A Yes.

22 Q And this is, in fact, a form that is an IRS form; is that  
23 right?

24 A Yes, sir.

25 Q The form is provided by the IRS to taxpayers who request

1 it?

2 A Yes.

3 Q And if you can please just highlight the regulation  
4 disclosure statement.

5 And you are obviously familiar with this statement. You  
6 have read it into the record before. And, basically, it  
7 says -- directs or instructs the taxpayer to use the form to  
8 disclose items or positions that are contrary to Treasury  
9 regulations; is that right?

10 A Yes.

11 Q Okay. So would it be fair to say that this document  
12 contemplates that there are taxpayers who will adopt positions  
13 that are contrary to Treasury regulations?

14 A Yes, sir.

15 Q And below that, if you go down to Number 1, please, there  
16 is a portion that says general information. And the preparer  
17 has inserted in there "1-861;" is that correct?

18 A Yes.

19 MR. WILSON: Can we go to the next page, please.

20 BY MR. WILSON:

21 Q And, again, this is a document that you have read into the  
22 record. I am not going to ask you to do it again, but this  
23 document was, in fact, attached to the 1040X return and the  
24 8725-R form; correct?

25 A Yes, sir.

1 Q Okay. And the effect of this, the text of this document  
2 is, in fact, to inform the IRS the basis that is being adopted  
3 by the individual submitting this form; correct?

4 A I believe that's the reason for it.

5 Q And it's giving the option to the IRS to disagree. And if  
6 the Internal Revenue Service disagrees with the position being  
7 put forth in this document, it is requesting an administrative  
8 hearing, is it not?

9 A That is what that is requesting, yes, sir.

10 Q So would it be fair to say that an individual for the IRS  
11 who receives the 1040X and the attachments to it would be on  
12 notice as to the position being adopted by the person  
13 submitting the 1040X; in this case, Mr. Snipes?

14 A Yes.

15 Q Sir, you testified regarding a search warrant that was  
16 executed at the -- I think the Guiding Light of God Ministries  
17 location; is that right?

18 A Yes, sir.

19 Q Okay. And during the course of your search, I assume you  
20 were able to identify work areas for various individuals who  
21 worked for Guiding Light of God Ministries; is that right?

22 A Yes, sir.

23 Q Okay. In other words, you were able to determine that  
24 there was a particular desk that was utilized by a particular  
25 employee or individual that worked there; is that right?



1 A Yes.

2 Q Okay. Did you find a desk or a work station for  
3 Mr. Rosile?

4 A No.

5 Q During your direct examination, you testified regarding  
6 various power of attorney forms or POAs that were granted by  
7 Mr. Snipes to other individuals to handle or respond to tax  
8 matters on behalf of Mr. Snipes; is that right?

9 A Yes.

10 Q And the individuals that I saw identified as recipients of  
11 the power of attorney for Mr. Snipes was a gentleman named  
12 Baxley; correct?

13 A Yes.

14 Q And there was a gentleman named Malatesta; is that right?

15 A Yes, sir.

16 Q And there was another gentleman named Googins; is that  
17 right?

18 A Googins.

19 Q Googins?

20 A Googins.

21 Q There was no such power of attorney that named Mr. Rosile  
22 as power of attorney for Mr. Snipes; is that right?

23 A Correct.

24 Q Okay. And, in fact, have you located any power of  
25 attorneys for ARL clients that named Mr. Rosile as their power

1 of attorney?

2 A No.

3 MR. WILSON: Can we go to Government's Exhibit  
4 87-31, please.

5 BY MR. WILSON:

6 Q And this is, in fact, just to follow up, one of the power  
7 of attorneys that you testified to previously. Obviously,  
8 this is the one that names Mr. Googins as the power of  
9 attorney for Mr. Snipes.

10 Again, none of these forms named Mr. Rosile as a power of  
11 attorney; is that right?

12 A Correct.

13 MR. WILSON: Go to 87-32, please.

14 Actually, you can forget that one, please.

15 BY MR. WILSON:

16 Q Agent Lalli, did you, in the review of the records that  
17 you seized during the search of the Guiding Light of God  
18 Ministries or ARL premises, locate any correspondences or  
19 letters written by Mr. Rosile to the Internal Revenue Service  
20 on behalf of Mr. Snipes?

21 A I don't recall.

22 MR. WILSON: Can we go to 88-1, please.

23 BY MR. WILSON:

24 Q Okay. You have previously testified regarding this  
25 correspondence, and I believe this is a letter that was found

1 in an ARL file of an individual named Maicon, I believe; is  
2 that correct?

3 A Yes, sir.

4 Q And in this letter -- and this is a letter that was  
5 prepared by Mr. Rosile to the Internal Revenue Service. This  
6 letter specifically indicates that Mr. Rosile does not have a  
7 power of attorney for Mrs. Maicon; is that correct?

8 A Right.

9 Q Okay. And, in fact, he is actually asking the Internal  
10 Revenue Service to respond directly to the Maicons with  
11 respect to their refund check; is that right?

12 A Yes.

13 MR. WILSON: Okay. Go to 81-2, please. Can you go  
14 to the bottom of the page, please. Okay. That's the wrong  
15 exhibit. Can we go to 92.

16 BY MR. WILSON:

17 Q Agent Lalli, this is the correspondence that -- about  
18 which you testified that was located and found during the  
19 search of the ARL premises, which is, in fact, a letter to  
20 Mr. Kahn from Mr. Rosile. Is that a fair description of the  
21 letter?

22 A Yes, sir.

23 Q Okay. And it appears that this letter, which was dated  
24 May 1st of 1997, actually predates any relationship between  
25 Mr. Rosile and Mr. Kahn; is that right?

1 A Yes.

2 Q Okay. Now, would it be fair to say that in this letter,  
3 Mr. Rosile expresses a certain amount of disdain toward the  
4 Internal Revenue Service?

5 A Yes, he does.

6 Q Okay. During the course of your career with the Internal  
7 Revenue Service, have you run across individuals who do not  
8 particularly care for the IRS?

9 A Yes, sir.

10 Q Okay. Would it be fair to say that is not uncommon for  
11 individuals to have some level of disdain or dislike towards  
12 the Internal Revenue Service?

13 A Correct.

14 Q Could you please read on the -- let me see -- on the fifth  
15 line down, at the very right -- you have already read this  
16 particular paragraph, but I just wanted to ask about one  
17 particular sentence. It indicates: "My being" on the  
18 right-hand side. Do you see that?

19 A Yes, sir.

20 Q Could you please -- well, without reading that into the  
21 record again, he indicates -- "he" being Mr. Rosile -- that he  
22 is an accountant, and he doesn't have a particular love for  
23 the IRS. But he also acknowledges a lack of knowledge as to  
24 what the law is in this letter. Is that fair to say?

25 A That's what that says.

1 Q Did you -- were you able to find any response from  
2 Mr. Kahn or American Rights Litigators to Mr. Rosile in  
3 response to this letter?

4 A Not that I recall.

5 MR. WILSON: Could you pull up Exhibit 95-6, please.

6 BY MR. WILSON:

7 Q Agent Lalli, this is a memorandum that you testified  
8 regarding previously. It appears to be some sort of a  
9 document that accompanied a 500-dollar payment to Mr. Rosile  
10 from American Rights Litigators; is that correct?

11 A Yes, sir.

12 Q Okay. And the date of this is, I believe, March 25th of  
13 '02?

14 A Yes.

15 Q Do you know -- and this refers to, in the re line, a  
16 Bockrath refund; is that right?

17 A Yes, sir.

18 Q Were you able to determine when that refund -- the  
19 document that it's referring to in the refund was prepared?

20 A I would have to look at the return and the records.

21 Q Do you know whether that particular refund was submitted  
22 in 2001?

23 A I would have to look at the chart again, sir.

24 MR. WILSON: Could you pull up 90-3, please.

25

1 BY MR. WILSON:

2 Q I'm going to ask you to look at what's been previously  
3 marked or entered into evidence as Government's Exhibit 90-3.  
4 You've previously testified that this is a summary of the 861,  
5 the 861 claims that were submitted by ARL members that  
6 actually received a refund; correct?

7 A Yes.

8 Q Okay. And in the far section of this document, you have a  
9 provision that indicates the percentage that was paid to ARL  
10 by the clients who received a refund; correct?

11 A Yes.

12 Q So, for example, the top one that says \$5,844.80 reflects  
13 20 percent of the refund that was paid by the client to ARL;  
14 correct?

15 A Yes.

16 Q Okay. And to the right, you have a column that reflects  
17 the amounts that ARL paid to Mr. Rosile for the -- out of the  
18 funds that were received; is that right?

19 A Right.

20 Q Okay. So for the refund that was -- for the fee -- for  
21 the money that was received by ARL, the amount of which was  
22 \$5,844.80, how much money did ARL pay to Mr. Rosile?

23 A \$2,632.90.

24 Q And that is not -- is that reflected on that document,  
25 sir?

1           It appears to me that to the right, there is a blank  
2 space.

3       A    Which line are you referring to, sir?

4       Q    I am referring to the \$5,844.80.

5       A    I am sorry. I was looking at the wrong line. Yes, that  
6 is blank.

7       Q    And below that, it refers to a 20-percent fee that was  
8 paid to ARL in the amount of \$991.20.

9       A    Correct.

10      Q    How much of that was paid by ARL to Mr. Rosile?

11      A    Well, according to that, there was none paid.

12      Q    There was a percentage paid to ARL in the amount of  
13 \$1,186.60; correct?

14      A    Yes, sir.

15      Q    And how much of that was paid to Mr. Rosile?

16      A    Zero.

17      Q    Below that, the amount of \$2,458. How much of that was  
18 paid to Mr. Rosile?

19      A    Zero.

20      Q    Below that, 561 dollars. How much of that was paid to  
21 Mr. Rosile?

22      A    Zero.

23      Q    And below that, 198 dollars, how much was paid to  
24 Mr. Rosile?

25      A    Zero.

1 Q Now, the next one down reflects a receipt by ARL in the  
2 amount of \$5,265.80; correct?

3 A Yes, sir.

4 Q And out of that, Mr. Rosile was paid, right?

5 A Yes, sir.

6 Q Okay. And he was paid \$2,63290, right?

7 A Right.

8 Q Okay. There was another fee that was received by ARL in  
9 the amount of \$1,746. And how much of that was paid to  
10 Mr. Rosile?

11 A Zero.

12 Q And the last one that's indicated that there was a refund  
13 was the amount of \$28,522.50. And Mr. Rosile would receive  
14 half of that; correct?

15 A That's correct.

16 Q Okay. So would it be fair to say that it appears that  
17 Mr. Rosile did not receive a percentage of all the funds that  
18 were received by ARL for these 861 claims?

19 A That could have been. From the records that I had and  
20 that I located, that's what I came up with.

21 Q During the course of your investigation, were you able to  
22 determine the primary function that Mr. Rosile served, the  
23 primary responsibility that he had at American Rights  
24 Litigators?

25 A Yes.



1 Q Okay. And that was to prepare these 861 returns; correct?

2 A That's correct.

3 Q Okay. He didn't conduct any seminars, did he?

4 A Not that I know of.

5 Q Now, previously I asked you some questions about the 1040X  
6 return that was signed by Mr. Rosile and submitted on behalf  
7 of Mr. Snipes, right?

8 A Yes.

9 Q Okay. And we went through the documents that were  
10 attached or appending to that particular return, the 8275-R  
11 and the other documents; correct?

12 A Yes.

13 Q All right. You indicated yesterday, when the government  
14 placed before you a couple of boxes full of documents that you  
15 indicated were the 861 return records that were seized during  
16 the search warrant; is that right?

17 A The 861 documents from -- if you are referring to the two  
18 boxes that are in front here, from the fraud detection center.  
19 They weren't seized in the search warrant.

20 Q Okay. And you indicated that you have reviewed each and  
21 every one of those returns; is that right?

22 A Yes, sir.

23 Q Okay. Would it be fair to say that, in each of those  
24 returns that were submitted that you reviewed, each of those  
25 1040X forms had a Form 8275-R attached to it?

1 A I don't know if they all had the 8275. It's -- typically,  
2 though, the way the 1040X's were filed, they would be filed in  
3 the manner that Mr. Snipes' form was filed. They were all  
4 filed very similar.

5 Q So would it be fair to say that in each of those forms  
6 that were submitted about which you are referring, again, the  
7 IRS is notified of the theory that's being adopted and put  
8 forth in that return?

9 A Yes, sir.

10 MR. WILSON: Okay. Your Honor, may have a moment to  
11 consult with my client?

12 THE COURT: You may.

13 MR. WILSON: Your Honor, I have no more questions.  
14 Agent Lalli, thank you.

15 THE WITNESS: Thank you, sir.

16 THE COURT: Redirect, Mr. McLellan?

17 MR. McLELLAN: Yes, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. McLELLAN:

20 Q Special Agent Lalli, let's take a look at Government's  
21 Exhibit 95, amended returns. Take a look at the first page in  
22 there. Perhaps if you look at it as it's published, Special  
23 Agent Lalli.

24 A Okay.

25 Q This file contains a number of checks to American Rights

1 Litigators, and then checks to Douglas Rosile from American  
2 Rights Litigators, does it not?

3 A Yes.

4 Q So, for example, if you take a look at this item, which  
5 was marked as Government's Exhibit 95-1, is that item, on the  
6 bottom, a check to American Rights Litigators?

7 A Yes.

8 Q Is this from someone who managed to get one of these  
9 refunds?

10 A Yes.

11 Q Based on an 861 return prepared by Douglas Rosile?

12 A Yes.

13 Q Okay. And this check at the top, is this his cut of that  
14 amount sent to American Rights Litigators on that refund that  
15 was improperly obtained?

16 A Yes.

17 Q Okay. And taking a look at Government's Exhibit 95-6, the  
18 second page of that. You can see it up on the screen, I  
19 think.

20 Okay. Is this another one of these situations where there  
21 is a check to American Rights Litigators, and then from  
22 someone who got one of these refunds, and then Douglas Rosile  
23 getting his portion of that?

24 A Yes.

25 Q Okay. So is there considerable evidence that Douglas

1 Rosile was getting his cut of the refunds obtained by means of  
2 this scheme?

3 A Yes.

4 MR. WILSON: Objection as to the term  
5 "considerable."

6 THE COURT: Sustained.

7 It's argumentative in form, Mr. McLellan.

8 BY MR. McLELLAN:

9 Q Is there evidence that Douglas Rosile was obtaining his  
10 portion of the refunds obtained through the scheme?

11 A Yes.

12 MR. BARNES: Objection, Your Honor. Our question is  
13 still argumentative as to "scheme."

14 THE COURT: Sustained.

15 Rephrase again, Mr. McLellan.

16 BY MR. McLELLAN:

17 Q Okay. Mr. Rosile was a participant with Eddie Kahn and  
18 American Rights Litigators in offering this service of  
19 preparing these 861 returns, was he not?

20 MR. WILSON: Objection; leading.

21 THE COURT: Well, I will overrule that objection.  
22 It is a developing question.

23 A Yes.

24 Q In your execution of the search warrant and review of the  
25 search warrant documents, did you come across checks paid to

1 Douglas Rosile for his portion of those refunds?

2 A Yes.

3 Q Are the checks that we were just looking at some of those  
4 checks?

5 A Yes.

6 Q Taking a look at Exhibit 64-2, I believe counsel was  
7 showing you or having you look at this one.

8 Okay. And I think if we page in, counsel was having you  
9 look at -- I think we might page in a little further. Let's  
10 take a look at the -- focus in on the top of this document.  
11 Is there any -- is there a possibility of getting a closer  
12 look at the words underneath the caption?

13 This is a regulation disclosure statement, and it talks  
14 about disclosing ideas or positions contrary to Treasury  
15 regulations; is that correct, Agent Lalli?

16 A Yes, sir.

17 Q Okay. Is there some difference between a legitimate  
18 question to the Internal Revenue Service and the sorts of  
19 things that we are seeing on these tax returns?

20 MR. BARNES: Objection, Your Honor, both as to  
21 argumentative, and as to 701, asking for his personal opinion  
22 about the matter.

23 THE COURT: Well, I will overrule those objections.

24 You may answer, Agent Lalli.

25 A Would you repeat the question, please?

1 Q It there some difference between some legitimate question  
2 to the Internal Revenue Service and the kinds of items that  
3 are written on these disclosure statements?

4 A Yes.

5 Q How are they different?

6 A Well, in this case, it has been ruled that these types of  
7 claims are frivolous, and they continue to send in  
8 correspondence to that effect, when they have previously been  
9 answered to not only taxpayers, but, you know, in the courts.

10 Q Counsel was asking you about various powers of attorney or  
11 people who held powers of attorney at American Rights  
12 Litigators for Wesley Snipes. Do you recall those questions?

13 A Yes.

14 Q Okay. And I believe that counsel was asking you if  
15 Mr. Rosile was among those people; is that correct?

16 A Yes.

17 Q Now, in order to be a power of attorney or hold a power of  
18 attorney to practice before the Internal Revenue Service, does  
19 a person have to be qualified?

20 A Yes.

21 Q What sorts of qualifications are necessary in order to be  
22 qualified to be a power of attorney?

23 A Well, I guess if you're a CPA or an attorney, you would  
24 have to be in good standing to practice before them.

25 Q Now, could Mr. Rosile -- let me ask you this. Are you

1 familiar with the professional history of Mr. Rosile?

2 MR. WILSON: Objection; relevance, 404(b).

3 MR. McLELLAN: Your Honor, counsel has opened up  
4 this line of inquiry quite clearly.

5 THE COURT: Come to side-bar, counsel.

6 AT SIDE-BAR:

7 THE COURT: This is a difficult point, I think,  
8 Mr. McLellan. What is the government's purpose at this stage  
9 of the case in pursuing this?

10 MR. McLELLAN: Well, Your Honor, counsel was trying  
11 to establish or apparently trying to establish that Mr. Rosile  
12 is relatively less culpable or relatively less responsible in  
13 these return filings and some of the allegations that we have  
14 on the grounds that he was never a power of attorney.

15 Well, matter of fact, he could not be a power of  
16 attorney because of his having been disbarred, I guess you  
17 might call it, from being a CPA, on the one hand.

18 On the other hand, counsel has also opened up the  
19 question of what sort of tax knowledge or -- you know, that  
20 Mr. Rosile would have.

21 Counsel was inquiring of Special Agent Lalli with  
22 regard to the letter that Mr. Rosile sent in to Eddie Kahn in  
23 1997, you know, oh, here, isn't Mr. -- to the effect of that  
24 isn't Mr. Rosile just, you know, trying to write into Mr. Kahn  
25 and get more information about taxes, contending that he

1 doesn't understand taxes.

2 Well, Your Honor, he was a certified public  
3 accountant. He has the training to understand taxes. And  
4 that is the relevance of this line of inquiry.

5 THE COURT: Well, except that you are trying to  
6 show -- if I understood the question correctly, delve into the  
7 fact that his CPA license, as I understand it, had been lifted  
8 or revoked in two different states.

9 MR. McLELLAN: Well, that is correct, Your Honor.  
10 That was my line of inquiry.

11 THE COURT: Well, the problem with it is I don't see  
12 where there's any probative value in that that overcomes the  
13 potential prejudice to Mr. Rosile at this stage. I don't know  
14 what --

15 MR. McLELLAN: Well, may I make a suggestion? The  
16 fact of his having been a CPA is probative of willfulness in  
17 that he knew what the tax laws required by virtue of having  
18 been a CPA, on the one hand.

19 On the other hand, the fact that he is no longer a  
20 CPA is probative along the lines of the inquiry I was just  
21 making of his not being able to join in the scheme in that  
22 capacity.

23 THE COURT: Well, the fact that he did not join in  
24 the scheme, as you put it, if that was the reason, it seems to  
25 me that is not relevant. Whatever reason there may have been



1 for not doing something is not germane here. The question is  
2 what he did.

3 If you wish to establish to the jury that he was a  
4 CPA at one point, I think I will overrule the objection. But  
5 at this stage, it seems to me to elicit testimony or evidence  
6 to the jury that he was a defrocked CPA, for lack of a better  
7 term, is more prejudicial than probative.

8 It depends on what may come later, as to whether  
9 that would become relevant. But at this point, it seems to  
10 me, in the presentation of the government's case, its  
11 probative value is overcome by its potential prejudicial.

12 So I will sustain the objection. Let's proceed.

13 IN OPEN COURT:

14 THE COURT: I sustained the objection. If you wish  
15 to pursue the point we last discussed, you may lead the  
16 witness for that purpose, Mr. McLellan.

17 BY MR. McLELLAN:

18 Q Special Agent Lalli, I had asked you about the  
19 professional history of Douglas Rosile. I believe you had  
20 indicated that you had knowledge of his professional history?

21 A Yes, sir.

22 Q At the time of the execution of these powers of attorney,  
23 was Douglas -- the powers of attorney that counsel had been  
24 asking you about, at the time of the execution of those, was  
25 Douglas Rosile a CPA so that he might qualify to become a

1 power of attorney?

2 MR. BARNES: Your Honor, objection. That's  
3 precisely what Your Honor has ruled on pursuant to 402 and  
4 403.

5 THE COURT: Well, it sounds to me as though it is,  
6 Mr. McLellan. I am not entirely sure what answer you are  
7 anticipating in response to that question, but be mindful of  
8 the ruling that I have made and lead the witness, if you wish,  
9 to develop the last point we discussed.

10 MR. McLELLAN: I will leave this line of inquiry at  
11 this time.

12 THE COURT: All right. That's, I think, prudent.

13 BY MR. McLELLAN:

14 Q Could we take a look at Government's Exhibit Number 86.  
15 And is that the Douglas Rosile client file from American  
16 Rights Litigators?

17 A Yes, sir.

18 Q And taking a look at the -- I think it will be the next  
19 page in the document as it is displayed. Let's focus on the  
20 top of that. What is that document?

21 A It says "Statement of Revocation."

22 Q And who is the taxpayer?

23 A Douglas Rosile.

24 Q Okay. And taking a look at the text in bold beneath the  
25 names of that, what does that text say?

1 A "This revokes any existing power of attorney and/or tax  
2 information authorization on file at your office for each of  
3 the following representatives or appointees."

4 Q And who are the powers of attorney listed there who are  
5 getting revoked?

6 A Milton H. Baxley, II, and Bryan D. Malatesta.

7 Q Were they POAs for American Rights Litigators?

8 A Yes.

9 Q And what is the date that these powers of attorney are  
10 being revoked?

11 A October 22nd of 2003.

12 Q Okay. Can we please have Exhibit 64-2. And let's focus  
13 on the -- what is this document, Special Agent Lalli?

14 A It's the Form 1040X, amended claim for 1997 for Wesley  
15 Snipes.

16 Q And let's take a look at the refund being requested here  
17 on Line 22.

18 A 7,360,755 dollars.

19 Q And how much would Douglas Rosile have stood to make if  
20 that refund had been paid?

21 A He would have gotten 10 percent of that, so, what, 730,000  
22 dollars.

23 Q Agent Lalli, counsel for Mr. Snipes asked you about your  
24 reading Wesley Snipes his non-custodial rights. Did the fact  
25 that you read him those rights relieve him of his obligation

1 to produce documents pursuant to your summonses or subpoenas?

2 A No.

3 Q Do summonses and subpoenas have the force of law?

4 A Yes.

5 Q Now, you have testified with regard to that interview.

6 Did Wesley Snipes actually remain silent after you gave him

7 that warning, you read him his rights?

8 A During that conversation?

9 Q Yes.

10 A No.

11 Q Okay. What did he say to you after you read off the list

12 of tax crimes for which he was being investigated?

13 MR. BARNES: Your Honor, I believe this has been  
14 asked and answered.

15 THE COURT: I will overrule that objection.

16 You may answer, Agent Lalli.

17 A He stated to me: "Very interesting."

18 Q What were the years of the failure to file counts in the  
19 indictment in this case?

20 A 1999 through 2004.

21 Q What year did you read Wesley Snipes his rights?

22 A 2002.

23 Q Did Mr. Snipes file any tax returns after you read him his  
24 rights?

25 A No.

1 Q Are some of the charges in this case charged because of  
2 those later failures to file income tax returns on his part?

3 A Yes.

4 Q Did the fact that Wesley Snipes heard his rights from you  
5 relieve him of any of his obligations under the tax laws?

6 A No.

7 Q Counsel was asking you -- I think counsel for Snipes was  
8 asking you about the civil activities of the Internal Revenue  
9 Service regarding Wesley Snipes.

10 A Yes, sir.

11 Q Does the initiation of an IRS criminal investigation or --  
12 sorry -- IRS CI criminal investigation have any effect on the  
13 civil functions of the IRS regarding a taxpayer?

14 A Well, we put a freeze on the account. That indicates that  
15 it is under criminal investigation so that, you know, we are  
16 notified of what's going on.

17 Q Okay. But --

18 A We don't want -- if a criminal investigation is going on,  
19 we don't want any civil activity or anything else going on.

20 Q So if someone from the civil portion of the Internal  
21 Revenue Service were to look into Wesley Snipes' tax  
22 activities or look at his account, would there be something on  
23 the account that would indicate to them that there was a  
24 criminal investigation ongoing?

25 A Yes.

1 Q And what do you call that?

2 A Well, we call it a "Z freeze."

3 Q And under the IRS rules, could this civil portion of the  
4 IRS undertake any collection activities against Mr. Snipes if  
5 there was one of these Z freezes on the account?

6 A No.

7 Q Counsel asked about whether Wesley Snipes saw the figures  
8 on the 1997 1040X before he signed that income tax return, or  
9 I think counsel inquired something to that effect.

10 Did Wesley Snipes make later efforts through American  
11 Rights Litigators to collect these 1996 and 1997 refund claims  
12 that he filed?

13 A Yes.

14 Q Okay. Taking a look at Government's Exhibit 87-13, let's  
15 take a look at the second page of that. Or I'm sorry. I  
16 guess let's focus on the text of the cover sheet, which is the  
17 first page.

18 And you testified that Mr. Googins was hired at ARL to  
19 work on refunds for Wesley Snipes. Who is this addressed to?

20 A It's to Daniel Googins.

21 Q And who is it from?

22 A Lori Davis.

23 Q And what is the date on that form?

24 A April 1 of 2002.

25 Q Okay. And in what capacity does Lori Davis serve at this

1 time?

2 A Well, I believe Lori Davis is Mr. Snipes' assistant.

3 Q Okay. And what does the text say there?

4 A "Daniel: Please find the attached document for your  
5 perusal."

6 Q What is the attached document?

7 Let's take a look at the next page.

8 A That's the Form 1040X for 1997 for Wesley Snipes.

9 Q Okay. Let's take a look at Exhibit 87-31. Is this Wesley  
10 Snipes giving Daniel Googins power of attorney?

11 A Yes.

12 Q And let's take a look at -- I'm sorry. What is the date  
13 of that?

14 Maybe we can look at the signature maybe on the next page.  
15 When does Mr. Snipes appear to be signing here?

16 A It looks like February 5th of 2002.

17 Q Okay. In taking a look at 87-32, what is this?

18 A It is a form that requests for missing information  
19 regarding refund.

20 Q And whose refund is it regarding here?

21 A Wesley Snipes.

22 Q And what's the date of the inquiry?

23 A Returning your inquiry of February 7th of 2002.

24 Q And let's look a little ways down to see what is being  
25 inquired of here.

1 MR. McLELLAN: Could we focus so that Special Agent  
2 Lalli could read that handwritten text.

3 A "Due to your inquiry, we traced your 1996 and 1997 tax  
4 years refund. Please see attached correspondence."

5 Q So in the spring of 2002, was Wesley Snipes still trying  
6 to get refunds on these claims?

7 A Yes.

8 Q Let's take a look at Exhibit 87-5, I guess the second page  
9 of that, if we could focus on the top of it.

10 Is this the 1996 1040X for Wesley Snipes?

11 A Yes.

12 Q Did you find this at ARL?

13 A Yes.

14 Q Now, taking a look at, I think, the next exhibit, 87-6, is  
15 this a letter from the Internal Revenue Service to Wesley  
16 Snipes?

17 A Yes.

18 Q And what tax period is it in regards to?

19 A 1996.

20 Q And under "Dear Taxpayer," what does it say there?

21 A "We have determined that the information you sent is  
22 frivolous and your position has no basis in law. Claims, such  
23 as yours, have been considered and rejected repeatedly as  
24 without merit by the Federal courts, including the Supreme  
25 Court of the United States. Therefore, we will not respond to



1 future correspondence concerning these issues."

2 Q Let's take a look at 87-10. I think counsel was asking  
3 you about these documents. This is one of them from Wesley T.  
4 Snipes. What's the date of this?

5 A September 26th, 2000.

6 Q Is this a cover letter from Wesley Snipes to the Internal  
7 Revenue Service?

8 A Yes.

9 Q Taking a look at the middle of that document, please read  
10 where it says the sentence that starts out: "Since I am."

11 A "Since I am in the process of sending or have already sent  
12 my pertinent books and records to Mount Plymouth, Florida,  
13 please transfer my file to the Maitland or Ocala, Florida  
14 district serving Mount Plymouth and direct all future  
15 correspondence to 25525 SR 46, Suite 2, Mount Plymouth,  
16 Florida."

17 Q Now, was it your testimony that you searched the seized  
18 records from American Rights Litigators and failed to find  
19 books and records for Wesley Snipes?

20 A Yes.

21 Q Well, counsel showed you a couple of -- it looked like  
22 portions of Wesley Snipes' tax returns that were seized there.  
23 Do you recall him showing you those?

24 A Yes, sir.

25 Q Do you recall him showing you -- I think it was a portion

1 of an IRS master file transcript that was found, also, in the  
2 search-seized records. Do you recall him showing you that?

3 A Yes, sir.

4 Q Okay. When you -- well, let me ask you this. In your  
5 experience as a special agent, do you have frequent occasion  
6 to deal with the books and records of people's finances?

7 A Yes.

8 Q These couple of items that counsel showed you and I guess  
9 whatever other items that you were able to find in your  
10 scrutiny of the seized records, is that all the books and  
11 records you would expect to find for a businessman like Wesley  
12 Snipes?

13 A No.

14 MR. BARNES: Objection, Your Honor, and motion to  
15 strike as to his personal opinion as to what the definition of  
16 what "pertinent books and records" is, and as to the state of  
17 mind of Mr. Snipes.

18 THE COURT: Well, I am inclined to overrule that  
19 objection given his testimony concerning his responsibility  
20 and his experience. I will overrule that objection.

21 BY MR. McLELLAN:

22 Q In fact, Special Agent Lalli, did you subpoena the books  
23 and records for Wesley Snipes from the Starr & Company  
24 accounting firm?

25 A Yes.

1 Q And what kinds of books and records did you get from them?

2 A Financial records, ledgers, balance sheets, income  
3 statements; boxes and boxes of records.

4 Q Can you give some indication of the volume of these  
5 records?

6 A Five, six boxes' worth probably.

7 MR. McLELLAN: Begging the Court's indulgence.

8 BY MR. McLELLAN:

9 Q Special Agent Lalli, I have an additional question having  
10 to do with tax records for Wesley Snipes that were found on  
11 the premises of American Rights Litigators and the records  
12 that you seized.

13 Did you find records for 1998 -- or I'm sorry -- 1999 and  
14 forward as regards any return-type information, like counsel  
15 was showing you for earlier years?

16 A No, sir.

17 Q Could we see Exhibit 87-27. I think counsel was showing  
18 you this document. I think it was sent back in response to a  
19 CP-540. Do you remember him asking you about that?

20 A Yes, sir.

21 Q Now, I think the second, I think the second paragraph here  
22 is what was in question. Please read the first couple of  
23 lines there, or the first couple of sentences of that  
24 paragraph.

25 A The second paragraph?

1 Q Yes, please.

2 A "In your letter, you state that if my client is not  
3 required to file a return to explain why. According to the  
4 director of the Internal Revenue Service Center in  
5 Philadelphia, the law does not require individuals to file a  
6 Form 1040. If this director is incorrect pursuant to 5 USC  
7 Section 556(D), please provide me with the public law that  
8 requires my client to file a Form 1040. Upon my receipt of  
9 the copy of that law, I will advise my client to fill out and  
10 submit a Form 1040."

11 Q Okay. This is citing the director of the Internal Revenue  
12 Service Center in Philadelphia. What goes on in Internal  
13 Revenue Service centers?

14 A They process tax returns.

15 Q And aside from this document, have you ever heard of a  
16 director of an IRS service center telling people that there is  
17 no law requiring them to file tax returns?

18 MR. BARNES: Objection, Your Honor, on 402 and 403  
19 grounds.

20 THE COURT: Given this exhibit, I am inclined to  
21 overrule that objection.

22 You may answer.

23 A No, sir.

24 Q Counsel for Mr. Snipes was showing you a document marked  
25 as Defense Exhibit 232. It is an IRS publication, "Your

1 Rights As a Taxpayer." Do you remember that?

2 A Yes, sir.

3 Q Do you have a copy of that in front of you?

4 A Yes.

5 Q Taking a look at Section V of that document, it says,  
6 caption, "Payment of Only the Correct Amount of Tax."

7 What are the first -- what do the first two lines of that  
8 say?

9 A "You are responsible for paying only the correct amount of  
10 tax due under the law; no more, no less. If you cannot pay  
11 all of your tax when it is due, you may be able to make  
12 monthly installment payments."

13 Q So this says you are responsible to pay the correct amount  
14 of tax, does it not?

15 A Yes.

16 Q Taking a look at the section of -- on the next page, it  
17 says "Refunds." What does the first sentence say there?

18 A "You may file a claim for refund if you think you paid too  
19 much tax."

20 Q Does it say that you have a right to file incorrect tax  
21 returns?

22 A No.

23 Q Does it say that you have a right to file frivolous claims  
24 for refund?

25 A No.

1 Q Taking a look at these sections, there is a portion that  
2 says "Help with Unresolved Tax Problems."

3 MR. McLELLAN: I will withdraw that, Your Honor.

4 Begging the Court's indulgence, could this be a time  
5 for a brief recess?

6 THE COURT: All right. It is the middle of the  
7 afternoon, members of the jury. Let's pause for an afternoon  
8 break.

9 (Short recess taken.)

10 (Jury absent.)

11 THE COURT: Be seated, please.

12 Yes, Mr. McLellan?

13 MR. McLELLAN: Your Honor, the government seeks  
14 clarification on permissible inquiry on two points. The first  
15 point is regarding the professional history of Douglas Rosile.

16 Perhaps I misunderstood the Court's ruling at  
17 sidebar previously. I wanted to check with the Court whether  
18 I might ask the question at one time was Douglas Rosile a CPA.

19 THE COURT: Well, it was not clear to me, since I  
20 don't know the facts, obviously, what answer that might  
21 elicit.

22 I inferred from what was said that you anticipated a  
23 negative answer at that point.

24 MR. McLELLAN: I believe the witness --

25 THE COURT: Make a proffer as to what the evidence

1 is concerning Mr. Rosile's professional history as a Certified  
2 Public Accountant.

3 MR. McLELLAN: The government would proffer that  
4 Douglas Rosile was at one time a Certified Public  
5 Accountant --

6 THE COURT: Pull the microphone around toward you,  
7 if you would.

8 MR. McLELLAN: The government would proffer that at  
9 one time Douglas Rosile was a Certified Public Accountant and  
10 that that certification was subsequently withdrawn by the  
11 governing authorities.

12 THE COURT: At what time?

13 MR. McLELLAN: The adjudication order from the  
14 Accountancy Board of Ohio is dated January the 29th, 1996.

15 And as to the accountancy authorities of the State  
16 of Florida, I believe the adjudication was as of the 2nd day  
17 of December, 1997.

18 So these predate Mr. Rosile's history with American  
19 Rights Litigators as a preparer of tax returns for them.

20 THE COURT: Well, what is the relevance to this case  
21 that these events occurred in 1996 and 1997, namely, the  
22 suspension or revocation of his license?

23 MR. McLELLAN: His having earned that credential at  
24 one time, Your Honor, is relevant to his willfulness in that  
25 it's a -- the credential of Certified Public Accountant

1 underpins or shows a great deal of knowledge about matters  
2 concerning taxation.

3 THE COURT: Well, all right. But you asked the  
4 witness whether at some point in time he was a CPA expecting,  
5 I thought, a negative answer that, no, he was not. Is that  
6 what you -- were you expecting an affirmative or a negative  
7 answer to the question?

8 MR. McLELLAN: I was expecting an answer that  
9 indicated that at the time these other POAs were being given  
10 by Mr. Snipes to various persons associated with ARL that  
11 Mr. Rosile was not a CPA.

12 THE COURT: Well, I don't see the relevance of that  
13 with or without a 403 analysis, Mr. McLellan.

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

16 THE COURT: Pardon?

17 MR. McLELLAN: May I consult with my colleagues,  
18 Your Honor?

19 THE COURT: You may.

20 (Pause.)

21 MR. McLELLAN: Your Honor, the government is not  
22 going to pursue that line of inquiry.

23 THE COURT: Okay. Well, let's --

24 MR. McLELLAN: On a related line of inquiry,  
25 Your Honor, the witness, Special Agent Lalli, testified on



1 cross-examination that Milton Baxley was a lawyer, and the  
2 government seeks clarification on the propriety of questioning  
3 the witness with this question: Is Milton Baxley currently  
4 licensed to practice law? This would complete his answer.

5 THE COURT: Well, is there any objection to that?

6 MR. BARNES: Yes, Your Honor. The relevant inquiry  
7 would be whether or not -- the question was whether or not he  
8 was designated as a lawyer on the letterhead as opposed to  
9 whether he was a lawyer. That's one aspect.

10 The second aspect, Your Honor, is that this would be  
11 a notice issue. There's no evidence that he was a disbarred  
12 attorney at the time in which he submitted those documents or  
13 there was any notice to Mr. Snipes that he was a disbarred  
14 attorney. And to my knowledge, he's not disbarred until after  
15 this period of time.

16 THE COURT: Well, what about that? When was he  
17 disbarred, Mr. McLellan; do you know that?

18 MR. McLELLAN: It was in -- may I consult,  
19 Your Honor?

20 THE COURT: You may.

21 (Pause.)

22 THE COURT: The term "disbarred" with respect to  
23 Mr. Baxley may be a term of doubtful meaning in this case. My  
24 recollection from the civil side of the action brought against  
25 Mr. Baxley and others was that he had been precluded from

1 practice before the Internal Revenue Service at one point in  
2 time that may have preceded his formal disbarment --

3 MR. McLELLAN: Yes, Your Honor.

4 THE COURT: -- as a member of an integrated bar.

5 I don't -- Mr. Baxley is not a party to this action,  
6 as is Mr. Rosile, and I don't see that there's any prejudice  
7 to anybody here by those circumstances. I'll simply pass on  
8 objections as I hear them concerning the particular context of  
9 the question asked concerning Mr. Baxley. That's the only way  
10 I know how to approach it.

11 How much more do you anticipate of your examination  
12 of the witness, Mr. McLellan?

13 MR. McLELLAN: I expect to put one more question to  
14 the witness, that being the question with regard to  
15 Mr. Baxley, Your Honor.

16 THE COURT: All right. Well, seat the jury, please,  
17 Marshal.

18 (Jury present.)

19 THE COURT: Thank you. Be seated, please, members  
20 of the jury. I appreciate your patience. I have been having  
21 some conversations here with counsel, which is the reason for  
22 the extended recess. We are ready to proceed.

23 You may continue, Mr. McLellan.

24 MR. McLELLAN: Thank you, Your Honor.

25 BY MR. McLELLAN:

1 Q. Special Agent Lalli, you testified on cross-examination by  
2 counsel that Milton Baxley was a lawyer. Do you recall that?

3 A. Yes, sir.

4 Q. Is Milton Baxley currently allowed to practice before the  
5 Internal Revenue Service?

6 MR. BARNES: Objection, Your Honor, on 402 and 403  
7 grounds.

8 THE COURT: I'll overrule that objection.

9 THE WITNESS: He is not allowed to practice before  
10 the IRS.

11 MR. McLELLAN: That's all for this witness,  
12 Your Honor.

13 THE COURT: Any recross? Mr. Barnes?

14 MR. BARNES: Yes, Your Honor.

15 RE CROSS EXAMINATION

16 BY MR. BARNES:

17 Q. Mr. Baxley was not -- Mr. Baxley was authorized to  
18 practice up until 2003, correct?

19 A. I believe so.

20 Q. When you gave Mr. Snipes his Fifth Amendment warning, you  
21 told him that you could not compel him to submit any  
22 information to you, correct?

23 A. That's correct.

24 Q. And you never told Mr. Snipes subsequent to that that he  
25 was no longer under criminal investigation, correct?

1 A. I never got a response back from him. I never talked to  
2 him.

3 Q. You mentioned a freeze on the IRS files --

4 A. Yes, sir.

5 Q. -- for Mr. Snipes. And is that called a 914 code?

6 A. Yes, sir.

7 Q. And one of the reasons for the freeze is to make sure that  
8 a person's Fifth Amendment rights are protected concerning the  
9 investigation?

10 A. Well, the reason that I know is so no one else contacts  
11 the taxpayer under investigation so it -- since I have a  
12 criminal investigation matter pending, I don't want anybody  
13 else contacting the taxpayer.

14 Q. Is it policy or procedure for IRS employees to be  
15 destroying the letters or documents that a taxpayer submits  
16 during this period of time?

17 A. Well, I don't think it's policy for destroying records at  
18 the IRS, no.

19 Q. You saw some documents involving refund requests from  
20 February and April of 2002, is that correct?

21 A. Yes.

22 Q. And you didn't give your notice to Mr. Snipes that he was  
23 under criminal investigation until May of 2002, correct?

24 A. That's correct.

25 MR. BARNES: Could we go to Government Exhibit

1 126-1? Could we go to the next page? The next page? Then  
2 the next page?

3           Could we turn that sideways? Could we blow up the  
4 right-hand side?

5           MR. McLELLAN: Objection, Your Honor.

6           THE COURT: Yes?

7           MR. McLELLAN: This is outside the scope of  
8 redirect.

9           THE COURT: Well, I'm uncertain unless I see what  
10 the -- this addresses something that was brought out on direct  
11 examination or redirect examination?

12           MR. BARNES: Yes, Your Honor. It goes to the  
13 question about the letter that was sent to Mr. Snipes on the  
14 civil side while he was trying to work these out -- matters  
15 out civilly.

16           THE COURT: Well, all right. I'll overrule the  
17 objection. Go ahead.

18           MR. BARNES: Could you blow up the right-hand side?  
19 And could you blow up the box -- the "choice of action" box in  
20 the middle that is sort of faded? It's that, sort of, gray  
21 box. And then blow up that little box.

22           MS. AMBURGEY: I can't blow it up.

23           MR. BARNES: Oh. Okay. No problem.

24 BY MR. BARNES:

25 Q. The -- what does the chart say about pay tax or do not pay

1 tax? Do you see that on the chart?

2 MR. McLELLAN: Objection, Your Honor, outside the  
3 scope.

4 THE COURT: I think I'm inclined to agree,  
5 Mr. Barnes, and this may be -- if I follow your purpose  
6 correctly, it may be potentially misleading.

7 MR. BARNES: Your Honor, I'm just going to go  
8 through the pay tax refund procedures on the bottom.

9 THE COURT: Yes, but I don't understand that that  
10 relates to anything that was brought out on redirect.

11 MR. BARNES: I believe they --

12 THE COURT: I'll sustain the objection. Let's try  
13 and move along here.

14 MR. BARNES: Okay. One moment, Your Honor.

15 (Pause.)

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

17 THE COURT: Mr. Wilson, do you have any recross?

18 MR. WILSON: Yes, very briefly, Your Honor.

19 Would you please display Exhibit 86?

20 RE CROSS EXAMINATION

21 BY MR. WILSON:

22 Q. Agent Lalli, I believe this is something you testified  
23 about previously. This is the client file for Douglas Rosile  
24 with ARL, is that right?

25 A. Yes, sir.

1 Q. Okay. And Mr. Rosile was not only a tax preparer, as  
2 you've testified, he was also a client of ARL, is that right?

3 A. Yes.

4 Q. Okay.

5 MR. WILSON: If you could go to the next page?

6 Could you blow that up, please, a little bit?

7 BY MR. WILSON:

8 Q. And this is a document that you testified about; this is a  
9 statement of revocation wherein Mr. Rosile is revoking the  
10 power of attorney that he granted previously to Mr. Baxley and  
11 Mr. Malatesta, correct?

12 A. Yes, sir.

13 Q. Okay. And the date -- you were asked about the date that  
14 this document was signed, and the dates were October 22nd of  
15 2003, is that correct?

16 A. Yes.

17 Q. Which is well after Mr. Rosile terminated his relationship  
18 as a tax preparer with American Rights Litigators?

19 A. Yes.

20 Q. Okay. Which, in fact, you testified to -- or you  
21 testified was, from your recollection, April of 2002, is that  
22 correct?

23 A. Based on the claims that I've seen and reviewed.

24 Q. Okay. Do you recall testifying before the grand jury?

25 A. Yes, sir.

1 Q. Okay. On April 5th of 2006, as a matter of fact, you  
2 testified before the grand jury in Jacksonville, correct?

3 A. Yes, sir.

4 Q. Okay. And during that grand jury testimony, do you recall  
5 telling the grand jury that Mr. Rosile concluded preparing tax  
6 returns for Eddie Kahn in November or December of 2001?

7 A. Yes.

8 MR. McLELLAN: Objection, Your Honor. This is  
9 outside the scope.

10 THE COURT: Well, I'll permit that question.

11 Your answer was what, Agent Lalli?

12 THE WITNESS: Yes.

13 MR. WILSON: Thank you, Your Honor. No further  
14 questions.

15 THE COURT: Thank you, Agent Lalli. You may step  
16 down.

17 THE WITNESS: Thank you, sir.

18 THE COURT: Next witness, counsel, please.

19 MR. McLELLAN: The government calls William Kerr.

20 \*\*\* WILLIAM C. KERR was sworn by the Deputy Clerk \*\*\*

21 THE DEPUTY CLERK: Please have a seat.

22 Please state your full name, and spell your last  
23 name for the record.

24 THE WITNESS: It's William C. Kerr, K-E-R-R.

25 THE COURT: Go ahead, Mr. McLellan.



1 WILLIAM C. KERR,

2 being duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. McLELLAN:

5 Q. Mr. Kerr, what is your job currently?

6 A. Currently I'm self-employed.

7 Q. How long have you been self-employed?

8 A. Since October 1. I retired from the Office of Comptroller  
9 of the Currency September 30.

10 Q. When you were with the Office of the Comptroller of the  
11 Currency, what was your title?

12 A. I was a national bank examiner specializing in financial  
13 fraud.

14 Q. Is that office part of the United States Department of the  
15 Treasury?

16 A. Yes. The Office of the Comptroller of Currency is part of  
17 United States Treasury. We're responsible for supervising and  
18 chartering national banks.

19 Q. Generally, what are your areas of expertise?

20 A. Since 1997 I specialized in financial fraud dealing with  
21 all types of fictitious financial instruments, fictitious  
22 securities programs, banking both within the United States and  
23 outside.

24 Prior to that, I had specialized in lending area  
25 functions, bank operations, computer operations. I had

1 probably about eight different specialties over my career with  
2 the Comptroller's Office.

3 Q. And how long was your career?

4 A. It spanned 39 years in total: the first 15 years as a  
5 field examiner working out of Cleveland, Ohio, where I  
6 actually went on site into banks examining all the functions  
7 of the bank; then I was five years in commercial banking, then  
8 back with the Comptroller's Office for the balance of my time.

9 Q. And you mentioned fictitious instruments, did you not?

10 A. That's correct. Yes.

11 Q. And you were working for the Treasury. Why is the  
12 Treasury concerned with these so-called "fictitious  
13 instruments"?

14 A. The fictitious instruments that I was particularly  
15 involved with were stated to be paid by various parts of the  
16 U.S. government. Most of them were supposedly to be paid by  
17 the Secretary of the Treasury from an account at the  
18 Department of Treasury.

19 Q. In this case have you been asked to examine some documents  
20 entitled "bills of exchange"?

21 A. Yes, I have.

22 Q. Are these purportedly drawn on the U.S. Treasury?

23 A. Yes. They are directed to the attention of the Secretary  
24 of Treasury, and each of the documents indicated was to be  
25 paid from an account at the Department of Treasury.

1 Q. I'm going to ask you, have you formed an opinion about the  
2 validity of these supposed bills of exchange?

3 A. Yes, I have.

4 Q. Before you tell the jury about that opinion, I would like  
5 to ask a couple more questions about your background. What is  
6 your education?

7 A. I'm a graduate of Miami University, Oxford, Ohio, a  
8 bachelor's degree in accounting and -- excuse me -- bachelor's  
9 degree in business, majoring in accounting; and I specialized  
10 in extensive courses in finance.

11 Q. Did you receive special training in the course of your  
12 career with the office?

13 A. Yes. As a bank examiner, you receive specialized training  
14 in various areas of banking, operations, lending. I also took  
15 courses in anti fraud activities, and also I eventually wound  
16 up teaching for the Comptroller's Office both banking, general  
17 banking, anti fraud courses. And for quite a few years I was  
18 basically a special advisor to our law department on banking  
19 operations and banking conditions. I subsequently took  
20 several graduate courses in law at the United States  
21 Department of Agriculture Graduate School.

22 Q. Did you do any teaching or training yourself?

23 A. Yes, teaching within the office, and I also taught at the  
24 Glenco -- the National Fraud School, a section on banking. I  
25 was also involved in the establishment and presentation of a

1 seminar on -- that basically dealt with high-yield investment  
2 fraud, in other words, fictitious investment programs.

3 Q. Have you testified as an expert in other cases?

4 A. Yes, approximately a total of about 50-some times.  
5 Fifty-four times, I believe.

6 Q. Approximately what proportion of those were criminal  
7 cases?

8 A. All but three were criminal cases. Three others were  
9 hearings for the Comptroller's office, or in one case it was a  
10 hearing before the Saskatchewan Securities Commission in  
11 Canada.

12 MR. McLELLAN: The United States offers witness  
13 William Kerr as an expert in the field of banking practices,  
14 financial instruments, and U.S. securities.

15 THE COURT: Counsel wish to inquire on voir dire or  
16 reserve for cross?

17 MR. BARNES: No objection, Your Honor.

18 THE COURT: All right.

19 MR. WILSON: No objection, Judge.

20 THE COURT: Then you may proceed, Mr. McLellan.

21 BY MR. McLELLAN:

22 Q. I have a couple more questions about the office that you  
23 worked in until recently. Did that office offer any services  
24 that were accessible to the public?

25 A. Yes. As part of our overall operation, we did

1 evaluations, analysis, provided expert testimony to law  
2 enforcement; but also as a service to the public, we issued  
3 various bulletins and warnings and alerts to the public  
4 relating to various banking practices, but also particularly  
5 to fictitious financial instruments, mortgage fraud, mortgage  
6 elimination, and these are all published. Since about 1996  
7 they have all been available on our website to the general  
8 public.

9 Q. Do you have in front of you Government's Exhibit Numbers  
10 117, 118, 119 and 120?

11 A. Yes, I do.

12 Q. Were these the documents you were asked to examine in this  
13 case?

14 (Pause.)

15 A. Yes, they were.

16 Q. Do these have the term "bill of exchange" on them?

17 A. Yes. At the -- at the top, one page lists actual  
18 constructive notice, non-negotiable. And in the second page  
19 it says, "Registered bill of exchange in accord with HJR-192,  
20 not subject to negotiability."

21 Q. And does that term show up on each of them?

22 (Pause.)

23 A. Yes, it does.

24 Q. Please explain how -- well, let me ask you this: Are you  
25 familiar with the term "bill of exchange"?

1 A. Yes, I am. Bill of exchange is a legitimate financial  
2 instrument.

3 Q. Okay. And how does a valid bill of exchange work?

4 A. A valid bill of exchange basically is a document issued  
5 between two parties based on a legitimate transaction. It  
6 might be a sale of goods. It might be a transfer of  
7 securities. But there is an actual item that the bill of sale  
8 applies to or the transfer applies to, and it's between two or  
9 three parties. They could be non-negotiable -- generally are  
10 non-negotiable. But there is an underlying transaction that  
11 it's based on.

12 Q. Okay. Let's take a look at Exhibit 117.

13 MR. McLELLAN: Let's see if we could project it.

14 BY MR. McLELLAN:

15 Q. We're taking a look here at a part of the document that  
16 says "registered bill of exchange." Do you see that?

17 A. Yes, I do.

18 Q. I think you were reading the caption on this one earlier.  
19 What's -- what's the full caption on this?

20 A. The caption on this document is, "Registered bill of  
21 exchange in accord with HJR-192, not subject to  
22 negotiability."

23 Q. Okay. And to whom is this addressed?

24 A. This document is addressed to Paul O'Neill, Secretary,  
25 Department of the Treasury, 1500 Pennsylvania Avenue

1 Northwest, Washington, D.C., 20220. That is the correct  
2 address for the Department of the Treasury.

3 Q. Okay. And taking a look at the last sentence of the first  
4 paragraph there, what's the total amount?

5 A. The total amount of this bill of exchange enclosed is  
6 \$1 million.

7 Q. Okay. And who appears to have signed at the bottom of  
8 this document?

9 A. It's indicated to be signed by Wesley dash Trent Snipes.

10 Q. What does -- what does this document purport to do?

11 A. Based on reviewing this document, in Paragraph 1, 2, 3, 4,  
12 it's directing Mr. Paul O'Neill, secretary in charge or  
13 deputy, to take the undersigned's acceptance in exchange for  
14 tax exempt priority. It basically is directing them -- and  
15 it's addressed to them -- to charge their personal Treasury  
16 direct account for the million dollars.

17 Up on the top page of the document, it says R-E  
18 charge-back of personal Treasury UCC contract trust account.  
19 Again, that account does not exist.

20 It's, again, repeated in the second full paragraph.  
21 Again, it's directing Secretary O'Neill to charge back the  
22 personal Treasury UCC contract trust account number [REDACTED]  
23 of the undersigned for the same value, which is indicated to  
24 be \$1 million in the previous paragraph, and charge the  
25 account for the fees necessary for processing, registration.

1 Q. Okay. Let's take a look at Exhibit 118.

2 Okay. Do you see a document captioned "Non-negotiable  
3 bill of exchange in accord with HJR-192" here?

4 A. Yes.

5 Q. What's the date on it?

6 A. The date on this one is October 26, 2000.

7 Q. And who is it being sent to?

8 A. That was being sent to Lawrence H. Summers, Department of  
9 the Treasury. Mr. Summers was at that time the Secretary of  
10 the Treasury. Again, it's addressed to the correct address,  
11 1500 Pennsylvania Avenue Northwest, Washington, D.C., 20220.

12 Q. Now, does this document -- let me ask you this: What does  
13 this document purport to do?

14 A. This document purports, again, to -- as it's stated in  
15 Paragraph 2, this is directed to Mr. Summers, Secretary of the  
16 Treasury: Please charge back to my Treasury direct account  
17 Number [REDACTED] for the same value, which is indicated to be  
18 \$1 million in the previous paragraph, and charge my account  
19 for the fees necessary for securing registration, et cetera.

20 So it's directing Mr. Summers to charge this Treasury  
21 direct account for \$1 million.

22 Q. Okay. And taking a look at the second page of the  
23 document, who appears to have signed it?

24 A. Again, it appears to be signed by Wesley Trent Snipes.

25 Q. Okay. Taking a look at Exhibit 119, do you see one of



1 these bills of exchange in there?

2 A. Yes, I do.

3 Q. Okay. What is the date on it?

4 A. The date on this one is December 31, 2000.

5 Q. And who is it addressed to?

6 A. It is addressed to Lawrence H. Summers, Department of the  
7 Treasury, 1500 Pennsylvania Avenue Northwest, Washington,  
8 D.C., 20220. Mr. Summers was Secretary of the Treasury at  
9 that time.

10 Q. Okay. And taking a look at the text, what does this  
11 document purport to do?

12 A. This one -- again, in the last sentence of the first  
13 paragraph, the amount of this non-negotiable charge-back  
14 enclosed is \$12 million. The next paragraph says, Please  
15 charge back to my Treasury direct account number [REDACTED] for  
16 the same value, being the \$12 million, and charge my account  
17 for the fees necessary for securing and registering,  
18 et cetera.

19 Q. And taking a look at the next page, who appears to have  
20 signed this one?

21 A. This appears to be signed by Wesley Trent Snipes also.

22 Q. And taking a look at Exhibit Number 120, to whom is this  
23 one addressed?

24 A. This one is dated November 15, 2002, directed to  
25 Paul O'Neill, Secretary, Department of the Treasury, 1500

1 Pennsylvania Avenue Northwest, Washington, D.C., 20220.

2 Mr. O'Neill, again, was Secretary of the Treasury.

3 Q. What does this document purport to do?

4 A. This document, as indicated in the last sentence of the  
5 first paragraph -- the total amount of this bill of exchange  
6 enclosed is \$27,485.31. The next paragraph says: Please  
7 charge back the personal direct -- excuse me -- please charge  
8 back the personal Treasury account number [REDACTED] of the  
9 undersigned for the same value, being the 27,000 plus, and  
10 charge the account for the fees necessary for securing and  
11 registering, et cetera.

12 Q. What is your opinion about these documents numbers --  
13 Government's Exhibit Numbers 117 through 120?

14 A. These documents are fictitious. They have no validity,  
15 and they are worthless.

16 Q. And what is the basis of that opinion?

17 A. Number one, the United States Department of Treasury does  
18 not maintain any accounts that any person may draw against to  
19 direct payment to a third party. In other words, there are no  
20 accounts there that you can write a check, a draft, a bill of  
21 exchange or any other type of instrument and cause money to be  
22 transferred to a third person. So you can't pay any of your  
23 bills with this -- with these funds because there are no  
24 accounts there.

25 And since there are no accounts there, there are no funds

1 on deposit. So you have no account, no deposit.

2 And, thirdly, Mr. Snipes has no authority to obligate or  
3 cause the Treasury to disburse any funds.

4 Q. Does the U.S. Treasury ever issue bills of exchange?

5 A. In modern history, the United States Treasury has never  
6 issued bills of exchange.

7 Q. Is a private individual entitled to write his own bills of  
8 exchange on the United States Treasury?

9 A. No.

10 Q. Now, each of these documents had UCC financing statements  
11 enclosed in them. Could you -- did you see those in your  
12 examination of these documents?

13 A. Yes, I did.

14 Q. Okay. What's the proper purpose of a UCC financing  
15 statement?

16 A. A UCC financing statement is filed to secure your right as  
17 a lender to collateral. Let's say that you wish to purchase a  
18 tractor, which is a non-titled vehicle. You go to the bank to  
19 borrow the money, and you pledge this tractor as collateral  
20 for the loan.

21 They'll file a UCC-1 form on that. That's a -- it's a  
22 form that you file that secures the bank or the lender's  
23 position in the collateral to the loan. If it's a car title,  
24 it's different, but it's for non-titled goods. It could be  
25 inventory for a store, a tractor, anything that's non-titled.

1 Q. Did these financing statements here somehow make the --  
2 enhance the validity in any way of these documents?

3 A. No. These financing statements were basically filed,  
4 according to the information on there, by Mr. Snipes against  
5 Mr. Snipes himself. This is a classic that I have seen many  
6 times in this type of case -- that the UCC forms are filed  
7 basically against yourself, against your birth certificate,  
8 your license, marriage license, other documents. It really  
9 has no -- it adds no validity or value to the instrument it  
10 supposedly supports.

11 Q. Taking a look at Exhibit Number 119, I think if you flip  
12 forward through that exhibit, you'll see a letter from the  
13 Chase Manhattan Bank in there. It's probably got a stamp on  
14 it.

15 A. Yes.

16 Q. Okay. What about taking documents and stamping, you know,  
17 accept for value or non-negotiable charge-back, like this, and  
18 attaching these to these bills of exchange -- does that have  
19 any effect on their value?

20 A. None whatsoever. It's a stamp that I see used in  
21 connection with many of these situations. It's stamped on  
22 parking tickets, tax returns, judgments, and it's -- it's,  
23 again, a stamp that basically adds no value whatsoever to any  
24 of the documents. It's just a stamp added to some document,  
25 and it's attached to one of these worthless bills of exchange,

1 so, no, it adds no value whatsoever.

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

3 (Pause.)

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

6 THE COURT: Mr. Barnes?

7 MR. BARNES: Yes, Your Honor. Thank you.

8 CROSS-EXAMINATION

9 BY MR. BARNES:

10 Q. So all of these letters and documents have no material  
11 financial value, correct?

12 A. That's correct.

13 Q. Do you know something about the Office of the Secretary of  
14 the Treasury?

15 A. Yes, I do.

16 Q. Could you tell the jury what the Office of the Secretary  
17 of the Treasury is?

18 A. The Office of the Secretary of Treasury is the person who  
19 is appointed by the President to run the Treasury Department.

20 Q. And is the Internal Revenue Service underneath him?

21 A. The Internal Revenue Service is part of Treasury, yes.

22 Q. What are some of his qualifications normally to occupy  
23 that position?

24 A. The Secretary of the Treasury?

25 Q. Exactly.

1 A. I really don't know.

2 Q. The Secretary of Treasury could never be fooled by any of  
3 these documents, right?

4 A. To the best of my knowledge, they never have been, no.

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

6 MR. WILSON: No questions.

7 THE COURT: Anything further of the witness?

8 MR. McLELLAN: No, Your Honor.

9 THE COURT: Thank you, Mr. Kerr. You may step down,  
10 sir.

11 THE WITNESS: Thank you.

12 THE COURT: Mr. Morris?

13 MR. MORRIS: The United States calls Gary Graf.

14 \*\*\* GARY GRAF was sworn by the Deputy Clerk \*\*\*

15 THE DEPUTY CLERK: Please have a seat.

16 Please state your full name, and spell your last  
17 name for the record.

18 THE WITNESS: Gary Graf, G-R-A-F.

19 GARY GRAF,

20 being duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. MORRIS:

23 Q. Mr. Graf, how are you employed?

24 A. I'm a Special Agent with the Internal Revenue Service,  
25 Criminal Investigation Division.

1 Q. How long have you been a Special Agent with IRS?

2 A. Twenty-one years.

3 Q. Do you have any prior employment history before that?

4 A. Yes. Prior to that I was a Revenue Agent for the Internal  
5 Revenue Service.

6 Q. Are you one of the case agents that was assigned to this  
7 investigation?

8 A. Yes, I am.

9 Q. When were you assigned to the investigation?

10 A. On or about August 2002.

11 Q. In the course of your duties investigating this case, did  
12 you receive a package containing correspondence from Wesley  
13 Snipes in late October of 2003?

14 A. Yes, I did.

15 Q. And did that correspondence challenge your authority as a  
16 Special Agent?

17 A. Yes, it did.

18 Q. I'm showing you what's been marked for identification as  
19 Government's Exhibit 139 and 140. Would you look at 139  
20 first?

21 (Pause.)

22 Q. Do you recognize that exhibit?

23 A. Yes, I do.

24 Q. What is it?

25 A. It's a letter addressed "From the Desk of Wesley Snipes"

1 to myself.

2 Q. And what's the date that's on that letter?

3 A. November 3, 2003.

4 Q. And approximately when did you receive that?

5 A. The end of October of 2003.

6 Q. And is it signed by Wesley Snipes?

7 (Pause.)

8 A. Yes, it is.

9 MR. MORRIS: At this time the United States would  
10 offer into evidence Government's Exhibit 139.

11 MR. BERNHOFT: No objection, Your Honor.

12 MR. WILSON: No objection.

13 THE COURT: It's received.

14 MR. MORRIS: If we could publish the first page of  
15 the document, please?

16 BY MR. MORRIS:

17 Q. Special Agent Graf, again, would you read the top portion?

18 A. "In reference" -- I'm sorry -- "In Re: authority for" --

19 Q. The very top --

20 A. The very top?

21 Q. -- of the screen.

22 A. Oh. I'm sorry. "From the Desk of Wesley Snipes."

23 Q. And the date on the letter, again?

24 A. November 3, 2003.

25 Q. And going over to the address, that's addressed to you, is



1 that correct?

2 A. It was at the time.

3 Q. Is that the address that you occupied for business  
4 purposes at that time?

5 A. Yes. That's correct.

6 Q. And what is the reference line?

7 A. The reference line states "Authority for criminal  
8 investigations of federal income tax crimes."

9 Q. Would you read the first few sentences of the first  
10 paragraph?

11 A. "In reference to your alleged criminal investigation of  
12 me, I must inform you that I have been engaged in a study of  
13 your authority to enforce Chapter 75 of the Internal Revenue  
14 Code in reference to the federal income tax.

15 "Recently, I was startled by a little-known regulation  
16 that casts substantial doubt upon my belief that IRS Special  
17 Agents, such as yourself, are really law enforcement officers.  
18 That which surprised me was 26 C.F.R. Section 1.274-5T, paren  
19 K, paren six, little" -- "two little I, paren, a tax  
20 regulation which provides as follows."

21 Q. And that ends -- that paragraph that's next, is that a  
22 citation from that Code of Federal Regulations section?

23 A. Yes, it is.

24 Q. What does that Code of Federal Regulations section refer  
25 to?

1 A. It refers to a tax deduction that you can take. More  
2 specifically, it references the recordkeeping in reference to  
3 that tax deduction, specifically an unmarked law enforcement  
4 vehicle. We're assigned, Special Agents, unmarked law  
5 enforcement vehicles, and that addresses that in that we have  
6 to keep records and we're accepted to do that.

7 Q. Does that provision have anything to do with your  
8 authority as a Special Agent?

9 A. No.

10 Q. Would you read the sentence that begins "needless to say"?

11 A. Oh. I see. "Needless to say, I was utterly shocked when  
12 I read the above."

13 Q. And would you read the last -- the beginning of the last  
14 paragraph of the letter, which is on Page 11?

15 A. I'm sorry. Starting with "I sincerely"?

16 Q. Yes.

17 A. "I sincerely desire to avoid doing anything which might  
18 remotely be considered as an act that could impede any IRS  
19 agents engaged in the administration and enforcement of income  
20 tax" -- "income tax laws." Continue?

21 Q. The next sentence, please.

22 A. "Certainly I would not wish to impede even you. However,  
23 as you've seen from the attached materials, I cannot locate  
24 any published delegation order authorizing IRS units, such as  
25 CID, to enforce Chapter 75 of the Code in reference to the

1 federal income tax."

2 Q. Go ahead.

3 A. "Could you please review the attached materials and point  
4 out to me which published delegation order does, in fact,  
5 authorize either CID units or yourself to administer and  
6 enforce Chapter 75 of the Internal Revenue Code?"

7 Q. And it appears to be signed by Wesley Snipes, is that  
8 correct?

9 A. Yes, it does.

10 Q. Now, are there materials that are attached after that  
11 letter?

12 A. Yes, there are.

13 Q. Would you hold them up and flip through it, please?

14 A. There's 228 pages.

15 Q. Now, you said you received this correspondence in late  
16 October of 2003, is that correct?

17 A. That's correct.

18 Q. Was there an event in this investigation that occurred  
19 shortly before you received this correspondence from  
20 Mr. Snipes?

21 A. Yes. Sometime before this Special Agent Lalli and I had  
22 traveled to New York to serve subpoenas -- corporation  
23 subpoenas on the custodian of records, entities that related  
24 to Mr. Snipes. And on those subpoenas was my name and my  
25 title and the -- this unique address on those subpoenas. And

1 that's the address that appears at the top of this letter.

2 Q. And that was shortly before you received this  
3 correspondence?

4 A. Yeah, a few months.

5 Q. Did you send any correspondence back to Mr. Snipes  
6 regarding this?

7 A. Yes, we did.

8 Q. Did you personally?

9 A. No, I did not.

10 Q. Did someone else?

11 A. Yes. The U.S. Attorney's Office did.

12 Q. And in substance, what did the U.S. Attorney's Office  
13 offer to do for Mr. Snipes in that correspondence?

14 A. Well, at first he -- the letter states that -- informed  
15 Mr. Snipes that he was the target of a federal grand jury  
16 investigation and that he had instructed the agents not to  
17 respond to Mr. Snipes because he felt -- the U.S. Attorney's  
18 Office felt that it was not productive use of time for us or  
19 Mr. Snipes.

20 And then I think finally he invited Mr. Snipes to  
21 convey -- or meet in front of the grand jury to convey his  
22 facts that he would be entitled to do, but he was also  
23 cautioned to obtain an attorney that was familiar with federal  
24 grand jury investigations, and that attorney would be  
25 available to Mr. Snipes during those proceedings if he chose

1 to present materials or information to them.

2 Q. Now, did you receive other correspondence from Mr. Snipes  
3 after this correspondence you've just been referring to?

4 A. Yes, I did.

5 Q. Looking at Government's Exhibit 140, do you recognize  
6 that?

7 A. Yes, I do.

8 Q. What is it?

9 A. It's a letter, again, from the desk of Wesley Snipes to  
10 me.

11 Q. What's the date?

12 A. January 17, 2004.

13 MR. MORRIS: Your Honor, at this time the  
14 United States would offer Government's Exhibit 140.

15 MR. BERNHOFT: No objection, Judge.

16 THE COURT: It's received.

17 MR. MORRIS: And if we could publish the first page  
18 of that document, please?

19 BY MR. MORRIS:

20 Q. And what is the reference line there?

21 A. Questions regarding application of the federal income tax  
22 laws.

23 Q. And would you read the first paragraph, please?

24 A. "By letter dated November 3, 2003, I provided to you a  
25 substantial amount of materials related to the matter of your

1 authority to engage in a criminal investigation for federal  
2 income tax crimes. I asked by means of that letter for you to  
3 inform me of the published delegation of authority which  
4 authorized you to engage in such an investigation. To date, I  
5 have not received" -- "I received no reply to my inquiry to  
6 you" -- "of you."

7 Q. Special Agent Graf, what is your authority to investigate  
8 criminal activity involving taxes?

9 A. I'm given authority under Title 26, 7608, Part B.

10 Q. Have you had people in the past question your authority as  
11 a Special Agent?

12 A. Yes, I have.

13 Q. And how would you respond in those situations?

14 A. Usually I offer to show them my credentials, which  
15 contains my badge, my badge number, and my commission with my  
16 picture I.D. on it.

17 Q. And do your credentials set forth some of your authority  
18 as a Special Agent?

19 A. Yes, it does.

20 Q. Do you carry a gun?

21 A. Yes, I do.

22 Q. Is that a gun that you purchased yourself, or was it  
23 issued to you?

24 A. No, it's provided by the government.

25 Q. In fact, are you required to carry that weapon?

1 A. The manual states we're required to have it available at  
2 all times.

3 Q. Do your credentials include a badge that identifies you as  
4 a Special Agent?

5 A. Yes, it does.

6 Q. What is some of the authority you have as a Special Agent?

7 A. May I read it?

8 Q. Surely.

9 A. It says -- it has "Special Agent Graf, Criminal  
10 Investigation Division, U.S. Treasury. Special Agent Graf has  
11 authority to perform all duties conferred upon such officers  
12 under all laws and regulations administered by the Internal  
13 Revenue Service, including the authority to investigate,  
14 execute and serve search warrants and arrest warrants and  
15 serve subpoenas and summonses, to make arrests without  
16 warrant, carry firearms, make seizures of properties subject  
17 to forfeiture, and to require and receive information as to  
18 all matters relating to such laws and regulations by the  
19 authority of the Commissioner of the Internal Revenue."

20 Q. Have you made arrests of people in the course of your  
21 duties?

22 A. Yes, I have.

23 Q. Have you sought application for search warrants from  
24 Federal Judges?

25 A. Yes, I have.

1 Q. Have you taken part in the execution of federal search  
2 warrants?

3 A. Yes.

4 Q. Have you seized documents and records pursuant to that  
5 authority?

6 A. Yes.

7 Q. And approximately how many criminal investigations have  
8 you worked in your career?

9 A. A few dozen.

10 Q. Special Agent Graf, what did you consider this  
11 correspondence to be from Mr. Snipes?

12 A. I thought it was bizarre, and I didn't understand it. I  
13 took it to be obstructive and diversionary.

14 Q. Thank you.

15 MR. MORRIS: Those are my questions for the witness.

16 THE COURT: Mr. Bernhoft?

17 MR. BERNHOFT: Thank you, Judge.

18 CROSS-EXAMINATION

19 BY MR. BERNHOFT:

20 Q. Good afternoon, Special Agent Graf.

21 A. Good afternoon.

22 Q. Is it Graf or Graf?

23 A. Graf, G-R-A-F.

24 Q. Not the Deutsche, huh? All right.

25 Now, you read into the --



1           MR. BERNHOFT: Can we call up Government's 139,  
2 please, Ms. Amburgey? And can we go to Page 11, WS01849?  
3 Could you highlight that paragraph, please?

4 BY MR. BERNHOFT:

5 Q. Special Agent Graf, isn't it true that Mr. Snipes is  
6 asking you a couple of questions in this 11-page letter and  
7 the attachments?

8 A. Yes.

9 Q. He's asking you to identify the statutory authority by  
10 which you investigate Subtitle A income tax, isn't he?

11 A. Yes.

12           MR. BERNHOFT: Could we pull up Government 140,  
13 please? Could we blow up the first two paragraphs,  
14 Ms. Amburgey? Thank you.

15 BY MR. BERNHOFT:

16 Q. You've testified that this is the second letter you  
17 received from Mr. Snipes dated January 17, 2004, is that  
18 correct?

19 A. That's correct.

20 Q. All right. Could you help us out and read the jury the  
21 first two paragraphs there, please?

22 A. "By letter dated November 3, 2003, I provided to you a  
23 substantial amount of materials related to the matter of your  
24 authority to engage in a criminal investigation for federal  
25 income tax crimes. I asked by means of that letter for you to

1 inform me of the published delegation of authority which  
2 authorized you to engage in such investigation. To date, I  
3 have received no reply to my inquiry of you. I do have  
4 serious questions regarding your authority to engage in such  
5 an investigation of me, an American citizen living here in  
6 this country."

7 Q. That's fine. Thank you.

8 So Mr. Snipes is asking questions, and in this follow-up  
9 letter he's asking -- he's indicating you didn't reply to him  
10 and he's indicating he has serious questions about your  
11 authority as a Special Agent, is that correct?

12 A. That's correct.

13 Q. All right.

14 MR. BERNHOFT: Could we go to Page 2 of that  
15 document, please? If you could go to the second-to-last  
16 paragraph. Would you blow that up for us?

17 BY MR. BERNHOFT:

18 Q. Could you read that paragraph, please? This comes from  
19 Page 2, Government's 140. This is that January 17, 2004,  
20 letter. Could you read that second-to-the-last paragraph,  
21 Page 2?

22 A. "Since it appears to me that you are either unable or  
23 unwilling to answer the questions I posed to you in my  
24 November 3 letter" -- "2003 letter, I have concluded that  
25 perhaps I need to provide more information to you, and that is

1 the purpose of this letter, which is also contained on the  
2 attached CD. This letter contains two parts, Part 1 and Part  
3 2.

4 "In Part 1 I provide an analysis of the statutory basis  
5 for the federal income tax. Also provided is material  
6 regarding the manner by which your agency complies with  
7 several laws applicable to it.

8 "In Part 2 I provide lots of federal statutes and in  
9 effect" -- "in an effort to determine the meaning of certain  
10 important words. It is my hope that this additional material  
11 demonstrates the importance of the matters I raised in my  
12 first letter to you."

13 Q. Special Agent Graf, did you review materials that  
14 Mr. Snipes attached to this second letter dated January 17,  
15 2004? Did you review the attachments, the materials he  
16 attached?

17 A. You mean the CD?

18 Q. Yes.

19 A. No.

20 Q. Okay. So do you know what he's referring to when he talks  
21 about statutes, regulations, cases, et cetera?

22 A. I -- I would say that I opened the CD, but I didn't review  
23 it and examine it. It just didn't make any sense to me.

24 Q. Well, how would it make any sense to you if you didn't  
25 open it up and look at it?

1 A. Well, like I said, I started to like in the first letter,  
2 and it's usual argument that I didn't understand.

3 Q. You didn't understand that he's asking a couple of  
4 questions about your authority? You didn't understand that?

5 A. No, I understand the questions. It's just the other stuff  
6 I didn't understand, the CD and the supporting material.

7 Q. Again, how could you understand what was on the CD if you  
8 didn't open it and look at the documents there?

9 A. Like I corrected, I started to and I realized that I've  
10 seen some of this stuff before.

11 Q. Let's take a look at some of that material.

12 MR. BERNHOFT: First, could we please go to Page 38  
13 of this second letter here, please? There we are. Thanks. I  
14 appreciate that. Go down to the bottom, if you would, please.

15 BY MR. BERNHOFT:

16 Q. Now, this is the last page of this January 17, 2004,  
17 letter. Special Agent Graf, can you just read the language,  
18 that paragraph under "conclusion," please?

19 A. "The above materials surely indicate that there is a  
20 serious problem regarding your authority to engage in a  
21 criminal investigation of me. Thus, I again ask could you  
22 please review the materials attached to my November 3 letter  
23 and point out to me which published delegation order does, in  
24 fact, authorize either CID units or yourself to administer and  
25 enforce Chapter 75 of the Internal Revenue Code."

1 Q. All right. Special Agent Graf, are you familiar with  
2 delegation orders?

3 A. Yes.

4 Q. All right. And you've had occasion to review delegation  
5 orders in the course of your official duties?

6 A. Yes.

7 Q. All right. What delegation order does authorize you to  
8 investigate a Subtitle A income tax?

9 A. I believe it's Treasury Directive Order 150-10, but I  
10 could be wrong.

11 Q. TD 150-10?

12 A. I think so, but I'm not entirely sure.

13 Q. How hard would it have been to write a little letter to  
14 Mr. Snipes saying, TD 150-10 is my DO to investigate a  
15 Subtitle A tax and that's the answer to your question?

16 A. I was precluded from answering.

17 Q. Precluded?

18 A. Yes.

19 Q. How is that?

20 A. The U.S. Attorney's Office responded on my behalf.

21 Q. That's non-responsive. Please listen to my question,  
22 Special Agent Graf. How hard would it have been to write a  
23 letter to Mr. Snipes saying TDO 150-10 is the published  
24 delegation of authority to do what I'm doing?

25 MR. MORRIS: Objection, asked and answered.

1 THE COURT: Sustained. I think he answered that,  
2 Mr. Bernhoft.

3 MR. BERNHOFT: All right, Judge.

4 BY MR. BERNHOFT:

5 Q. You referred to this --

6 MR. BERNHOFT: Actually, can we page down through  
7 some of these documents? We're going to go over this as  
8 quickly as possible. I'm not going to get into a great deal  
9 of detail. Keep going, please.

10 Could we back up to Government 139? Okay. Go to  
11 the end of the letter. There's going to be some materials  
12 there. Take a brief look at this, please.

13 Okay. Would you go down one more page? Okay. Stop  
14 there. Could you blow up that left side with the key there?

15 BY MR. BERNHOFT:

16 Q. Are you familiar with what -- how a federal case is  
17 printed in the U.S. Reporter?

18 A. No.

19 Q. Have you read federal cases before?

20 A. Yes.

21 Q. All right. Does that look like a federal case to you?

22 A. I assume so.

23 MR. BERNHOFT: Well, why don't we blow up that  
24 information right below the key there, if we could,  
25 Ms. Amburgey.

1 BY MR. BERNHOFT:

2 Q. All right. What does the last part of that say? What  
3 court does that come out of?

4 A. Ninth Circuit.

5 Q. The United States Court of Appeals for the Ninth Circuit?

6 A. Yes.

7 Q. And that's a Federal Circuit Court of Appeal?

8 A. Yes.

9 Q. Courts of Appeal are the courts that sit over U.S.  
10 District Courts, right?

11 A. Yes.

12 MR. BERNHOFT: Go to the next page, please. If you  
13 could scroll rather quickly, I think there's a number of these  
14 federal cases.

15 Why don't we stop there. Could you blow up Chapter  
16 7 there, please?

17 BY MR. BERNHOFT:

18 Q. Do you recognize this document here in general, Special  
19 Agent Graf?

20 A. I'm sorry. What page is that on?

21 Q. The Bates number is WS-01877.

22 A. Okay. No, I don't.

23 Q. That's a public law passed by Congress, isn't it?

24 A. I don't know.

25 Q. All right.

1 MR. BERNHOFT: Could we go down a few pages?

2 BY MR. BERNHOFT:

3 Q. Are you familiar with the Federal Register, Special Agent  
4 Graf?

5 A. I've heard of it, yes.

6 Q. All right. What have you heard about the Federal  
7 Register?

8 A. I don't remember.

9 Q. All right. You're not familiar that the Federal Register  
10 is a compilation of all regulations and notices that are  
11 required to be published by federal law?

12 A. Sounds, yes, familiar.

13 Q. All right.

14 MR. BERNHOFT: Keep going down, if you could. Stop  
15 right there.

16 BY MR. BERNHOFT:

17 Q. Do you recognize this page as being a page from the  
18 Federal Register?

19 A. No, I don't.

20 Q. So you didn't read any of these legal materials, the  
21 Federal Register or the Code of Federal Regulations, public  
22 laws or federal cases?

23 A. Not that material that far back, no.

24 Q. All right. Now, Special Agent Graf, you had mentioned  
25 that the U.S. Attorney's Office had responded to Mr. Snipes



1 with a letter, is that correct?

2 A. That's correct.

3 Q. All right. And in that letter did they answer Mr. Snipes'  
4 questions?

5 A. No.

6 Q. All right. So they didn't write a letter to Wesley Snipes  
7 saying Special Agent Graf is authorized by delegation order  
8 TDO 150-10 to do what he's doing?

9 A. No.

10 Q. All right. But instead they invited him to incriminate  
11 himself before a grand jury, is that right?

12 A. They invited him to present -- I forget the exact  
13 wording -- but to present -- or make an appearance there with  
14 assistance of counsel.

15 Q. All right. Now, you've heard that Special Agent Lalli  
16 testified that he had given advice of rights to Mr. Snipes,  
17 correct?

18 A. That's correct.

19 Q. And those advice of rights included that anything he said  
20 or did could be used against him in a court of law, correct?

21 A. That's correct.

22 Q. So he was under that prohibition at the time that he was,  
23 quote, unquote, invited to appear at the grand jury, correct?

24 A. Yes, he was.

25 Q. All right.

1 MR. BERNHOFT: Could you turn to Government's 140  
2 and particularly WS-02151?

3 (Discussion off the record between Mr. Bernhoft and  
4 Ms. Amburgey.)

5 MR. BERNHOFT: A moment to confer with opposing  
6 counsel, Judge?

7 THE COURT: I'm sorry?

8 MR. BERNHOFT: A moment to confer with opposing  
9 counsel?

10 THE COURT: You may.

11 (Pause.)

12 MR. BERNHOFT: Thank you, Special Agent Graf. No  
13 questions, sir.

14 THE COURT: Mr. Wilson?

15 MR. WILSON: No, Judge, I have no questions.

16 THE COURT: Any redirect, Mr. Morris?

17 MR. MORRIS: Thank you, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. MORRIS:

20 Q. Mr. Graf, you were asked some questions referring to a  
21 published delegation order. Specifically Mr. Snipes is asking  
22 for a published delegation order. Do you recall those  
23 questions?

24 A. Yes, I do.

25 Q. Okay. What is your authority to investigate crimes?

1 A. I'm given authority by Title 26, 7608, which gives me  
2 authority to investigate the Internal Revenue -- the criminal  
3 violations of the Internal Revenue Code and related financial  
4 crimes.

5 Q. Is that section of Title 26 that you just recited for  
6 us -- is that available to the public?

7 A. Yes, it is.

8 Q. Is that part of the public laws of the United States of  
9 America?

10 A. Yes.

11 Q. Can that be found in any law library?

12 A. Yes.

13 Q. In fact, could it be found in the Internal Revenue Code  
14 books?

15 A. Yes.

16 Q. You were asked about the attachments, the voluminous  
17 materials behind that -- those letters.

18 A. Yes.

19 Q. And I believe you said that you had seen some of that  
20 before, is that correct?

21 A. That's correct.

22 Q. Where had you seen some of that stuff before?

23 A. In other letters mailed to other Special Agents in other  
24 criminal investigations.

25 Q. Did you look through some of the attached materials?

1 A. Yes, a little bit.

2 Q. Did they call into question in any way your authority to  
3 investigate criminal activity?

4 A. You mean like the two sections -- the Section 274? I'm  
5 sorry?

6 Q. Any of the attached materials that you looked at, did they  
7 cause any question in your mind as to whether you had any  
8 authority to investigate criminal activity?

9 A. No.

10 Q. Would it have been productive for you to send a response  
11 to Mr. Snipes?

12 A. No.

13 Q. And what, again, was the timing of the steps in your  
14 investigation leading up to the receipt of these materials?

15 A. Prior to receiving this first and certainly the second  
16 letter, I had been engaged in serving subpoenas with other  
17 Special Agents in New York.

18 Q. Thank you.

19 MR. MORRIS: No further questions.

20 MR. BERNHOFT: Just briefly, Judge.

21 THE COURT: Mr. Bernhoft.

22 RECROSS-EXAMINATION

23 BY MR. BERNHOFT:

24 Q. Special Agent Graf, you heard Special Agent Lalli testify  
25 with regard to IRS Publication 1, Your Rights as a Taxpayer,

1 correct?

2 A. That's correct.

3 Q. All right. It contains a bunch of statements in there  
4 that Special Agent Lalli read into the record regarding  
5 answering taxpayers' questions, et cetera; that's correct,  
6 isn't it?

7 A. That's correct.

8 MR. MORRIS: Objection, outside the scope of  
9 redirect.

10 THE COURT: I'm not quite sure yet. Go ahead,  
11 Mr. Bernhoft.

12 MR. BERNHOFT: I'll connect it, Judge.

13 THE COURT: Go ahead.

14 BY MR. BERNHOFT:

15 Q. Now, you testified on redirect for Mr. Morris that it  
16 wouldn't have been productive to respond to Mr. Snipes'  
17 letter, is that correct?

18 A. Yes.

19 Q. But by doing so and simply identifying TDO 150-10 as your  
20 DO to investigate Subtitle A income tax, you would have  
21 answered his question, and it would have conformed to the --  
22 your rights as a taxpayer mandate, isn't that true?

23 A. I'm sorry. What was the last part?

24 Q. It would have conformed to the mandates of the publication  
25 Your Rights as a Taxpayer to answer a taxpayer's questions?

1 MR. MORRIS: Objection, outside the scope of  
2 redirect.

3 THE COURT: Overruled.

4 THE WITNESS: No, that's not correct. That advice  
5 of -- I'm sorry -- that Publication 1 only speaks to civil  
6 rights as in -- in -- in -- in the collection process and  
7 examination. It is specifically excluded in that -- in  
8 criminal investigation, it is left out of that publication.

9 BY MR. BERNHOFT:

10 Q. All right.

11 MR. BERNHOFT: No further questions.

12 THE COURT: Anything, Mr. Wilson?

13 MR. WILSON: No, Your Honor.

14 THE COURT: Thank you, Agent Graf. You may step  
15 down, sir.

16 Mr. Morris, next witness, please.

17 MR. MORRIS: The United States calls Tanya Burgess.

18 \*\*\* TANYA BURGESS 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: Tanya Burgess, B-U-R-G-E-S-S.

23 TANYA BURGESS,

24 being duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. MORRIS:

2 Q. Ms. Burgess, how are you employed?

3 A. I'm a Supervisory Special Agent with IRS Criminal  
4 Investigation in Pensacola, Florida.

5 Q. How long have you been a Supervisory Special Agent?

6 A. Almost a year.

7 Q. And were you a Special Agent before that?

8 A. Yes, I was.

9 Q. How long?

10 A. For 25 years.

11 Q. And where is your current station of duty?

12 A. In Pensacola, Florida.

13 Q. Were you assigned to this investigation?

14 A. No, I was not.

15 Q. In the course of your duties as a Special Agent, have you  
16 received correspondence --

17 MR. BERNHOFT: Judge, I have an objection regarding  
18 this witness, 401, 402, and I really think it would be best to  
19 be heard at sidebar.

20 THE COURT: Come to sidebar, then.

21 AT SIDEBAR:

22 MR. BERNHOFT: Judge, what we're getting into here,  
23 first, is Government's 142, and this is a letter purported to  
24 be written by Dr. Ward Dean to this Special Agent.

25 The government's position, I suppose, is the letter

1 is substantially similar. The problem is, it's wholly  
2 irrelevant. There's been no connection in this case.

3 She's not a case agent. Dr. Ward Dean is a  
4 completely separate case, has nothing to do with ARL. There's  
5 absolutely no relevancy whatsoever to this entire line of  
6 questioning.

7 And the same objection to what's coming out in  
8 G-142; it's the same thing. There's no relevancy whatsoever.

9 THE COURT: Is this a government exhibit for  
10 identification, 142, you're talking about?

11 MR. BERNHOFT: Currently, Judge, we're talking about  
12 Government's 141, which relates to this Special Agent Burgess  
13 letter.

14 MR. MORRIS: Your Honor, I would intend to offer  
15 through this witness Government's Exhibits 141 and 142 marked  
16 for identification. She has first-hand knowledge with regard  
17 to receipt of both of those items. They are not only similar  
18 but essentially verbatim, the exact same documents as  
19 Government's Exhibit 139 that's been received. We're simply  
20 offering them to show that, in fact, the exact same type of  
21 correspondence has been received in other criminal  
22 investigations.

23 MR. BERNHOFT: Your Honor, it's totally irrelevant  
24 to this case.

25 THE COURT: Wait just a minute.



1           What is the relevance of that to this case,  
2           Mr. Morris?

3           MR. MORRIS: Your Honor, the representations in  
4           Government's Exhibit 139 that's been received into evidence is  
5           that Mr. Snipes has engaged in an extensive evaluation of the  
6           revenue -- I mean the criminal -- the criminal investigator's  
7           authority.

8           By showing the other two documents that say exactly  
9           the same thing, it becomes readily apparent that that is not  
10          true, that this is just another tax protester document that's  
11          being generated for obstruction.

12          THE COURT: What are the dates on the respective  
13          documents?

14          MR. BERNHOFT: Government's 141 is July 15, 2003,  
15          Judge. That is it right there.

16          THE COURT: What's the date on the --

17          MR. BERNHOFT: Government's 142 -- I apologize --

18          THE COURT: No, what --

19          MR. BERNHOFT: That's 142. 141 is December 27,  
20          2002.

21          THE COURT: No. What's the date on the document  
22          that's already in evidence, is the question?

23          MR. BERNHOFT: I'm sorry.

24          MR. MORRIS: Number 139 is the relevant document.

25          And the date on that is November 2003. So they were

1 received -- these other two were received in approximately the  
2 same time period within a year.

3 MR. BERNHOFT: Mr. Snipes' letter was post both of  
4 these letters. And with all respect, Mr. Morris hasn't  
5 demonstrated relevancy. I mean, what we have right now is an  
6 ARL conspiracy. It's a finite conspiracy charged in the  
7 Indictment. There's all sorts of evidence that various people  
8 used relative form letters to engage the IRS --

9 THE COURT: Well -- all right. That's enough,  
10 Mr. Bernhoft.

11 MR. BERNHOFT: Okay.

12 THE COURT: I don't think it has any probative value  
13 worth pursuing, Mr. Morris. For one thing it's not  
14 necessarily inconsistent unless you're prepared to prove that  
15 this letter from someone else to this witness is not derived  
16 from the materials that Mr. Snipes says that he generated in  
17 Exhibit 139, but it's all collateral so --

18 MR. MORRIS: Your Honor, I would propose, then, not  
19 to offer Government's Exhibits 141 and 142 but to ask the  
20 witness questions about 139 that's been received into  
21 evidence.

22 THE COURT: Well, go ahead. I'll listen to that.  
23 You can make objection as we go along.

24 IN OPEN COURT:

25 BY MR. MORRIS:

1 Q. Ms. Burgess, in the scope of your duties as a Special  
2 Agent, have you received correspondence from people who could  
3 be classified as tax protesters?

4 A. Yes, I have.

5 Q. And did some of that correspondence that you've received  
6 question your authority as a Special Agent?

7 A. Yes, it did.

8 Q. I'm showing you now what's been received into evidence as  
9 Government's Exhibit 139.

10 MR. BERNHOFT: Same objection, Judge, 401, 402,  
11 relevancy.

12 THE COURT: I'll overrule that objection presently.

13 Go ahead, Mr. Morris.

14 BY MR. MORRIS:

15 Q. Ms. Burgess, would you look at Government's Exhibit 139,  
16 please?

17 A. Yes, sir.

18 Q. Is that document familiar to you?

19 A. Yes, it is.

20 Q. Have you received correspondence that is substantially  
21 identical to that?

22 A. Yes, I have.

23 Q. Have other Special Agents in your office received  
24 correspondence substantially identical to that document?

25 A. Yes.

1 Q. In the cases -- case or cases that you investigated where  
2 you received correspondence substantially identical to  
3 Government's Exhibit 139, what sort of events happened prior  
4 to --

5 MR. BERNHOFT: Objection, Judge.

6 BY MR. MORRIS:

7 Q. -- receiving those documents?

8 MR. BERNHOFT: This is irrelevant, Judge.

9 THE COURT: No, the examination relates to the  
10 exhibit in evidence. I'm inclined to overrule the objection  
11 at this point to the examination of the witness.

12 Do you recall that question, Agent Burgess?

13 THE WITNESS: Yes, sir.

14 THE COURT: Go ahead. You may answer.

15 THE WITNESS: The investigation that I was assigned  
16 to, we had issued a grand jury subpoena to the subject of the  
17 investigation requiring him to provide handwriting exemplars,  
18 and he refused to provide those handwriting exemplars, so the  
19 judge in the case --

20 THE COURT: Well, the question is -- I think you've  
21 answered, Agent Burgess. That preceded your reception of  
22 correspondence like the exhibit in front of you?

23 THE WITNESS: Yes, sir.

24 THE COURT: Put another question, if you wish,  
25 Mr. Morris. Go ahead.

1 BY MR. MORRIS:

2 Q. And when you say you've received correspondence  
3 substantially identical to that, is it, in fact, verbatim  
4 other than the person sending it?

5 A. Yes, it is, the date and the person who sent it.

6 Q. That's the only difference?

7 A. Yes.

8 Q. And you received that correspondence after the target in  
9 your investigation refused to provide handwriting exemplars  
10 pursuant to a subpoena, is that correct?

11 A. Yes. That's correct.

12 MR. MORRIS: No further questions.

13 MR. BERNHOFT: Briefly, Judge.

14 THE COURT: Mr. Bernhoft.

15 CROSS-EXAMINATION

16 BY MR. BERNHOFT:

17 Q. Special Agent Burgess, good afternoon.

18 A. Good afternoon.

19 Q. Are you aware that Mr. Snipes provided handwriting  
20 exemplars pursuant to a grand jury subpoena in this case?

21 A. I'm not that familiar with the --

22 Q. Exactly.

23 A. -- information in this case.

24 Q. Exactly.

25 MR. WILSON: I have no questions, Your Honor.

1 THE COURT: Thank you, Special Agent Burgess. You  
2 may step down.

3 Mr. McLellan?

4 MR. McLELLAN: Your Honor, the government's prepared  
5 to call a witness. However, I just need to put my hands on  
6 the exhibits.

7 THE COURT: All right. Well, let's try and make use  
8 of our time. Call your witness, and you can be looking for  
9 your exhibits.

10 MR. McLELLAN: The government calls Mike Andersen.

11 \*\*\* MICHAEL ANDERSON was sworn by the Deputy Clerk \*\*\*

12 THE DEPUTY CLERK: Please have a seat.

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

15 THE WITNESS: Michael Anderson, A-N-D-E-R-S-O-N.

16 MICHAEL ANDERSON,

17 being duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. McLELLAN:

20 Q. Mr. Anderson, how are you employed?

21 A. I'm a Special Agent with the Criminal Investigation  
22 Division of IRS.

23 Q. And where is your post of duty?

24 A. Atlanta, Georgia.

25 Q. And how long have you been with the Internal Revenue

1 Service?

2 A. For a little over 25 years.

3 Q. In what capacities have you served with the IRS?

4 A. For four and a half years I was a Revenue Agent with the  
5 Examination Division. And since March 1987 I've been a  
6 Special Agent with CID.

7 Q. What are your current duties?

8 A. I am a Computer Investigative Specialist, or CIS, as  
9 abbreviation.

10 Q. And how long have you been a CIS?

11 A. Since April of 1990.

12 Q. Are you familiar with a business that went by the name of  
13 American Rights Litigators and then Guiding Light of God  
14 Ministries?

15 A. Yes, sir.

16 Q. Were you assigned to assist with an investigation of  
17 persons associated with that business?

18 A. Yes, sir.

19 Q. Were you involved in the execution of a search warrant at  
20 their offices on February the 13th of 2004?

21 A. Yes, sir.

22 Q. Now, where were those offices?

23 A. Mount Dora, Florida.

24 Q. Just generally, could you describe those offices?

25 A. A business office in a commercial building. I remember

1 there were some -- it was on the main street in Mount Dora.

2 There were quite a number of little cubicles or offices within  
3 the -- you know, within the main office.

4 Q. And what was your role in the execution of the search  
5 warrant?

6 A. I imaged the computers at the location.

7 Q. Okay. By imaging the computers, what steps did you take?

8 A. Well, after identifying the rooms and marking for search  
9 warrant purposes which room was which so we can make sure that  
10 we know which computer came from where, we would -- generally  
11 speaking, would remove the hard drive out of the computer and  
12 then attach them to a government computer using either a  
13 write-block device or software to prevent writing to the  
14 original hard drive.

15 Then we would make an image of the hard drive. An image  
16 is like a picture of the -- of that exact moment that we do  
17 it. And this write-blocking software or write-blocking device  
18 would prevent anything from the original hard drive to be  
19 changed. So we would make a copy of the hard drive, or an  
20 image, and it would go to a government hard drive.

21 Q. Okay. I take it that they did have computer equipment at  
22 those offices?

23 A. Yes. There were approximately 31 computers at the  
24 location.

25 Q. Was there a computer network?



1 A. Yes, sir, there was -- there were.

2 Q. Please describe that.

3 A. There were six file servers. One of them was an email  
4 server. One was a fax server. There was a backup type of  
5 server. There was a video capture server. And then there was  
6 a main file server where most of the computer data would be  
7 stored, like your files from the network. And then there were  
8 25 or so work stations, including one laptop.

9 Q. Did you take exact images of what was on the hard disks of  
10 those computers?

11 A. Yes, sir.

12 Q. I'm talking about the servers you mentioned. What  
13 relationship do these servers have to the other computers in  
14 the business?

15 A. Generally, file servers usually have a larger storage  
16 capacity on them, a bigger hard drive, so you can maintain  
17 most of your files on the -- and the users from the network  
18 can access these files on the main server. And that was the  
19 circumstance here.

20 They had one -- I believe it's -- a Windows 2000 server  
21 was the operating system -- and they were storing a lot of  
22 their files on this server as a central storage location.

23 Q. Special Agent Anderson, I'd like to direct your attention  
24 to an exhibit we can publish here on the screen, 85 -- I'm  
25 sorry -- Government's Exhibit 81-5. Is this in any way

1 connected with this computer network you're describing?

2 A. I think so.

3 Q. Okay.

4 A. I don't really remember that picture, but it certainly is  
5 network cabling.

6 Q. Let me ask you this: Were these computers connected by  
7 cables in this manner?

8 A. Yes. There were Ethernet cables, cables running from  
9 office to office connecting all the computers together.

10 Q. Did you locate a main operating data file on the main  
11 server in that business?

12 A. Yes, sir.

13 Q. I think you might have mentioned this earlier: In what  
14 file format was that data being kept?

15 A. This was a Microsoft Access database. And the name of the  
16 file was GLGM OLE system DB, and the file extension on the  
17 Access database was dot MDB.

18 Q. Okay. And this type of database called Microsoft Access,  
19 is that a common variety?

20 A. Yes, sir. It's -- if you buy Microsoft Office, which is a  
21 very common integrated package -- it comes with Word and  
22 Excel -- Access usually comes with it if you buy the full  
23 package.

24 Q. Okay. Could most of the users on this network access that  
25 data?

1 A. Yes, sir. From quite a number of the desktop computers or  
2 the network computers, there was an icon that you would double  
3 click on to access this database.

4 Q. Okay. Did this allow them in some automated fashion to  
5 put information in and take information out from that  
6 database?

7 A. Yes, sir.

8 Q. Now, did you search that main Microsoft Access file for  
9 information on Wesley Snipes and Amen RA Films?

10 A. Yes, sir, I did.

11 Q. Did you identify client numbers for Wesley Snipes and Amen  
12 RA Films?

13 A. Yes, sir. Client number 2586 is for Mr. Snipes, and  
14 client number 2585 is for Amen RA Films.

15 Q. Okay. Taking a look -- I guess you may already have it in  
16 front of you -- taking a look at Government's Exhibit Number  
17 107-1, what is that document?

18 A. This is a table that came out of the database that we're  
19 talking about. This is a client table. This lists the name,  
20 address, client number, email address; a lot of personal  
21 information concerning the clients.

22 Q. Did you print that document?

23 A. Yes, sir, I did. I converted this to Excel for ease of  
24 printing and then we printed it -- or I printed it.

25 Q. How did you limit that report to only contain information

1 about Wesley Snipes and Amen RA Films?

2 A. In Access database, you can filter for a name, or in this  
3 case I filtered just for the client numbers. Once I  
4 identified what the client number was, I limited the -- by  
5 filtering it for Mr. Snipes and for Amen RA Films.

6 Q. Okay. Taking a look at Exhibit Number 107-3, what is  
7 107-3?

8 A. 107-3 is a -- what we call a query that's done in Access.  
9 When you ran this as part of the database, it will come up and  
10 ask you for the client number. And in 107-3, I typed in 2585,  
11 and it provided me with a listing of certain things based on  
12 this query.

13 Q. Okay. And as to 107-4, what is that?

14 A. It's the same query but in this case one for client number  
15 2586, which is Mr. Snipes.

16 MR. McLELLAN: The government offers exhibits -- I'm  
17 sorry -- documents marked for identification Numbers 107-1,  
18 107-3, 107-4.

19 MR. BARNES: No objection, Your Honor.

20 MR. WILSON: No objection.

21 THE COURT: Each of those exhibits is received.

22 BY MR. McLELLAN:

23 Q. Taking a look at Exhibit Number 107-1 --

24 MR. McLELLAN: Perhaps we could publish it. If  
25 possible, focus at the top of it.

1 BY MR. McLELLAN:

2 Q. Okay. What did you call this document?

3 A. This is the client table from that Access database.

4 Q. Okay. So taking a look at the first row there, client  
5 number 2586, could you read the content of the -- of the  
6 columns on that first page for client number 2586?

7 A. Yes, sir. Membership type: One. Last name member:  
8 Snipes. Middle name member: Snipes. First name member:  
9 Wesley.

10 Q. Okay. And taking a look at number -- I guess the second  
11 row of that -- of that table, client number 2585, what  
12 information is contained on the first page for that number?

13 A. Membership type: Number one. Last name member: Snipes.  
14 Middle name member: T. First name member: Wesley.

15 Q. And taking a look at the second page of the printout,  
16 what's in the column there under "organization name"?

17 A. The first line is blank. The second line is Amen RA  
18 Films, Inc.

19 Q. I'm sorry. Yeah. And to what client number does the  
20 organization name Amen RA Films, Inc., correspond?

21 A. 2585.

22 Q. Flipping forward to the page that contains the -- there's  
23 a first column there, email address -- I think it's the second  
24 to the last page of the printout -- do you see that?

25 A. Yes, sir.

1 Q. What's the email address given there for Wesley Snipes?

2 A. CHINAKA at ATTBI dot com.

3 Q. And what -- there's a column to the right there. It says

4 "initial join date." What date is given there?

5 A. March the 2nd, 2000.

6 Q. Okay. And then there's -- the next column is captioned

7 UCC-1 client. What does it say for Wesley Snipes in that

8 regard?

9 A. It says "true."

10 Q. Okay. Now, the second row is the 2585 client number for

11 Amen RA Films. On the page we have up here on the screen,

12 what does it say under "notes" for that one, if you can make

13 it out?

14 A. S-H-R-E-D-D-E-D -- oh. No D on the end. I'm assuming it

15 means shredded, but the column has been cut off.

16 Q. Okay. And what's the initial join date for Amen RA Films?

17 A. March the 2nd, 2000.

18 Q. Directing your attention to Exhibit 107-3, what type of

19 output is this?

20 A. This is a query from the Access database, and this one is

21 for client number 2585, which is Amen RA Films.

22 Q. Okay. And taking a look at these entries here for client

23 number 2585, what is -- what is the range of transaction dates

24 given there?

25 A. March 2, 2000, up through December 10, 2001.

1 Q. And please read the description of the various -- I'm  
2 sorry -- read the contents of what's listed under  
3 "description" for the transactions.

4 A. Annual membership fee, Check Number 506, IRS response  
5 letter, FOIA response underscore letter dated; then annual  
6 membership fee, check, no cash, and then IRS response letter,  
7 and then letter dated in parens.

8 Q. Okay. Are there debit and credit columns associated with  
9 those transactions?

10 A. Yes, sir.

11 Q. What do the credit columns reflect as far as the apparent  
12 payments here?

13 A. It appears that there was a payment made with a Check  
14 Number 506 on March 2, 2000 for \$200, and then on April 1 --  
15 April 11, 2001, there was another payment made. I don't know  
16 the check number, but it was \$200.

17 Q. Okay. And Exhibit 107-4, does this one correspond to  
18 Mr. Snipes himself?

19 A. Yes, sir. It's client number 2586.

20 Q. Okay. Again, how was this generated?

21 A. This is a query out of the database from the main file  
22 server.

23 Q. Is this the kind of information that the employees could  
24 generate who were using the system?

25 A. Yes, sir.

1 Q. Okay. I see quite a large number here. The -- let's take  
2 a look at the transaction dates. What's the -- what's the  
3 first one that has a transaction date?

4 A. It would be the second line down, and its description,  
5 annual membership fee, and it's got a date of March the 2nd,  
6 2000.

7 Q. Okay. And then how many more are there for the year 2000?

8 A. Three.

9 Q. Okay. And could you -- I guess for 2001, what's the first  
10 date you see there?

11 A. March the 2nd, 2001.

12 Q. Okay. And what was that transaction? What's the  
13 description for that one?

14 A. It says IRS response letter, IMF in parens.

15 Q. Okay. And then let's just -- please read the descriptions  
16 down that column for Mr. Snipes' transactions here.

17 A. Okay. The top one is IRS response letter, CX request.  
18 Then there's annual membership fee; then you have Check Number  
19 506. You have IRS response letter 3176; IRS response letter  
20 IMF; IRS response letter CP-515; IRS response letter 861.

21 Then you have another annual membership fee. Then you  
22 have IRS response letter, letter dated; then check, no cash;  
23 then IRS response letter, letter dated; IRS response letter,  
24 letter 2269-C, as in Charlie.

25 IRS response letter, letter 2050; then another IRS



1 letter -- IRS response letter, letter 2050. IRS response  
2 letter, letter dated.

3 You have two IRS response letters CP-540; then IRS  
4 response letter, letter dated; IRS response letter CP-540; IRS  
5 response letter CP-541; IRS response letter, letter 937; IRS  
6 response letter Privacy Act response, and then --

7 Q. I'm sorry. Now are we -- are we into January of 2002 here  
8 for the timing of these?

9 A. Yes, after the Check Number 3231.

10 Q. Please carry on.

11 A. Okay. The first transaction appears to be January 14,  
12 2002; IRS response letter, letter dated; IRS response letter,  
13 Privacy Act response; IRS response letter, letter dated; IRS  
14 response letter Form 1041; IRS response letter UCC-1; then you  
15 have check, no M-O, annual membership fee; IRS response letter  
16 UCC Treasury filing; IRS response letter, state letter.

17 Q. Okay. Now, is that it for the transactions for 2002?

18 A. Yes, sir.

19 Q. Okay. What is the first date for 2003?

20 A. March 24, 2003.

21 Q. Okay. And what is the transaction there?

22 A. Annual membership fee.

23 Q. And on that same day is there -- is there also another  
24 entry?

25 A. Yes. It's for a Check Number 1096.

1 Q. And in what amount under the "credit" column was that  
2 check?

3 A. \$313.65.

4 Q. And what is the next date in 2003?

5 A. September 9, 2003.

6 Q. And what is the transaction there?

7 A. IRS response letter IMF, underscore specific, underscore  
8 ARL.

9 Q. Okay. And finally, what is the final date in 2003 for  
10 transactions for Wesley Snipes?

11 A. November the 4th, 2003.

12 Q. And what was that transaction?

13 A. It's an IRS response letter, FOIA response, underscore  
14 letter, dated.

15 Q. Okay. Taking a look at a document marked for  
16 identification Number 108, do you have that document in front  
17 of you?

18 A. Yes, sir.

19 Q. Okay. What is that?

20 A. It is a word processing file done under Microsoft Word.

21 Q. And did you print it out?

22 A. Yes, sir, I did.

23 Q. And does it originate from the computers at Guiding Light  
24 of God Ministries as imaged by you --

25 A. Yes, sir.

1 Q. -- or your colleagues?

2 Taking a look at Exhibit Number 109, what is that?

3 I'm sorry. Document Number 109, what is that?

4 A. It is another word processing file done in Microsoft Word.

5 Q. Okay. And taking a look at Exhibit Number 110, what is  
6 that?

7 A. It is a word processing file done in Microsoft Word.

8 Q. Okay. Do each of these bear the name Wesley Snipes in  
9 them?

10 A. Yes, sir, they do.

11 Q. And were these all files taken from images that you seized  
12 at the execution of the warrant?

13 A. Yes, sir.

14 MR. McLELLAN: The government offers Numbers 108,  
15 109 and 110 to be received into evidence.

16 MR. BARNES: No objection, Judge.

17 MR. WILSON: No objection.

18 THE COURT: All right. They are each received.

19 BY MR. McLELLAN:

20 Q. Taking a look at Number 108, do you recall the file date  
21 of that one?

22 A. Yes. Can I pull out some notes to look at them?

23 Q. If you have something with you that could refresh your  
24 memory --

25 A. Yes.

1 (Pause.)

2 A. Yes, sir. Exhibit 108, the file date on that is September  
3 the 3rd, 2002.

4 Q. Okay. Let's take a look at the contents of the document.  
5 What's the -- what's the first page there?

6 A. It appears to be an envelope -- or what would be printed  
7 on an envelope. It's got an address.

8 Q. And who's being -- who's the addressee here?

9 A. Mr. Paul O'Neill, Secretary of the Treasury.

10 Q. And who's the sender?

11 A. Wesley T. Snipes.

12 Q. Okay. And what's on the second page?

13 A. It is a letter.

14 Q. What's the caption?

15 A. Caption? What do you mean?

16 Q. I'm sorry. In the middle of the page there, is there a  
17 designation as to what this is supposed to be?

18 A. Yes, sir. It says, Actual constructive notice,  
19 non-negotiable.

20 Q. And what's on the next page of the document? What's the  
21 caption on that one?

22 A. It says, Registered bill of exchange in according with  
23 HJR-192. It says, Not subject to negotiability.

24 Q. And what's the last page of it?

25 A. The last page is a 1040ES, or estimated payment voucher,

1 from the IRS.

2 Q. And whose name is on there?

3 A. Wesley T. Snipes'.

4 Q. Taking a look at Exhibit Number 109, is the first page of  
5 that also an envelope?

6 A. Yes, sir, it is.

7 Q. Okay. And what's the second page?

8 A. It appears to be a return address.

9 Q. Okay. And what about the third page?

10 A. Another envelope.

11 Q. Okay. Who is that one addressed to?

12 A. Stephen, or Steven, Stool Mueller, Revenue Specialist  
13 Third, Out-of-State Warrants Section, in Tallahassee, Florida.

14 Q. Okay. And is the next one also an envelope?

15 A. Yes, sir, it is.

16 Q. And -- I guess we have several more envelopes here.

17 Flipping forward, do you see a document in there that's  
18 captioned, Actual constructive notice?

19 A. Yes, sir.

20 Q. Okay. And following that, do you see a registered bill of  
21 exchange?

22 A. Yes.

23 Q. Taking a look at Number 110, what's the caption on this  
24 one?

25 A. Attachment to Form 1040, 1040X for tax year 1997.

1 Q. And whose name?

2 A. Wesley Snipes'.

3 Q. Okay. What was the date on this file?

4 A. On this file?

5 Q. Yes.

6 A. April 11, 2001.

7 THE COURT: Mr. McLellan, that brings us to 5:00, so  
8 I suggest we pause for the day.

9 Special Agent Anderson, you may step down from  
10 there. We're going to recess until 9:00 in the morning.

11 THE WITNESS: Thank you.

12 THE COURT: And, members of the jury, with my thanks  
13 to you for your patient attention today, you're now excused  
14 until 9:00 in the morning.

15 Continue to be mindful, as I know you are, of all  
16 the instructions you were given when we began about avoiding  
17 any exposure to extraneous information or conversations or the  
18 like. And we'll stop until 9:00 in the morning.

19 (Thereupon, the proceedings in this case for this  
20 date were concluded at this time.)

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23

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25



I N D E X

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