

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF FLORIDA  
GAINESVILLE DIVISION

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

Docket No. 94CR1009MMP

Gainesville, Florida

May 3, 2000

9:00 a.m.

JOHN KNOCK and  
ALBERT MADRID,

Defendants.

VOLUME 2

*Second?*

TRANSCRIPT OF FIRST DAY OF JURY TRIAL  
WHEN HEARD BEFORE THE HONORABLE SENIOR UNITED STATES  
DISTRICT COURT JUDGE MAURICE M. PAUL, AND A JURY.

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24

25

## INDEX

## WITNESSES FOR THE GOVERNMENT:

	Direct	Cross	Redirect
AGENT CARL LILLEY	12	45/70	95
AGENT MIKE LEE	109	--	
GEOFFREY KRAEMER	110	120	--
CLIFTON BROWN	122	165/178	181
LOUIS ACEVEDO	185	--	
JULIE ROBERTS	190	--	

## GOVERNMENT EXHIBITS

NUMBER	DESCRIPTION	PAGE ADMITTED
3	Sonya Vacca Facsimile	23
1A	Tape	30
1B	Tape	30
1C	Tape	30
1D	Transcript of Exhibits 1A-C	30
2A-2F	Photographs	38
12	Grenhagen Passport	44
13	Grenhagen Passport	44
113	Knock Fingerprints	110
88A-X	Photographs	115
112	Fingerprint Lifts	117

## GOVERNMENT EXHIBITS

NUMBER	DESCRIPTION	PAGE ADMITTED
16	Diagram	140
10	Proposal to Lilley	144
5	Banking Deposit Ticket	160
30	Letter to Ms. Vacca	162
83A	Photograph	209
83B	Photograph	209

1 THE COURT: Be seated, folks.

2 My law clerk said you all wanted to see me.

3 MR. KENNEDY: May I first introduce my law associate,  
4 Robert Rionda.

5 MR. RIONDA: Good morning.

6 MR. KENNEDY: He has met the other colleagues. I  
7 have a very brief matter, and then Mr. Daar has a matter.

8 Now that the evidence is about to be presented, they  
9 will be bringing in evidence under the conspiracy hearsay  
10 exception. I don't want to interfere with that, the flow of  
11 their presentation.

12 So I would like from the Court, at the moment you  
13 think it appropriate, to give the jury an instruction that this  
14 evidence is coming in subject to being tied up with proof of  
15 the existence of a conspiracy, and he's actually in it. If we  
16 could have also have a standing objection to that, I think that  
17 will facilitate the record and facilitate the presentations.

18 MR. DAAR: We would join in that request on behalf of  
19 Mr. Madrid, Your Honor.

20 THE COURT: Government.

21 MR. HANKINSON: Judge, I don't have any problem if  
22 the Court thinks it is appropriate to instruct them of that. I  
23 don't know whether there is a standard instruction for that.

24 I do object to a standing objection. It makes it  
25 impossible on appeal to sort out what was objected to, what was

1 not objected to. I think it's appropriate to make a timely  
2 objection.

3 THE COURT: Yeah.

4 It's not my practice to advise the jury of, you know,  
5 that it's all being received subject to being tied up. If you  
6 don't think it's tied up, you make a motion. And if I don't  
7 think it is tied up, you know, then you are going to get a  
8 directed verdict or we'll strike it.

9 MR. KENNEDY: That is fair enough, Judge.

10 What I didn't want is the appearance of having to  
11 object to every question --

12 THE COURT: I hear that.

13 MR. KENNEDY: -- on a matter that we all understand.

14 THE COURT: Also if there is -- we understand the  
15 theory that it's coming under. But the government is right in  
16 one respect. If -- it's hard on -- to set issues on appeal if  
17 you don't know what is really being objected to. And so, you  
18 know, if you have an objection just state it. There won't be  
19 any argument. I don't like arguments on the objections. I  
20 generally rule without argument from either side.

21 MR. KENNEDY: Understood.

22 THE COURT: If it becomes a problem just -- just let  
23 us know and we'll take care of it.

24 MR. KENNEDY: Will do. Thank you, Your Honor.

25 THE COURT: Yeah, I got a note from the jury this

1 morning. I'll just read it to you.

2 It has to do with some exhibit Mr. Hankinson says:  
3 Can we have a copy of Exhibit 2, the one with all of the names,  
4 or will there be time during the proceeding to write it down as  
5 we try to keep all of the names in perspective. That is what  
6 it says. I'm not going to do anything you all just figure it  
7 out.

8 File this please, ma'am.

9 I was wondering also, because of the problems that we  
10 had with the viewing of this yesterday, do you have hard copies  
11 of whatever it is that you are going to be putting up on the  
12 screen?

13 MR. DAVIES: I do today, Your Honor.

14 THE COURT: That would help me. I could not position  
15 myself yesterday. I thought I could. And I didn't want to go  
16 sit down with the jury. So it may be, Mr. Kennedy, and them  
17 might like copies of it also. That way, they don't have to  
18 move if they don't want to move. They see what you are doing.  
19 That is good. Then you can move the screen back. So whatever  
20 is appropriate, I have no problem.

21 MR. DAVIES: Does the Court want me to hand hard  
22 copies to the jury?

23 THE COURT: No. They don't need that. I don't have  
24 any objection. But the defense may. But, if you are going to  
25 put it up on the screen and it -- if we can -- as long as they

1 can see it we're okay.

2 MR. KENNEDY: Yes.

3 MR. DAAR: Your Honor, I have two minor matters. One  
4 discovery matter. The minor matter is I wanted to inform the  
5 Court that unfortunately my hearing aid was working steadily  
6 for years is apparently malfunctioning. So my helper is trying  
7 to get repairs as we speak.

8 Generally I'm able to hear everything, but there may  
9 be times that I ask for your indulgence and move closer to the  
10 microphone and so forth.

11 THE COURT: We can handle that. It's important that  
12 you hear. So if you don't, let us know and we'll take care of  
13 that.

14 MR. DAAR: Thank you, Your Honor.

15 The second item was the water. My understanding is  
16 that generally you do not approve of having water at the  
17 counsel table.

18 THE COURT: You can have water.

19 MR. DAAR: Thank you. We can bring our own cups.

20 THE COURT: We have some. We'll get -- during the  
21 recess, we'll try to find something. Make sure that they are  
22 clean.

23 Give them some clean water.

24 MR. DAAR: Much appreciated. The courtroom seems to  
25 be cooling off. I guess it's warm when you first come in and



1 turn the air conditioning on. Because I find myself sweating.

2 THE COURT: They said that they were doing the best  
3 that can be done with it.

4 MR. DAAR: Lastly, Your Honor, I just wanted to  
5 address the timing of the Jencks disclosures. The Court in its  
6 order said that the Jencks material should be disclosed in a  
7 timely fashion.

8 Yesterday, at the close of court, and then about 6:30  
9 the defense received these transcripts, four transcripts, four  
10 or five DEA 6s, and two 10 to 15-page condensed notes of  
11 witnesses.

12 Just for the record, I would say it is about five  
13 inches of paper. Admittedly, Your Honor, some of those  
14 transcripts were available to the defense, and we anticipated  
15 the government calling the witnesses and we obtained those.

16 But, nonetheless, the Court is aware we didn't have  
17 an official witness list until Friday. The transcripts, I urge  
18 the Court should move right along time, they are public record.  
19 The prosecutor could have called me up and said: Mr. Darr, do  
20 you have those? If I said yes, his duty to give them to me was  
21 over at that point.

22 But, the fact is, no one made that inquiry of me.  
23 They had no way of knowing whether I had them or not. And  
24 there is no real reason why they shouldn't have been turned  
25 over. There is no secrecy, no confidential informant in those

1 documents. To turn over four or five hundred pages of  
2 transcripts at that late hour seems to be a tactic -- seems to  
3 be a tactic to make me work late at night.

4 So I would ask that the Court enter some form of  
5 order, absent compelling circumstances, that Jencks production  
6 occur a little bit sooner than it is now, because it's not fair  
7 to cause the defense attorney to stay up all night or  
8 consequently have them ask for a continuation in the morning.

9 MR. HANKINSON: Judge, the bulk of what Mr. Daar is  
10 referring to is the Grenhagen trial transcript. Frankly, we  
11 were not under any obligation to provide that at all. It is a  
12 public record. I discussed that with Mr. Davies. He indicated  
13 he'd prefer to give it to them. We asked both defense counsel  
14 yesterday whether they had that transcript. Both indicated  
15 that they did.

16 A fair number of those witnesses are witnesses that  
17 are going to be called today. Our practice is going to be that  
18 at the end of court -- in the evening, we will give the defense  
19 attorneys a list of who we expect to be the witnesses the  
20 following day.

21 We will at that point give them copies of any  
22 materials that we believe to be Jencks material. I think it  
23 goes beyond our duties under the statute. I think it has  
24 proven to be a -- a workable methodology in the past. And I  
25 would hope the Court wouldn't order us to do anything else.

1 Frankly, other than the Grenhagen trial transcript,  
2 there isn't going to be, you know, an awful lot of Jencks  
3 material. There hasn't been a lot of Jencks material created  
4 in this case. So I don't think they are going to be staying up  
5 real late reading much. But that is what we intend our  
6 practice to be. And I think it's a reasonable and ordinary way  
7 of doing it.

8 THE COURT: Any additional?

9 MR. DAAR: Just briefly, Your Honor. As the Court is  
10 aware, it's an extremely complex case. There is a hundred and  
11 20 witnesses.

12 I think that the matter of dissemination is not  
13 reasonable. I believe it is designed to impede our ability to  
14 prepare. The government has not advanced to the Court a reason  
15 why those things could not be furnished sooner. Previously the  
16 government stated to me that they didn't want to provide it  
17 prior to trial because they felt that the trial might not start  
18 and I would have the documents anyway.

19 Well, the trial has started now. And absent the  
20 government giving you a compelling reason why the Jencks  
21 shouldn't be disclosed in its entirety now, I would ask that  
22 the Court issue that order, that way it would allow me to  
23 prepare in a timely way and be able and ready every morning.

24 THE COURT: Anything further?

25 MR. HANKINSON: No, sir.

1 THE COURT: The procedure outlined by the government  
2 I think is appropriate. If it shows -- it if it's shown later  
3 that it's creating a hardship, I'm always open.

4 MR. DAAR: Thank you.

5 THE COURT: Anything else? Anything else?

6 MR. HANKINSON: No, sir.

7 MR. KENNEDY: No, sir. Nothing else, Your Honor.

8 MR. DAAR: No, Your Honor.

9 THE COURT: Then let's bring the jury in.

10 (Jury in.)

11 THE COURT: Good morning. Please be seated. Welcome  
12 back to court. And if the government is ready to proceed,  
13 please call your first witness.

14 MR. DAVIES: Carl Lilley.

15 (Witness sworn.)

16 THE CLERK: Please have a seat and state your name  
17 for the record and spell your last name.

18 THE WITNESS: My name is Carl Lilley. L-I-L-L-E-Y.

19 DIRECT EXAMINATION

20 BY MR. DAVIES:

21 THE COURT: Let me make a suggestion to you,  
22 Mr. Darr.

23 (Discussion off the record.)

24 THE COURT: All right. Go ahead, Mr. Davies.

25 Q. Where do you work?

1 A. I'm employed with the United States Drug Enforcement  
2 Administration.

3 Q. And how long have you worked for the Drug Enforcement  
4 Administration?

5 A. I began my employment in March of 1987.

6 Q. Where are you currently assigned?

7 A. Denver, Colorado.

8 Q. Did you used to work for DEA here in Gainesville?

9 A. Yes, sir, I did.

10 Q. And did you have any law enforcement experience prior to  
11 working for DEA?

12 A. Yes, sir. Prior to coming with DEA I was with the  
13 Suffolk, Virginia police department for almost ten years.

14 Q. In the course of your duties with DEA are you sometimes  
15 called on to work in undercover capacities?

16 A. Yes, sir, I am.

17 Q. Would you tell the jury what you mean by undercover  
18 capacity?

19 A. Undercover means assuming a role or an identity that is  
20 not that of a federal agent; posing as a drug trafficker.

21 Q. In the investigation that led to this trial did you work  
22 in an undercover capacity?

23 A. Yes, I did.

24 Q. And what identity did you assume in your undercover role  
25 in this case?

1 A. I was a boat smuggler. Moving drugs from South America  
2 to the United States.

3 Q. And where did you operate out of?

4 A. Miami, Florida was the cover for this particular  
5 circumstance.

6 Q. And did you use the name Earl Kelly as your undercover  
7 name?

8 A. Earl Kelly was my undercover name.

9 Q. Before we go into your undercover contacts in this case,  
10 can you explain to the jury what started your investigation and  
11 led you to pretending to be Earl Kelly?

12 A. In June of 1998, a fugitive in the case --

13 Q. Excuse me. Do you mean 1993?

14 A. I'm sorry. 1993.

15 A fugitive had turned himself in that had been  
16 indicted in the case out of Gainesville in the early '80s, '84,  
17 1985, Clifton Brown. And his attorney came to the Gainesville  
18 office and met with myself and Assistant United States Attorney  
19 David McGee.

20 Q. Without going into what Mr. Brown said, did Clifton Brown  
21 describe any ongoing criminal activity?

22 A. Yes, sir, he did.

23 Q. What response did you have to that, if any?

24 A. The response was that we would initiate a case targeting  
25 this organization.

1 Q. Did you ask Mr. Brown to make any phone calls or set up  
2 any meetings or anything like that?

3 A. Yes, sir, we did.

4 Q. What did you have him do?

5 A. While we were in the Bahamas we made a telephone call  
6 from the hotel that we were staying at to Matthew Martenyi in  
7 San Francisco.

8 MR. KENNEDY: I need to know who the "we" is the  
9 agent is referring to.

10 Q. Who made the phone call?

11 A. Clifton Brown made the telephone call.

12 Q. After that phone call was made to Matthew Martenyi --  
13 where was Matthew Martenyi again?

14 A. San Francisco.

15 Q. After that phone call was made, after that did you speak  
16 on the phone with various participants of the group?

17 A. Over a period of time I did. Yes, sir.

18 Q. Did you meet with any members of the group in person?

19 A. Yes, sir, I did.

20 Q. Who was the first person you met with?

21 A. I met with an attorney from San Francisco, Matthew  
22 Martenyi.

23 Q. When was it that you met him?

24 A. On July the 1st 1993.

25 Q. Where did you meet him?

1 A. At the Hilton Hotel on Southwest 13th Street in  
2 Gainesville.

3 Q. Is that now a Sheraton?

4 A. Yes, sir.

5 Q. And is that -- was that the Hilton Hotel in Gainesville,  
6 Florida in Alachua County in the Northern District of Florida?

7 A. Yes, sir.

8 Q. Who was at that meeting at the Hilton Hotel?

9 A. Clifton Brown, investigator Jeff Nordberg with the  
10 Gainesville Police Department, Matthew Martenyi, myself.

11 Q. Was Investigator Nordberg there undercover?

12 A. Yes, sir, he was.

13 Q. And why did you have another investigator with you?

14 A. Two agents. One for safety reasons. To set the  
15 scenario, to bring in more agents as we are working this  
16 undercover thing.

17 Q. At that meeting on July 1st here in Gainesville, what  
18 happened? What did Mr. Martenyi tell you all?

19 A. We were sitting in the dining area of the Hilton Hotel.  
20 And initially we began with introductions and how Mr. Martenyi  
21 was looking for my services. My services had been already set  
22 up through Clifton Brown. So it was a matter of me explaining  
23 what services I had available, looking for what services they  
24 needed in San Francisco.

25 Q. What, if anything, did Mr. Martenyi say that he needed or



1 propose to you?

2 A. This is -- this conversation goes on about 45 minutes.  
3 One, is their group had originally made a proposal to do a -- a  
4 fishing processing building there in San Francisco where they  
5 legitimately have boats bringing fish. They skin them and then  
6 you bring in a load of marijuana under the guise of that. They  
7 were bringing in fish, so they wanted that facility in place  
8 for a period of time before an actual load was to come in.

9 In the course of this discussion, I was given the  
10 impression that a load would be set for the fall of 1993. And  
11 I inquired as to what was the fall. That would have been about  
12 October.

13 Through the course of these discussions, their fish  
14 processing plant did not seem like a viable idea to Matthew  
15 Martenyi's boss who was Mr. Larkin. So therefore they set out  
16 to look for some fishing boats which I actually had through the  
17 DEA a 70-foot shrimper that could easily carry 60 tons of  
18 marijuana.

19 So he was quite impressed that we had the facilities  
20 that big. And in actuality my boat captain had really worked  
21 on the Pacific Northwest, so he taught me through this process  
22 what to ask Mr. Martenyi and what to tell him about our boat's  
23 capabilities on the Pacific side of the ocean.

24 It's quite different than what we are used to in the  
25 Gulf of Mexico. So along those lines in the conversation,

1 we -- we talked about his past working with this organization.  
2 They brought in 60 tons a year. 30 tons of what he referred to  
3 as black was to go to Canada, 30 tons of what he referred to as  
4 green would come into the United States.

5 And he gave me a figure on what the value of the  
6 loads were to be, about 120 million with his calculation, which  
7 is quite a large amount of money.

8 And through our discussions I told him how my group  
9 operated. But we had to get our boats through the Panama  
10 Canal. We needed a time frame that they would be ready to go,  
11 and then I needed some up-front money. I was aware that they  
12 were asking for about \$300,000 dollars up-front money. So I  
13 only asked for a hundred thousand.

14 Q. In terms of -- did Mr. Martenyi ever get specific with  
15 the amount of the load he wanted you to bring in?

16 A. At the particular time on this first conversation, it was  
17 a 60-ton load. The conversation went like this: I had a  
18 concern that we were going to be running into another group of  
19 offloaders where they wanted us to do it at.

20 A Canadian group of offloaders would have taken it  
21 north of the state of Washington. I didn't want to be up there  
22 with our boats at the same time the Canadians or whoever was  
23 taking off their load I'm responsible for taking off mine. I  
24 mean, as a -- as a legitimate businessman that doesn't make  
25 sense to mix your business with somebody else.

1                   So the conversation then was that they could come  
2 further down 200 miles off the coast of the Pacific Northwest.

3 Q.       Pacific Northwest of the United States?

4 A.       Yes, sir.

5 Q.       And did Mr. Martenyi go into any more detail about how  
6 the load would be imported? Did he mention boats or mother  
7 ships?

8 A.       Yes. There was a description of how large the mother  
9 ship would be, and that the mother ship is the ship that brings  
10 the marijuana in from the source countries. It's a  
11 tremendously large freighter, ocean-going freighter. And what  
12 I would have would be a 70-foot shrimper, and also had a  
13 50-foot shrimper that are minuscule in size. So what they mean  
14 by bump is that we would meet at sea, offload the bales of  
15 marijuana and hashish onto the vessels.

16 Q.       You mentioned Mr. Martenyi mentioning to Mr. Larkin and  
17 the 30 tons of black and the 30 tons of green. Did  
18 Mr. Martenyi mention any other members of the organization at  
19 your meeting in Gainesville?

20 A.       Yes, he did.

21 Q.       What did he say about that?

22 A.       He mentioned Mr. Larkin within the very first comments of  
23 our conversation. So he identified the number 1 guy right off  
24 the bat.

25                   As he spoke, he talked about his lady friend. And I

1 believe at the very end of our conversation, he may have  
2 identified her to me as Sonya. And then Clifton Brown was a  
3 part of it, and Nicholas Grenhagen.

4 Q. And in any event, with regard to Sonya with -- later in  
5 conversation with Mr. Martenyi did you learn her full name?

6 A. Yes. Sonia Vacca.

7 Q. And you mentioned Mr. Martenyi talking about his past  
8 involvement with regard to drugs. Did he mention any past  
9 involvement with regard for money for the organization?

10 A. Yes. In my role undercover, I was familiar with where  
11 they were taking their money to. I wanted to get it out from  
12 Mr. Martenyi. I wanted to get it on tape. And I wanted him to  
13 offer me those services.

14 So I led him to believe that I launder my money in  
15 the Caribbean. And he began talking about laundering this  
16 organization's money by taking it over to Singapore. That is  
17 exactly what we wanted to hear. So they volunteered maybe they  
18 could do that for me.

19 Q. You talked about talking about expense money at this  
20 meeting. Did you also talk about your ultimate payment, what  
21 your percentage or what amount you would get paid? Did that  
22 come up at all?

23 A. At that particular meeting, no, sir. I don't think it  
24 came up, the percentages.

25 Q. Did it come up later?

1 A. Yes, it did.

2 Q. What was the discussion on that?

3 A. The discussion -- and this was through Clifton Brown,  
4 passing messages by me to them and back. So we had some  
5 differences in what the standard fee would be. I had requested  
6 20 percent of the total amount of the load.

7 They were offering me -- and I say they -- Sonya  
8 Vacca and Matthew Martenyi, Larkin, were offering me 12  
9 percent.

10 And I thought that was a very low figure from working  
11 the Colombians. I mean our standard was 25 percent. So there  
12 was a discussion with whether I would be paid in product, which  
13 means, would they give me part of the load or were they going  
14 to pay me cash after the load is sold. They pay me in pounds  
15 or they front me the money.

16 And Martenyi asked me at that meeting did you have a  
17 market for that type of marijuana, which is totally different  
18 than what I had been smuggling. I was smuggling Colombian  
19 marijuana which was very cheap, a few hundred dollars a pound,  
20 as compared to their marijuana which is referred to as Thai  
21 marijuana, which went for nearly a couple of thousand dollars a  
22 pound.

23 So I didn't know -- I mean, I told them I didn't know  
24 if I had a market for that.

25 Q. Did Clifton Brown have an undercover name, an alias, that

1 he was using at that time?

2 A. Yes, he did. Clifton Brown would be referred to as Danny  
3 Miller. And I was referred to as Earl Kelly.

4 Q. Okay. Did Matthew Martenyi ever discuss Danny Miller's  
5 involvement, Danny Miller being Clifton Brown.

6 A. During the latter part of our conversation on July the  
7 1st, Matthew Martenyi was almost apologizing for bringing  
8 Clifton Brown into this importation plan.

9 Q. Did there come a time when Mr. Martenyi discussed the  
10 written proposal with you?

11 A. Yes, he did.

12 Q. What did he say about the written proposal?

13 A. At the conclusion of our meeting, Mr. Martenyi summarized  
14 it, what we had gone over, and said: This is what I want to  
15 propose to Mr. Larkin for you. If there are any other details  
16 that I need to know, please let me know before we give it to  
17 Larkin.

18 And then he indicated that he'd go back and meet with  
19 Vacca and discuss it, and then they would give me a written  
20 proposal.

21 Q. Did he ultimately fax you a written proposal?

22 A. Yes, sir.

23 MR. DAVIES: May I approach the witness, Your Honor?

24 THE COURT: Uh-huh.

25 Q. Showing you what I've marked for identification as

1 Government Exhibit 3.

2 I ask you, can you identify that as the fax you  
3 received from Mr. Martenyi regarding the written proposal?

4 A. Yes, sir.

5 Q. What date was it received?

6 A. July the 9th of 1993.

7 MR. DAVIES: Your Honor, I would offer Government  
8 Exhibit 3 into evidence.

9 THE COURT: It will be received.

10 (Government Exhibit No. 3 admitted.)

11 Q. Did you ultimately learn who wrote that fax?

12 A. Yes, I did.

13 Q. And who wrote it?

14 A. Sonia Vacca.

15 MR. DAVIES: Your Honor, I would ask to publish it to  
16 the jury and give hard copies at this time.

17 THE COURT: Sure you may.

18 Q. Agent Lilley, if you would, I would like you to just go  
19 ahead and publish the proposal, if you would, read it orally  
20 even though we've got it on the screen.

21 A. The big DCO, Mike. Howdy. Sorry about my mumblings.  
22 Telephones give me the jitters. To reiterate, I think that  
23 everything M related to me is just fine.

24 There was the one confusion about written proposals.  
25 But, as you and I, and no doubt your friend realize, that is

1 unnecessary and indeed unadvisable. The only point I needed to  
2 have clarified was the percentage.

3 As I mentioned, based on the last seven years, that  
4 percentage is rather higher than what we are accustomed to and  
5 needs modification. the situation is ongoing and large which  
6 are important factors to consider.

7 It is also expandable to the north, not to mention  
8 that one percent of something is better than 100 percent of  
9 nothing.

10 You stated that people always look at what the owner  
11 asks -- I'm sorry, what the owner makes, and their appetites  
12 may increase accordingly. However, a business-like approach is  
13 to consider what a particular service is worth, what is fair  
14 enough to cover the work and risk involved and go from there.

15 As you well know, we have been paying 12 percent for  
16 just delivery, and a higher percentage if a distribution  
17 network is offered. As an example, here is a breakdown using  
18 old figures. 30,000 times 2.2 times 2,500 equals 165 million.  
19 12 percent equals 19,800,000 as opposed to 20 percent equals 33  
20 million.

21 That, as they say, is not chopped liver. In all  
22 business, there is always a certain amount of horse-trading and  
23 a give and take. I have never run across a figure carved in  
24 stone. Somewhere between the two figures lies a magic number,  
25 and we need to find it. Payment is local. What they do with



1 it is of concern to us, because should there be a problem that  
2 would be rather inconvenient.

3 M had mentioned that they like to deal with the  
4 Islands. All of those areas are very red-flagged and I would  
5 strongly recommend my areas, with which I can help.

6 After all negotiations are settled, your friend will  
7 meet his counterpart and they will figure out the technical and  
8 logistical aspects. L has no need or desire to be in the loop  
9 as I am his direct representative. One final point. There is  
10 no need to mention localities for meetings by phone, not even  
11 in terms of countries.

12 So far everything seems quite satisfactory to all of  
13 us, and we simply need to work out a few details. Best  
14 regards.

15 MR. DAVIES: Can you scroll back to the top?

16 Q. Can you see this from where you are sitting, Agent  
17 Lilley?

18 A. No.

19 MR. DAVIES: May the witness stand down, Your Honor?

20 THE COURT: Do you have this?

21 Q. If you would stand down, I want to ask you about a few  
22 lines in here.

23 Where he says, I think that everything M related to  
24 me is just fine. Who did you understand M to be?

25 A. I understand M to be Martenyi.

1 Q. And I think that if everything M related to me. Who was  
2 me?

3 A. Sonia Vacca.

4 Q. Where it talks about based on the last seven years that  
5 percentage is rather higher. What did you understand him to be  
6 talking about?

7 A. The 20 percent.

8 Q. That you were asking for was higher than they were used  
9 to paying?

10 A. Yes.

11 Q. And when he said the situation is ongoing and large, what  
12 did you understand that to mean?

13 A. That they were continuing their smuggling operation and  
14 it was a very large organization and operation.

15 Q. And when he said it's also expandable to the north, what  
16 did you understand him to be talking about or her talking about  
17 there. Excuse me?

18 A. That there was a possibility of me doing the work in  
19 Canada as well as the United States.

20 Q. And the numbers here that Sonia Vacca wrote, what did you  
21 understand her to be referring to, this 165 thousand and the  
22 19 -- 165 million and the 19 million, 800 thousand?

23 A. Based on the last seven years, the 2,500, is what they  
24 would sell for a pound of hashish or the marijuana.

25 So you take 2,500 and multiply it by 66 thousand

1 pounds. What you have up there consists of 30,000 multiplied  
2 by 2.2, which is -- 2.2 is a kilogram. To break a kilogram  
3 down, you break it down into a pound.

4 So you would come up with roughly 66 thousand times  
5 2,500 per pound, that gives you 165 million.

6 MR. DAVIES: If you could scroll up a bit.

7 Q. Where she said, M had mentioned that they liked to deal  
8 with the Islands, all of those areas are very red-flagged. I  
9 would strongly recommend my areas. What did you understand her  
10 to be talking about?

11 A. The Caribbean Islands, the Cayman Islands where I  
12 laundered my money or where I led them to believe that I  
13 laundered my money?

14 Q. She recommended her area for money laundering as opposed  
15 to yours?

16 A. Yes, sir.

17 Q. And where she said, L has no need or desire to be in the  
18 loop as I'm his direct representative, who did you understand L  
19 to be?

20 A. L would be Larkin.

21 Q. And Sonia Vacca would be Larkin's direct representative?

22 A. Yes, sir.

23 Q. And down at the bottom when she closes. So far  
24 everything seems to be quite satisfactory to all of us, we only  
25 need to work out a few details. What did you understand that

1 to mean?

2 A. That everything was progressing.

3 Q. Thank you. You can have a seat.

4 Agent Lilley, this meeting that we've been talking  
5 about on July 1st, 1993 with Matthew Martenyi, were any efforts  
6 made to tape-record that meeting?

7 A. Yes, they were.

8 Q. And how -- what type of efforts were made? What did you  
9 all do?

10 A. Investigator Nordberg wore a hidden transmitter device.  
11 And I believe it was agent Tom Leo who was on the outside of  
12 the Hilton in a vehicle, ran what we call the cell or the  
13 receiving device which has a cassette in it.

14 Q. Did you later recover that recording?

15 A. Yes, sir.

16 Q. Have you listened to the tapes?

17 A. Yes, sir.

18 Q. Are they very audible, or are they very easily heard?

19 A. Absolutely not.

20 Q. They are somewhat difficult to hear?

21 A. Yes.

22 Q. Why is that?

23 A. The technical equipment that we used did not transmit  
24 through the building where we were at. And it's not unusual.  
25 We have a very limited range on transmitter to receiver. So we

1 wear those devices. The first thing is as a safety issue and  
2 second would be to record the evidence.

3 Q. And for safety concerns, did the agent have to be out in  
4 the van receiving the transmission as opposed to sitting around  
5 the hotel somewhere?

6 A. Yes. If something had gone wrong at any of the meetings  
7 that we had in our undercover capacity, the agent -- the two  
8 agents monitoring what we call the recording, gives the signal  
9 for a team to come in as a rescue. That is the first priority  
10 of the transmitter-receiver devices.

11 Q. Are there portions of the tapes that you can hear?

12 A. In this particular meeting on July 1st there is a fair  
13 amount that are not heard for various reasons.

14 Q. Let me show you what has been marked for identification  
15 as Government Exhibit 1A, Government Exhibit 1B and 1C.

16 Are those the tapes from your meeting with  
17 Mr. Martenyi?

18 A. Yes. I recognize agent Tom Leo's handwriting. And he  
19 signed his name, date and time and correctly marked these as  
20 Exhibit A, B and C.

21 Q. And showing you Exhibit 1D, is that a transcript of  
22 portions of those tapes?

23 A. Yes. I have -- I created this transcript.

24 Q. And is the transcript an accurate depiction of who speaks  
25 and what was said on the tapes?

1 A. Yes.

2 MR. DAVIES: Your Honor, I would offer Government  
3 Exhibit 1A, B and C into evidence.

4 THE COURT: Without objection.

5 (Government Exhibits 1A, 1B and 1C admitted.)

6 MR. DAVIES: Your Honor, I would request to publish  
7 the tapes and the transcript.

8 I would offer 1D into evidence, Your Honor.

9 THE COURT: You may do so.

10 (Government Exhibit 1D admitted.)

11 THE COURT: What they are going to do, they are going  
12 to play these tapes or portions of them, as I understand it,  
13 that have been identified by Agent Lilley.

14 Exhibit 1D purports to be a transcript of those tapes  
15 or portions of them. The transcripts also purport to identify  
16 the speakers that appear on the tape.

17 The transcript is being provided for you for your use  
18 in following and listening to the tape recordings. To the  
19 extent that you find that the transcript is not accurate or is  
20 unreliable you should disregard it.

21 You should always remember that the tapes themselves  
22 are the best evidence of their own content.

23 And I'll later advise you this same thing during the  
24 instructions. So if you will pass them out.

25 MR. DAVIES: Your Honor, as Agent Lee passes out the

1 head sets I would inform the Court on the head sets -- if  
2 someone's batteries go dead, please let us know.

3 THE COURT: Ladies and gentlemen you are also getting  
4 head sets. There is a little wheel on it that switches it off  
5 and on and adjusts the volume.

6 You will see a little glass bubble. That is your  
7 receiver. It should be pointing out. Don't let anything get  
8 between that receiver and that is where the sound signals are  
9 coming from up here.

10 So if you are unable to hear once they turn it on,  
11 let us know we'll replace your batteries.

12 MR. DAVIES: Bring up 1B, please.

13 Q. Before I play this, this first portion particularly has  
14 got some lengthy inaudible parts on it?

15 A. Yes, sir it does.

16 Q. And after Mr. Martenyi says Agent Houston, is there a  
17 fairly long break before you can pick him up and hear him say  
18 the next line, because basically we were bringing you up?

19 A. Yes.

20 Q. So the jury should anticipate some sort of break before  
21 they get to that?

22 A. Yes, sir.

23 (Tape played.)

24 Q. Agent Lilley, can -- if you can scroll back to the top,  
25 please. And you need to stand down if you need to see it.

1                   When he is talking about anywhere in Mexico to  
2 Canada, what did you understand Mr. Martenyi to be talking  
3 about?

4       A.       That we could meet the mother ship anywhere between Bueno  
5 Venturo, South America and Alaska.

6       Q.       And when he asked you do you have a market distribution,  
7 what did you understand him to be talking about?

8                   MR. DAVIES: If you would scroll up a little bit.

9       Q.       Where he said, do you have a market distribution, what  
10 did you understand him to be talking about?

11      A.       I'm asking him that.

12                   Do you already have a market? And he asked me -- he  
13 doesn't know what my situation is on my market. And I said we  
14 have a delivery system.

15      Q.       And when he says, we would make the bump, what do you  
16 understand him to be talking about?

17      A.       Okay. For his role or his group's role in this, the  
18 mother ship comes in, makes a transfer of the marijuana onto  
19 our vessel bringing it in. And I understand that to be his  
20 original thought processes where they would bring it into that  
21 fish processing plant.

22      Q.       When he said looking at the late fall, I don't know if  
23 that is going to happen, the thing is we do two a year, what  
24 did you understand him to be talking about?

25      A.       They do two loads a year, one in the spring and one in



1 the fall.

2 MR. DAVIES: Thank you. If you would go to next  
3 part, please.

4 (Tape played.)

5 Q. Agent Lilley, if I can ask you a few things about this.  
6 When Mr. Martenyi said we were uncomfortable with that too far  
7 out long range, what did you understand him to be talking  
8 about?

9 A. I believe at this time we may have been talking about  
10 offloading up around Midway Island, bringing the smaller ships  
11 back to the fish processing plant in San Francisco.

12 MR. DAVIES: If you can scroll up a little, please.

13 Q. You said they looked to make a bump, it will probably be  
14 a combination of black for Canada and green for the States.  
15 What did you understand that to mean?

16 A. I understood that to be the hashish would be going to  
17 Canada, and the marijuana would be coming to the states all on  
18 one mother ship.

19 Q. Thank you.

20 MR. DAVIES: Go to the next part, please.

21 (Tape played.)

22 MR. DAVIES: May I publish the next part of the tape,  
23 Your Honor?

24 (Tape played.)

25 Q. And was that proposal that you were talking about earlier

1 when you were testifying to the jury that he ultimately faxed  
2 you?

3 A. Yes, sir.

4 MR. DAVIES: If you could go to the next section,  
5 please.

6 (Tape played.)

7 Q. Agent Lilley, could you step down again, please.

8 When Mr. Martenyi said the skipper is a Pakistani,  
9 what did you understand him to be talking about there?

10 A. The boat captain of the large mother ship.

11 Q. And when Mr. Clifton Brown was talking about 19 by 10 and  
12 by 12 and Mr. Martenyi said compressed and wrapped, what did  
13 you understand him to be talking about?

14 A. The size of the packages that we would be receiving.

15 MR. DAVIES: Scroll up a little bit. That is good.

16 Q. And when Mr. Martenyi said: They have been dealing with  
17 their distributors for many, many years, what did you  
18 understand him to be talking about?

19 A. That this has been an ongoing organization, but leading  
20 up to that we were discussing my payment, whether it was in  
21 cash or merchandise. So his response is, they had been working  
22 for a long time so their distributors were in place.

23 Q. And when he said they actually asked me -- they actually  
24 asked if we could get it together by fall, what did you  
25 understand Mr. Martenyi to be talking about?

1 A. That in his last meeting that he had with Larkin a couple  
2 of months prior to the meeting with me, Larkin had asked could  
3 they get it ready -- could they be ready in the fall.

4 MR. DAVIES: You can have a seat. Thank you.

5 (Tape played.)

6 MR. DAVIES: Scroll back to the top.

7 Q. The top of this part of the conversation where  
8 Mr. Martenyi says, my understanding those people have been  
9 doing it for years, been doing two a year, what did you  
10 understand him to be talking about?

11 A. That they were doing two importations per year.

12 MR. DAVIES: If you could scroll it some, please.  
13 That is good.

14 Q. And when Mr. Martenyi says it's the ultimate paper trail,  
15 after you all talk about money, what did you understand  
16 Mr. Martenyi to be talking about there?

17 A. The money laundering aspect. I was discussing with  
18 Matthew Martenyi, I said up there, we only need to do one load  
19 because we are going to make so much money. I mean, that  
20 wasn't good enough for him. You know, to me, four or five  
21 million dollars is a lot of money. He said it's the ultimate  
22 paper trail. It is harder to move the money than it is the  
23 actual product.

24 MR. DAVIES: Can you scroll up a little.

25 Q. When Mr. Martenyi here is talking about she gets on a

1 plane and falls asleep, we didn't see her, she flies first  
2 class, who did you understand him to be talking about?

3 A. Sonya Vacca.

4 Q. And what was she doing on a plane?

5 A. Flying to Singapore with suitcases full of money.

6 Q. Money to be laundered?

7 A. Yes, sir.

8 Q. And when you said have you considered any offshore  
9 corporations? And Mr. Martenyi said, we have one in Hong-Kong,  
10 what were you all talking about there?

11 A. I had previous knowledge that they had offshore  
12 corporations in Hong-Kong. I wanted to get that out of him.  
13 So as we were concluding our meeting, I brought it up, and he  
14 described it to me.

15 MR. DAVIES: Thank you. If you could scroll to the  
16 next part, please.

17 (Tape played.)

18 Q. And when he talks about -- Mr. Martenyi says, I'm making  
19 the proposal for you, I'll make the presentation, what did you  
20 understand him to be talking about?

21 A. On the first part, we would go back to -- the very last  
22 issue was going to be the corporation in Hong-Kong, offshore  
23 corporation into a proposal that he'd be presenting to  
24 Mr. Larkin on my behalf.

25 MR. DAVIES: If you would stay there. Can we go back

1 to Government Exhibit 3, please.

2 Scroll down a little bit, please. That is good.

3 Q. And when Sonia Vacca on this Government Exhibit 3 wrote  
4 you and said M had indicated that he'd like to deal with the  
5 Island, all of those areas are red-flagged areas, what did you  
6 understand her areas to be?

7 A. Singapore, Hong-Kong, leaving Canada and the United  
8 States.

9 Q. She was recommending those areas to do your money  
10 laundering in?

11 A. Yes, sir.

12 MR. DAVIES: Thank you.

13 Your Honor, may we collect the headsets at this time?

14 THE COURT: Just turn them off, folks. We'll pick  
15 them up.

16 Mr. Davies, if you are getting ready to go into a new  
17 area, maybe the jury would like to take a little break right  
18 now.

19 We'll take 15 minute, folks.

20 (Jury out.)

21 (Recess taken.)

22 (Jury in.)

23 THE COURT: Be seated, please. You are still under  
24 oath, Mr. Lilley.

25 If the government is ready to proceed.

1 MR. DAVIES: Yes, sir.

2 Q. Agent Lilley, going back to the tapes we just played. At  
3 one point, Matthew Martenyi said: They asked if we could get  
4 it together by fall. Did you understand that to be the fall of  
5 1993?

6 A. Yes, sir, I did.

7 Q. And were photographs taken as you all were in there back  
8 on July 1993 here in Gainesville?

9 A. The perimeter DEA agents and task force agents that were  
10 on the outside had taken photographs.

11 Q. Showing you what is marked as identification as  
12 Government's Exhibit 2A through 2F, do those photographs fairly  
13 and accurately depict the outside area of the Hilton on July  
14 1st, 1993 as the various participants of the meeting walking  
15 into the Hilton?

16 A. Yes, sir.

17 MR. DAVIES: Your Honor, I would offer Government  
18 Exhibit 2A through F into evidence.

19 THE COURT: Without objection.

20 (Government Exhibits 2A through 2F admitted.)

21 MR. DAVIES: May the witness stand down, Your Honor?

22 THE COURT: Yes.

23 Q. Agent Lilley, those didn't -- when the jury looks at them  
24 later, the first picture 2A, is that you walking into the  
25 Hilton?

1 A. Yes, sir, it is.

2 Q. Just so the jury knows, if they want to look at those  
3 later.

4 Referring to 2D, does that show any participants in  
5 the meeting?

6 A. This is Matthew Martenyi as he's exciting his rental car  
7 in the parking lot of the Hilton.

8 Q. What type of shirt is Matthew Martenyi wearing?

9 A. It looks like a short sleeve pullover, white with blue  
10 stripes.

11 Q. Can you just put your finger on it so the jury can see  
12 which one he is?

13 A. His back is to everybody.

14 Q. And who else is in that picture 2D?

15 A. Clifton Brown is in the white shirt. You can see his tie  
16 is flying and you can see Jeff Nordberg, an investigator with  
17 Gainesville police department as he is coming into the picture.

18 Q. Thank you.

19 You can be seated.

20 MR. DAVIES: Your Honor, if I didn't, I would offer  
21 Government Exhibit 2 into evidence.

22 THE COURT: They are in.

23 Q. In the course of your investigation in the role of Kelly,  
24 did you also meet and talk to Nicholas Grenhagen?

25 A. Yes, sir, I did.

1 Q. And how many times did you meet with Nicholas Grenhagen?

2 A. I met with Mr. Grenhagen probably four times, twice on  
3 one day.

4 Q. And where were those meetings?

5 A. The very first meeting was at -- again at the Hilton  
6 Hotel on Southwest 13th Street in Gainesville, Florida.

7 The remaining meetings were done at the Residence Inn  
8 in Gainesville, Florida.

9 Q. And when were those meetings, approximately?

10 A. The first meeting was September the 13th of 1993.

11 Q. And when were the other meetings?

12 A. The remaining meetings were all in October.

13 Q. Did you also talk to Mr. Grenhagen on the telephone?

14 A. Yes, I talked to him quite a few times on the telephone.

15 Q. Was this during that same time frame, late September  
16 early October of '93?

17 A. Yes. After I met him on September the 13th and there was  
18 some regular telephone conversations, Mr. Grenhagen would be in  
19 London, he'd be in Sweden, he'd be in San Francisco. And I  
20 would receive a message that he wanted me to give him a call.

21 Q. And did you talk to Mr. Grenhagen about things pertinent  
22 to this case including the offload of that marijuana?

23 A. Yes, sir, I did.

24 Q. And did Mr. Grenhagen tell you whether or not he was  
25 involved in that?



1 A. Mr. Grenhagen was a participant involved in that and had  
2 indicated that he had met with Larkin a couple of months  
3 previous to meeting with me.

4 Q. Did Mr. Grenhagen say anything about couriering money,  
5 transporting money, or money laundering?

6 A. Yes, sir, he did.

7 Q. What did he tell you about that?

8 A. That he had carried money on behalf of Larkin with Sonia  
9 Vacca.

10 Q. Okay. When you met with Nicholas Grenhagen on September  
11 13th did you have another undercover officer with you?

12 A. Yes, sir, I did.

13 Q. Who was that?

14 A. I had Sergeant Lou Acevedo with the Gainesville police  
15 department.

16 Q. What role was Sergeant Acevedo playing?

17 A. He played a Colombian -- the son of a Colombian drug  
18 smuggler and my brother-in-law.

19 Q. Did Mr. Grenhagen appear to accept him in that role?

20 A. Yes, sir, he did.

21 Q. And at that meeting in Gainesville on September 13th, did  
22 Mr. Grenhagen indicate where he'd be going or who he'd be  
23 seeing after that?

24 A. On the 13th?

25 Q. Yes, sir. On September 13th.

1 A. Yes, sir. He'd be leaving. After he left our meeting  
2 he'd be going to San Francisco to participate in a meeting with  
3 Mr. Larkin, with Sonia Vacca and Matthew Martenyi.

4 Q. And was there a later meeting with you and Sergeant  
5 Acevedo undercover and Nicholas Grenhagen on October 3rd here  
6 in Gainesville?

7 A. Yes. That was our second meeting.

8 Q. And what, if anything, did Nicholas Grenhagen tell you at  
9 that meeting?

10 A. In regards to?

11 Q. In regards to whether he had had the meeting with his  
12 partners?

13 A. Yes. The meeting had taken place. Mr. Grenhagen was not  
14 a participant at that meeting. The message was relayed to him  
15 by Vacca, and we were set to go to have my boats inspected or  
16 my boat inspected in January.

17 Q. That would be January of '94?

18 A. Yes, sir.

19 Q. And after that October 3rd meeting here in Gainesville  
20 with you, Sergeant Acevedo and Nicholas Grenhagen, was there a  
21 time after that when Sonia Vacca called here in Gainesville?

22 A. Yes, she did.

23 Q. And approximately when was that?

24 A. I don't remember the date. It was after a meeting with  
25 Grenhagen where he was being told be me and Sergeant Acevedo as

1 well as Clifton Brown that I had not been receiving any  
2 correspondence from the San Francisco group and my boat was  
3 already on the Pacific Northwest and I was incurring expenses.  
4 So Sonia Vacca did call me. I spoke with her, as well as I  
5 spoke with Matthew Martenyi on the phone.

6 Q. What, if anything, did Sonia Vacca say to you during that  
7 phone call?

8 A. That things were fine. The payment for me, the hundred  
9 thousand dollars, was not a problem. And again, we would go  
10 back to the January, doing -- the representative on their end  
11 would be doing the logistics and the code frequencies on how we  
12 would communicate.

13 Q. When was Nicholas Grenhagen arrested?

14 A. Nicholas Grenhagen was arrested on October the 12th of  
15 1993.

16 Q. Was that here in Gainesville?

17 A. Yes, sir. It was at the Target shopping center parking  
18 lot.

19 Q. Did you see passports form Nicholas Grenhagen when he was  
20 arrested?

21 A. Yes, sir, I did.

22 Q. I'm showing you what I've marked for identification as  
23 Government Exhibit 12 and 13. Can you identify those?

24 A. Both of those passports are issued by the country of  
25 Sweden with a photo of Nicholas Grenhagen.

1 Q. Have you examined those passports before?

2 A. Yes, sir, I have.

3 MR. DAVIES: Your Honor, I would offer Government  
4 Exhibits 12 and 13 into evidence.

5 THE COURT: Without objection.

6 (Government Exhibits 12 and 13 admitted.)

7 Q. Do they indicate that Mr. Grenhagen traveled to Singapore  
8 on various occasions?

9 A. Yes, sir, they do.

10 Q. With regard to passports, special Agent Lilley, have you  
11 traveled internationally?

12 A. Yes, sir, I have.

13 Q. Does a passport always get stamped every time you enter a  
14 country?

15 A. No, it does not.

16 Q. So it's possible to travel and not have a stamp on your  
17 passport for a specific date of travel?

18 A. Actually you don't even need a passport to travel  
19 internationally; a birth certificate or a driver's license.

20 Q. Also Agent Lilley in the course of your investigation was  
21 one of your purposes to attempt to locate drugs in the  
22 possession or control of the organization?

23 A. Yes.

24 Q. And did Clifton Brown attempt to assist you in that offer  
25 to locate drugs held by the organization?

1 A. Yes, sir, he did.

2 Q. As a result of that information, did you contact another  
3 law enforcement agency?

4 A. Yes.

5 Q. And which agency was that?

6 A. The Royal Canadian Mounted Police in Vancouver British  
7 Columbia.

8 Q. Without going into specifics of what they told you, did  
9 the Royal Canadian Mounted Police Department provide with you  
10 information that was of use to you in this investigation?

11 A. Yes, sir, they did.

12 MR. DAVIES: No further questions, Your Honor.

13 THE COURT: Cross.

14 MR. KENNEDY: Thank you, Your Honor.

15 MR. DAAR: May we move the screen, Your Honor?

16 MR. HANKINSON: I will just set it down.

17 CROSS-EXAMINATION

18 BY MR. KENNEDY:

19 Q. Good morning, Agent Lilley.

20 A. Good morning, sir.

21 Q. Was this your first attempt at an undercover operation,  
22 this -- these meetings with Martenyi and Grenhagen back in '93?

23 A. This was my first attempt on this organization, yes, sir.

24 Q. My question, sir, was: Was this your first attempt  
25 against any target as an undercover operative?

1 A. No, sir. I've worked undercover on international  
2 organizations in this district a number of times.

3 Q. Approximately how many?

4 A. As the primary undercover agent, twice.

5 Q. In any undercover capacity, Agent.

6 A. Well, I can't keep track of that number.

7 Q. Give me a rough -- are we talking about six? Ten?

8 A. No, less than ten. I was more -- primarily a case agent  
9 than an undercover agent.

10 Q. And your ability to operate undercover requires you to be  
11 able to assume a role and play that role as effectively as you  
12 can; is that correct?

13 A. Yes, sir.

14 Q. And with reference to your playing a role in this case,  
15 you did some preparation for that role, as I understand it.

16 As a matter of fact, you met with a boat captain, I  
17 believe you told us, to brief you on some of the realities of  
18 the West Coast of the United States and possible offshore  
19 loading operations or on-shore loading operations on the west  
20 coast. Did I get that right?

21 A. The first -- my first boat captain I spoke to over the  
22 telephone because we were in an ongoing undercover. My second  
23 boat captain I met with personally on the smaller boat.

24 Q. And those meetings designed to prepare you to be as  
25 effective as you could in your undercover capacity?

1 A. Yes, sir, they were.

2 Q. For the role you were playing?

3 A. Yes, sir.

4 Q. Now, in order for that role to work, you have to be able  
5 to deceive or to fool the people with whom -- those potential  
6 criminals who you are engaging; do you not?

7 A. Yes, sir.

8 Q. And did you take any particular courses or do any  
9 particular preparation for -- to enhance this ability of yours  
10 to be able to fool or deceive people?

11 A. The DEA has courses in undercover work that are certainly  
12 taught to us, the methods and roles, through basic agent  
13 school.

14 Q. Were you ever discovered, that is, that -- the undercover  
15 role that you were playing, was that ever discovered other than  
16 by your own admitting of it in terms of an arrest or something  
17 of that sort?

18 A. No, sir.

19 Q. So it is fair to say that you were good at your  
20 undercover operation?

21 A. Yes, sir.

22 Q. You are good at fooling and deceiving people?

23 A. In the undercover operation, yes, sir.

24 Q. As a matter of fact, you could fool me right now; could  
25 you not?

1 A. I could try.

2 Q. You could fool this jury; could you not?

3 A. Yes, sir.

4 Q. Now, back in '93, you could -- if I understand it, you  
5 had been in the Gainesville office for approximately six to  
6 seven years?

7 A. Yes, sir.

8 Q. And now when -- you came out of law enforcement in  
9 Virginia, I believe it was?

10 A. Yes, sir.

11 Q. When you came out of law enforcement in Virginia and  
12 joined the Drug Enforcement Administration, your first  
13 assignment was here in Gainesville?

14 A. Yes, sir.

15 Q. That was 1987?

16 A. Yes, sir.

17 Q. So when these activities were happening in '93, you have  
18 now been an agent here in Gainesville for approximately six or  
19 seven years?

20 A. Yes.

21 Q. It's a fact, is it not, that prior to your having  
22 encountered those people -- Martenyi and Grenhagen -- that you  
23 had asked to be transferred out of the Gainesville office.  
24 That is a fact; is it not?

25 A. I don't know about that time frame, before I met this



1 organization. It's right around there where I was eligible for  
2 promotion. I had put in for different positions for promotion.

3 Q. You actually put in an application to the DEA for a  
4 transfer out of the Gainesville office at some point; did you  
5 not?

6 A. Yes.

7 Q. Also back in -- well, let's see. The DEA is run out of  
8 Washington, DC; is it not?

9 A. Yes, sir.

10 Q. Now, back in January of '93, were you aware that the DEA  
11 in Washington had taken the decision -- January of '93 I'm  
12 talking about -- had taken the decision to close down the  
13 Gainesville office?

14 A. I heard you say that yesterday. I haven't researched it.  
15 And I've thought about it, when the time frame took place.

16 But, there was discussions about closing the  
17 Gainesville office. I do not deny that. The time frame I do  
18 not remember.

19 Q. And, as a matter of fact, the decision to close the  
20 Gainesville -- the decision by Washington to close the  
21 Gainesville office was announced in Washington that Gainesville  
22 was going to be the first of the DEA offices to be closed down  
23 because of its marginal productivity; isn't that right?

24 A. I cannot say that is a fair statement. If there is some  
25 documentation of that that I could review.

1 MR. KENNEDY: May I approach the witness, Your Honor?

2 THE COURT: Sure.

3 MR. KENNEDY: Might I have this marked for  
4 identification as Defendant's Exhibit -- I suppose we'll start  
5 with A then, Your Honor, if we may.

6 THE COURT: 1.

7 MR. KENNEDY: Very good.

8 Q. I show you what is an article from a Gainesville paper  
9 dated January 14th of 1993. I ask you to look at that if you  
10 wouldn't mind.

11 A. I accept this as your version of what you have asked me.  
12 I did not remember this.

13 Q. Thank you. Okay.

14 Do you have any basis -- either personally or  
15 professionally -- upon which to quarrel with this Gainesville,  
16 Sun staff writer's report that we've marked as Defense Exhibit  
17 Number 1?

18 MR. DAVIES: Objection, Your Honor. I think --

19 THE COURT: Are you objecting to the question or to  
20 what?

21 MR. DAVIES: I'm objecting to the question and to the  
22 use of the article. The witness can use the article to refresh  
23 his recollection, but now he's asking the witness about things  
24 in the article.

25 MR. KENNEDY: No, sir. That's not quite accurate.

1 I'm asking him, Your Honor, whether or not  
2 professionally or personally he quarreled with or disputed any  
3 of the contents of the article.

4 THE COURT: Any objection?

5 MR. DAVIES: Yes, sir, I object. I mean, I don't  
6 think it's proper use of the exhibit, Your Honor.

7 THE COURT: Well, if that's the only objection, it's  
8 overruled.

9 A. I do not object with the Sun's report on this. I object  
10 with what the DEA in Washington may have said about us being a  
11 low-producing office.

12 Q. Understood, sir.

13 You understand that I'm not asking you to agree with  
14 the DEA decision to close down DEA.

15 A. Absolutely.

16 Q. Nor am I asking you to necessarily agree with the DEA's  
17 description by Mr. McGivney of the DEA that the office will be  
18 closed in March because the productivity was low. Do you see  
19 that?

20 A. Yes, sir.

21 Q. Do you also see down in the article -- it's actually on  
22 the first column down very near the bottom -- talking about the  
23 Gainesville office: It is the only one currently on the  
24 closure list. Do you see that?

25 A. Yes, sir.

1 Q. Now, that is all the questions that I have about that.

2 MR. KENNEDY: We would offer it, Your Honor.

3 MR. DAVIES: Your Honor, can we approach?

4 THE COURT: Do you object?

5 MR. DAVIES: I would ask Mr. Kennedy to produce the  
6 actual article. He has got the date written on it.

7 THE COURT: Do you object to the article or just to  
8 that aspect of it?

9 MR. DAVIES: I object. It's hearsay also.

10 THE COURT: Sustain the objection.

11 MR. KENNEDY: Thank you, Your Honor.

12 Q. Set that aside then, if you wouldn't mind, Agent Lilley.

13 So at around the early part of '93, you are  
14 concerned, are you not, as an agent in the DEA office here in  
15 Gainesville about this decision to close down the Gainesville  
16 office. Is that fair?

17 A. Yes, sir.

18 Q. And one of the ways in which you would like to be able to  
19 prevent or get them to reconsider, at least, is by increasing  
20 or showing them how productive the DEA office is here in  
21 Gainesville; is that correct?

22 A. Well, we did produce these statistics. Yes, sir.

23 Q. As a matter of fact, you were looking to try to bring  
24 into Gainesville cases that would increase, statistically, the  
25 productivity in the office. Fair enough?

1 A. I don't know that that is a fair statement, because I  
2 don't recall sitting around having those discussions with the  
3 guys in the office saying that.

4 Q. Well, my question, sir, wasn't did you talk to your  
5 brother agents about it. But, in your own mind, one of your  
6 desires -- strike that.

7 You wanted to keep the Gainesville office open; did  
8 you not?

9 A. Sure.

10 Q. You knew that Washington was saying: We're going to  
11 close you down because your productivity is low or marginal.

12 A. Yes, sir.

13 Q. You wanted to stop Washington from closing down the  
14 office?

15 A. Certainly.

16 Q. The way to do that is to increase the productivity of the  
17 office?

18 A. That would be one of the methods.

19 Q. And one of the methods of increasing the productivity of  
20 the office is to make cases, bring cases into Gainesville, make  
21 some arrests, seize some drugs, get some money, correct?

22 A. Yes, sir.

23 Q. Now, Clifton Brown -- that is his actual name; is it not?

24 A. Yes, sir. It is Clifton Brown.

25 Q. Now, before Clifton Brown called on this occasion in '92

1 or '93 to alert you to the possibility of these people working  
2 the drug smuggling scam out on the west coast, out in  
3 California or wherever, had you ever heard of Clifton Brown or  
4 known about his case?

5 A. Yes. I was assigned -- it's actually -- the title is  
6 called RastaSlaw-Kindra II, is how DEA does a file title.

7 I had been assigned that case in 1987. When I showed  
8 up on the doorstep in Gainesville, I was given about 75 cases  
9 to handle that agents that I replaced had left.

10 Q. And when you -- when you were assigned that case as a  
11 young officer you reviewed the case, I presume?

12 A. It was in -- yes, I reviewed it. It was in a fugitive  
13 status.

14 Q. If I understand correctly, Mr. Brown had been convicted  
15 of smuggling cocaine -- five thousand pounds I believe it  
16 was -- of cocaine into what, the Gainesville area particularly?

17 A. It was in the Northern District. But he had been  
18 indicted, not yet convicted.

19 Q. I'm sorry. So he had been indicted, accused by the  
20 government, of bringing some five thousand pounds of cocaine  
21 into the Northern District of Florida; is that correct?

22 A. As a member of that organization. Yes, sir.

23 Q. And you were interested in getting him?

24 A. Yes, sir.

25 Q. But I gather whatever efforts you were able to make were

1 of no avail from 1987 till ultimately he calls out of the blue  
2 in '93; am I correct?

3 A. That -- he did not call me. His attorney called  
4 Mr. McGee and we set up a meeting. And that was out of the  
5 blue.

6 Q. Out of the blue. Thank you.

7 Now, the meeting -- the attorney for Mr. Brown did  
8 not call you, because, of course, he didn't know you had been  
9 assigned Mr. Brown's fugitive file?

10 A. That's correct.

11 Q. When Mr. Brown -- when Mr. Brown's attorney called,  
12 though, he called somebody in the DEA?

13 A. He called Mr. David McGee, an Assistant United States  
14 Attorney in Tallahassee, Florida.

15 Q. Here in the Northern District also?

16 A. In the Northern District. Yes, sir.

17 Q. Did Mr. McGee then contact you, Agent Lilley, and ask you  
18 to take over this matter?

19 A. Yes.

20 Q. You then spoke to Mr. Brown?

21 A. On the 18th of June, Mr. Pasano, representing Clifton  
22 Brown, came to the Gainesville office and met with Mr. McGee  
23 and myself.

24 Q. With Mr. Brown?

25 A. Yes, sir.

1 Q. And it was at that time that he told you of his being  
2 introduced or becoming involved with these people: Martenyi,  
3 Grenhagen, Vacca, and a Mr. Larkin?

4 A. Yes, sir, he did.

5 Q. Now, this Mr. Larkin, you ultimately made in your  
6 investigation -- determined to be a man named Claude Duboc; did  
7 you not?

8 A. That's correct.

9 Q. When Mr. Brown -- by the way, have you seen the notes  
10 that Mr. Brown made with reference to this?

11 A. I had asked him to prepare the notes. I'm aware of  
12 those. Yes, sir.

13 Q. And my colleagues in the government have given us a copy  
14 of them. I'm assuming that you have seen a copy?

15 A. Yes, sir.

16 Q. The copy that we've been given is actually typed up.

17 A. Yes.

18 Q. I gather that Mr. Brown wasn't typing his notes. He was  
19 probably doing them in long hand and then he or someone typed  
20 them up for him?

21 A. Yes.

22 Q. And so far as you can tell, did the typed version of  
23 those notes accurately reflect the handwritten notes of  
24 Mr. Brown?

25 A. At the time I was working with an FDLE agent --



1 Q. What is that, sir? Tell the jury.

2 A. The Florida Department of Law Enforcement. Agent Tom  
3 Turk. He may have sat down with Clifton Brown and changed  
4 these from the handwritten into the typed. I don't remember  
5 doing that part of it.

6 MR. DAAR: Your Honor, can I ask the witness to move  
7 the microphone closer.

8 MR. KENNEDY: Possibly if you will project, try and  
9 project your voice back to where I am, Agent.

10 Q. Now, when you spoke to Mr. Brown, Mr. Brown was  
11 interested, of course, in making a deal, correct?

12 A. Yes, sir.

13 Q. He was -- he had not been convicted, but he was not only  
14 facing charges of having brought five thousand pounds of  
15 cocaine into the Northern District of Florida, but then having  
16 fled, having absconded. Correct?

17 A. Yes, sir.

18 Q. And so he was facing 20 years to life in prison, as far  
19 as he knew, correct?

20 A. Yes, sir.

21 Q. So he really wanted to make a deal?

22 A. Yes, sir.

23 Q. And the way that he wanted to make the deal is to improve  
24 his own position, was to bring you what you wanted, which was  
25 another case here in Gainesville. Right, sir?

1 A. Yes, sir.

2 Q. Now, if this case was made out in California or out in  
3 Seattle, or out in Vancouver, British Columbia, up in Canada,  
4 that wouldn't do you any good down in Gainesville, would it,  
5 down here?

6 A. I don't know what you mean by doing me any good.

7 Q. Well, sorry. I didn't mean to make it personal.

8 Doing your official capacity any good, as a DEA  
9 agent, because you were trying to make cases here in  
10 Gainesville, and to make cases out on the west coast of the  
11 United States or up in Canada wouldn't really help Gainesville,  
12 would it?

13 A. No, sir.

14 Q. All right. Thank you.

15 MR. KENNEDY: Now we've got volume. I believe even  
16 Mr. Daar is going to be able to hear us now. Thank you  
17 whomever did that..

18 Q. So the first thing you wanted Mr. Brown to do was to help  
19 you get this burgeoning criminality out west into Gainesville;  
20 is that correct?

21 A. Yes, sir.

22 Q. Now, Mr. -- in Mr. Brown's notes -- I just asked you to  
23 accept my representation of this, and I will show you if you  
24 don't want to accept my representation, because you don't have  
25 to.

1           In Mr. Brown's notes he says that what he would like  
2 to do is to bring you undercover and maybe another one of your  
3 colleagues undercover out to San Francisco. Do you recall  
4 that?

5           MR. DAVIES: Objection, Your Honor.

6           THE COURT: Sustained.

7 Q.       Did Mr. Brown seem to you to come -- that he'd like you  
8 to come to San Francisco?

9 A.       There was discussion about coming to San Francisco.

10 Q.       When -- you said no, it would be better if you came to  
11 Gainesville, correct?

12 A.       Gave him a call and told him to come to Gainesville.

13 Q.       Good.

14           And, in fact, that is ultimately what happened?

15 A.       Yes, sir.

16 Q.       Now, prior to that time, prior to the time that you --  
17 that they accept your invitation to come to Gainesville, had  
18 there been any activity, to your knowledge, by this group --  
19 this Martenyi and Vacca and those people -- had there been any  
20 activity of them of any sort in Florida?

21 A.       No, sir.

22 Q.       Any activity by them of any sort in Gainesville?

23 A.       No, sir.

24 Q.       And as I understand their scheme or scam or whatever we  
25 call it, it was to import -- somewhere out in the Pacific

1 Northwest -- some hashish and/or marijuana?

2 A. Yes, sir.

3 Q. As I understand it there was no plan to bring any of that  
4 hashish and marijuana into Gainesville, was there?

5 A. No, sir.

6 Q. Nor was there any plan to bring any money into  
7 Gainesville; was there, sir?

8 A. No, sir.

9 Q. Now, did you ever go out to San Francisco or anyplace out  
10 west?

11 A. Not during the course of my undercover.

12 Q. Right.

13 After the arrests were made -- and you told us that  
14 the arrests really came with the arrest, I believe of first  
15 Mr. Grenhagen on the 12th day of October of '93; is that  
16 correct, sir?

17 A. Yes, sir.

18 Q. And then you -- you moved -- or your brother officers or  
19 brother/sister officers moved immediately against Martenyi and  
20 Vacca out in the San Francisco bay area; is that correct?

21 A. Yes, sir.

22 Q. Now, actually from your standpoint as a professional DEA  
23 officer, what you wanted to do was for this -- this case you  
24 were working on out on the west coast, you wanted it to develop  
25 further; did you not?

1 A. Yes, sir, I did.

2 Q. You weren't really ready to have to make the arrests of  
3 Grenhagen and -- not Grenhagen -- but you were not really ready  
4 at that point, or did not desire professionally at that point  
5 to make the arrests of Vacca and Martenyi particularly?

6 A. That's correct.

7 Q. And you couldn't make the arrest of Larkin, Mr. Duboc.  
8 You didn't know where he was?

9 A. That's correct.

10 Q. Now, the reason -- as I understand it -- that you  
11 arrested Mr. Grenhagen before, and then Vacca and Martenyi  
12 before you really wanted to, is because Mr. Grenhagen was  
13 himself engaged in some criminality that you felt, as a law  
14 enforcement officer, you had to stop right then and there and  
15 arrest him; is that correct?

16 A. Yes, sir, we did.

17 Q. That particular activity of Mr. Grenhagen -- strike that.

18 Now, Mr. Grenhagen, during the course of his  
19 conversations with you, aside from talking about this West  
20 Coast, this Pacific Northwest marijuana-hashish smuggling  
21 scheme, talked to you about some other totally independent  
22 schemes; did he not?

23 A. Yes, sir, he did.

24 Q. Included among the schemes that Mr. Grenhagen spoke to  
25 you about was a plan to try to defraud a bank through a bank

1 loan he'd never pay back, correct?

2 A. Yes, sir.

3 Q. To try to defraud -- to try to utilize a fraudulent  
4 Mexican bond as a security and rip people off that way; is that  
5 correct?

6 A. That was as a down payment for a load that he wanted me  
7 to take down to them.

8 Q. Okay. And that didn't have anything -- as far as you  
9 could tell -- to do with Martenyi or Vacca, did it?

10 A. No, sir.

11 Q. Also, Mr. Grenhagen was talking to you about the plan to  
12 try to import some heroin or cocaine into Europe, correct?

13 A. Yes, sir.

14 Q. And, again, that didn't have anything to do with the --  
15 so far as you could tell -- with Vacca or Martenyi or Larkin?

16 A. It did not have anything to do with them.

17 Q. And also I understand that there was some kind of a scam  
18 or scheme involving a Sweedish bond that he was trying to  
19 perpetrate; is that correct?

20 A. Yes, sir.

21 Q. Now, take us, if you would, Agent, to this 12th day of  
22 October of '93. And tell us what were the factors that caused  
23 you to have to move against Grenhagen and thereby move  
24 precipitously against Vacca and Martenyi?

25 A. A number of things happened involving Mr. Grenhagen. He

1 had bragged about being involved in a bank robbery in Sweden  
2 involving some Sweedish bonds.

3 Through correspondence with our agents there, there  
4 was, in fact, a bank robbery. In fact, it was the largest bank  
5 robbery in Swedish history. So they were very much interested  
6 in Mr. Grenhagen's apprehension.

7 Then Mr. Grenhagen got involved in the scheme where  
8 he was going to try and launder my money and rip off 20 million  
9 dollars out of the Sun Bank down in Miami.

10 One of the female agents from Miami came up and  
11 assisted me on that where we had meetings with some of  
12 Grenhagen's friends. And they actually signed a bank  
13 statement, cards and created a phony organization. And there  
14 was going to be a ripoff of 20 million.

15 And learning from Clifton Brown is actually the three  
16 guys that came over and Grenhagen were going to rob me of about  
17 seven million dollars.

18 So Grenhagen was, I mean, we -- he was a violent  
19 criminal that just needed to be stopped.

20 Q. And you took -- in your professional judgment you took  
21 the decision to stop this man before he really did some serious  
22 harm to himself -- not to himself, but to you or to someone  
23 else, correct?

24 A. Yes, sir.

25 Q. And this incipient harm that he was about to do, again,

1 didn't have anything to do -- as far as you could tell -- with  
2 Vacca, Martenyi or Larkin?

3 A. It had nothing to do with them.

4 Q. So this -- here is a man who is operating what we could  
5 describe as a totally separate conspiracy; is he not?

6 A. Yes, sir.

7 Q. Now, let's go to Matthew Martenyi for a moment.

8 I confess, I tried to listen to the tapes and I -- I  
9 know you had to listen to them, and you tried to do the best  
10 you could in terms of a transcript. But there is still a lot  
11 of inaudibility there, correct?

12 A. Yes, sir.

13 Q. But as far as you are concerned as a professional  
14 operating undercover, you knew that someone of the likes of  
15 Grenhagen or Martenyi -- strike that.

16 Let's just take Martenyi for a moment. You knew that  
17 somebody of the likes of Martenyi who was hoping to get  
18 involved in some criminal operations had the ability to  
19 possibly exaggerate what he had done or was capable of now  
20 doing; is that true?

21 A. Yes, sir.

22 Q. As a matter of fact, some of these people -- Martenyi  
23 being an example -- might just outright lie to you about what  
24 they have done or could do?

25 A. Yes, sir.



1 Q. And as good as you are at your job, you could never  
2 really tell when Martenyi was telling you the real truth or  
3 when Martenyi is simply exaggerating or outright lying, could  
4 you?

5 A. That's correct.

6 Q. Also some of those people -- and this is an example of  
7 Grenhagen I suppose -- some of those people you have to  
8 encounter are absolute renegades. You know what I mean by  
9 renegade?

10 A. Yes, sir.

11 Q. Someone off doing their own thing independently  
12 separately from other people?

13 A. Yes, sir.

14 Q. And as far as you knew, Martenyi could be -- could be a  
15 renegade himself, correct?

16 A. I don't think for him that I had that -- those thoughts.

17 Q. You did have them for Grenhagen?

18 A. Absolutely.

19 Q. Now, Matthew Martenyi on the part of the transcript that  
20 we saw that was audible was talking about the North Pacific.  
21 There was -- actually those are two words that are actually  
22 transcribed in the transcript. Do you recall them, Agent?

23 A. Yes, sir.

24 Q. Thank you.

25 Now, by the North Pacific, was it -- was it not your

1 impression that Mr. Martenyi was talking about Canada?

2 A. No. My impression was Washington, Oregon, that area of  
3 the Pacific Northwest.

4 Q. I understand the Pacific Northwest of the United States.  
5 But this was two words that he used that I want you to focus  
6 on -- I'm not trying to put words in your mouth -- was North  
7 Pacific. Those were the two words as opposed to the Pacific  
8 Northwest. That has a little different meaning; does it not?

9 A. In my discussion with him there was discussion about  
10 north. I took that to be Canada. Yes. Yes, sir.

11 Q. And the thing about north being Canada is that  
12 Martenyi, in fact, said that some of the operations that had  
13 been occurring were, in fact, occurring in Canada.

14 A. Yes, sir.

15 Q. And, as a mat  
16 was bringing to you  
17 operation up north,  
18 Canadian offloading  
19 and another crew, y  
20 marijuana back down

21 A. Yes, sir.

22 Q. And you said:

23 A. Yes, I did.

24 Q. One of the rea  
25 because whatever cri

*The Dahlmann*  
**CAMPUS INN**

*If John Knock  
had been part  
of the organiza-  
tion - They would  
certainly not have  
used Carl Lilley*

1           Whatever criminality was perpetrated, you wanted done  
2 or perpetrated in the United States, correct?

3       A.     No. I think -- as I recall my conversations with him on  
4 the transcript, I didn't want that many boats bumping into each  
5 other.

6           You know, I didn't want the Coast Guard saying:  
7 We've got a Canadian group going out there and an American  
8 group and they are all meeting at one mother ship. What is  
9 going on with that? They would head one direction, I would  
10 head the other. I think that was my concern.

11       Q.     Understood sir. Thank you.

12           You were -- there was a discussion on the tape about  
13 some action north of Washington. Do you recall that?

14       A.     Yes.

15       Q.     And the Washington referred to presumably the state of  
16 Washington, correct?

17       A.     Yes, sir.

18       Q.     And immediately north of the state of Washington, of  
19 course, is Canada?

20       A.     Yes, sir.

21       Q.     And you are not -- you did not want to get mixed up with  
22 the Canadian load up in Canadian waters, correct?

23       A.     I don't know that I even considered not getting mixed up  
24 in it. I mean, if that was the last -- you know, the last  
25 straw, then I would have been happy to take it into Canada.

1 Q. . Did you ever suggest to -- strike that.

2 Do any of the tapes or any of your DEA-6s reflect  
3 your having expressed your willingness to bring these planned  
4 and proposed loads of marijuana or hashish into Canada?

5 A. No. I thought you were asking me subjectively your last  
6 question.

7 Q. Well, that's a fair interpretation of it.

8 My question to you now is: Do your tapes or your  
9 reports or your notes reflect this willingness that you have  
10 just described of bringing these things, these drugs, into  
11 Canada?

12 A. They reflect the contrary.

13 Q. They reflect you wanted to bring them into the United  
14 States?

15 A. Yes, sir.

16 Q. Now, you're familiar generally, professionally, with  
17 the -- with the drug laws of the United States because it's  
18 part of your job to enforce them, correct?

19 A. Yes, sir.

20 Q. And you have become -- maybe as a result of this case or  
21 other cases -- somewhat familiar with the drug laws of Canada;  
22 have you not?

23 A. Yes, sir.

24 Q. And it is a fact, is it not, that the drug laws of Canada  
25 are a whole lot less harsh than our drug laws down here in

1 America?

2 A. Yes, sir.

3 Q. Now, is there anywhere in the -- in the tapes or your  
4 transcripts, wherein there is an actual statement or an actual  
5 indication that an agreement, a meeting of the minds, has been  
6 reached with you and Martenyi with reference to these proposed  
7 drug smuggling activities out on the west coast, out on the  
8 Pacific coast?

9 A. In my meeting with Martenyi, the only agreement reached  
10 was he would take my proposal back to Larkin at that particular  
11 July 1 meeting.

12 Q. And that -- and then Mr. Larkin would be in -- that is  
13 more or less is you're saying -- strike that.

14 You are -- in fact, you are in a negotiation, are you  
15 not, as an undercover operative?

16 A. Yes, sir.

17 Q. And the negotiation means that you haven't quite gotten  
18 to the point of agreement. Would you agree with me?

19 A. Yes.

20 Q. And in the negotiation, for example, they are offering  
21 you 12 percent, something like that, if I understand it, and  
22 you say, customarily I get 25. Correct?

23 A. Correct.

24 Q. These negotiations are ongoing; are they not?

25 A. Correct.

1 Q. As a matter of fact, those negotiations are not even  
2 concluded by the 12th day of October when you have to arrest  
3 these people; is that correct?

4 A. Before the October 12th, because undercover meetings and  
5 these negotiations was a continuing process. The discussions  
6 were continuing.

7 The final conversations were that there would be a  
8 meeting in January with another representative of their group  
9 to inspect my boats.

10 Q. And you hoped out of that January meeting would actually  
11 come an agreement?

12 A. Yes. And approval of my boats.

13 Q. Which meant an agreement?

14 A. Certainly.

15 Q. Thank you.

16 MR. KENNEDY: I have nothing further, Your Honor. I  
17 thank you, Agent.

18 THE COURT: Mr. Daar.

19 CROSS-EXAMINATION

20 BY MR. DAAR:

21 Q. Good afternoon, Agent Lilley.

22 A. How are you, sir?

23 Q. I'm fine. How are you?

24 A. Good.

25 Q. You were present in the courtroom during the opening

1 statement by the prosecutor in this case?

2 A. Yes, sir.

3 Q. And do you recall he mentioned I think it was a figure of  
4 60 million dollars that was seized from Claude Duboc?

5 A. Fifty.

6 Q. Fifty?

7 A. Yes, sir.

8 Q. Where did that money go?

9 A. Into the asset forfeiture fund of the United States  
10 Government.

11 Q. And where does it go from there?

12 A. I don't know.

13 Q. Does the Gainesville DEA receive any portion of that  
14 money?

15 A. No, sir.

16 Q. Does the Gainesville police department receive any  
17 portion of that money?

18 A. Yes, sir, they will.

19 Q. What portion of the money do they receive?

20 A. It hasn't been finalized yet. I don't know what they are  
21 going to get. I believe they were put in for maybe 25 percent.

22 Q. You say they were put in, meaning they made a request for  
23 25 percent?

24 A. I'm sorry the -- the process of making the request is of  
25 25 percent.

1 Q. Gainesville asks the government? Did I say the  
2 government -- because of our role in this investigation, please  
3 give us 25 percent of the proceeds?

4 A. Yes. The United States does share back the proceeds of  
5 drug trafficking with local law enforcement agencies that work  
6 with say us or the FBI.

7 Q. Okay. So that is -- my math would be what,  
8 approximately, 12 million dollars would be 25 percent?

9 A. It could be. Yes, sir. I'm not -- I don't know what the  
10 final decisions are up in headquarters.

11 Q. So that would be a substantial amount of money to the  
12 Gainesville police department; would it not?

13 A. Yes, sir.

14 Q. Now, that money that was seized would also become part of  
15 statistics that are kept by the DEA, correct?

16 A. Yes, sir.

17 Q. And those statistics would include money seized and drugs  
18 seized, correct?

19 A. Yes.

20 Q. And persons arrested?

21 A. Yes.

22 Q. And persons convicted?

23 A. Yes.

24 Q. And each DEA office all over the country keeps statistics  
25 like that, correct?



1 A. Yes, sir.

2 Q. And those statistics go to Washington on some periodic  
3 basis, correct?

4 A. They go weekly to Washington. Washington keeps the  
5 statistics for Congress.

6 Q. And Washington uses those statistics to evaluate the  
7 effectiveness of each DEA office, correct?

8 A. In this case, it looks like they weren't looking at them.

9 Q. And in this case, they weren't looking at them because  
10 the fact that they said they were going to close the office?

11 A. Because we were unproductive, if that is what you are  
12 referring to is this article. Is that what we are talking  
13 about?

14 Q. We are getting there.

15 A. Okay. That is what it is.

16 Q. But you said that they weren't looking at them?

17 A. You asked me if I make decisions on cases based on  
18 statistics. And I disagreed with this guy in headquarters  
19 saying we didn't make any statistics.

20 Q. Okay. So you felt that the statistics provided to  
21 Washington prior to this case that you brought to Gainesville  
22 were sufficient to justify the office's continuing existence?

23 A. All of us did. Sure.

24 Q. Well, let's just talk in terms of money. Within the two  
25 years prior to this case, what is the largest seizure of money

1 that occurred in the Gainesville DEA office?

2 A. The case -- one of the forfeiture cases that I was  
3 working on, in fact you have heard testimony about the month of  
4 August, because I was working another case in the month of  
5 August. So that case generated 22 million dollars, of which  
6 the Gainesville police did again receive a large amount of  
7 money on that.

8 Q. I see. Any other cases of that scope in the last two  
9 years prior to?

10 A. In the last two years? I mean every agent in the office  
11 was working cases of significant magnitude. Now, not every one  
12 was a 20 million dollar seizure.

13 Q. Okay. So you are not really sure what they are?

14 A. I haven't gone back to review the statistics for those  
15 years.

16 Q. Okay. Now, you inherited this file on this fugitive  
17 Brown, correct?

18 A. Yes, sir.

19 Q. And you read the file and made whatever -- did you make  
20 any attempts to find him?

21 A. I continued to do teletypes and talk to the local  
22 officers in Ft. Lauderdale, because again, when I got here it  
23 was still ongoing. There were some forfeitures in that case.  
24 Some C. J. Brown partners had not been sentenced yet. So I  
25 handled those.

1           And throughout the years this case has been passed  
2 from one agent to another too. You know, we had a significant  
3 extradition from Columbia. One of the other agents took that  
4 guy, which was Guerrimo Bueno. He was in this case,  
5 theoretically, was mine, but I was busy, he took it.

6 Q.       What was Mr. Brown's criminal history?

7 A.       If you mean his FBI check and NCIC check, I don't  
8 remember. But there were no crimes of violence as I recall  
9 because we -- we wouldn't have done what we did ethically with  
10 individuals with crimes of violence backgrounds.

11 Q.       Do you consider possession of weapons to be a crime of  
12 violence?

13 A.       I don't remember the context. If he is stopped by a  
14 police officer and it is in the glove box and they take it, I  
15 don't. Not for me.

16           So if he is a pilot, which C. J. was, and he gets  
17 popped with having a gun in the airplane for legitimate  
18 business, it is different than was he is carrying that gun  
19 smuggling drugs at that time?

20 Q.       My question to you is: If there were guns in the  
21 possession of Mr. Brown or his co-conspirators, would you  
22 consider that a crime of violence?

23 A.       Yes, I would.

24 Q.       So it's your understanding there were no guns involved in  
25 Mr. Brown's case, otherwise you wouldn't have dealt with him?

1 A. No, I'm not saying that. I'm saying nothing is ringing a  
2 bell of his criminal history. You brought up the gun.

3 Q. Okay. But, just so I understand, your office has a  
4 policy of not engaging in negotiations with persons that commit  
5 crimes of violence?

6 A. No, we don't have that policy.

7 Q. You personally have that policy?

8 A. Every individual is looked at differently when they go to  
9 cooperate with us. It goes through a series of approvals, not  
10 mine. I'm the low man on the totem pole. I make a request and  
11 a number of supervisors review those. And we provided the  
12 criminal history of Mr. Brown with that.

13 Also the prosecutor has to approve any people that  
14 work with us. I'm saying: I don't recall any significant  
15 crimes of violence with Mr. Brown.

16 Q. Okay. Now, prior to this meeting in which Mr. Brown  
17 comes in, was there some contact about the meeting that was  
18 going to concur?

19 A. Yes.

20 Q. What did that contact consist of?

21 A. Conversation with Mr. Mike Pasano representing Mr. Brown.  
22 And Mr. David McGee, an assistant United States Attorney  
23 discussing setting up a surrender of Clifton Brown.

24 Q. Now, did Mr. Brown have any conditions by which you would  
25 have to meet before he surrendered?

1 A. I don't know.

2 Q. Did Mr. Brown understand that he was going to be arrested  
3 prior to coming in?

4 A. I don't know what he understood prior to him coming in.

5 Q. Did you talk to his attorney?

6 A. No, sir, I didn't.

7 Q. The first time you talked to anyone, either Mr. Brown or  
8 his attorney, is at the meeting?

9 A. Yes, sir.

10 Q. Who brought it to your attention?

11 A. Mr. McGee.

12 Q. What did Mr. McGee tell you?

13 A. I don't recall.

14 Q. Prior to the meeting, were you aware of what Mr. Brown  
15 was bringing as bargaining chips?

16 A. No, sir.

17 Q. Did you, along with the US Attorney assigned to the case,  
18 calculate Mr. Brown's exposure on the United States Sentencing  
19 Guidelines?

20 A. I wouldn't think so, because Mr. Brown was indicted prior  
21 to the guidelines..

22 Q. What was the year of his indictment?

23 A. I believe it was 1985. I believe the load came in in  
24 '84. I may be a year off.

25 Q. At that time, there were guidelines with respect to how

1 long someone would do a sentence as controlled by the Parole  
2 Commission; is that correct?

3 A. That's correct.

4 Q. And those guidelines just like the present guidelines  
5 that control the law today are driven by quantity in terms of  
6 drug cases, correct?

7 A. That's correct.

8 Q. And you were aware from knowing the case that Mr. Brown  
9 not only was charged with five thousand pounds of cocaine, but  
10 also had admitted to transporting 10 or 15 thousand pounds of  
11 marijuana, correct?

12 A. When you say he admitted to that, that didn't come until  
13 after he turned himself in.

14 Q. But that came to your knowledge, correct?

15 A. Yes.

16 Q. And you had some sense that under the parole guidelines,  
17 Mr. Brown, without your help, would probably spend the rest of  
18 his life in prison or close to it?

19 A. Very close.

20 Q. Now, once you learned that the bargaining chips that  
21 Mr. Brown was bringing to this meeting consisted of two or  
22 three or four persons in the West Coast that were seeking an  
23 offloader, and you testified that you decided to initiate the  
24 investigation, correct?

25 A. Correct.