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MR. TABAK: Objection.

THE COURT: It's not particularly relevant, unless you have something you would like to present in Japanese?

MR. FERNANDEZ: I commend her.

THE COURT: You commend her?

MR. FERNANDEZ: Yes.

THE COURT: Anything further?

MR. FERNANDEZ: No.

MR. TABAK: I have no further questions of this witness.

THE COURT: Thank you, Mrs. Bernhardt.

THE WITNESS: You're welcome.

(Witness excused)

MR. TABAK: The government requests a side bar at this time.

THE COURT: No. I said it once, I've said it again.

MR. TABAK: The government calls Manuel Fernandez.

THE COURT: Manuel Fernandez.

M A N U E L F E R N A N D E Z, called as a witness

by the government, being first duly sworn,

testified as follows:

THE COURT: You may proceed, Mr. Tabak.

MR. TABAK: Thank you, your Honor.

1 DIRECT EXAMINATION

2 BY MR. TABAK:

3 Q Mr. Feranndez, are you also known as Manny  
4 Fernandez?

5 A That's correct.

6 Q Now, Mr. Fernandez, what is your current  
7 residence?

8 A I'm at present in Bergen County jail.

9 Q And why are you in jail?

10 A I had a case in North Carolina, where I was  
11 apprehended. I was charged with conspiracy to import marijuana  
12 December of 1982.

13 Q And how did that result in your still being in  
14 jail?

15 A Well, as a result of that case, I was charged  
16 with the conspiracy. And after pleading guilty to the  
17 charges, I was given a jail sentence and therefore I am  
18 still doing the sentence and am in North Bergen because  
19 I was requested or I was by law asked to come to this trial  
20 here.

21

22

23 (Continued on next page)

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25

1 Q Are you testifying voluntarily at this trial?

2 A No, I have been ordered to testify according  
3 to the law.

4 Q What is your understanding of the order which  
5 requires you to testify here?

6 A I have been instructed that I have to -- well,  
7 I took the Fifth Amendment first when I was asked in  
8 relation to his case, and the Court, on the basis that I  
9 was going to incriminate myself, and I took the Fifth  
10 Amendment.

11 If I did, they will have a right -- if I  
12 didn't, to use my testimony against me.

13 If I had been given immunity, I would have to  
14 testify, I would have to say whatever I knew, whatever I  
15 did.

16 So taking the Fifth Amendment, then the Court  
17 gave me the immunity so I was able to say what I know in  
18 relation to this case, and that cannot be used against me.

19 Q Is there any circumstance in which testimony  
20 that you give here can be used against you under the order,  
21 to your knowledge?

22 A The only circumstances that I know, if I don't  
23 tell the truth, if I lie in relation to the questions asked  
24 of me today, I will be prosecuted.

25

MR. AGUILAR: Your Honor --

1 Q I am now going to show you Government's Exhibit  
2 286 for identification.

3 MR. AGUILAR: There is one particular point  
4 we may need to clarify as to this man's right, I think.  
5 We can either take it at side bar or at this point.

6 I have a question as to his possibility of  
7 being prosecuted by other states not having granted him  
8 immunity, and he should be provided with an attorney-at  
9 this point.

10 THE COURT: He has an attorney and he has  
11 consulted an attorney, and I have signed an immunity order.

12 Do you want to know any more than that?

13 MR. AGUILAR: Yes, your Honor, I would.

14 Very well, you will find out as the examination  
15 progresses.

16 MR. AGUILAR: Thank you, your Honor.

17 THE COURT: He has been fully advised of his  
18 rights. If any other state were to prosecute him, that  
19 would be violative of the United States Constitution which  
20 protects a person under the Fifth Amendment from self-  
21 incrimination. No one can be compelled to give evidence  
22 against himself which can then be used in a Federal or  
23 State Court.

24 And it is your understanding, is it not,  
25 Mr. Fernandez, that what you are going to be saying here

1 cannot be used against you either in this system, the  
2 Federal system, or in the State system, is that your  
3 understanding?

4 THE WITNESS: That is correct.

5 THE COURT: Very well. And that is the law.  
6 And I so instruct the jury.

7 This witness is testifying under a grant of  
8 immunity sought by the Federal Government and under an  
9 order which I have signed.

10 BY MR. TABAK:

11 Q Mr. Fernandez, I direct your attention to  
12 Exhibit 286 for identification. Do you know what that is?

13 A This is the immunity order which the Honorable  
14 Robert Ward signed this morning in my presence.

15 MR. TABAK: The Government offers 286 in  
16 evidence.

17 THE COURT: Any objection?

18 MR. AGUILAR: Your Honor, we are just finishing  
19 it right now.

20 THE COURT: Of course, take your time.

21 (Pause.)

22 MR. FERNANDEZ: Your Honor, we have one very  
23 small question that, if Mr. Tabak could address, we can  
24 speak to you at side bar.

25 THE COURT: Why don't ybu speak to Mr. Tabak

1 privately and perhaps he can respond, and we may not need  
2 a side bar.

3 (Pause.)

4 THE COURT: You have now inquired of Mr. Tabak.  
5 Do you wish to have a side bar?

6 MR. FERNANDEZ: Yes, I think we should.

7 THE COURT: Very well.

8 (At the side bar.)

9 THE COURT: Mr. Fernandez.

10 MR. FERNANDEZ: Your Honor, I have, as a criminal  
11 defense attorney, I have one thing that puzzles me that I  
12 have trouble with, and that is whether Mr. Fernandez can  
13 be prosecuted by other countries, such as Colombia.  
14 I believe that he can. After having asked Mr. Tabak and  
15 I believe that -- I am sorry, take back I believe.

16 Perhaps he is not aware that other countries  
17 have their shot at him.

18 THE COURT: First they have to get hold of him,  
19 that is, start with that proposition, and the only way  
20 they can get hold of him, except were they to kidnap him,  
21 like Eichmann, would be to extradite him.

22 And I would suggest under the circumstances  
23 certainly there is always a possibility that a foreign  
24 state not bound by the Constitution could seek extradition,  
25 I think under the circumstances the Government has certain

1 obligations to such a person.

2 But all he was instructed was that the use  
3 of his testimony could not be utilized with respect to  
4 any Federal or State prosecution, and that is his under-  
5 standing, period. And that is where it ends.

6 MR. TABAK: Indeed, I would note that the  
7 Second Circuit has ruled it is not a defense to contend<sup>mp+</sup>  
8 that you might be prosecuted in some other country, in  
9 many circumstances.

10 MR. AGUILAR: He should be made aware of it.

11 MR. TABAK: I would suggest that this gentleman  
12 has his own lawyer who is a very experienced criminal  
13 lawyer and familiar with Title 18, United States Code,  
14 Section 6002 and 6003. I would suggest it is totally  
15 inappropriate for Mr. Arocena's lawyers to attempt to  
16 intimidate this witness.

17 THE COURT: They are not going to intimidate  
18 him.

19 MR. TABAK: If they want to ask him questions  
20 on cross, they can, but they should not talk to him now  
21 about this.

22 THE COURT: Counsel wanted to make a point,  
23 we discussed the point. Is there anything further?

24 MR. FERNANDEZ: No.

25 THE COURT: Very well.

1 Is there any objection to the exhibit?

2 MR. FERNANDEZ: No, your Honor.

3 (In open court.)

4 THE COURT: 286 received, no objection.

5 (Government's Exhibit 286 for identification  
6 was received in evidence.)

xx

7 BY MR. TABAK:

8 Q Mr. Fernandez, where were you born?

9 A Cuba.

10 Q When did you come to the United States?

11 A 1964.

12 Q Why did you come to the United States in 1964?

13 A Mainly because our country had been taken over  
14 by a totalitarian system, Communist system, and where I  
15 had no future.

16 I was only 17 then and my family and myself  
17 decided that the best way, the best to do was to try to  
18 get to the United States where it still is a free country  
19 and has some future.

20 And also we had lost -- my father was in the  
21 sugarcane business, and we owned several farms. And we  
22 had lost just about everything to the Communists. They  
23 had taken over, leaving us with nothing.

24 So for that and many other reasons, mainly  
25 because of Communism, I decided I wanted to escape, and



1 I had no other way. So I finally made it to this  
2 country.

3 Q How did you make it to the United States?

4 A I escaped in a boat, fisherman's boat, 20 feet  
5 long boat, eight people.

6 We finally made it to one of the Keys, where  
7 after being in rough waters for one whole night we were  
8 picked up by the American Coast Guard and they brought us  
9 to Key West, Florida where we were given political asylum.

10 Q What is your current citizenship status?

11 A I am a U. S. citizen.

12 Q Mr. Fernandez, how long did you stay in Florida  
13 after you arrived in 1964?

14 A I was in Florida for about six months.

15 Q Did you work during that time?

16 A Oh, yes.

17 When I first got there I worked on just about  
18 everything I could find, mainly in repairing automobiles  
19 in the body shops and helped them paint, and also work in  
20 a kitchen, cooking and helping and cleaning pots and pans.

21 That's about all I did in Florida in the first  
22 six months in the country.

23 Q Where did you go when you left Florida?

24 A I went to a place called Chelsea in the State  
25 of Massachusetts.

1 THE COURT: Near Boston?

2 THE WITNESS: Yes, sir, near Boston. It would  
3 be north of Boston or east of Boston.

4 A I had some friends that were working, making  
5 pretty good money, then, to me it was a lot of money.

6 And they came on vacation to Miami and told  
7 me there was a lot of work there, so I decided to go to  
8 Boston, and I did. I went to Boston.

9 Q What kind of work did you do in Chelsea or  
10 Boston?

11 A I started working in a rubber company which I  
12 worked for a couple of years, most of the time two shifts  
13 I was working.

14 They would make all kinds of things for shoes,  
15 labor working in a factory.

16 Q What happened after the two years that you were  
17 working there?

18 A Well, after that I started to try to find some-  
19 thing better and started working in a hotel as a busboy,  
20 and find another place, another company, B.F. Goodrich,  
21 I don't remember too well.

22 Then I heard there was a lot of Spanish speaking  
23 people in the New York area, and I figure I would have a  
24 better chance and better opportunities up here, so I made  
25 up my mind and came over here.

1                   That was in 1966, I believe, I moved to  
2 New Jersey.

3                   THE COURT: You moved to New York?

4                   THE WITNESS: New Jersey, yes, New Jersey.

5                   Q       Did you find work in New Jersey?

6                   A       Yes. I first started working for General  
7 Motors assembling cars. I was 19 years old then and I  
8 worked there for a few months.

9                   Eventually, I was always looking to better  
10 myself, and I was offered a position in a large, one of  
11 the largest insurance companies in the country, and I  
12 finally, after passing all the tests and going to school,  
13 finally was employed as a salesman, what is called ordinary  
14 salesman for John Hancock Life.

15                   Q       Then what happened?

16                   A       Well, after working for John Hancock for a  
17 while I started -- I became the number one salesman in the  
18 country in the second year after I did a lot of sales and  
19 I got a lot of, all kinds of diplomas and all kinds of  
20 things.

21                   So I figured I could do a lot better if I  
22 start working, instead of being an agent of John Hancock,  
23 being what is called, have my own general agency.

24                   So I went on my own and started my own general  
25 agency with, as a general agent for various companies.

1 THE COURT: Various companies?

2 THE WITNESS: Various companies.

3 A And I started my career as an independent  
4 agent and a general agent as well.

5 Q At your agency did you do anything besides  
6 sell insurance?

7 A Well, we were -- we did just about everything  
8 at the beginning. We did a lot of paperwork, as far as  
9 translations and all kinds of different paperwork, and  
10 the travel end of it, travel agency, that would be airline  
11 tickets and different things.

12 Whatever came to do in an office, we did,  
13 besides insurance.

14 Q How did your business do?

15 A Well, I did very, very well at the beginning.

16 I started one office, and from one office  
17 I figured I would open other offices, and did very well.  
18 I had thousands and thousands of clients.

19 It came to a point where I wanted to grow too  
20 much and too fast. I actually lost control of everything,  
21 lost control of accounts receivable, lost control of accounts  
22 payable.

23 I had a mess, accounting problems, all kinds  
24 of problems.

25 Therefore I wasn't making money. Instead of

1 making money I was borrowing from the funds and paying  
2 and paying, and when I came to see, I had a big deficit.

3 Q At that point how many stores or agencies did  
4 you own?

5 A I went from one up to five offices in different  
6 places.

7 Q In addition to the insurance and so forth  
8 offices that you have described, was there any other kind of  
9 business that you owned at that time?

10 A A travel business and insurance was the main  
11 source of income.

12 Q Was there ever a time that you bought any other  
13 kind of building or store?

14 A Excuse me?

15 Q Was there ever a time that you bought a differ-  
16 ent kind of building or store?

17 A Yes. I also was involved to a certain degree  
18 in the real estate business.

19 I did not have a license, I did not do any  
20 sales, but I did some buying and selling for my own, for  
21 myself, where I bought a property for X amount of dollars,  
22 then I will fix it, repair it, make it nice, and then sell  
23 it again.

24 So I was making good money doing that.

25 Q Did you serve on any other board of directors

1 of any other companies?

2 A Yes. I was very, very -- I was very, very  
3 active. I served in a bank, a large bank, I served as a  
4 director for about three years.

5 Besides being, also, I should say this, I was  
6 appointed at one time to represent the Cuban community in  
7 the United States to do with matters, I should say matters  
8 of the Cuban community directly to the Attorney General.  
9 At this time it was Mr. Benjamin Civiletti, and I used to  
10 meet in Washington with him, of course, and all the people  
11 who had been appointed throughout the country, all over the  
12 country. But I was to represent the Cubans. And there  
13 was another lady from Washington, from Cuba, too, to the  
14 Attorney General.

ET3A

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(Continued on the next page.)

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1 Q Did you also get involved in public affairs in  
2 any other ways?

3 A Well, at one time I got involved in politics.

4 After getting involved in a lot of the local  
5 community and state matters, I decided that it was time  
6 for me to try to run for public office, so I did run for,  
7 without luck, I run in the wrong party, I guess, at that  
8 time, and I run for the assembly, state assembly in  
9 New Jersey, and never made it.

10 I also run for the city council at one time,  
11 also unsuccessful.

12 Q Did there come a time when you developed economic  
13 problems?

14 A Well, after having all these offices, and  
15 I think at one time I did, I am not sure of the amount  
16 of employees, something like thirty or forty employees,  
17 I couldn't go to banks, banks closed their doors on me  
18 because when you are not making money or when you don't  
19 have a big cash flow, banks don't help you.

20 So actually my door was closed all over, I made  
21 applications, I exhausted every possibility of putting a  
22 good amount of cash together.

23 Therefore, you know, the losses were so big  
24 that I had a tremendous need of cash.

25 Q Did you do anything to raise cash?

1           A     I did everything that I could do as far as friends  
2 and legal, and, yes, I made a mistake, where I regret  
3 doing it, that I ended up selling drugs, actually, that's  
4 what it is, to feed my needs, to try to gain some of the  
5 money, because I had lost a lot of money, some of it, at  
6 least, I tried to gain it.

7                     But as a result, look what happened, I am  
8 paying for it now.

9           Q     What drug were you mainly involved with selling?

10          A     Well, I am here to tell the truth, so I will tell  
11 the truth. I did handle some cocaine at the beginning,  
12 but I knew that it was affecting people, and it was doing a  
13 lot of harm, and I felt actually bad.

14                     I had the need, and I did it. Then I said,  
15 well, I never will get engaged in that again, so I handle  
16 only marijuana after that, call it grass, marijuana, after  
17 a while, and that's all I did for, until I came in here.  
18 Not in here, but until I came into prison.

19          Q     About when did you get involved with importing  
20 and selling marijuana?

21          A     Around 1978, 1979.

22          Q     What was your role in the marijuana importing  
23 operating that you were involved with?

24          A     Well, this was my operation. I was the main  
25 person, I was the head of the organization, as they say.



1 Q What countries did you import marijuana from?

2 A Mainly Colombia and Jamaica as well.

3 Q About how many shipments of marijuana did you  
4 attempt to bring in?

5 A Attempt, I attempt to bring in, I would say,  
6 about twenty-five shipments.

7 Q Mr. Fernandez, what would the wholesale value have  
8 been if you had gotten all of those shipments in?

9 A If all would have come in?

10 Q Yes.

11 A I would say it would have been about \$100  
12 million, one hundred million.

13 Q Mr. Fernandez, if all of those shipments would have  
14 come in, about how much would have been net profit to you?

15 A If this all would have come in, I should have  
16 netted about, gross profit, I would say about \$20 million.

17 THE COURT: Gross profit to you of about \$20  
18 million?

19 THE WITNESS: That's correct.

20 Q About how much would your net profit have been?

21 A My net profit woul have been at least, more or  
22 less, not exact, but could have been about \$10 million net.

23 Q Mr. Fernandez, did you succeed in bringing in all  
24 of those shipments?

25 A No. As a matter of fact, a few of them did come

1 in, some of the small shipments did make it, some of the  
2 large shipments made it. Some of them were planes that never  
3 made it, some of them were dropped in the wrong place  
4 and therefore lost, they never found their way into the  
5 United States, and some of the other boats or ships were  
6 seized by the American Coast Guard.

7 That was the main enemy, was the American  
8 Coast Guard, in the high seas, anyplace, they stop you  
9 anyplace, actually, and they had stopped boats either in the  
10 Gulf of Mexico, the Panama Canal, in the Bahamas, anyplace,  
11 in the Caribbean.

12 Q Mr. Fernandez, of the shipments that did come  
13 in, about how much net profit did you make from those?

14 A I guess to roughly estimate, approximately half  
15 a million dollars.

16 MR. FERNANDEZ: I am sorry, I didn't hear.

17 THE COURT: He would estimate approximately a  
18 half a million dollars.

19 MR. FERNANDEZ: Thank you, sir.

20 Q Mr. Fernandez, when did you get arrested?

21 A I got arrested December 26, 1982.

22 Q How did you happen to get arrested?

23 A Well, I was bringing a, what is called a  
24 shrimper, a shrimp boat, this time it was from Colombia, and  
25 due to the fact that I was losing so much and so fast, I

1 couldn't take it anymore, I decided to change routes and  
2 change systems, so I instructed the captain to direct,  
3 change the route and instead of coming into the Gulf of  
4 Bahamas, come into, to go around Puerto Rico, around,  
5 past, go past the Caribbean and come in the Atlantic  
6 and come into the American coast, by avoiding most of the  
7 Coast Guards, most of the task force, what it was  
8 called, concentrated mainly in the areas of the, like  
9 Mona Passes, M-o-n-a, that is between, near, between  
10 Puerto Rico and -- I am not sure.

11 And the other one was Windward Passes.

12 So we avoided all of that and changed our  
13 system, and I came up to North Carolina to wait for it.

14 What happened is that I had made a contact  
15 with some people in North Carolina, and the people turned  
16 out to be undercover agents, and I had no luck.

17 Q Before you were arrested on December 26, 1982,  
18 had you ever been arrested before for anything?

19 A No, except one time that I went hunting, I  
20 hunt all my life, and I will hunt, but this time I didn't  
21 know that in New York State I could not have my pistol or  
22 my handgun, it was called, and I had it with me properly  
23 put away properly, no bullets, legal gun, and they asked me  
24 if I had a gun and I said, "Yes," and they said, "It is  
25 illegal in New York."

1 "It is illegal," I said, "I am just coming to  
2 hunt."

3 So they took it away and fined me \$50. That's  
4 the only crime I ever been processed for, charged with.

5 THE COURT: That is before the arrest in  
6 North Carolina?

7 THE WITNESS: That's correct, your Honor.

8 THE COURT: Very well.

9 Q How were the charges against you in North Carolina  
10 determined, resolved?

11 A Well, after being charged with two counts of --  
12 I pleaded guilty to two counts of conspiracy, and finally  
13 a plea bargain was made, my attorney made a plea bargain  
14 with the prosecutor where I had to pay a big fine, I paid  
15 \$200,000 fine, and agreed to do six years in the  
16 North Carolina system, what is called an active sentence.  
17 Five years on the other counts was suspended.

18 Q Was this a federal prosecution or state  
19 prosecution?

20 A This is state bureau of investigation, state  
21 prosecutor of North Carolina.

22 Q Did that sentence of six years imprisonment and  
23 five years suspended and a \$200,000 fine later get modified?

24 A Well, that was initially, yes.

25 Then after the Department of Justice provided me

1 with some assistance, they came down and talked to the Judge  
2 in North Carolina, and he agreed to reduce my sentence  
3 to instead of six years active to three and a half years,  
4 because I had provided some, some, waht would you  
5 call it --

6 THE COURT: Cooperation?

7 A I had provided some cooperation, some assistance  
8 to some groups, government group, and therefore he  
9 reduced the sentence to three and a half years.

10 Q What happened to the part of the sentence of  
11 a five-year suspended sentence and a \$200,000 fine?

12 A Well, I was given a five-year suspended  
13 sentence, I had to pay \$200,000 fine, which was paid, I  
14 paid before, it was part of the transaction that it had  
15 to be paid in before I went to serve my time.

16 And it was paid and I went to prison.

17 Q So the final sentence has been three and a  
18 half years in jail or imprisonment, plus five years  
19 suspended plus a \$200,000 fine; is that correct?

20 A That's correct.

21 Q Was there any particular matter in which you  
22 cooperated with the Justice Department which was brought  
23 to the Judge's attention in North Carolina?

24 A Yes. I had been subpoenaed to testify in the  
25 case of Eduardo Arocena, and my attorneys in Miami did

1 receive the subpoena on my behalf and I had no --

2 Q Was that a trial or was that a grand jury  
3 subpoena at that time?

4 A Grand jury.

5 Q What investigation generally did that relate  
6 to, if you know?

7 A At that time, I had no choice but to show up.  
8 And I was told it was in relation to the investigation of  
9 Omega 7.

10 Q Mr. Fernandez, do you know an individual named  
11 Tony Iberia?

12 A Yes.

13 Q Was he involved in your illegal marijuana  
14 business?

15 A Yes.

16 Q Intotal, how much would you estimate that you  
17 paid Mr. Iberia for helping in your marijuana business  
18 over the years?

19 A Well, over the times, all the time that he was  
20 involved, I believe I paid him hundreds of thousands of  
21 dollars. I don't have the exact amount, but I believe that  
22 was the high amount.

23 Q In late 1980 or early 1981, did Mr. Iberia  
24 tell you about someone who wanted to meet with you?

25 A Yes. Tony, as I call him, was very close to me,

1 and he several times he come to me telling me that,  
2 asking me that, or telling me that some friends wanted to meet  
3 with me, and he kept insisting that wego have a meeting.

4 Q Did he mention anybody in particular who wanted  
5 to meet with you?

6 A He mentioned Ignacio Gonzalez.

7 Q I-g-n-a-c-i-o Gonzalez?

8 A Right, correct.

9 Q Did you have any idea who Mr. Gonzalez was at  
10 that time?

11 A I have known Mr. Gonzalez from previous years. I  
12 knew him from the insurance business, he used to be an  
13 agent for Prudential Insurance. So I knew him from years  
14 before.

15 Q Did Tony Iberia tell you where Ignacio Gonzalez  
16 wanted to see you?

17 MR. FERNANDEZ: Objection, your Honor.

18 THE COURT: Just answer yes or no.

19 A Yes.

20 Q What did he tell you about why he wanted  
21 to see you?

22 MR. FERNANDEZ: Objection.

23 THE COURT: Grounds?

24 MR. FERNANDEZ: Hearsay.

25 THE COURT: Mr. Tabak?

1 MR. TABAK: We believe that it is a statement  
2 of a co-conspirator in furtherance of the conspiracy  
3 and it also explains the further steps that Mr. Fernandez  
4 took.

5 THE COURT: All right, it is being offered, as I  
6 understand it, under Rule 801(d)2(E). Is that your offer?

7 MR. TABAK: Yes, your Honor.

8 THE COURT: Overruled. You can tell us what  
9 Ignacio Gonzalez said to you -- pardon me, what Tony Iberia  
10 said to you with regard to why Ignacio Gonzalez wanted  
11 to meet with you.

12 A Tony indicated to me that Ignacio, the way he  
13 indicated to me, he said Ignacio wanted to meet with me  
14 to talk in relation of getting some assistance or getting  
15 to talk about the organization of Omega 7. That's what  
16 he indicted to me.

17 BY MR. TABAK:

18 Q Did you eventually come to meet with Ignacio  
19 Gonzalez?

20 A Yes.

21 Q Where was the first such meeting at this point?

22 A The first meeting we had was in Mr. Gonzalez'  
23 office in an office building.

24 Q How did you get there?

25 A We drove.



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Q Who drove the car?

A Tony drove the car.

Q Who --

THE COURT: When was this meeting?

THE WITNESS: The date, your Honor?

THE COURT: Approximately.

THE WITNESS: I don't remember.

THE COURT: The year?

THE WITNESS: It could have been '82, I'm not sure. I think it was '82.

THE COURT: You think it was '82, but you're not sure?

THE WITNESS: No, I'm not positive.

Q Who participated in the meeting at Ignacio Gonzalez' office?

A It was Ignacio, Ignacio, and from what I was told, was his brother-in-law, and Eduardo Arocena, which at that time I know him -- I didn't know him, Eduardo. I knew him after that as "Andres."

THE COURT: Was that the first time you had met Mr. Arocena?

THE WITNESS: That is the first time.

Q Did Tony Iberia participate in the meeting that you had with Ignacio Gonzalez and the person who was described as Ignacio's brother-in-law and with Mr. Arocena?

1 A No, he did not, he only took me there, he never  
2 participated in the meetings, he left the room.

3 Q How did you come to understand that Mr. Arocena's  
4 name was Andres?

5 A Well, I asked him specifically what his name  
6 was or what I could call him, and he told me to call him  
7 "Andres."

8 Q Do you see Mr. Arocena in the courtroom today?

9 A Yes, he is right there at that table.

10 Q What is he wearing or where is he sitting?

11 A Gray suit with something in the ears, to  
12 listen.

13 THE COURT: He has something in his ears to  
14 listen.

15 MR. TABAK: May the record reflect he has  
16 identified the defendant, Eduardo Arcoena?

17 THE COURT: Yes.

18 Q Did you eventually come to learn the true name  
19 of the person who had been introduced as Ignacio Gonzalez'  
20 brother-in-law?

21 A Eventually I did, yes.

22 Q What did you eventually learn his name is?

23 A I heard that his name was Gerardo Necuze.

24 Q G-e-r-a-r-d-o, N-e-c-u-z-e; is that correct?

25 A That's correct, yes.

1 Q Please tell the jury what was said at this  
2 meeting of Ignacio Gonzalez, Gerardo Necuze and  
3 Mr. Arocena?

4 A Are you talking about the first meeting?

5 Q Yes.

6 THE COURT: The first meeting.

7 A We met there for a while, for a good, at least  
8 an hour, perhaps more, and we discussed what I could do  
9 for them, and what they could do for me.

10 And since I was there, they wanted to see me, and  
11 they told me that they could provide certain services and  
12 certain help to me and my organization, and we had  
13 different discussions and different areas, different  
14 subjects, and also, the main thing was that the organization  
15 which was not mentioned by the name, Omega 7, but at that  
16 time Ignacio Gonzalez, he told me like this (indicating),  
17 not to mention any name because it could be heard or it  
18 could be taped or something, so he meant Omega 7 by the  
19 zero, the "O."

20 Q Would you demonstrate again what Ignacio did  
21 with his hand?

22 A He went like this, with the "O" (indicating).

23 THE COURT: He took his index finger and his thumb  
24 and he made a circle and the other three fingers were  
25 extended, is that what he did?

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THE WITNESS: Exactly.

THE COURT: Very well, that's what the witness has just described by holding up his right hand.

Q What did you understand that symbol with his hand to represent?

A I understood it was the Omega 7 symbol.

3B

(Continued on next page)

1 Q Now, what specifically did they want you to  
2 do for them?

3 A Well, they needed --

4 MR. FERNANDEZ: I'm sorry. Would you be more  
5 specific on the question?

6 THE COURT: Yes.

7 To the extent you can tell us, would you  
8 indicate what the person said and who said it? In other  
9 words, did Mr. Gonzalez say something at that point as to  
10 what he wanted, or they wanted done? Did Mr. Arocena say  
11 something? Did Mr. Necuze say something? Tell us  
12 who said what, to the best of your recollection. If you  
13 cannot remember exactly, tell us as much as you can.

14 A Whatever I remember, I'll say it exactly as  
15 I remember now.

16 I remember discussing with Gonzalez that we  
17 know each other a long time and that he understood that I  
18 was doing very well financially and they will be very glad  
19 to use some assistance, some financial assistance, to help  
20 the organization and, in turn, they could provide me with  
21 some of the services that I was needing, like collecting  
22 accounts of people who owe me a lot of money from sales,  
23 purchases, and that they will go out and collect these  
24 accounts and keep a percentage, therefore, as a source of  
25 income to the organization.

1                   They wanted to collect the accounts, and also  
2 if anything came about, as far as any problem with any  
3 individuals, dealers, or anybody who was in my way, they  
4 will step in and help me to solve the problem.

5                   Q       What did you understand that to mean?

6                   A       It meant if anybody I was having problem with,  
7 any problem of any kind, I will call on them to come and  
8 take care of the problem, whether it was somebody who was  
9 threatening me or somebody who owed me a lot of money and  
10 wasn't paying, or somebody who my life, or anybody in  
11 the organization, was having problems, and they will come  
12 and go and see these individuals and do whatever they  
13 had to do in order to rectify the matter.

14                               And that was agreed that they will come in and  
15 do whatever was needed.

16                   Q       Did they discuss any particular things that  
17 they might do in that regard?

18                   A       Well, I had some cases where I have problems  
19 with some individuals.       And I want to get rid of them,  
20 because these individuals were causing problems, and  
21 they were a threat to me and they were making some threats  
22 also at the same time.

23                               So I called on them to get rid of them, to  
24 actually physically disappear them, and that was a part  
25 of their, you know, duties, the job.

1 Q Now, did Mr. Arocena at this first meeting  
2 ask you if there was something besides money that you  
3 could provide?

4 A Yes, I remember. He asked me if I could  
5 locate some C-4. That's the explosive that is used in  
6 very powerful explosive for bombs and different uses.  
7 I did try to locate it, but I wasn't successful.

8 I asked a few people, but it's very difficult  
9 to find, unless it is military, or something. Besides  
10 that, besides asking for money, he asked me for that.

11 Q Now, after this meeting, did you have any  
12 further meetings with Mr. Arocena?

13 A Yes. We met on several occasions. Not only  
14 there, but we met in different places. After the first  
15 meeting that I was to give him -- after the first meeting,  
16 I gave him a list of accounts that he was to collect, a  
17 list of names. He made a list of all the names that he  
18 was to collect from these people that owe me large sums  
19 of money.

20 And I got a little bit upset, because he took  
21 this guy Necuze, Gonzalez' brother-in-law, to work with me.  
22 And he wanted to look like a big shot, like a powerful  
23 guy, like a guy who knew everything. So I didn't like  
24 his attitude, and I told him that I didn't want to deal  
25 with that guy no more. And he changed him and told me,

1 Arocena told me, "From now on, I'll be dealing with you  
2 direct."

3 Q Now, why did these people owe you large amounts  
4 of money?

5 A Why? Because I have given them credit, I  
6 have sold them large amounts of grass or marijuana, and  
7 they have taken it and they owe me a lot of money, and  
8 they were behind and they weren't paying. So I needed  
9 some people to come and press them for the money. And  
10 they were the guys who were tough guys and the guys who  
11 wanted to make money and wanted -- I guess they needed  
12 money for different reasons, but they went to work with me.

13 Q About how much were you owed altogether at  
14 that time?

15 A I don't have exact number, but I knew it is  
16 a few million dollars. I don't know. Few millions.

17 Q Did Mr. Gonzalez or Mr. Arocena tell you what  
18 percentage they wanted toget of whatever they collected?

19 A Well, I had a discussion with Mr. Arocena that  
20 he wanted 50 percent. I said, "No. No way in the world  
21 I'm going to give you 50 percent. That's too much."

22 So we broke it down to, I believe, 30, 35  
23 percent of the amount of money that was collected.

24 And also, he wanted whether he collected  
25 direct or I collected indirect. But we finally agreed



1 to a percentage to the moneys that he pay me for  
2 collections.

3 Q Now, where are some of the places --

4 THE COURT: What was the agreement that you  
5 finally made?

6 THE WITNESS: 35 percent of the amounts  
7 collected.

8 THE COURT: 35 percent of the amounts collected  
9 was to be kept, and the rest paid to you?

10 THE WITNESS: Kept by him and the rest paid  
11 to me.

12 THE COURT: Very well.

13 Q Now, Mr. Fernandez, where are some of the  
14 places that you met with Mr. Arocena, having these meetings?

15 A We met a couple of times, two or three times,  
16 in an office on, I believe it's 27 and -- I'm not sure.  
17 27 and Eighth, I believe, southwest, in an office. And  
18 it was Gonzalez' office.

19 And after this, we met mainly in cars, riding,  
20 parked the car some place and meet him there and talk in  
21 the car. Most of the time in different shopping centers,  
22 but I guess after that, most of the time it was in cars.

23 THE COURT: In what city did you meet?

24 THE WITNESS: Miami.

25 Q What was the reason why you were meeting in cars

1 and in different places like that?

2 A The main reason was security. He was very  
3 concerned, and so was I, that he was very concerned with  
4 the security and the places and being seen and being  
5 followed, being hurt, you know, all kinds of things that  
6 you risk when you meet in an office or other places where  
7 people can be seen.

8 THE COURT: We will take a brief recess at  
9 this time. We will resume in ten minutes.

10 (The jurors left the courtroom.)

11 (Recess.)

12 (The jurors entered the courtroom.)

13 THE COURT: You may proceed, Mr. Tabak.

14 MR. TABAK: Thank you, your Honor.

15 Q Mr. Fernandez, I'm going to show you what  
16 has been marked Government's Exhibits 289 and 290, for  
17 identification (handing).

18 (Government's Exhibits 289 and 290 were  
19 marked for identification.)

xx

20 Q Do you recognize those?

21 A Yes, sir.

22 Q What is 289 a photograph of?

23 A 289 is a picture of a tire shop in Miami that --  
24 where I used to meet with Arocena across the street from  
25 there most of the times.

1 Q Now, was the name of the tire shop the same  
2 when you met with him as it is in this photograph?

3 A The place used to be call Latin Tire. I believe  
4 it is a new name now. I don't know the name.

5 Q But does the photograph otherwise accurately  
6 portray --

7 A It is the place, yes.

8 Q And what does Exhibit 290 show?

9 A It shows the building where I met a couple of  
10 times with the group from Omega.

11 THE COURT: Well, there is more than building  
12 in 290. Which building is it?

13 THE WITNESS: Well, the first little building  
14 it's not. It's the big building that you can see. First  
15 is the parking garage for a big building in the background.  
16 That's the building where we met.

17 THE COURT: In other words, you met in the tall  
18 building that's in the background of Exhibit 290?

19 THE WITNESS: That's right. Exactly.

20 Q What was in that big building?

21 A Mr. Gonzalez had an office there, an insurance  
22 office, what I was told it was.

23 MR. TABAK: Government offers Exhibits 289 and  
24 290 into evidence.

25 MR. FERNANDEZ: I have no objection, your Honor.

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THE COURT: Received.

(Government's Exhibits 289 and 290 were received into evidence.)

MR. TABAK: May I show these to the jury, your Honor?

THE COURT: You may.

(Government's Exhibits 289 and 290 were displayed to the jurors.)

Q Mr. Fernandez, did you ever see Mr. Arocena with any weapons at any of the meetings you had with him?

A I believe in most of the meetings, he had always a weapon. At least some meetings I seen him with weapons.

THE COURT: What types of weapons did you observe?

THE WITNESS: Usually, he would carry a revolver here, what you call it, underneath an arm.

THE COURT: In a shoulder holster?

THE WITNESS: In a shoulder holster. And in one instance, one of the meetings, he had a briefcase that he opened and showed me two Mack 10's, with silencers. And inside also was a pair of leather gloves.

Q Now, what is a Mack 10?

A Mack 10 is a submachine-gun. It's a machine-gun, automatic machine-gun, that is used very, very much. Actually, it's a small machine-gun that you can carry any

1 place, underneath your suit, briefcase, very practical.

2 Q Now, did you attempt to do anything with the  
3 Mack 10's that you saw in the briefcase?

4 A Well, when I first seen them on top -- I was  
5 sitting next to him and I went to touch them, and he held  
6 me and told me, "No, don't touch them," and he stopped me  
7 from touching it.

8 Q Now, did you ever meet with Mr. Arocena at  
9 the Marriott Hotel in Miami?

10 A Yes, one time we met there.

11 Q And who was present?

12 A Was Mr. Arocena, Mr. Gonzalez, another friend --  
13 his name is Enrique Castro -- and myself.

14 Q And where was this in the Marriott Hotel?

15 A In Miami, Florida.

16 Q Where within the hotel was this?

17 A Oh, this was in one of the bars. It had two  
18 bars. I don't remember which one, but I know it was one  
19 of the bars, one of the bars. Yeah, lounge.

20 Q Where in the lounge were you and the other  
21 gentlemen you've mentioned?

22 A We were at a table, sitting at a table, not too  
23 close, few feet away from the counter.

24 Q Did you notice anybody sitting by the bar?

25 A Well, I always look around who is around, and

1 I noticed Mr. Necuze was sitting in the lounge.

2 Q Now, was there anybody else who had come with  
3 you to the Marriott Hotel?

4 A I had come with Tony, but again he didn't sit  
5 at the table and he didn't participate. He didn't do  
6 anything. I didn't want him to, also. So he was around  
7 in the bar, but he wasn't sitting with us.

8 Q Now, did you hear any conversation between  
9 Enrique Castro and Mr. Arocena?

10 A Yes. We were talking about different subjects,  
11 and I recall really only -- only thing I recall is that  
12 Enrique told me if I had any other need for anything to  
13 talk to Victor. So I say, "Well, make up your mind.  
14 What's your name? Is it Victor or Andres?" And then  
15 they laughed and kept calling Andres.

16 Q And who was Enrique Castro referring to as  
17 Victor?

18 A To Arocena.

19 Q Now, did you at any other --

ET4A

20 MR. TABAK: Let me strike that.

21

22 (Continued on the next page.)

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4B

1 Q While you were in the illegal marijuana business,  
2 did you always live in the same place?

3 A No. I had many places. I had three or four,  
4 five places always at the same time. I had to move all  
5 over and had different houses all the time, different  
6 apartments. I didn't stay one place. You know, I used  
7 to move around a lot.

8 Q Why did you move around a lot?

9 A Well, many reasons, so people couldn't catch  
10 up with me, and especially the law and anybody who was  
11 perhaps looking to rob me or do any damage to me or to the  
12 organization. For security mainly, we used to have  
13 all these places.

14 Q Did you buy or rent these places in your own  
15 name?

16 A No. These places were all rented -- yeah, I  
17 think was all rented, except maybe one small apartment. But  
18 they were all rented with different names that I will  
19 tell them to put a name on the lease, if we had a  
20 lease, if not, give them any name. But never our names, our  
21 real names.

22 Q Now, in approximately May of 1981, do you recall  
23 living in the Kendall section of Miami?

24 A Oh, yes.

25 Q Did you have a particular problem one day while you

1 were living there?

2 A I had a problem. I had minor problem, but  
3 one I had a big problem, two of them I had a big problem.  
4 I had a problem one time where some people was in the  
5 house in one of the house sleeping, was about three  
6 in the morning, and I always had bodyguards, people with  
7 me there, watching, protecting and looking after our  
8 interests.

9 And he, one of them knocked my door about three  
10 in the morning, very excited and he said, "We are  
11 surrounded." So I got up and came out of the room and  
12 said, "What's happening?" He said, "Well, they were  
13 trying to open the door."

14 At this time, he had already a machinegun,  
15 and I said, "Well, hold it a minute, let me take a  
16 look." He said, "I think it's the police, because I seen  
17 one of them already with a police uniform." So I said,  
18 "Well, let me see." So I went to the other end of the house,  
19 looked through the window, I didn't see no lights, no  
20 police lights. So I didn't like that. So I went back  
21 here again. This was a matter of seconds, you know,  
22 looking. And there were calling, "Open up, it's the police."  
23 Calling names. And I knew they were Cubans by the voice,  
24 by the tone. So I look again, I don't see no lights. I  
25 say, "Maybe, they may be trying to rob us." And turn out I



1 was right.

2 The people were not -- after a while -- let me  
3 explain what happened. So after the people who were there  
4 were supposed to be good men, but, I guess those moments  
5 when it's difficult, I guess they don't -- they are  
6 brave outside but when it comes times like that, it goes  
7 away.

8 So they got scared, and instead of helping me,  
9 one of them was trying to get underneath and bed and  
10 the other one was not even -- I told him, "Call the  
11 police, call the police." He couldn't dial. He missed the  
12 phone. And I say, "I call myself."

13 So I was standing. I told them, "You are a bunch  
14 of rats, a bunch of thieves. What you are." I told them  
15 outside. One of them was saying something in front.  
16 I said, "You going to show me the badge?" And he said,  
17 "You open up, you see what kind of badge we're going to show  
18 you." I say, "Oh, that's no police."

19 So I ran, and I said, "Let me call." So I was  
20 talking to the police. I said, "I got some people want to  
21 come in and they are threatening. They are saying, "We  
22 are going to shoot if you don't open up. We're going to  
23 shoot." I said, "Don't shoot." Because they were going to  
24 shoot, kept saying that.

25 In the meantime, the guy that was trying to get

1 underneath, they had him by the window, pointing at  
2 him, I guess the guy who had him was looking the other  
3 way and he run from the bed.

4 All of a sudden, bullets started to come  
5 in all over, all over. I don't know how many bullets they  
6 shot, but hundreds, in seconds. And I felt an impact here  
7 in my left hip, and I knew I had been hurt. And I was  
8 talking to the police and I told him, "I have just been hit,"  
9 and after a while, I couldn't stand too much, I have too much  
10 pain and blood, so I had to go down.

11 About that time, they were almost there. I guess  
12 what they did is, what I believe they did is shoot, shoot,  
13 shoot, so everybody goes down, and they can run. They  
14 did. Within two minutes, the police were there, two or  
15 three minutes the police were there and they had left.  
16 There I was with a bullet and nothing else happen. But  
17 they destroy all the windows, everything, bullets all over  
18 the place.

19 Q How many places did you think you had been  
20 shot in at that time?

21 A Oh, I had a big hole here with a .45-caliber  
22 (indicating), and I was lucky didn't break no bones or  
23 nothing, no important parts. But I had another hole, a  
24 little hole here. I had my underwear and I saw another  
25 hole here, so I figured I had a bullet here and a bullet

1 here, I didn't know.

2 Q You are pointing to about your bellybutton?

3 A Yes, underneath. So what happened, the bullet  
4 had traveled from here --

5 THE COURT: Indicating his left hip.

6 A -- had traveled from here to here. But it didn't  
7 come out and made a little hole and stayed right there.  
8 So I thought had two bullets.

9 After the doctor did all the X-rays, they  
10 couldn't find the bullet, the other bullet, so what I had  
11 was actually one bullet that came in here and couldn't  
12 come out, but made a little hole and that was the other  
13 bullet, that was the same bullet and finally, in the  
14 hospital, after three or four hours waiting there, they  
15 open and took the bullet out.

16 Q Mr. Fernandez, earlier that same day, the day of  
17 this incident, was there anything in your house that  
18 anybody might have wanted?

19 A Yeah. I had about a half million dollars in  
20 cash in my office I was counting, and I was checking it out.  
21 And I guess the wrong person seen that, and made plans to  
22 take it from me.

23 Q And at the time of the incident that evening about  
24 how much was still in the house?

25 A I had at least another hundred thousand dollars

1 left that night. But I remember I had them in hundred-  
2 dollar bills, so it was a small. It was in a briefcase,  
3 didn't take too much space. Kept all the bigger bills.

4 Q Where did you go after you were shot and the  
5 people left?

6 THE COURT: He said he went to the hospital.

7 A I went to the hospital. They took me to the  
8 hospital. I didn't go. They took me.

9 Q And how long did you stay at the hospital?

10 A I was only in the hospital day and a half, two  
11 days tops. I left the hospital because I had not been --  
12 my bullethole hadn't been closed or, you know was still  
13 under all kinds of things. But I said, I made -- I was  
14 instructed to stay in the hospital because of security, and  
15 I knew I had a lot of things in the house, all papers,  
16 a lot of evidence, a lot of things, if they were coming  
17 looking for me, they wouldn't find me.

18 So I just left. I called some friends and  
19 they took me away.

20 Q Now, did you ever move back to that house?

21 A No, two days later, there was nothing left there.  
22 I made sure everything got moved two days later. So it  
23 was a week, anybody came back, the weekend, nothing was  
24 left, even the fence.

25 Q I'm going to show you what has been marked

1 Government's Exhibit 291 for identification(handing).

XXXX

2 (Government's Exhibit 291 was marked  
3 for identification.)

4 Q I ask you if you recognize this.

5 A Yes, that is the house where the shooting took place.

6 MR. TABAK: The government offers Exhibit 291  
7 in evidence.

8 MR. FERNANDEZ: Your Honor, I'll object on  
9 grounds of relevance. I'm still trying to follow this line  
10 of testimony.

11 THE COURT: Well, I'll take it subject to  
12 connection.

13 And I will reserve to you a motion to  
14 strike, if it's not connected up.

15 MR. FERNANDEZ: Thank you, your Honor.

16 THE COURT: Very well. 291 received.

XXXXXX

17 (Government's Exhibit 291 was received  
18 in evidence.)

19 THE COURT: This is the house in the Kendall  
20 section to which you referred a few minutes ago?

21 THE WITNESS: That's correct, your Honor.

22 THE COURT: Very well.

23 MR. TABAK: With the Court's permission, I'll just  
24 quickly show this to the jury.

25 THE COURT: Certainly.

1 MR. FERNANDEZ: Your Honor, I thought it was not  
2 in evidence.

3 THE COURT: No, it was received. I received it,  
4 have received it subject to connection and reserved to you a  
5 motion to strike.

6 (Government's Exhibit 291 was displayed  
7 to the jurors.)

8 Q Mr. Fernandez, a few days after this incident at  
9 that house, did anything else happen that affected your  
10 business?

11 A Yes. Apparently what they intended to do was  
12 to rob whatever I had in cash, and kill me, and since  
13 they didn't kill me --

14 MR. FERNANDEZ: I'm sorry, I'm going to have to  
15 object.

16 THE COURT: Yes, I'll strike that response.  
17 The jury will disregard it.

18 Why don't you pick up with whatever he may have  
19 done following the incident.

20 Q Well, Mr. Fernandez, did anything happen to any  
21 other locations that you had control over?

22 A I was robbed. I had what is called a stash house  
23 with various amounts of marijuana stashed and they robbed me  
24 there a few days later, a week later, five days, something  
25 like that. They robbed me of about 40,000 pounds,

1 THE COURT: 40,000 pounds of marijuana?

2 THE WITNESS: Yes.

3 Q And what would the wholesale value of that  
4 have been, approximately?

5 A 40,000 pounds multiplied by 200, approximately  
6 \$8 million.

7 Q In this incident where you were shot and  
8 then your stash house was robbed, did you do anything  
9 about it?

10 A Well, I started to group people and bring people  
11 from New York, all over, and gave them moneys and I  
12 wanted to catch whoever shot me and I wanted to catch  
13 who robbed me.

14 And then finally, and I wanted to buy, get to the  
15 people who did it, and I didn't know what cost or what  
16 it took. Then all these people went out and out,  
17 and finally I was buying, and my particular -- my shipments,  
18 my product was wrapped in a special paper, everything  
19 was re-wrapped and we taped so I knew exactly waht it  
20 looked like.

21 So I instructed them to buy whatever was wrapped  
22 at any price, and they went out and finally, we ended up  
23 by finding one guy that had a thousand pounds, and I bought  
24 it all. Well, I actually gave him a deposit, and then when  
25 he came back, after we -- I wasn't present but I told him

1 where and how, and I wanted to catch the guy, catch him  
2 alive and so he'll tell me who was involved, who were  
3 involved. He came to the gas station about one o'clock,  
4 and they kidnaped, they took him by force and put him  
5 in a motor home.

6 Q When you say "they," the people you hired?

7 A Who I hired, yeah.

8 Q And what, if anything, did you learn after they  
9 kidnaped this gentleman?

10 A Took him from there and took him to one of the  
11 houses I had, and as soon as he got in there, he was  
12 talking, he was talking and he told everything.

13 MR. FERNANDEZ: Your Honor, I'll object to what  
14 that person said.

15 THE COURT: Yes. I think that's appropriate.  
16 In other words, these people that you hired had caught a  
17 person who you believed to have some of the marijuana which  
18 had been stolen from you, is that right?

19 THE WITNESS: That's correct.

20 THE COURT: And in addition, you thought this  
21 person might have information which would lead you to  
22 others, is that correct?

23 THE WITNESS: That's correct.

24 THE COURT: Then that person was taken by the people  
25 you had hired and told them certain things, is that right?



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A Yes.

THE COURT: Very well.

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1 Q As a result of what this person told your  
2 people, did you decide to go after any particular individual,  
3 just yes or no?

4 A Yes.

5 Q Who was the individual you decided to go after?

6 A Luis Fuentes.

7 Q L-u-i-s, F-u-e-n-t-e-s?

8 A That is correct.

9 Q Do you know what your people did with the man  
10 they had kidnaped?

11 A After three days of questioning, I told them it  
12 was no more use to keep him there, to let him go, take him  
13 away.

14 I didn't care what they did with him, and they  
15 did.

16 I don't know what happened, but I know I didn't  
17 see him no more. I didn't know him before, but he was  
18 taken away.

19 THE COURT: In other words, you don't know what  
20 happened to him?

21 THE WITNESS: No, your Honor.

22 THE COURT: Very well.

23 Q Is it fair to say you don't know whether they  
24 killed him or what happened to him?

25 A Not to my -- I don't know myself.

1 Q Mr. Fernandez --

2 A Excuse me, I had heard they had killed him,  
3 I had heard he was out, I had heard different things, but  
4 not to my knowledge.

5 Q Mr. Fernandez when you learned of the name  
6 of Luis Fuentes, did you know who that person was?

7 A Yes, Luis Fuentes was one of my workers, one  
8 of the people who I employed.

9 Q After you learned this information did you  
10 have any discussion with Mr. Arocena about it?

11 A Some time went by and finally I was trying to  
12 catch up with him, but I couldn't, and after we got together,  
13 Arocena and I, I gave him the lead.

14 I told him that I wanted to catch Fuentes.

15 My main idea was to kill him. It was no other  
16 idea, because I had been almost killed by him and his  
17 people, and I had been robbed of millions of dollars, and  
18 I was alive by a miracle, and I was determined to get rid  
19 of him for what he did to me.

20 THE COURT: Is it your testimony that you told  
21 Mr. Arocena that you wanted to catch up with Mr. Fuentes?

22 THE WITNESS: That is correct.

23 THE COURT: What else if anything did you say  
24 to him?

25 THE WITNESS: Mainly that I want him to go out

1 and do whatever he had to, bring people, hire people, but  
2 find him, and catch him and put him away.

3 Q Did Mr. Arocena agree to do anything for you  
4 in this regard?

5 A Yes, Mr. Arocena at that time was getting  
6 different amounts of moneys from me, and as a matter of  
7 fact, because of what he was doing he told me he had to  
8 bring extra personnel from up North, and he had to hire  
9 more people to do the job properly.

10 And he went out physically himself and the  
11 other guys to catch, somehow catch Fuentes.

12 And I had ~~supplied~~ him with the addresses of  
13 where he was living and another possible apartment.

14 I know he told me they were day and night  
15 watching the places and that they had not been able to  
16 locate Fuentes, and that they know where he was.

17 They brought me some pictures somebody had  
18 taken believing it was Fuentes himself, but it turned out  
19 to be somebody else, I guess a brother or somebody who  
20 looked similar, but I told him it was not him.

21 Therefore after being after him for a few days,  
22 they put in a lot of hours and a lot of days, I learned  
23 he was in jail some place.

24 Q Mr. Fuentes was?

25 A Mr. Fuentes was in jail, yes, for some other else,

1 I don't know where, in the state some place.

2 Q What if anything had Mr. Arocena agreed to do  
3 if he found Fuentes?

4 A His instructions were to get rid of him.

5 THE COURT: Those were instructions, but did  
6 he agree to --

7 THE WITNESS: He agreed to me that he would  
8 get rid of him if he was found.

9 Q Had you ever had any other discussion with  
10 Mr. Arocena that led you to believe that he was an  
11 appropriate person to deal with in this regard?

12 A Well, I have many conversations with him.

13 One of the times he told me that they made a  
14 living with contracts and contracts on people. He said,  
15 that's our main source of income, contracts, that's what  
16 we do for a living.

17 I don't know if he was trying to let me know  
18 exactly how he made a living, but also, if I didn't, you  
19 know, if I didn't do something right for him, they will  
20 get rid of me too. That was the, you know, what he told  
21 me one time.

22 THE COURT: What did he tell you?

23 THE WITNESS: That they made a living from  
24 contracts, mainly.

25 Q Did he refer to any other groups that also did

1 that kind of work?

2 A One time he told me that if anybody wants to  
3 do something, wants to have a contract, they will come to  
4 the Italians or they come to us, meaning the Italians,  
5 meaning the Mafia, or come to us.

6 Q Did you ever send anybody with Mr. Arocena to  
7 look for Mr. Fuentes?

8 A Well, they didn't know him, and besides, they  
9 not knowing him, they were being paid, they were taking a  
10 lot of my money and I wanted to make sure I had results and  
11 that they were doing what they said they were doing,  
12 so I told them they had to take somebody else with him,  
13 which he agreed, and he went with them two, three, four  
14 times in the cars and went around, whatever they did out  
15 there.

16 His name is Maxie Lora.

17 Q That is M-a-x-i-e, last name L-o-r-a?

18 A Yes, full name is Maximiliano, I call Maxie.

19 THE COURT: Maxie Lora, L-o-r-a?

20 THE WITNESS: Lora, L-o-r-a.

21 A He reported to me after, every time after he  
22 came back, exactly what went on and what they did and what  
23 was happening, the results.

24 Q Mr. Fernandez, you said that at some point you  
25 began paying money to Omega 7; is that correct?

1 A That's correct.

2 Q Would you tell the jury about the first  
3 payment that you made?

4 A After meeting with them the first time, I had  
5 a second meeting which I agreed then to provide them with  
6 moneys, I gave them \$50,000 in a bag, cash.

7 Q Where did you give them the \$50,000 in cash?

8 A It was at the office of Gonzalez, Gonzalez'  
9 office.

10 Q Who was present at the time?

11 A Gonzalez, Necuze and Arocena.

12 Q After giving the first \$50,000, did you make  
13 additional payments?

14 A Yes, I made many payments up to a total of  
15 \$150,000. I made payments of, ten different payments,  
16 I send them, which I then verified that they had got the  
17 money.

18 And I remember very well that I pay him myself,  
19 I paid him \$20,000.

20 He was approaching me, this was the very last  
21 time, I wasn't sure I was going to continue with them  
22 because I was getting almost no results, and I gave him  
23 \$20,000 in large bills, him personally.

24 THE COURT: Him being whom?

25 THE WITNESS: Mr. Arocena.

1 Q Was there any particular reason why you were  
2 giving him that \$20,000?

3 A Well, at that time I also discussed the need  
4 that I had to receive some guns, I needed some special guns  
5 for some friends that I had in Colombia, and they always  
6 needed guns over there.

7 And I ask him and he promised me that he was  
8 going to get me the guns.

9 That was, I think, the last time I gave him  
10 moneys.

11 Q Do you recall where this was that you gave him  
12 the \$20,000?

13 A I was sitting -- I always sat in his car, got  
14 out of my car and went into his car. We were parked in  
15 a shopping center I think 72nd Street southwest, and I'm  
16 not sure about the avenue.

17 Q That is in what city?

18 A There was a crab house restaurant, I remember  
19 very well, that's where he picked me up all the time.

20 Q We will get to that. What city was this?

21 A Miami.

22 Q Were you always the only person who delivered  
23 money to Omega 7 from your organization?

24 A If I was the only person?

25 Q Yes.



1           A       No, I had sent him, sent them money, not only  
2 me personally but I had sent them money through Tony to  
3 give to them, which I have not time all the time to meet  
4 them, so I have to send it to one of the people working  
5 with me.

6           Q       Did you ever determine --

7           THE COURT: When you said Tony, is that Tony  
8 Iberia?

9           THE WITNESS: That's correct.

10          Q       Did you attempt to verify whether they got the  
11 money that Tony was supposed to give them?

12          A       Yes, every time I verify that, I will ask them  
13 if they got my package, you know, my present, my moneys,  
14 and they would verify it, yes, they always got it.

15          Q       Who were these packages given to?

16          A       I believe I gave one to Maxie and th ertest Tony,  
17 and the one I made the first time and the one I made me  
18 personally the last time.

ET5A

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(Continued on the next page.)

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1 Q Who from Omega 7 was receiving the money, if you  
2 know?

3 A Well, when I was present it was, Eduardo Arocena  
4 and Gonzalez and Necuze, the other times I'm not positive,  
5 but I understood it was either Gonazlez or Arocena receiving  
6 the moneys.

7 Q Mr. Fernandez, did Mr. Arocena ever in fact  
8 provide you with any weapons?

9 A Well, at one time, he came to my house, one  
10 of the houses that I had in, called Solano Prado, I believe  
11 it was Coral Gables, near the water, by the water, by  
12 the ocean.

13 So I ask him, and he said, "I brought you two  
14 guns in the meantime."

15 I wanted new guns, I didn't want old, beat-up guns.

16 And he left, he gave me two Mack 10's, that's what I  
17 wanted, Mack 10's, in a breifcase, with silencers, and left  
18 them there with me to get by until he got the rest of the  
19 guns.

20 Q Did you understand whether it was legal or  
21 illegal for you to have those weapons?

22 A Oh, I knew they were illegal, because I had no  
23 license and no documents and besides, it had a silencer, so  
24 I knew they was fire. I knew it was very illegal to have  
25 them.

1 Q Mr. Fernandez, you said these guns were old  
2 or used. Did you do anything to see whether they worked?

3 A Yes, I tried them, I shot them. They worked  
4 all right. They were beat up outside, but inside, the  
5 mechanism was good.

6 Q Mr. Fernandez, what eventually happened with those  
7 two machineguns?

8 A Well, one day some friends came over the house  
9 and told me that I was surrounded. They said, "You are  
10 surrounded, the house is surrounded, there are cops all  
11 over the place and cars and people in every tree, you name  
12 it."

13 So I said, "Oh, my God, what am I going to do,"  
14 I didn't want them to catch me with those guns and  
15 silencers there, I heard it was ten years.

16 To make a long story short, I finally tried  
17 different ways to see how I could get out of there.

18 That day, I remember calling Mr. Arocena and  
19 asking him to please see if he had a way to get me out of  
20 there, because I was surrounded and I didn't want them to  
21 catch me, and now that he was Mr. Big, he knew what I was in,  
22 to get me.

23 And I talked to him and he said he was going to try.  
24 Then he called me back saying that it wasn't  
25 possible, I was completely surrounded, he couldn't get in.

1           So I said, "Well, I got to do it on my own." And  
2 I tried different ways with a taxi, and I didn't like  
3 it, so I waited until night.

4           When it got dark, I told Maxie to dump the gun  
5 in the canal in the back of the house.

6           I had a small rowboat, I said, "Well, I think my  
7 only chance is to escape in that rowboat," because I didn't  
8 think they had covered the canal.

9           So Maxie, I told him, "Throw this gun in the  
10 canal and let's disappear from here."

11           So I left all the lights on, same way everything  
12 was, and left rowing very slowly and quietly, and  
13 finally got to the bay and got away. Left everything  
14 there behind me.

15           Q     Did you do anything last year to try to help the  
16 FBI find that gun in the canal?

17           A     After learning of all the problems here and  
18 what was going on, I told the FBI that he had given me two  
19 guns and I didn't want to be caught with it, and I threw one  
20 gun in the canal, I remember --

21           Q     You threw the gun or someone else threw the gun?

22           A     Excuse me?

23           Q     Who actually threw the gun?

24           A     I didn't actually do it, I told Maxie to throw it  
25 in the water, I said, "I" because I told him.

1 Q Did you physically do anything or go anywhere to  
2 try to help the FBI find the gun?

3 A I went to Florida in Miami to show them where the  
4 house was there the gun had been thrown in the canal, and  
5 it was there, one gun. The other gun I gave away to somebody  
6 else.

7 Q To your knowledge, did the FBI then recover the gun  
8 from the canal?

9 A I was told they had covered the gun, yes.

10 Q I am now going to show you Government's  
11 Exhibits 292 and 293, for identification. Do you recognize  
12 those?

13 A Yes.

14 Q What are they?

15 A 292 is the rear view of the house in Solano Prado.  
16 293 is the rear, the dock by the rear of the yard, it has  
17 a small dock there to the canal.

18 THE COURT: This is the house in Coral Gables?

19 THE WITNESS: Yes, sir.

20 THE COURT: The government offers Exhibits 292 and  
21 293 in evidence.

22 THE COURT: Any objection?

23 MR. FERNANDEZ: Your Honor, just a caveat on  
24 293, I don't believe this boat is a rowboat that they have  
25 on 293.

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BY MR. TABAK:

Q Mr. Fernandez, does it show the canal?

A No, I was not living there then, I don't know whose boat that is.

THE COURT: This is just to show the scene, I gather.

A I never came back there.

Q Does 293 for identification show the canal where the weapon was thrown?

A The weapon was hidden here in these trees and thrown in the water here, but I never came back there, I don't know whose boat that was.

I had my boat tied up here.

THE COURT: At the dock.

In any event, the witness pointed to the canal as the place where the gun was thrown, that is 293.

Is there any objection to the photo of the house, 292 for identification, and the photo of the canal area in back of the house, 293, with the understanding that this photograph was taken relatively recently and that boat tied up at the dock has no connection to this case.

MR. FERNANDEZ: No objection.

THE COURT: Received.

(Government's Exhibits 292 and 293 for identification were received in evidence.)

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1 MR. TABAK: With the Court's permission, I will  
2 show Exhibits 292 and 293 to the jury.

3 THE COURT: Certainly.

4 (Pause)

5 BY MR. TABAK:

6 Q Mr. Fernandez, you testified that you called  
7 Mr. Arocena at thattime, that day, to try to help you get  
8 out.

9 I am going to show you Government's Exhibit 300  
10 for identification and ask if you can identify this.

11 A Yes, this is a tape I heard yesterday with me  
12 calling, it was a wiretap, I guess it was, I'm calling  
13 Mr. Arocena here.

14 THE COURT: This is the call that you made  
15 to him when you were surrounded in the house and you were  
16 calling for help?

17 THE WITNESS: That's correct, your Honor, in  
18 Solano Prado.

19 Q Was this Mr. Arocena returning a call that you had  
20 made?

21 MR. FERNANDEZ: Perhaps the form is incorrect.  
22 I believe he already testified --

23 THE COURT: Maybe --

24 MR. TABAK: I will withdraw it and ask it a  
25 different way.

1 THE COURT: Maybe he is going to modify his  
2 response.

3 I gather this is a tape of a telephone  
4 conversation between yourself and Mr. Aroca, is that right?

5 THE WITNESS: That's correct, your Honor.

6 THE COURT And now the next question, who was  
7 calling whom in this particular conversation?

8 THE WITNESS: I had called him and he wasn't  
9 there, and he called me back and asked me what was the  
10 problem.

11 So I explained to him what was the problem,  
12 and he told me he was going to come over and check the  
13 possibilities of getting me out.

14 BY MR. TABAK:

15 Q Did you listen to this tape yesterday?

16 A Yes, I did.

17 Q Where did you listen to it?

18 A In your office.

19 Q Did you recognize the voices on the tape?

20 A Oh, yes.

21 Q I am now going to show you Government's  
22 Exhibit 300-A for identification, and askif you recognize  
23 this.

24 A Yes, I do.

25 Q What is that?



1 A That is the translation, close translation to the  
2 conversation that Mr. Arocena was having with me.

3 Q Did you look at this translation at the same time  
4 that the tape was being played for you?

5 A I read it at the same time.

6 Q Do you believe that it is reasonably accurate?

7 A It is pretty close. I guess there were some  
8 times, I talk very fast, they didn't understand some of the  
9 words so they put "Unintelligible," something like that.

10 Q So in other words, there are some places where  
11 the translator put "Unintelligible" that you think you  
12 understand; is that correct?

13 A That's correct.

14 Q But as to the words that are on there, do you  
15 believe them to be reasonably accurate?

16 A Oh, yes, most of it is accurate, yes.

17 Q With regard to the tape itself, does that tape fairly  
18 and accurately reflect the conversation that you had with  
19 Mr. Arocena on or about January 11, 1982 at 5:38 p.m.?

20 A Yes, that was the conversation that I remember  
21 when I talked to him on the matter.

22 MR. TABAK: The government offers Government's  
23 Exhibits 300 and 300-A, for identification.

24 MR. FERNANDEZ: I am going to object at this time.  
25 At this time I would ask counsel to clarify, he said most of

1 it mean there?

2 THE COURT: What is that?

3 MR. FERNANDEZ: Excuse me for the use of the  
4 word, he says where the word s-h-i-t is put in that it  
5 should be "damn," d-a-m-n.

6 THE COURT: He would have interpreted it as  
7 "damn," that's what he said.

8 MR. FERNANDEZ: I am reading this and I see the  
9 word "damn." Is that the only thing, if that is the only  
10 thing --

11 THE COURT: That's what he said. Let's find out.  
12 Look through it for a moment.

13 He is turning to the second page at the top where  
14 Mr. Arocena is quoted as using the four-letter word to  
15 which you have just made reference and he said, if he were  
16 translating, he would have substituted the word that  
17 appears there with the word "damn." That's what he just  
18 said.

19 Is that correct, sir?

20 THE WITNESS: That's correct.

21 THE COURT: Other than that, would you have  
22 made any other changes in this transcript?

23 THE WITNESS: No, I didn't notice any more.

24 THE COURT: He didn't notice any more.

25 MR. FERNANDEZ: Then I have no objection.

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THE COURT: 300-A received.

MR. FERNANDEZ: Subject to the understanding that there are parts that are unintelligible.

THE COURT: And 300.

(Government's Exhibit 300 and 300-A, for identification, were received in evidence.)

MR. TABAK: Your Honor, the government would suggest since it is about one o'clock, that we take the luncheon recess now and resume with the playing of the tape after lunch.

THE COURT: Very well.

Ladies and gentlemen, we will take a one-hour luncheon recess today, if you would.

Would you please return ready to resume at 2 :00 p.m. Please do not discuss the case among yourselves and continue to keep an open mind on all phases and facets of it.

Enjoy your lunch.

(Luncheon recess)

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AFTERNOON SESSION

(2:10 p.m.)

(The jurors entered the courtroom.)

M A N U E L F E R N A N D E Z , resumed.

(Pause.)

THE COURT: I'm going to send the jurors back

into the jury room to wait for a few minutes.

(The jurors left the courtroom.)

(Pause.)

(At 2:25 p.m., the jurors entered the court-

room.)

M A N U E L F E R N A N D E Z , resumed.

THE COURT: Mr. Tabak.

MR. TABAK: Thank you, your Honor.

With the Court's permission, I would like to

distribute copies of the transcript, 300-A, which is in

evidence to the jury, while we play Exhibit 300, which is

the tape.

THE COURT: You may.

MR. TABAK: Thank you, your Honor.

(Pause.)

THE COURT: It's my understanding that the

tape is in Spanish. The transcript is the English trans-

lation.

1 THE COURT: Yes, your Honor.

2 (Pause.)

3 THE COURT: You may proceed, Mr. Tabak.

4 MR. TABAK: Thank you, your Honor.

5 I am now going to play Government's Exhibit 300  
6 in evidence.

7 (Pause.)

8 MR. TABAK: We seem to be having some problem  
9 with the tape machine. So I suggest we do this at some  
10 other time. And I'll collect the transcripts at this  
11 point, your Honor.

12 THE COURT: Does anyone have any objection to  
13 the jurors reading the translation, since they are not  
14 supposed to interpret from the Spanish, anyway?

15 MR. FERNANDEZ: Just one clarification.  
16 I believe Mr. Fernandez said that when he heard the tape,  
17 he was able to ascertain some of the conversation that the  
18 interpreter wrote as unintelligible. And perhaps if we  
19 do it all at once, we may be able to get that cleared up.

20 I have no objection either way, your Honor.

21 MR. TABAK: Let me try it one more way.

22 I think I may have found the problem.

23 THE COURT: Mr. Tabak will try to solve the  
24 problem, the technical problem, that is.

25 MR. FERNANDEZ: Fine.

1 (Pause.)

2 THE COURT: Sometimes little gremlins come  
3 into the Courthouse.

4 (Pause.)

5 THE COURT: Are all the switches down here  
6 right? It's supposed to be on?

7 MR. WACK: Is there a red light?

8 THE COURT: Yes, there is a red light down  
9 here.

10 At least we have something. All right.  
11 Go back to the beginning, Mrs. Tabak..

12 MR. TABAK: Yes, your Honor.

13 (Tape played.)

14 THE COURT: That completes the playing of the  
15 tape, ladies and gentlemen. If you would pass down your  
16 transcripts.

17 You may proceed, Mr. Tabak?

18 MR. TABAK: Thank you, your Honor.

19 BY MR. TABAK:

20 Q Now, Mr. Fernandez, after that conversation,  
21 you then had another conversation that day with Mr. Arocena?

22 A I really don't recall, Mr. Tabak. In relation  
23 to -- that's when --

24 He called me back. I called him before, and  
25 he called me back.

1                   Then he called me again to tell me that it  
2 was impossible, that everything was covered, and there  
3 was no way for him to come in, so --

4                   Q       Then how did you get out of there?

5                   THE COURT: He told us.

6                   Q       All right. Now, Mr. Fernandez, I'm going to  
7 show you what has been marked --

8                   THE COURT: You went out in a rowboat; right?

9                   THE WITNESS: Right.

10                  THE COURT: Over the canal; right?

11                  THE WITNESS: That's correct.

12                  THE COURT: All right.

13                  Q       I'm now going to show you what has been marked  
14 Exhibit 287, for identification (handing).

15                               (Government's Exhibit 287 was marked for  
16 identification.)

17                  Q       I ask you to look at this. Do you recognize  
18 that?

19                  A       Yes, sir.

20                  Q       And what is that?

21                  A       That was at the time my telephone notebook, my  
22 telephone book.

23                  THE COURT: That is a copy of your telephone  
24 notebook?

25                  THE WITNESS: It's a photocopy of my pages of

1 my telephone book. That's correct.

2 Q And do you know where the original of that  
3 book is now?

4 A Well, I believe I burned it. I destroyed it.

5 THE COURT: You believe or did you destroy it?

6 THE WITNESS: Well, I destroyed it.

7 Q Do you know where this copy came from?

8 A This copy came from the -- I'm not certain, but  
9 I think it came from the Miami Police Department or DEA,  
10 one of the two that they taken it when they searched the  
11 house where the shoot-out was.

12 THE COURT: And then did there come a time  
13 when they returned the original to you?

14 THE WITNESS: Yes. Through my attorney, I  
15 was able to get all the originals back, but I guess they  
16 kept copies. I didn't think they had, but they did.

17 THE COURT: Is it your testimony that after you  
18 got the original back, you destroyed it?

19 THE WITNESS: That's correct. When I got them  
20 back, I destroyed them all, I burned them all.

21 Q And whose handwriting is in this book?

22 A My own.

23 MR. TABAK: Government offers Exhibit 287 in  
24 evidence.

25 MR. FERNANDEZ: Your Honor, we would have the



1 same relevance objection.

2 THE COURT: I am not sure, if I may say so,  
3 Counsel, that you really intend to offer the entire  
4 telephone notebook. I assume there are certain entries  
5 that are pertinent at this time.

6 MR. TABAK: Yes, just for completeness I  
7 wanted counsel to have the whole exhibit.

8 THE COURT: But you will be focusing on only a  
9 portion of it?

10 MR. TABAK: In the next question.

11 THE COURT: In the next question, all right.

12 There is an objection to relevance. I gather  
13 the Government's position is that at least a portion of  
14 the book is relevant.

15 Objection is overruled.

16 287 is received.

17 (Government's Exhibit 287 was received into  
18 evidence.)

19 MR. AGUILAR: I know the Court has ruled, but  
20 I think there are other grounds that we can object to this.

21 THE COURT: Let me suggest that only the parts  
22 that are referred to in the testimony may be either read  
23 or shown to the jury. Would that satisfy you?

24 MR. AGUILAR: Yes, your Honor.

25 MR. TABAK: That's fine with the Government,

1 your Honor.

2 THE COURT: All right, 287 is received, with  
3 the understanding that only those portions referred to in  
4 the testimony of the witness will be referred to. And  
5 should the jury want to see the exhibit, only those  
6 portions will be shown to the jury, unless all counsel  
7 agree otherwise.

8 MR. AGUILAR: We would withdraw our objection,  
9 your Honor. The whole thing can come in.

10 THE COURT: Fine. Received, period.

11 MR. TABAK: Fine, your Honor.

12 Q Mr. Fernandez, I direct your attention to the  
13 second page of Exhibit 287 to a particular entry I'm  
14 pointing to, where it says, "Andres, 554-6079," and then  
15 it appears to say, "944" -- well, then there is a remaining  
16 number over there.

17 Can you tell the jury what that entry refers to?

18 A Yes, I wrote in my telephone book that's  
19 Mr. Arocena's name and telephone numbers and, I believe,  
20 beeper he had beeper number.

21 Q And why did you put "Andres"?

22 A That's the name he gave me.

23 Q Thank you.

24 Now, Mr. Fernandez, did you ever live on or  
25 near Southwest 80th Street in Miami?

1 A Yes.

2 Q I direct your attention to approximately  
3 February 10, 1982, and ask if you had a particular problem  
4 that day.

5 A At that particular location, yes.

6 THE COURT: On that particular day?

7 THE WITNESS: Yes.

8 Q And what was the problem?

9 A The problem was I had rented a big house where  
10 I was living at the time, and I had a truck parked in the  
11 driveway and the truck was loaded with grass.

12 And I came in to move it from there, because  
13 I didn't like the way things were looking, and I wanted  
14 to finish -- to take away everything that was there.

15 So I had to drive it, drive the truck --  
16 somebody drive the truck out, and I came in my car real  
17 fast and the truck went out, and I left right after the  
18 truck left, two minutes apart. After I came out to the  
19 street -- it was a long driveway -- I noticed that the  
20 truck had been stopped and had all kinds of lights and  
21 cars and, you name it. They had it surrounded and  
22 against the truck.

23 So I ran as fast as I could run and turned  
24 right, I remember. I went around the block and it was  
25 an expressway near the house. So I got on the expressway

1 and figured they were going to follow me, and I didn't  
2 know. But when I was coming in front of the house, I  
3 got out of the car and looked over the expressway, and I  
4 see they had them with everything. So I kept running,  
5 came out to the first exit, I got off and parked my car  
6 at a shopping center, shopping center parking.

7 Immediately after I got off, I call, I call --  
8 first I call Mr. Arocena to come out and help me, because  
9 I have problems. I want to call somebody to come and  
10 pick me. So I parked my car and left it there. I didn't  
11 want to go in my car because I figured they were following  
12 my car.

13 And he came and pick me up and took me and drop  
14 me another place, and from there, somebody else came and  
15 got me. So I went on my own.

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17 (Continued on the next page.)  
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ET6A

1 Q Now, when you say you saw lights flashing, do you  
2 know what kind of vehicles those were that stopped the  
3 truck with your marijuana?

4 A You name it. They had trucks, they had  
5 pickups, they had police cars, private cars, what you  
6 call it, they have nothing on it, but they put the light  
7 on top.

8 Q Unmarked cars?

9 A Unmarked cars.  
10 Everything. I seen -- so I know it was people  
11 with guns out, with uniforms, so I knew it was the police.

12 THE COURT: You said you ran away and then  
13 later you said you parked your car?

14 A I ran in my car.

15 THE COURT: You ran away in your car.

16 THE WITNESS: Right.

17 THE COURT: All right.

18 Q What did you tell Mr. Arocena about what the  
19 problem was?

20 A I call him and told him that I have problems,  
21 to come and pick me up. And I told him what had  
22 happened.

23 Q What did you tell him the problem was?

24 A Well, I explain him that I had a truck full of  
25 grass that was moved and when I came out of the house, I

1 realize that they had the house under surveillance and  
2 they almost grabbed me, and that I was afraid to drive  
3 the car because they were going to catch me.

4 Q Did you tell Mr. Arocena?

5 A I told him to come and pick me up and take me away,  
6 because the police was going to get a hold of me.

7 Q Now, when you say that was grass in the truck,  
8 what are you referring to was in the truck?

9 A Marijuana.

10 Q Now, I'm going to show you Government's  
11 Exhibits 294 and 295, for identification (handing).

xxxxxx

12 (Government's Exhibits 294 and 295 were  
13 marked for identification.)

14 Q Do you recognize those?

15 A Yes.

16 Q What is 294 a picture of?

17 A 294 is a picture of the front of the restaurant  
18 where I had dropped -- had parked my car and left it  
19 there. And then I went to a telephone, telephone here to  
20 the left of the building, and called him and that's where he  
21 picked me up.

22 Q Where who picked you up?

23 A Mr. Arocena picked me up there.

24 THE COURT: What was the name of the restaurant  
25 where you went to make the call?

1 A It's a crab house.

2 THE COURT: Crab house?

3 THE WITNESS: Crab house.

4 Q And what does Exhibit 295, for identification,  
5 show?

6 A That's where he took me. From there, we left  
7 in his car, and I asked him to drop me here. So over  
8 there, I call other people and went some other place.

9 MR. TABAK: The government offers Exhibit 294  
10 and 295 in evidence.

11 MR. FERNANDEZ: Your Honor, once again I have  
12 to object to the relevance. I frankly don't know what the  
13 government is trying to prove with these pictures.

14 THE COURT: I have some problem with it, too.

15 For example, the telephone conversation was  
16 to the effect, "I'm parked in front of the crab house,"  
17 I could see then 294 would be relevant.

18 I have some difficulty at this point seeing  
19 the relevance, also, counsel, if this just depicts the  
20 places that the witness says he called from or he was  
21 dropped off at, I wouldn't think that the pictures add any  
22 probative evidence, unless the representation by the defense  
23 was there are no such places. I don't think that's their  
24 representation.

25 MR. FERNANDEZ: We live there. We live in the

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city.

THE COURT: These look like places you know from Miami?

MR. FERNANDEZ: Close to Aguilar's residence.

MR. AGUILAR: I have eaten there.

THE COURT: You have eaten there?

MR. TABAK: Since it's a New York jury, I thought -- if the Court doesn't want to let them in, that's fine with me.

THE COURT: We have a lot of exhibits. We're over 3,000, although not in totality. But I think that there is enough in the way of testimony for the jury, without overloading the record.

Sustained on grounds of relevance.

Q Now, Mr. Fernandez, you previously testified that Mr. Arocena and Omega 7 had discussed with you collecting money that was owed to you. Is that correct?

A That's correct.

Q And I believe you also testified that you gave names of some individuals?

MR. FERNANDEZ : Your Honor --

THE COURT: He said it already. Now he's going to ask his question.

Let's get on with it.

Q Now, what are the names of some of the people that



1 you told Mr. Arocena owed you money?

2 A One of them was Romero, Hugo Romero.

3 Q That's H-u-g-o, R-o-m-e-r-o?

4 A That's correct. The other was Oscar Dario.

5 Q That's O-s-c-a-r, D-a-r-io?

6 A That's correct.

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M. Fernandez - direct

1 he collected or not. If he collected, I never got it.

2 Q. On the night that you testified about when you  
3 were there with Mr. Arocena and Mr. Gonzalez, did Mr.  
4 Arocena and Mr. Gonzalez have anything with them?

5 A. Well, they both had guns, definitely, they had  
6 them here (indicating).

7 They were concerned with Mr. Dario coming out of  
8 the house and they didn't know him so they were ready with  
9 their hands in here (indicating).

10 Q. You are indicating a shoulder holster again?

11 A. Yes, shoulder holster. And they also had a  
12 briefcase where he indicated to me they had machine guns in  
13 there.

14 Q. Did Mr. Arocena to your knowledge take any steps  
15 to collect money from Hugo Romero?

16 A. Yes.

17 Hugo paid and then he disappeared and finally I  
18 gave him the account and he started collecting.

19 He was calling them and threatening and going  
20 and stopping at the house and knocking and talking to the  
21 wife, and I guess to him too.

22 And he got him to a point where Hugo got very  
23 scared because of all the calls he was making, all the  
24 threats, where at one point I had to ask him to -- excuse  
25 me, up to a point where he told me he was going to take his

3 M. Fernandez - direct

1 own action, Mr. Arocena told me he was going to take some  
2 action with the automobiles, with the cars, and perhaps  
3 this will make him understand that he had to pay.

4 And therefore he wanted to burn the cars.

5 I say, well, I told him to be careful, the way  
6 he did it.

7 So I know that it happened, he told me  
8 afterwards that he did put some kind of a, I don't know,  
9 kind of stuff on the car that made it bust, made it burn.

10 And he told me it, the firemen, everything that  
11 happened.

12 But no result. After he kept insisting and  
13 calling and threatening him, then I finally told him, get  
14 off Hugo because he was having a real rough time and some  
15 friends, friends, actually, called me and came to see me to  
16 take it easy with Hugo. So I told him to lay off, take it  
17 easy with him, leave him alone for a while because he  
18 already had too much, his car being burned.

19 That was about it.

20 Q.. You said he told you that he had put the car on  
21 fire. Who is he, who told you that?

22 A. Mr. Arocena.

23 Q. Did you ever give Mr. Arocena any other accounts  
24 to collect for you?

25 A. Yes, at that time I had given him several other

1 names of individuals that had large sums of moneys  
2 outstanding, and I was not able to collect them myself so I  
3 had given him a few names of people, customers who owed me  
4 money.

5 Q. I am going to show you Government Exhibit 288  
6 for identification.

7 (Pause)

8 Q. Do you recognize that?

9 A. Yes.

10 Q.. What is that?

11 A. That is a list he made and he gave me.

12 Q. Who made it?

13 A. Mr. Arocena. He made it of the names that I  
14 gave him and gave me a copy and went over with me as far as  
15 the accounts he couldn't collect on all these people  
16 because he was having a lot of difficulty locating them and  
17 talking to them.

18 And he wanted to give me a list.

19 Also, he marked all the things he was doing, how  
20 far he went with each one, who he had contacted, so forth  
21 and so on.

22 He gave me a breakdown of what happened to each  
23 account. And also he wanted to have some more accounts,  
24 more people.

25 I didn't want to give him any more because first

1 he had to show me he could collect, and I didn't give him  
2 any more at that time.

3 Q. Do you know where the government got this copy  
4 from?

5 A. Well, I had a copy with me when I was put under  
6 arrest in North Carolina, I had a copy with me, in one of  
7 my, a document in my suit or something.

8 MR. TABAK: The government offers Exhibit 288 in  
9 evidence.

10 MR. FERNANDEZ: Just one second, your Honor.

11 (Pause)

12 MR. AGUILAR: We have objection to this  
13 particular piece of evidence.

14 THE COURT: Grounds.

15 MR. AGUILAR: Your Honor, we don't believe that  
16 the witness identified it sufficiently to know that it was  
17 a list that was confiscated from him at the time of his  
18 arrest.

19 THE COURT: Let's see if we can find out.

20 I show you Government's Exhibit 288 for  
21 identification. I start by asking you if you recognize it.

22 THE WITNESS: Yes.

23 THE COURT: What is it?

24 THE WITNESS: It is a list that contains names  
25 of individuals who owe, had balances, owe me money, and

6 M. Fernandez - direct

1 relatives and places, telephone numbers where they can be  
2 contacted or who can be called to know how they can get to  
3 him.

4 THE COURT: The document before you is a copy,  
5 is it not?

6 THE WITNESS: That's correct, a photocopy.

7 THE COURT: A photocopy. Do you know where the  
8 original is of which this is a photocopy?

9 THE WITNESS: I don't know.

10 THE COURT: The original, from what source did  
11 you obtain it?

12 THE WITNESS: Mr. Arocena gave it to me  
13 personally.

14 THE COURT: Would you look at the copy and tell  
15 us if the copy is in exactly the same form as the original  
16 which Mr. Arocena gave to you.

17 THE WITNESS: As far as I remember, it is the  
18 same copy. I don't see no alterations.

19 THE COURT: Would that include in addition to  
20 the typing, the handwriting that appears on the document?

21 THE WITNESS: Yes, it had some handwriting when  
22 he gave it to me, telling me what happened with this number,  
23 like here, disconnected, I don't understand that one --

24 THE COURT: But in any event, is it your  
25 testimony that all the handwriting on the document was

1 there when Mr. Arocena gave it to you?

2 THE WITNESS: Yes.

3 THE COURT: What about these words down here,  
4 Attachment ID --

5 THE WITNESS: This was not there.

6 THE COURT: Is that the only thing that was not  
7 there?

8 THE WITNESS: As far as I see, except this here.

9 THE COURT: Well, the Government Exhibit tag,  
10 right.

11 MR. AGUILAR: No objection, your Honor.

12 THE COURT: 288 received, exclusive of the words  
13 in the lower right-hand corner, "Attachment, ID-1 A." That  
14 looks like an identifying mark put on by someone else.

15 (Government Exhibit 288 for identification was  
16 received in evidence)

17 MR. TABAK: With the Court's permission I would  
18 like to distribute copies of this to the jury so they can  
19 follow along.

20 THE COURT: All right, and I will admonish the  
21 jurors to disregard the writing in the lower right-hand  
22 corner that I referred to, the words: "Attachment ID-1 A."

23 (Pause)

24 BY MR. TABAK:

25 Q. Mr. Fernandez, on Exhibit 28 in evidence, I will

1 ask you to look at it. What does the number 225 next to  
2 the name Jimmy signify?

3 A. \$225,000.

4 Q. That's how much he owed you?

5 A. That was his balance at the time.

6 Q. What does the number 540 after Hugo signify?

7 A. \$540,000.

8 Q. That is money he owed to you?

9 A. Excuse me?

10 Q. That is the balance of what Hugo owed to you?

11 A. Yes, sir.

12 Q. Which Hugo is this?

13 A. Hugo Romero.

14 Q. After Douglas, the number 260, what does that  
15 signify?

16 A. That meant the amount he owed, \$260,000.

17 Q. What does the 406 after Antonio Villamil refer  
18 to?

19 A. \$406,000.

20 Q. He owed you that much money?

21 A. Yes.

22 Q. What does the 850 refer to after Bernardo Torres  
23 refer to?

24 A. \$850,000.

25 Q. That is money he owed to you?



1 A. Yes.

2 Q. What does the 250 after Oscar Dario refer to?

3 A. \$250,000.

4 Q. That's money he owed you you to you?

5 A. Yes.

6 Q. What does the 50 after Rafael refer to?

7 A. 50,000.

8 Q. And how about the 125 after Eugenio?

9 A. 125,000.

10 Q. I direct your attention to where it says,  
11 Douglas and then it says Doug, and under that it says

12 "Amigos De Doug", Joe Levine and Kevin.

13 A. Yes.

14 Q. What does that refer to?

15 A. It says friends of Doug, Joe Levine and  
16 telephone number.

17 THE COURT: Who is Doug?

18 THE WITNESS: Doug was a customer.

19 THE COURT: A customer. And is it your  
20 testimony that the two men who you just indicated, Joe  
21 Levine and Kevin, were friends of Doug?

22 THE WITNESS: That's correct.

23 Q. Do you know how that information came to be on  
24 this --

25 A. I gave it to him.

1 Q. You gave it to who?

2 A. To Arocena, myself.

3 MR. TABAK: At this point I will ask the jury to  
4 pass in their copies of Exhibit 288.

5 THE COURT: Very well.

6 (Pause)

7 Q. Mr. Fernandez, did you ever receive any money  
8 from collections from Mr. Arocena?

9 A. No, I did not.

10 Q. Did you ever go to Mr. Arocena's house?

11 A. One time he took me to the house, yes.

12 Q. How did you get there?

13 A. We had a meeting, I don't recall where, but it  
14 was near his house, close by, and we were talking in his  
15 car, he was driving around, and going in different  
16 directions.

17 I didn't pay attention to where he was going so  
18 actually I didn't know exactly where I was.

19 Then all of a sudden he pulls into a driveway  
20 and told me, this is my house.

21 He invited me inside and I was there for maybe  
22 half an hour, something like that.

23 We went inside in a room and sat there and  
24 talked for a while.

25 Q. Did you make any telephone calls from Mr.

1 Arocena's house on or about March 15, 1982?

2 A. Yes, I made some telephone calls from his  
3 telephone.

4 Q. I am going to show you Government Exhibit 301  
5 for identification. Do you recognize that?

6 A. Yes, I do.

7 Q. What is that?

8 A. These are taped telephone calls I made from Mr.  
9 Arocena's house the day I was there.

10 I asked him permission to use his phone and I  
11 did make some calls, and I guess you had a tap on the phone.  
12 I didn't know it then.

13 This is it. I recognize this tape to be the  
14 tape I saw last night, yesterday, at your office.

15 Q. Did you listen to the tape yesterday?

16 A. Yes.

17 MR. TABAK: The government offers Exhibit 301 in  
18 evidence.

19 MR. AGUILAR: No objection, your Honor.

20 THE COURT: Received.

21 (Government Exhibit 301 for identification was  
22 received in evidence)

23 BY MR. TABAK:

24 Q. I now show you Government Exhibits 301 A, B and  
25 C for identification and ask you if you recognize those.

1 A. Yes, I recognize them.

2 Q. What are those?

3 A. These are telephone calls I made to different  
4 people from --

5 Q. Are these reasonably accurate transcripts of the  
6 telephone calls that are on Exhibit 301?

7 A. Yes.

8 Q. Do you know that because you followed these  
9 along when you listened to the tape yesterday?

10 A. I was reading them at the same time I was  
11 listening last night.

12 MR. TABAK: The government offers Exhibits 301 A,  
13 B and C in evidence.

14 MR. FERNANDEZ: The question wasn't asked. I  
15 assume if Mr. Tabak were to ask him if the translations  
16 were accurate, he would respond the same?

17 THE COURT: I will ask him that question as  
18 asked by you.

19 MR. FERNANDEZ: Thank you.

20 THE COURT: The transcripts are in English. Do  
21 they reflect an accurate translation of the conversations  
22 that you listened to which were in Spanish?

23 THE WITNESS: Well, your Honor, if I may answer  
24 that, I am not an expert in translating, but as far as I  
25 understand, I think they were pretty good.

1 I believe there are a couple of instances also  
2 where, I don't know which one it is, where I talked quite  
3 fast and I guess the translator didn't understand it, as  
4 the other sheets, but I think these are pretty close.

5 THE COURT: You think these are pretty close.

6 THE WITNESS: Pretty perfect.

7 THE COURT: They are pretty perfect.

8 BY MR. TABAK:

9 Q. When the translator in your view --

10 THE COURT: I don't know that there is any  
11 objection.

12 MR. FERNANDEZ: No, not in view of his testimony.

13 THE COURT: Counsel has indicated no objection  
14 in view of that response, so 301 A, B and C which are  
15 translations into English from materials on Exhibit 301,  
16 that is conversations on 301, received, no objection.

17 (Government Exhibits 301 A, B, C for  
18 identification were received in evidence)

19 MR. TABAK: For clarification, I would note  
20 some of the conversation is in English on the tape.

21 THE COURT: Oh, they are. Not having heard the  
22 tape, I was unaware of that. Thank you.

23 MR. TABAK: With the Court's permission I would  
24 like to distribute copies of the 301 A, B and C to the jury  
25 so the jury can follow along as we play Exhibit 301.

1 THE COURT: You may.

2 (Pause)

3 MR. TABAK: I will now play with the Court's  
4 permission Government Exhibit 301.

5 THE COURT: Yes, you may play the tape and the  
6 jurors all have copies and I know they are follow along.  
7 Very well.

8 MR. TABAK: We will start with 301 A which will  
9 be followed with 301 B and 301 C which are all on this one  
10 tape.

11 (A tape was played)

12 BY MR. TABAK:

13 Q. Mr. Fernandez, I direct your attention on  
14 Exhibit 301 B, the second transcript, to the portion where  
15 you are talking about Doug's friends, Joe Levine and Kevin.

16 A. Yes.

17 Q. Who were you giving that information to?

18 A. You are talking about where it says, Doug,  
19 Doug's friends, I was talking to Mr. Arocena at his house.

20 Q. Thank you.

21 MR. TABAK: I would suggest we collect the jury's  
22 copies of 301 A, B and C.

23 THE COURT: You may.

24 MR. TABAK: They can comingle them, they don't  
25 need to be separated.

1 THE COURT: Just pass the transcripts down,  
2 ladies and gentlemen, and we will return them to the United  
3 States Attorney.

4 (Pause)

5 THE COURT: Mr. Tabak.

6 MR. TABAK: Thank you.

7 BY MR. TABAK:

8 Q. Mr. Fernandez, on this same day when you went to  
9 Mr. Arocena's house, did Mr. Arocena take you anyplace else?

10 A. Yes, he took me, showed me an apartment, a  
11 building.

12 He had an apartment type building, he told me  
13 this was in case anybody had any trouble, he could stay  
14 there. It was an apartment, small, I don't remember, I  
15 think it was in the lower level, and it had, you know, was  
16 well furnished and nice.

17 Q.. I am going to show you what has been marked  
18 Government Exhibits 296 and 297 for identification. Do you  
19 recognize what those photographs show?

20 A. Okay, 296 is the house that he pulled into and  
21 told me was his house, and I came in with him to the house  
22 where I made the calls from.

23 Q.. Who is he?

24 A. Mr. Arocena.

25 Q.. What does 297 for identification show?

1           A.       It looks like the apartment where he took me. I  
2 am not sure that it is because they all look alike and I  
3 didn't want to be taking address and looking too much  
4 because I didn't even know what he had in mind when he took  
5 me there, so I am not positive, but it looks like the  
6 apartment where Mr. Arocena took me.

7           MR. TABAK: The government offers Exhibits 296  
8 and 297.

9           MR. FERNANDEZ: Your Honor, I believe it is  
10 cumulative.

11          THE COURT: I think this is the first time we  
12 had a picture of Mr. Arocena's house.

13          MR. FERNANDEZ: I thought it was an apartment.

14          THE COURT: I am talking first about 296.

15          MR. FERNANDEZ: No objection.

16          THE COURT: All right, 296 is received.

17                 (Government Exhibit 296 for identification was  
18 received in evidence)

19          THE COURT: As far as 297 is concerned, let me  
20 ask the government this, is this the only evidence you are  
21 going to present or will there be other evidence on this  
22 subject?

23          MR. TABAK: There will be additional evidence  
24 presented.

25          THE COURT: Is there any objection to 297 since



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17 M. Fernandez - direct

1 the government represents there will be some additional  
2 evidence presented with regard to that premises?

3 MR. FERNANDEZ: No, sir.

4 THE COURT: 297 is likewise received, for the  
5 record 296, 297 received, no objection.

6 (Government Exhibit 297 for identification was  
7 received in evidence)

8 MR. TABAK: With the Court's permission I would  
9 show Exhibits 296 and 297 to the jury.

10 THE COURT: All right. The one that you are  
11 holding above, the higher one, 296, is the premises  
12 testified to by the witness as Mr. Arocena's home.

13 MR. TABAK: Yes, your Honor.

14 THE COURT: And 297, the small apartment that  
15 the witness was shown.

16 MR. TABAK: Yes, your Honor.

17 THE COURT: Very well.

18 (Pause)

19 BY MR. TABAK:

20 Q. Mr. Fernandez, did Mr. Arocena ever call you  
21 anything other than Manny?

22 A. Yes, he used to ask for Max when he asked for me,  
23 he used to ask for Max.

24 Q. Did Mr. Arocena use any particular term to  
25 describe Tony Iberia?

1 A. Yes, he would call him peluquin.

2 Q. P E L U Q U I N?

3 A. Yes.

4 Q. What does that mean in English?

5 A. It means he had a wig.

6 Q. Do you know why that term is used to refer to  
7 tone me Iberia?

8 A. Because he wear a, what do you call it, a wig.

9 Q. A toupee?

10 A. A toupee, yes.

11 Q. I am going to show you Government Exhibit 302  
12 for identification. Do you recognize that?

13 A. Yes.

14 Q. What is that?

15 A. This is a tape I heard in your office last night  
16 where Tony Iberia is calling, I asked him to call Arocena  
17 for, I had an appointment with him, to postpone the  
18 appointment.

19 Q. Did you recognize any voice on that conversation?

20 A. Yes, I recognize Tony's voice giving the message.

21 Q. Did you ever ask Mr. Arocena how you could be  
22 sure that he really was with Omega 7?

23 A. Yes. There was a time where --

24 THE COURT: The answer is yes.

25 A. Yes.

1 Q. Please tell the jury what the conversation was,  
2 what you said to him and what he said to you.

3 A. At one time I asked him, I wanted to know for  
4 sure if, who I was dealing with, after all, I have been  
5 told you are this and you are that, but I don't have any  
6 actual proof, so I would like you to tell me something  
7 about who you really are and what you are doing.

8 So he told me that, he would let me know when  
9 something was going to happen, he would call me and tell me.

10 (Continued on following page)

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1 Q And what did he say he would tell you?

2 A He said he would tell me that there was going  
3 to be a party.

4 Q All right. And did he ever give you that  
5 message?

6 A He call me one time and said was going to be  
7 a little party and that, you know, he was calling me to  
8 let me know.

9 And I heard later -- I'm not sure what date,  
10 but later some bombs went off in some areas of Miami.  
11 I believe it was Padron Cigar. I'm not positive of that.

12 Q Now, did Mr. Arocena ever tell you why Omega 7  
13 was formed?

14 A When I talked to him a lot, you know, a lot  
15 of times, and I asked him why was it formed and what was  
16 the reason, he indicated to me that the exile, or the  
17 Cuban organization, they was demoralized, everybody was  
18 pulling different ways, and everybody was doing their  
19 own things. So Omega 7 was created to create respect,  
20 some organization that people will trust and respect.  
21 And that's what he told me.

22 But was never -- I mean the organization was  
23 well accepted and it was well respected.

24 MR. FERNANDEZ: Your Honor, can he finish  
25 his answer?

1 Q Is that the end of that conversation?

2 A Yes.

3 Q Now, did Mr. Arocena tell you what his position  
4 was with Omega 7?

5 A At one point, he asked me if I knew who he  
6 was. I said, "Well, I know you are part of the organiza-  
7 tion. I don't know what you are."

8 MR. FERNANDEZ: He's not being responsive to  
9 the question.

10 THE COURT: There apparently was a conversation.  
11 He's starting with his end of it.

12 Then, did Mr. Arocena say something?

13 THE WITNESS: He told me he was the head, the  
14 chief, the jefe.

15 Q Is that e-l, j-e-f-e?

16 A Yes.

17 Q And those words mean what?

18 THE COURT: The chief, he said what.

19 A The chief.

20 Q Did Mr. Arocena ever show you any documents --

21 THE COURT: Did he ever use any name other  
22 than the chief or el jefe?

23 THE WITNESS: No, your Honor.

24 THE WITNESS: Did Mr. Arocena ever show you  
25 any documents relating to Omega 7 action?

1           A       Yes.     At one time, I was in the office, the  
2 Gonzalez office, and he had a file he showed me.     "This  
3 is how we operate.     And as you can see, this is well put  
4 together, very professional," and showing me it cost a  
5 lot of money to have men working doing that.     And, you  
6 know, they were doing it properly, they had a file with  
7 pictures of somebody's car, an apartment and places where  
8 he used to go and come from and told me this is one of  
9 the men that were in surveillance to do something.

10           Q       Did you ever personally know a Eulalio Jose  
11 Negrin?

12           A       Yes, I knew him very well.     He was a friend  
13 of mine.

14           Q       And did you have any business dealings with  
15 him at any time?

16           A       Yes, I did have -- he used to come to my office  
17 very often.

18           Q       Did that have anything to do with drugs?

19           A       No, no, no, I never got in drugs in my whole  
20 life.     I never been in drugs until I have my economic  
21 problems lately.

22                    He used to come to do all kinds of tax returns  
23 and insurance paperwork, translations, all kinds of paper-  
24 work, mainly.

25           Q       Now, did you ever discuss Mr. Negrin's death

1 with Mr. Arocena?

2 A One time -- I didn't discuss actually the  
3 death, but he mentioned to me in talking that -- we started  
4 talking about Negrin, and he said: "Well, this is --  
5 Negrin was talking too much and was doing a lot of harm  
6 in the community and trying to go to Cuba and establish  
7 relations. And this is why we have to kill him."

8 Q Now, did you ever have a discussion with  
9 Mr. Arocena about anybody else Omega 7 killed?

10 A Yeah, we talk about men in the Cuban Mission  
11 that got killed one time.

12 And he also indicated to me that -- you know,  
13 I will not go against him trying to kill Castro when Castro  
14 came to the United States, came to New York. They were  
15 trying to get to him, but it was impossible. It was a  
16 very, very close protection he had there. They couldn't  
17 get near him.

18 Q Did Mr. Arocena ever discuss with you how he  
19 could do a bombing without being recognized?

20 A No. He told me that he had no problems  
21 placing bombs or getting into places, that they will dress  
22 in different ways, like a priest, different ways to get  
23 into places. There was no problem being caught by the  
24 police or anything like that.

25 Q Did Mr. Arocena ever discuss with you getting

1 involved in any aspect of your drug operation, other  
2 than collections?

3 A Yes. He definitely wanted to get into -- I  
4 told him I was having a lot of problems moving it from  
5 one place to another and protection. And it was really  
6 disorganized with that, and the people I had were not doing  
7 a good job.

8 And he offered at that time, many times, to  
9 get in and, you know, try to do the protection end of it.  
10 But I didn't trust him to do it, because maybe he'll get  
11 rid of me and keep the whole thing. So I didn't go  
12 along.

13 Q Now, I'm going to show you Government's Exhibit  
14 625 for identification (handing).

15 (Government's Exhibit 625 was marked for  
16 identification.)

xx

17 A I recognize that as being Ignacio Gonzalez.  
18 MR. FERNANDEZ: Can he wait until he's asked?  
19 THE COURT: Well, it was put in front of him.  
20 Would you like the question asked now?  
21 MR. FERNANDEZ: No. He's so eager. That's  
22 all.

23 MR. TABAK: I object to that, your Honor.

24 THE COURT: Yes, that was not necessary.

25 In any event, he has identified 627 and --



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MR. TABAK: 625, your Honor.

THE COURT: 625 as a photograph of Ignacio  
Gonzalez.

MR. TABAK: Government offers Exhibit 625 in  
evidence.

MR. FERNANDEZ: No objection, your Honor.

THE COURT: Received.

(Government's Exhibit 625 was received into  
evidence.)

MR. TABAK: With the Court's permission, I  
would show this to the jury, Exhibit 625.

THE COURT: You may.

MR. TABAK: Thank you.

(Government's Exhibit 625 was displayed to  
the jurors.)

MR. TABAK: I have no further questions on  
direct for this witness.

THE COURT: You may cross-examine.

MR. FERNANDEZ: Thank you, your Honor.

May it please the Court.

CROSS EXAMINATION

BY MR. FERNANDEZ:

Q Good afternoon, Mr. Fernandez.

A Good afternoon, Counsel.

Q Mr. Fernandez, we are going to be talking about

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1 so many different dates, if at any time I ask a question  
2 that is not clear, please stop me and I'll ask it again,  
3 because I had some problems with the dates.

4 A Okay,

5 Q Now, the first thing, the first area that I  
6 will cover with you is the conversations that you had on  
7 March 15th, 1982, which are Exhibits 301-A, B and C.

8 Do you have copies of that?

9 THE COURT: I think they have been handed back.

10 Do you want to put the exhibits in front of  
11 the witness?

12 MR. FERNANDEZ: Right. So he knows that I'm  
13 talking about.

14 THE COURT: I would like a copy, also, Mr. Tabak,  
15 so I can follow along with the inquiry.

16 MR. TABAK: Yes, your Honor.

17 (Pause.)

18 THE COURT: Do you have them now, sir?

19 THE WITNESS: Yes.

20 THE COURT: Very well.

21 You may proceed, Counsel.

22 MR. FERNANDEZ: Thank you.

23 Q I will refer you now to 301-B on the first page.  
24 And the first thing I will ask you is, on the ninth line,  
25 it says, "Fernandez." I believe that's you speaking.

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Is that correct.

A That's correct.

Q And I believe that you said, "This is Raul."

A Yes, sir.

Q Is that an alias that you have?

A That's one of the different names I have used.

Q So you use many different names; right?

A Yes.

Q Do you own any property under the name of Raul?

A No.

Q What is your last name when you use the name  
Raul?

A Fernandez, F-e-r-n-a-n-d-e-z.

Q That's my last name, too.

Who is Jackie?

A I don't recall.

Q What is Doug's last name?

A This -- Counsel, these people have dealt with  
me mainly on a first name basis, and I didn't care, I  
didn't want to never have last names.

Q All right. If you recall. I notice that  
you have Joe Levine. If you know the last name, just give  
us the last name.

What is Doug's last name?

A I don't know.

- 1 Q What about Kevin's?
- 2 A I don't know, either.
- 3 Q Kevin is from New York. What area in New York?
- 4 A I don't know. I never ask him. He said New  
5 York.
- 6 Q Well, you said, "Kevin, he's from New York."
- 7 A New York can be Brooklyn, Bronx. I don't know,  
8 sir.
- 9 Q Now, you don't know Kevin from your farm in  
10 New York --
- 11 MR. FERNANDEZ: Strike that.
- 12 Q Do you have a farm here in New York?
- 13 A Yes.
- 14 Q Under whose name?
- 15 A Corporation.
- 16 Q What is the name of the corporation?
- 17 A Hamden Farms, Inc.
- 18 Q Could you please spell that?
- 19 A H-a-m-d-e-n.
- 20 Q H-a-m-d-e-n?
- 21 A Yes, sir.
- 22 Q Now, does that farm have anything to do with  
23 the insurance business?
- 24 A No.
- 25 Q Does that farm have anything to do with -- I guess

1 you said travel -- travel agency?

2 A Yes.

3 Q Does it have anything to do --

4 A It's a pleasure place.

5 Q Oh, it's a pleasure place?

6 A Yes.

7 Q But it is yours?

8 A Yes, it is mine.

9 Q And when were you in the business of pleasure?

10 A Well, tourism is -- it's for personal pleasure,  
11 not for people.

12 Q What year did you buy this farm?

13 A Oh, approximately about three years ago.

14 Q Three years ago?

15 Was this before or after the time you were  
16 involved in the drug trade?

17 A I think it was not before or after.

18 Q During the time?

19 A Yes.

20 Q And approximately how much is that farm worth?

21 A The farm may be worth about \$200,000.

22 Q Okay. And how much do you owe on that farm?

23 A I owe, I think, 110, \$120,000.

24 Q So you have paid roughly about \$90,000 on it;  
25 right?

- 1 A More or less.
- 2 Q Did you pay for this in cash?
- 3 A Yes.
- 4 Q Small bills?
- 5 A Excuse me?
- 6 Q Did you pay in small bills?
- 7 A I don't recall.
- 8 Q But in cash?
- 9 A Yeah.
- 10 Q And this, I assume, was not as a result of your  
11 investments in real estate that you indicated you were  
12 previously involved in.
- 13 A I don't recall, you know, where I got the money.  
14 I never really kept track of that.
- 15 Q Well it didn't come from the insurance business,  
16 did it?
- 17 A Part of it, maybe.
- 18 Q What part of it?
- 19 A I don't recall at this moment.
- 20 Q That's 90,000 that's been paid.
- 21 Okay, I believe you had on that same page a  
22 conversation with a second female. Do you know her name?
- 23 A No, I don't.
- 24 Q Who is Don Carlos? Same page. It's on the  
25 same page.

1 A That was a Colombian.

2 Q Colombian drug dealer; right?

3 A Colombian drug dealer, right.

4 Q Did you work for Don Carlos?

5 A No.

6 Q You did business with him?

7 A I don't recall at this time.

8 Q On the second page, the rest of the conversation  
9 had been minimized on tape. Did you discuss drugs with any  
10 of the two ladies you spoke to?

11 A No, sir.

12 THE COURT: Well, now, the second page indicates  
13 that the second lady was named Jackie.

14 Is that correct?

15 THE WITNESS: That's correct, your Honor.

16 THE COURT: Very well.

17 MR. FERNANDEZ: Your Honor, I had asked him  
18 before, and he said he didn't know.

19 THE COURT: Yes, but he had the first page open.  
20 But since we had the second page open, I thought maybe you  
21 want to follow up.

22 MR. FERNANDEZ: Thank you, your Honor.

23 Q I now refer you to Exhibit 301-C. Who did you  
24 call? Who is this male that you called?

25 I'm sorry. Do you have the exhibit there in

1 front of you?

2 A Yes.

3 Q Who is that male that you called?

4 A I really don't recall. I don't remember the  
5 voices. I don't have any names.

6 Q You remember the voices?

7 A I don't remember.

8 Q Well, didn't you remember Mr. Arocena's voice?

9 A Oh, yes, I remember. But the other people, I  
10 didn't remember.

11 Q You just remember Mr. Arocena's voice.

12 Do you remember the phone number that you  
13 called?

14 A No.

15 Q Do you remember whether it was long-distance  
16 or whether it was a local number?

17 A No. As a matter of fact, I wasn't aware of  
18 the calls until -- I didn't know they had taped these calls  
19 until they played them for me. And I think it was yester-  
20 day they played them.

21 Q Well, who is this man, Nick?

22 A That must have been somebody related to the  
23 business.

24 Q What business, sir?

25 A Drug business.



1 Q What was Nick's last name?

2 A I don't recall.

3 Q When this male asked you, I believe the seventh  
4 line, "What's your situation," was he referring to what was  
5 your situation with regards to drugs?

6 A What paper is that, Counsel?

7 THE COURT: First page.

8 Q First page, line 7.

9 THE COURT: The first page, about the middle of  
10 the page.

11 MR. FERNANDEZ: May I show it to him?

12 A I see it.

13 THE COURT: You see it?

14 THE WITNESS: Yes. "What is your situation?"

15 THE COURT: And then you answered, "Oh, pretty  
16 good."

17 A You mean how I was physically?

18 Q Oh, okay. Was this after the shot, after  
19 you had been shot?

20 A I don't remember.

21 Q You don't remember when you got shot?

22 A I think it was May of '81. It was after.

23 Q It was after.

24 A Yes.

25 Q Now, on the second page, your friend who you

1 don't remember the name says that he had a couple of  
2 things, "Little things going here and there, you know."

3 And you go, "Uh-huh."

4 What were these "Little things" he had going on?

5 A I would venture to say that maybe some -- may  
6 have been some different businesses, or I would say some  
7 different incomes that he was expecting to receive, by my  
8 reading this.

9 Q You indicated you knew. Is your testimony  
10 now that you didn't know what they were talking about?

11 A Is it my testimony that I know?

12 Q I'm sorry. In the phone call when he said,  
13 "I have a couple of things of my own, little things going  
14 here and there, you know," I believe you said, "Uh-huh."

15 A That's the other party telling me.

16 Q I'm sorry. You were the person who said,  
17 "Uh-huh."

18 A Yes.

19 Q Did you know what the other party was talking  
20 about?

21 A That's what I referred -- I answered your  
22 question, I would think that he meant that he has some  
23 income or some other moneys.

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(Continued on the next page.)

ET8A

1 Q From drugs?

2 A From some source.

3 Q Was it from insurance?

4 A Excuse me?

5 Q Was it from insurance?

6 A I don't know what he was referring to.

7 Q Okay. I now refer you to 301-A, please.

8 A A?

9 Q Yes, the first one. Again who is this male  
10 that you're calling?

11 A I didn't recognize him.

12 Q Well, do a lot of people call you "my brother"?

13 A A lot of friends do.

14 Q Did Eddie ever call you "my brother"?

15 A No.

16 Q No, I guess not.

17 MR. TABAK: Objection.

18 THE COURT: Well, he's answered it. Let's move  
19 along.

20 Q Okay.

21 MR. TABAK: Your Honor, may the last two words  
22 be stricken.

23 THE COURT: Yes. Strike them.

24 Q I'm referring you now to page 2. When your  
25 friend tells you that he's going to be going away for two or

1 three days, is that the customary time it takes to set up  
2 a drug transaction?

3 A Which line is that, counsel?

4 Q I'm sorry. Three from the bottom. If you read  
5 from the bottom up, it would be the third line.

6 A Second page?

7 Q Yes. It says, "I'm going up."

8 THE COURT: "I'm going up," you see that, near the  
9 bottom?

10 THE WITNESS: Yes.

11 THE COURT: The question is, the individual indicates  
12 he was setting up a drug transaction.

13 THE WITNESS: I don't recall, your Honor.

14 Q You don't recall what he was setting up?

15 Do you recall making the phone call?

16 A Oh, yes, it is my voice, I recognize it.  
17 I'm talking to somebody. But I made a call, two or three  
18 years ago, I don't know what he's talking about, where he's  
19 going or what.

20 Q Now, I'm going to move to another area, so --

21 I believe that you testified just a little while  
22 ago that you had only heard these tapes, I believe yesterday,  
23 is that correct?

24 A That's correct.

25 Q How many times have you appeared in court before a

1 grand jury to testify on this case?

2 A Twice.

3 Q Is that here and in Miami, or is that here in the  
4 State of New York only?

5 A State of New York only.

6 Q Have you testified in Miami?

7 A No, I haven't.

8 Q And who was the attorney that was asking you the  
9 questions when you appeared before the grand jury?

10 MR. TABAK: Objection.

11 THE COURT: Overruled. It's cross-examination.

12 THE WITNESS: Can I answer?

13 THE COURT: Yes.

14 A What was the question again, please?

15 THE COURT: Who was the attorney who asked the  
16 questions when you appeared before the grand jury?

17 A Mr. Tabak.

18 Q Okay, so you met with him before?

19 A Oh, yes.

20 Q At least on two other occasions prior to today?

21 A Yes.

22 Q Now, you testified, I believe, on September of '83.

23 On September of '83, had you been sentenced on your drug  
24 case in North Carolina?

25 A I believe I had already pleaded guilty.

1 THE COURT: No, his question is whether the  
2 sentence that was originally imposed -- let's start with  
3 that -- which you told us about had been imposed upon you.  
4 Had you been sentenced in North Carolina for the first time  
5 before you appeared before the grand jury for the first  
6 time? If you recall.

7 THE WITNESS: I'm not certain. I don't recall,  
8 your Honor, what are the dates.

9 Q Would it be fair to say that whatever you  
10 testified before the grand jury, you knew that you would  
11 not get into trouble for?

12 A Yes.

13 Q And that is because the U. S. Attorney's office,  
14 through Mr. Tabak, and correct me if I'm wrong, had told  
15 you that you didn't need worry, because you would not be  
16 prosecuted?

17 MR. TABAK: Objection.

18 Q I just want to know what he was told.

19 THE COURT: Let's do it a little differently.

20 Had you been given immunity before you started  
21 to testify before the grand jury, and tell them the  
22 story?

23 THE WITNESS: No. They hadn't give me immunity.  
24 When I came in front of the grand jury, I had to come  
25 because I had been subpoenaed, your Honor.

1 THE COURT: And then you came?

2 THE WITNESS: And I had no choice. I took the  
3 Fifth Amendment to every question.

4 So then they turn around and gave me immunity,  
5 saying that if I didn't tell them what I knew is the  
6 truth, I'll be held in contempt, what you call it, by  
7 lying to the grand jury.

8 THE COURT: No, you would be held in contempt.

9 A I would have to go to prison. So on top of  
10 what I have, I had no reason to worry, so that's why I  
11 took -- they gave me the immunity, therefore I was  
12 protected that anything I say would not be used against me.

13 Q Perhaps I didn't have you right, or I didn't  
14 set the time sequence right.

15 On September 29th of 1983, you appeared before  
16 the grand jury, is that correct?

17 A I don't remember the date, but if you say so.

18 Q And you had immunity at that time, did you not?

19 A Was that the second time?

20 Q On September 29th, 1983.

21 A Was that the second time?

22 THE COURT: He says he appeared twice. The  
23 first time he claimed the Fifth. And the second time, after  
24 having received immunity, apparently he testified.

25 Is that the way it went?

1 THE WITNESS: That's correct.

2 Q Now, during that grand jury, that time when  
3 you testified, you testified that you had grossed millions of  
4 dollars between '79 or '80 and '83, from sales of marijuana,  
5 is that correct?

6 A That's correct.

7 Q Did you ever file income tax for this?

8 A I had gross, not net.

9 THE COURT: No, that was not the question.

10 Let's assume that you netted something. Did you  
11 file an income tax return?

12 THE WITNESS: No, I did not, your Honor.

13 Q Now, you indicated that during your direct today,  
14 that in 25 shipments, you grossed approximately \$100 million.

15 MR. TABAK: Objection. That was not the  
16 testimony.

17 THE COURT: No, he wasn't successful in 25.  
18 He attempted 25. If you recall the sequence, if you would  
19 rephrase the question.

20 Q That the value of the 25 shipments was \$100  
21 million?

22 A That's correct.

23 Q Now, how many of those shipments came in?

24 A How many?

25 Q Yes.



1           A     I'm not sure about the amount of shipments, but I  
2 will say about 10, 12, something.

3           Q     I'm sorry?

4           THE COURT:   About 10 or 12 of them.

5           Q     So about half?

6           A     No.

7           Q     Close to half?

8           A     About 20 percent.

9           Q     There were more than 25 shipments?

10          MR. TABAK:   Your Honor --

11          MR. FERNANDEZ:  I'm just trying to get the number  
12 right.

13          MR. TABAK:   I think that's not what the testimony  
14 was.

15          THE COURT:   All right, let's go back.

16          I gather that you attempted, at least a total of  
17 approximately 25 shipments?

18          THE WITNESS:  That's correct.

19          THE COURT:   And counsel's question is, if you can  
20 indicate, to the best of your recollection, how many of  
21 those shipments actually came through.

22          THE WITNESS:  I said 10 or 12.

23          Q     Okay.  And approximately what was the worth of  
24 the drugs that you were bringing into this country?

25          THE COURT:   You mean that he succeeded in bringing?

1 Q Yes, into this country.

2 THE COURT: All right.

3 A Okay.

4 THE COURT: You said "worth," that can have  
5 two connotations.

6 In other words, are you talking about wholesale value?

7 MR. FERNANDEZ: Your Honor, he indicated that  
8 the 25 shipments were \$100 million.

9 THE COURT: Wholesale value?

10 MR. FERNANDEZ: Right. 10 to 12 came in. How  
11 much did he bring into this country?

12 THE COURT: Taking the wholesale value?

13 MR. FERNANDEZ: Right.

14 A I would say about, worth wholesale would be  
15 around \$20 million.

16 Q 20 million.

17 Now, we're just talking about marijuana, what you call  
18 grass, correct?

19 A Yes.

20 Q Tell us about your cocaine importation.

21 A Excuse me?

22 Q Tell us a little bit about your cocaine importation.

23 A I never imported any cocaine, sir.

24 Q Did you not get started doing some cocaine and  
25 then go into grass?

1 A I did not import it.

2 Q What did you do with it?

3 A I got it here.

4 Q You were selling here, and then you began in  
5 Colombia? Was that your answer?

6 A Yes.

7 Q Why did you make your contacts in Colombia?  
8 I'm sorry, out of the country?

9 A Well, being out there in the insurance, meeting  
10 people, I got to know a lot of Colombians.

11 Q You didn't meet any of those Colombians  
12 through Mr. Arocena, did you?

13 A No.

14 Q Now, you also indicated that you had gone to  
15 Jamaica. How did you meet the Jamaicans that you dealt with?

16 A The same way.

17 Q Did Mr. Arocena introduce you to any of those  
18 people?

19 A No.

20 Q Now, you indicated that you had a route using  
21 the Windward Passage, is that correct?

22 A Well, that's the route most boats use.

23 Q So where were you shipping this marijuana from?

24 A Colombia and Jamaica, depends on the situation.

25 Q And the Windward Passage is a passage that

1 .divides, I guess, Cuba and Haiti?

2 A Haiti.

3 Q Did you ever use Cuba as an interim or as a  
4 stopover?

5 A No, sir.

6 Q You didn't.

7 But you went on the Windward Passage?

8 A Well, the captain came different directions. I  
9 never went, myself. I never participated, but of course  
10 I did know where and how they were coming and when.

11 Q Did you ever find out that Cuba was being used  
12 as a stopover?

13 A No, and I didn't care, because I didn't need to.

14 Q You also indicated that you had a fleet of  
15 airplanes. How many airplanes did you have?

16 A I never said "a fleet."

17 Q I'm sorry, you indicated you had airplanes?

18 A Yes, I did some plane deals, too.

19 Q How many planes did you use?

20 A Oh, maybe, half a dozen.

21 Q And is that counted on the shipments that you were  
22 giving us a total of?

23 A Yes.

24 Q Now, you indicated in your direct examination  
25 that you netted approximately half a million dollars from

1 your drug operations, is that correct?

2 A Yes, sir.

3 Q Is that an accurate amount?

4 A To the best of my recollection.

5 Q You also indicated prior to your testifying or  
6 prior -- I'm sorry.

7 You testified that you had been sentenced to a --  
8 correct me if I'm wrong -- a six-year prison term and a  
9 \$200,000 fine and a five-year probationary period?

10 A That's correct.

11 Q And after you bargained with some parties, it  
12 has been brought down to three and a half years?

13 A That's correct.

14 Q And as a part of the bargaining --

15 MR. TABAK: Objection. That's not a fair  
16 characterization.

17 THE COURT: We will continue. I have the five  
18 years suspended sentence, which would be a probation period.  
19 And the fine of \$200,000, which had been paid, remained as  
20 such.

21 Is that correct?

22 THE WITNESS: That's correct.

23 Q The suspended period means that you are not in  
24 jail, is that correct?

25 A That's correct.

1 Q As long as you behave yourself and don't get into  
2 any trouble with the law, you will not go to jail?

3 A That is correct.

4 Q Were you offered a change of identity?

5 A I was not.

6 Q Now, you indicated that you had an attorney with  
7 you at all times. Who was your attorney?

8 A My attorney is Anthony Rinaldo.

9 Q And is he from the Miami area?

10 A I had another attorney from Miami, that is  
11 correct.

12 Q Who was your attorney in Miami?

13 A Jack Blumenfeld.

14 Q Now, during all this time that we're talking about,  
15 you were not dealing with Mr. Arocena, is that correct?

16 A REpeat the question?

17 Q I'll take that back.

18 THE COURT: Withdrawn.

19 MR. FERNANDEZ: Withdrawn.

20 Q You indicated that a Mr. Iberria, I'll call him  
21 "Tony" --

22 THE COURT: Iberria. You call him "Iberria."

23 Q He's your right-hand man or --

24 A No, I didn't say that. He was helping me with  
25 different things. But I never say he was my right-hand man.

1 Q What things was he helping you with?

2 A Oh, just about anything that came about in  
3 reference to the business.

4 Q When you talk about "the business," are you  
5 talking about the drug business?

6 A That's right.

7 Q Did you ever have a Mr. Tamayo help you?

8 A Who?

9 Q Tamayo.

10 A I don't recall.

11 MR. FERNANDEZ: Your Honor, this perhaps would be  
12 a proper time to have a break, because I am ready to move  
13 on to another area.

14 THE COURT: Go on.

15 MR. FERNANDEZ: May I just have one second,  
16 then?

17 THE COURT: Certainly.

18 (Pause)

19 MR. FERNANDEZ: I'm going to move on to another  
20 area now.

21 THE COURT: You may.

22 Q Okay, I'm handing you your copy of the telephone  
23 address book.

24 THE COURT: Government's Exhibit 287.

25 Q I believe your testimony was that these are the

1 copies of a book that you prepared that you eventually or  
2 subsequent destroyed?

3 A That's correct.

4 Q Okay.

5 Now, on the outside, you talk about the Irazu Hotel.  
6 Where is this hotel located?

7 A I believe that's in Costa Rica.

8 Q So is it fair to say that besides Colombia and  
9 Jamaica, you had dealing with other Latin American  
10 countries?

11 A Was possible.

12 Q What other countries have you dealt with, sir?

13 A As far as drug business? Colombia and Jamaica  
14 only.

15 Q Well, have you been to Cuba?

16 A No, never.

17 Q You have been to Costa Rica?

18 A Yes.

19 Q What other countries in the Caribbean have you  
20 been to?

21 A Inthe Caribbean? Bahamas, I been Curacao, Aruba,  
22 Jamaica. That's it.

23 Q Okay. Now, on the first page, you have on your  
24 list the name "Richard Gerstein." Do you know who Richard  
25 Gerstein is? I'm sorry, just flip the page.



1 A No, I don't even have a number for him. I think  
2 he was an attorney that somebody had mentioned his name in  
3 Florida, in Miami, I believe. I'm not sure.

4 Q So you put his name on the directory, but you  
5 didn't put his number?

6 A That's correct. That's the way it is.

7 Q On the fourth page on the left-hand side, the  
8 fourth page, you have an entire name and address crossed out.

9 A Yes.

10 Q When did you cross this name out?

11 A I haven't the slightest idea.

12 Q On the fifth page, you have a "Chaco," first name  
13 on the top. Who is Chaco?

14 A I don't recall who that may be.

15 Q Okay. The name you have right below that has  
16 an address in the Republic of Panama.

17 A That's right.

18 Q Have you been to Panama?

19 A Yes, several occasions.

20 Q And did you have anything to do with drugs in  
21 Panama?

22 A Not with the country of Panama I never did.

23 Q Well, I don't think the Government of Panama is  
24 into drugs. But did you do any drug transactions in Panama?

25 A I met a lot of people in Panama.

1 Q Isn't it a fact that a lot of the drug money is  
2 laundered through Panama?

3 A It's possible.

4 THE COURT: If you know.

5 A It's possible.

6 Q You don't know.

7 I refer you now to -- did you incorporate any  
8 business enterprises in Panama?

9 A Yes.

10 Q What was the name of your business you  
11 incorporated in Panama?

12 A Laguija.

13 Q In other words --

14 A I may have a couple more. I don't recall at this  
15 time.

16 Q You don't remember their names now?

17 A No, because they were strange names, I don't  
18 recall.

19 Q You don't remember Spanish names, is that  
20 your testimony today, sir?

21 A I don't recall those particular names.

22 Q Why did you incorporate in Panama?

23 A I was advised to, that it was better for taxes  
24 and better for different reasons, business-wise.

25 Q Were you filing taxes during these years?

1           A     No, it was referred to that it was better for  
2 business we have what is called off-shore company.

3           Q     But not for taxes?

4           A     No.

5           Q     Are any of these corporations active today?

6           A     Yes, I believe so.

7           Q     You only remember one name. Is Laguija active  
8 today?

9           A     Yes.

10          Q     And does it have, as one of its assets, an  
11 80-foot yacht in Panama?

12          A     Repeat the question.

13          Q     Yes.

14                 THE COURT: Does it have as one of its assets an  
15 80-foot yacht in Panama?

16          A     No, it doesn't. No, sir.

17          Q     Do any of your corporations have an 80-foot  
18 yacht in Panama?

19          A     No, sir.

20          Q     Do you personally have an 80-foot yacht in Panama?

21          A     No, sir.

22          Q     You said that these companies were active. What  
23 assets do they have?

24          A     My accountants handle that. I don't know myself  
25 at this time.

1 Q Okay, who are your accountants?

2 A Excuse me?

3 Q Who are your accountants?

4 A CPA firm in -- what's the name of the town?

5 (Pause)

6 A I believe it's Milburn, New Jersey.

7 Q Do you remember the name?

8 A Rich Baker.

9 Q Okay. On the next page, on your telephone  
10 directory, this would be page 7, on the right-hand side, could  
11 you please explain to me what those things or what those  
12 numbers represent?

13 A Where? Which one?

14 MR. FERNANDEZ: Your Honor, may I approach the  
15 witness for one second to indicate?

16 THE COURT: You may.

17 BY MR. FERNANDEZ:

18 Q It's on the seventh page. No, that's not the right  
19 page.

20 (Pause)

21 Q That's what I'm referring to.

22 MR. FERNANDEZ: Thank you, your Honor.

23 Q Once again, could you explain what that is, those  
24 four lines?

25 A I'm not positive, but they look like combination

1 boxes, safety box combinations, numbers.

2 Q This is in your handwriting, isn't it?

3 A It is, yes.

4 Q Next page, the middle of the page, you have the  
5 word "dealer bote ," b-o-t-e.

6 A Yes.

7 Q Could you tell us who that is?

8 A I don't have any other number.

9 Q Who is that person?

10 A Dealer bote?

11 Q Yes.

12 A No one.

13 Q Okay. Two names above that, you have "Doug."

14 Is this the person that was doing business with you?

15 A Could have been.

16 Q You remember that I asked you when I started on  
17 the 301 tapes?

18 A Yes. I believe that's Doug, that's the same  
19 Doug.

20 Q All right. Next page. Who is "Enrique"?

21 A I don't recall very well, but it must have been  
22 one of my friends or one of my acquaintances.

23 Q What is Enrique's last name?

24 A I don't know.

25 Q Okay. Next page, "Fidel Fraceta," who is he?

1           A     "Fidel," oh, that's Fidel, that's a friend from  
2 the Union City, New Jersey, area.

3           Q     And did he do any drug buys with you?

4           A     No.

5           Q     I'm going to refer you now to seven lines down  
6 the eighth page, on your "M."

7           A     You said "M"?

8           Q     "M," yes, sir.

9           A     Okay.

10          Q     The seventh line.

11          A     Yes.

12          Q     Who is "Mini"?

13          A     No, I don't recall, sir.

14          Q     Is that the Mini warehouse?

15          A     I don't recall.

16                THE COURT: Do you know of a Mini-Stor-It  
17 warehouse in Miami?

18                THE WITNESS: No.

19           Q     On that same page, eight names from "Mini,"  
20 I believe you testified before that you were known as  
21 "Maxi"?

22           A     I am not known as "Maxi." Mr. Arocena used to  
23 call me "Max," ask for "Max."

24           Q     There is a "Maxi" here, right?

25           A     There is a "Maxi."

1 Q Who is "Maxi"?

2 A A friend of mine.

3 Q What's his last name?

4 A Lora.

5 Q Was Mr. Lora one of your collectors?

6 A He worked for me, yeah, for a while.

7 Q You had him doing collections. Were you having  
8 him do drug collections?

9 A Whatever came to be collected, he went out,  
10 he collected whatever he could collect. He was actually a  
11 type of enforcer, if you want to call it.

12 Q He was your enforcer, Maxi Lora?

13 A Maxi Lora, right.

14 Q Your enforcer, on your payroll, is that correct?

15 A Yes, sir.

16 Q The last name that you have on that sheet on  
17 that page. "Gustavo Marin."

18 A Gustavo Marin is a friend of mine from Miami,  
19 Florida.

20 Q Isn't it a fact that he was a member of an  
21 anti-Castro group called Abdalla?

22 A I believe so.

23 Q Are you a member of Abdalla?

24 A No, sir.

25 Q I'm going to go to the "O's," now, three pages

1 down.

2 What is the second name that you have there?

3 A "Oscar."

4 Q What is that last name?

5 A I can't make out what it says, counsel.

6 Q Okay, but it is your handwriting, is it not?

7 A Yes, it is.

8 Q The name after that is "Oscar Dario," is that  
9 right?

10 A That's correct.

11 Q Is that the name of the person you wanted  
12 Mr. Arocena to collect money from?

13 A That's correct.

14 Q And those are the two phone numbers you had,  
15 yes?

16 A Apparently it was a beeper number and a phone  
17 number.

18 Q Did you give Mr. Arocena this information?

19 A I'm sure I gave Mr. Arocena whatever -- I don't  
20 know if I gave him this information here. But I gave  
21 him the information what I had at the time, that we made  
22 the deal in order for him to get hold of Mr. Dario.

23 Q Was Mr. Dario your friend?

24 A Yes.

25 Q Was he from Colombia?



msjah 23

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1 A Yes, he's from Colombia.

2 Q Did you meet him in Colombia?

3 A No.

4 Q Where did you meet him?

5 A I think I met him, I'm not positive but I met  
6 him in Miami, I think.

7 Q Where in Miami did you meet him?

8 A I don't recall, but it would have been at a  
9 social party or -- I'm not sure, but I met him in  
10 Miami.

11 Q Did you buy drugs from him or did you sell drugs  
12 to him?

13 A I sold him drugs.

14 Q Pardon me?

15 A Yes, I sold him drugs.

16 Q How many people did you sell drugs to in Miami?

17 A I don't have the number. I never had a  
18 map.

19 Q Well, did you sell to Luis Fuentes?

20 A No, Luis Fuentes was a worker.

21 Q He was an employee. Approximately how many people  
22 did you sell drugs to?

23 A At least a dozen or more.

24 Q What was your average sale?

25 A I don't have that figure, counsel.

1 Q Would it be more than \$10,000?

2 A Oh, I would say so.

3 Q Would it be more than \$50,000?

4 A I never figured the average, but it's possible,  
5 yes.

6 Q Did you open any bank accounts in Florida?

7 A In Florida?

8 Q Yes.

9 A No.

10 Q What about anywhere else in the U. S.?

11 A No.

12 Q What about abroad?

13 A No.

14 Q You didn't open a bank account in Panama for the  
15 corporation?

16 A I opened one bank account, yes.

17 Q Is it open, is it active?

18 A No, it's closed.

19 Q You had closed all your bank accounts?

20 A Yes.

21 Q Where did the money come from where you paid  
22 the \$200,000 fine?

23 A Well, I believe my family -- well, I believe,  
24 I know that my family, all my relatives got it together, and  
25 I was able to pay the fine.

1 Q Under "P," letter "P." Who is "Pipi"?

2 A I believe, I'm not sure, but I believe it's  
3 somebody that used to work for me.

4 Q You don't remember his last name?

5 A No.

6 Q Okay, right below "Pipi," two down, you have  
7 a "Paz," is that Virgilio Paz?

8 A Paz?

9 Q Yes.

10 A I don't remember now, sir.

11 THE COURT: Did you know a Virgilio Paz?

12 THE WITNESS: No.

13 THE COURT: Very well.

14 (Pause)

15 Q On the next page, right after the "P's," you have  
16 a -- who is it that you have on that first line on the  
17 next page. "Piloto"?

18 A Yes.

19 Q Who is this Piloto?

20 A I believe that's a pilot from Guayaquil. That  
21 would be Ecuador, South America.

22 Q What about that Bogota number, Maracaibo,  
23 Venezuela number?

24 A That must have been numbers -- I don't recall,  
25 must have been numbers, I don't know how long it's been

1 here. But what I can remember, I think telephone numbers  
2 where he could be contacted.

3 Q This is your handwriting, is that right?

4 A Yes.

5 Q Would it be fair to say that these are the  
6 names or rather the numbers of pilots you had in different  
7 cities in South America.

8 A Could have been. I'm not positive.

9 Q It's more than one pilot, right?

10 A Well, it says only one.

11 Q Okay.

12 The numbers you have right below the pilot,  
13 "Marta, Vilda, Daniela, Mary," are these the names of your  
14 boats?

15 A I don't recall at this time. I don't think. I'm  
16 not sure.

17 Q Well, there are eight names here. You don't  
18 know what these names are?

19 A Seven names, yes, seven names. No.

20 Q I apologize, seven names.

21 A There were.

22 THE COURT: He said there were.

23 There were what?

24 A They are females, name of females, female names,  
25 I don't know if they are boat names or a code or it meant

1 .people I dealt with.

2 Q But you wrote this up, right?

3 A Yes. That's my handwriting.

4 Q Okay.

5 On the right side, that's the next page, sir.

6 Who is "Raquel"?

7 A Again, she may have been a Colombian.

8 Q Could she have been the name of a boat?

9 A It's possible, too.

10 Q How many boats did you have in the fleet?

11 A I didn't have too many myself. I used to rent  
12 them.

13 Q About how many?

14 A I would rent them as I need them.

15 Q At least 25, right?

16 A No, no. I think the most I had at one time was  
17 five.

18 Q At one time, all right.

19 A Yeah.

20 Q How did you pay for your boat rentals?

21 A How did I pay?

22 Q Yes.

23 A Which way? Cash.

24 Q Cash?

25 A C.O.D.

1 THE COURT: C.O.D.

2 Q Under the "T's." The fourth name, what is that  
3 name, sir?

4 A "Tony Ibarria."

5 Q I'm sorry. There is a page after that. With  
6 "T's," also. The fourth name there.

7 A "Tapia."

8 Q "Tapia"?

9 A I guess somebody I knew. I'm not certain, but  
10 it must have been somebody I knew in Florida.

11 Q Okay. Now, you have on that same page, two  
12 names, "Tapanes." Were you ever known as "Mr. Tapanes"?

13 A Not that I know of.

14 Q You have never used that alias?

15 A No.

16 Q Who is Mr. Tapanes?

17 A Well, Tapanes is a friend of mine for a long  
18 time friend.

19 Q Was he a co-conspirator in the case that you  
20 pled guilty to?

21 A Yes.

22 Q Okay. The next page. When did you delete  
23 those, block out these names?

24 A I don't recall, counsel. God knows.

25 Q Okay, now, are these foreign addresses, or are

1 .they U. S. addresses?

2 A I really don't know, can't make out, it's a lot  
3 of numbers, but I don't think they are addresses. I don't  
4 know.

5 Q What are they, then?

6 A I said, I don't know.

7 Q But it is your handwriting?

8 A Yes, it is.

9 Q Okay.

10 MR. FERNANDEZ: Your Honor, I am ready to move  
11 to another area.

12 (Pause)

13 MR. FERNANDEZ: Your Honor, may I see you at  
14 the side bar? May I inquire how late we are going  
15 tonight?

16 THE COURT: Till we finish. If you want to  
17 take a short recess, perhaps you can reorganize your  
18 thinking and maybe this will be helpful.

19 MR. FERNANDEZ: Yes, I think it would be.

20 THE COURT: Very well, we will take a brief  
21 recess.

22 MR. FERNANDEZ: Five minutes, your Honor.

23 THE COURT: Ladies and gentlemen, please don't  
24 discuss the case among yourselves.

25 MR. AGUILAR: Your Honor, can that be 10?

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MR. FERNANDEZ: Can it be 10, your Honor?

THE COURT: You ask for 10. All right, you have  
10.

(The jury left the courtroom)

8B



9A

1

(In open court; jury present)

2

THE COURT: You may proceed, Mr. Fernandez.

3

MR. FERNANDEZ: Thank you, your Honor.

4

BY MR. FERNANDEZ:

5

Q Mr. Fernandez, were you involved with the

6

Abdallah group in the narcotics trade?

7

A Repeat the question, please.

8

Q Were you involved with the Abdallah group in the

9

narcotics trade?

10

A No.

11

Q Did you ever use Gustavo Marin, Roberto Infante

12

or Jose Chorens in relation to your narcotics activities?

13

A Well, you are asking me three different names.

14

Q Did you use any of them?

15

A I don't recall using any of them.

16

Q You never used Chorens for drugs?

17

A I may have had some deals --

18

Q Do you recall making a statement for, at the office

19

of Mr. Tabak on or about the 29th of August of 1983?

20

A A statement?

21

Q Do you recall making a statement at Mr. Tabak's

22

office on or about August 29, 1983?

23

A Well, counsel, I have made many statements.

24

I don't remember exactly which one you are referring to.

25

Q I am sorry, it is the 24th of August, where

1 Agents Menapace and Brandt were present.

2 A Yes.

3 Q Do you recall being asked if you were familiar  
4 with the Abdallah group?

5 A No, I don't recall.

6 MR. FERNANDEZ: May I approach the witness  
7 and show him his statement?

8 THE COURT: You may.

9 MR. FERNANDEZ: This is 3500 material provided to us  
10 today.

11 Q Do you recall making a statement to the effect  
12 that you were familiar with the Abdallah group and its leader,  
13 Gustavo Marin, and members Roberto Infante and Jose Chorens,  
14 and that they had been involved with you in narcotics?

15 A Well, again, Mr. Marin, I have no knowledge  
16 of him doing any business. The others, I have discussed  
17 maybe they had some deals with me.

18 Q I am sorry, the question was, do you recall  
19 having made the statement to Detective Brandt --

20 A Yes.

21 Q -- that they were involved in the narcotics trade?

22 A Now that you show it to me, yes.

23 Q Did you also work with a Mr. Lima?

24 A Yes, I recall the name Lima.

25 Q Was he also one of your enforcers?

1 A No, sir.

2 Q I am sorry, you call them collection people,  
3 was he one of your collection people?

4 A No, sir.

5 Q What did he do for you?

6 A He did only minor things like going out and,  
7 if I -- I believe I asked him a few times to do a few  
8 things for me like renting a house, paying a bill,  
9 different things like that.

10 Q WERE any of these minor things illegal?

11 A Not what he did, were not.

12 Q Was he renting houses under other people's  
13 names?

14 A He was renting houses under names I provided  
15 him, I told him what names to use.

16 Q Did these people exist, in fact?

17 A No, they did not. I made them myself, gave him  
18 the name to use.

19 Q So you were using him to get rentals of places  
20 under names that were not real?

21 A That's correct.

22 Q Did you store your marijuana in warehouses?

23 A Some of it, yes.

24 Q What kind of warehouses did you use?

25 A Different types, mainly the types that, normal

1 warehouse, building with X amount of height and enough for  
2 a truck to come in, high enough, the door, the entrance.  
3 That's mainly where I rented, where I can come in with  
4 a truck, put it inside and lock it up and leave.

5 Q So you had experience with going into these  
6 you-store-it sort of warehouses and dumping things in?

7 A No.

8 Q You didn't?

9 A No.

10 Q But somebody in your ofganization was renting  
11 these places?

12 A You are talking about you-store, counsel?

13 Q Yes.

14 A I never -- I believe I never had any one of those,  
15 I don't think so.

16 Q Youhad big warehouses?

17 A Yes.

18 Q Who is Georgie?

19 A Georgie, as far as I remember, could have been  
20 somebody in Florida that did certain different work for me.

21 Q Was he a collector for you?

22 A No, I don't believe so.

23 MR. FERNANDEZ: Once again, your Honor, may I  
24 approach the witness?

25 THE COURT: You may.

1 Q I am going to show you a transcription of a  
2 conversation that you had with Mr. Tabak on or about I  
3 believe September 28, 1983 and Detective Brandt was present  
4 also.

5 THE COURT: Is this 3500 material?

6 MR. FERNANDEZ: Yes.

7 MR. TABAK: Identify it, please.

8 MR. FERNANDEZ: 3501-U.

9 THE COURT: I want to explain to the ladies and  
10 gentlemen of the jury, under the Rules, the government has  
11 the obligation to furnish defense counsel, prior to  
12 cross-examination, with various materials. The materials  
13 are called by all of us 3500 material .

14 The material which counsel is using now was  
15 furnished to counsel by the government pursuant to  
16 law prior to cross-examination.

17 MR. TABAK: Your Honor, I would object to the  
18 characterization of this as a "transcription," I believe  
19 the term that was used.

20 MR. FERNANDEZ: I will call it "material," if  
21 you want me to call it "material."

22 THE COURT: Is it notes of a conversation?

23 MR. TABAK: It is notes of Detective Brandt.

24 THE COURT: All right, we will modify the  
25 description.

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1 MR. FERNANDEZ: That is fine, that is a good  
2 characterization.

3 BY MR. FERNANDEZ:

4 Q Who is this Georgie that appears on page 2?

5 MR. TABAK: Objection.

6 MR. FERNANDEZ: Do you have the page with you?

7 MR. TABAK: I have it.

8 MR. FERNANDEZ: I will ask the question a  
9 different way.

10 (Pause)

11 THE COURT: Would you rephrase your question.

12 Q I previously asked you about a Mr. Lima who you  
13 said did different jobs for you. Now I am going to  
14 ask you -- I also asked you if you had collectors, and I  
15 believe that your answer was no?

16 A No, I had collectors, yes.

17 Q Was Georgie one of your collectors?

18 A Again, I think my answer was I didn't think, I  
19 don't think Georgie was, as far as I remember, was one  
20 of my collectors. He did different things for me,  
21 different work, but I don't believe -- he may have collected  
22 an account here and there, but he wasn't meant to be a  
23 collector, as you call him.

24 THE COURT: Is it your testimony he may  
25 occasionally have made collections for you?

rbjah 7 M. Fernandez-cross

1 THE WITNESS: That's correct, your Honor.

2 Q I want you to see the notes with regard to  
3 Mr. Chorens, who I asked you about before, and if your  
4 recollection is refreshed now that you see the notes?

5 A I believe I said that I may have some deals  
6 with Chorens.

7 Q What kind of deals did you have, sir?

8 A Drug deals.

9 Q You had him buy marijuana for you, did you?

10 A Excuse me?

11 Q You had him buy marijuana for you?

12 A, It is possible.

13 Q I show you the notes, don't they refresh --

14 A Yes.

15 MR. TABAK: I object to counsel questioning  
16 him where he is and showing --

17 THE COURT: He can show him the notes silently  
18 and then ask the question.

19 MR. FERNANDEZ: That is okay, I will move on.

20 THE COURT: Very well.

21 Q Did you ever send Mr. Lima to collect money  
22 from Enrique Castro in New York?

23 MR. TABAK: Objection.

24 THE COURT: Overruled.

25 THE WITNESS: I may answer?

Yes!  
was  
used  
to  
witness

1 THE COURT: Yes.

2 A I don't think so, counsel. I don't recall so.

3 Q Is the Enrique that showed up in your

4 directory Enrique Castro?

5 A I am not positive, but I don't think it's he.

6 THE COURT: He said, "I'm not positive, but I

7 don't think it's he."

8 Q Do you know Enrique Castro?

9 A Yes, I do.

10 Q What is he?

11 Q What is he? He is Cuban.

12 Q Is he a drug dealer?

13 A I am not aware of that, sir.

14 Q You didn't do business with him?

15 A No, sir.

16 Q Dealing drugs?

17 A No, sir.

18 Q In the sheet that was introduced into evidence

19 as I believe 287, this is my copy, Mr. Tabak --

20 MR. TABAK: Is that 288?

21 MR. FERNANDEZ: Yes.

22 THE COURT: Counsel is referring to 288, yes.

23 You have handed it to the witness.

24 You may inquire.

25 Q You previously testified that the numbers that



1 you have here next to the names are amounts in thousands  
2 of dollars?

3 A That's correct, counsel.

4 Q I would like to refer you to a "Joe Levine" in  
5 the middle of the page.

6 A Yes.

7 Q Is it your testimony, then, that he owed you  
8 \$3,500,000?

9 A Well, I will tell you exactly, Mr. Levine,  
10 have him, the last name, had owed me a balance, a small  
11 balance and I remember was \$3,500 when that occurred,  
12 which I wanted him to pay me.

13 Q So your testimony now under cross is that that  
14 is \$3,500?

15 A That's correct, in that particular case,  
16 Mr. Levine, yes.

17 Q You told the jury of an incident that you had  
18 when some people went to your house and dressed up as  
19 police officers to collect half a million dollars, is that  
20 correct?

21 A That is right.

22 Q You also testified that you had a chance to look  
23 out the window and see the person who was dressed as a  
24 police officer; is that correct?

25 A I didn't say --

1 Q I am sorry, you didn't see anybody?

2 A I didn't say that.

3 Q What did you say?

4 A I said one of my men who was there with me  
5 told me he had seen the people outside, and they had  
6 police uniforms.

7 I did go to one of the windows in one of the  
8 extremes of the house and look outside the window, and I didn't  
9 see any lights. I went to the other extreme, I didn't see  
10 no lights, and then I went in my room, got a hold of  
11 my guns and told him I didn't think they were police  
12 officers, I didn't see no lights.

13 Q Who were the persons who were with you  
14 in your house at that time?

15 A I'm not positive.

16 Q You don't remember?

17 A - No.

18 Q You remember being shot that day, right?

19 A Yes, definitely.

20 Q Was Mr. Arocena with you in the house that day?

21 A I don't remember, I don't think so.

22 Q You had, you said, half a million dollars?

23 A I had that amount; what I recollect having,  
24 because of what happened. I remember having a large sum of  
25 money, I believe to be close to half a million dollars.

1 Q How many people did you hire to go after this  
2 Luis Fuentes?

3 A How many people did I hire?

4 Q Yes.

5 A I had different people looking for him.

6 Q I want a number, two, ten?

7 A I don't have any number.

8 Q But you had people looking for him?

9 A Yes.

10 Q And you had certain people bring him over to  
11 you, didn't you?

12 A Bring him over to me?

13 Q Yes, bring somebody who worked for you with  
14 the marijuana. Did Arocena bring you that person?

15 A I don't understand your question.

16 Q I am sorry, I will backtrack.

17 You indicated you wrapped your marijuana in a  
18 special way?

19 A Yes.

20 Q And you bought all the marijuana you could get?

21 A All the one that had wrapping, yes.

22 Q And somebody was brought to you?

23 A Somebody was taken, the man that had that  
24 particular marijuana, we took him --

25 Q Who brought that person to you?

me.

at the time.

sir.

, most of them were from New York,

..t care about names, I wanted

not Mr. Arocena, was it?

it was not.

and you also testified as far as you know,

ntes is in jail now?

A I learned after we took, got them in that he

alk and after Arocena spend all this time, spending

money looking for the men, I -- man -- I learned that

he was not around, that's why he couldn't be found, I was

told he was in jail.

Q Did you order this man's assassination?

A Yes, I told him what I wanted, I wanted to get

rid of him.

Q Who else did you order to be assassinated, sir?

A Well, there was another man in Key West.

Q What is his name?

A Ramon Vanio.

Q I believe you have the exhibit with you, don't

u?

1 A No.

2 Q 287, 288, do you have that exhibit with you?

3 A This?

4 Q Yes, that's 288.

5 Q Is Ramon Vanio on that page?

6 A No, he is not, I don't believe he is.

7 Q Why did you want him killed?

8 A Well, he was calling me and threatening me.

9 He used to be the man in charge of the operation. And  
10 he was dealing on his own, he was doing some business, and  
11 he was cutting, hurting my clientele and hurting my contacts  
12 as far as Colombians. And then he became an enemy,  
13 actually.

14 He wanted to -- I understood he wanted to  
15 eliminate me so before he did it, I wanted to get to him.

16 Q Did you order anybody else kidnapped or killed?

17 A Not that I remember.

18 Q What other crimes did you ask people to commit for  
19 you?

20 A Not other crimes, no crimes at all.

21 Q These were not crimes, sir?

22 A They were crimes but I was under, I am under the  
23 opinion that they were trying to kill me so I was, I wanted  
24 to do it before they did it to me.

25 Q You didn't go to the authorities, did you?

1 A No, I did not. I had Arocena do it for me.

2 Q And you had Lima do it for you?

3 A No.

4 Q And you had Georgie do it for you?

5 A No.

6 Q You had Arocena go talk to the police for you?

7 A No.

8 Q You indicated that you had a conversation with  
9 Mr. Arocena and Mr. Castro sometime in Miami?

10 A That's correct.

11 Q Did Mr. Arocena bring Mr. Castro?

12 A I don't know. I don't believe so. When I  
13 got there, he was there already. I don't know who he came  
14 with. I know he was there at the table, but I have no --  
15 I got there late, later than everybody, so I don't know  
16 when they got there.

17 Q You testified you have rented different places  
18 under different names, rather, never under the same name;  
19 is that correct?

20 A Yes.

21 Q Have you ever rented any places under the name  
22 "Medina"?

23 A "Medina"? I don't recall, counsel.

24 Q It is possible, isn't it?

25 A It's possible, yes.

1 Q How many bodyguards did you have, sir?

2 A Usually one, two, three, four, depends on the  
3 occasion and what was needed.

4 Q They all had guns, didn't they?

5 A Yes.

6 Q What kind of guns did they have?

7 A Usually revolvers or pistols.

8 Q Where did you buy these?

9 A It was their own.

10 Q You didn't ask Arocena to buy these for you,  
11 did you?

12 A No.

13 Q You indicated that as soon as you were shot or  
14 rather the day you were shot, you were rushed to the  
15 hospital and you were in the hospital for two days; is  
16 that correct?

17 A That's correct.

18 Q Who cleaned up your house for you?

19 A Different people I had at the time.

20 Q Not Arocena, right?

21 A No.

22 Q What members of the Italian Mafia do you know, sir?

23 MR. TABAK: Objection.

24 THE COURT: If any. Do you know anyone who you  
25 believe to be a member of the Italian Mafia?

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9A

THE WITNESS: No, I don't.

THE COURT: Very well.



rb t9b

1 M. Fernandez - cross

1 Q. Was Mr. Chorens with you when you were shot?

2 A. It is possible, counsel.

3 Q. Was Maximiliano Lora with you when you were shot?

4 A. I don't recall. He may have been, he may have  
5 not.

6 Q. Who was the person that hid underneath the bed?

7 A. I am not sure. I know one of them was there  
8 with me was trying to get underneath the bed.9 Q.. These payments that you say that you made to  
10 Omega 7, did you make them in cash?

11 A. Yes, sir.

12 Q. Did you get a receipt for them?

13 A. No..

14 Q. Have you ever been known by the name of Benito  
15 Perez?

16 A. Not to my recollection, counsel.

17 Q.. Don't you have a car in Florida?

18 A. Yes.

19 Q. Who was the car, who was the license tag under,  
20 whose name --21 A. I have a car in my name, registered under my  
22 name.23 Q. You never had a car registered under the name  
24 Benito Perez?

25 A. Not that I remember.

rb t9b

2 M. Fernandez - cross

1 Q. Did you have more than one car?

2 A. Yes, I had more than one car.

3 Q. Were they all under your name?

4 A. My car was one, the other cars were cars that we  
5 used for different reasons, but not my private car.

6 Q. What about the address 9020 Northwest 8th Street?

7 MR. TABAK: Is that a question, your Honor?

8 Q. Yes, does that --

9 THE COURT: Does that address sound familiar to  
10 you?

11 A. Repeat the question, please.

12 Q. Does the address 9020 Northwest 8th Street have  
13 any connection with you?

14 A. I don't see any connection.

15 Q. I asked you a little while ago about a 70 foot  
16 yacht in Panama. Do you own a 57 foot Chriscraft that was  
17 called the Eagle and you changed it to La Guija, the same  
18 name of your corporation?

19 A. Yes.

20 Q. Where is that --

21 A. I don't own that, the company owns it.

22 Q. What company owns that?

23 A. La Guija

24 Q. Who's the stockholder of that company?

25 A. I am one of the stockholders.

rb t9b

3

M. Fernandez - cross

1 Q. Who else is a stockholder?

2 A. There is an attorney in Panama.

3 Q. So that he can have the meetings over there  
4 while you are not there?

5 A. I think that's the way the law requires it.

6 Q. But you are the principal stockholder?

7 A. I am one of the stockholders, yes.

8 Q. Do you have money in New Jersey?

9 A. Excuse me?

10 Q. Do you have \$12 million in New Jersey?

11 A. If I have \$12 million? No.

12 MR. TABAK: Your Honor, may we have a side bar?

13 THE COURT: No.

14 Q. You also testified about a time when your house  
15 was surrounded and you took a row boat and you, I guess,  
16 escaped.

17 A. That's correct.

18 Q. You also testified that you pitched one of the  
19 machines that you had into the water. What did you do with  
20 the other machine gun?

21 A. I didn't throw it in the water, Maxie Lora did.  
22 The other one, I gave it to, I remember, because I asked  
23 him for the gun back and I never got it back, I gave it to  
24 a friend called Jimmy, an American guy called Jimmy from, I  
25 believe its name is Del Ray, Florida.

rb t9b

5 M. Fernandez - cross

1 a fact not in evidence.

2 Have you been asked to testify against anybody  
3 other than Mr. Arocena?

4 THE WITNESS: No, your Honor.

5 MR. FERNANDEZ: If I may just have one second  
6 with my client.

7 THE COURT: Yes.

8 (Pause)

9 MR. FERNANDEZ: Your Honor, I would merely ask  
10 the Court, and I would put this on the record, to give me  
11 the right to recall this person as part of my case.12 THE COURT: Yes, in other words, what you are  
13 doing is requesting leave to recall Mr. Fernandez as a  
14 defense witness.

15 MR. FERNANDEZ: That is correct.

16 THE COURT: Certainly you may do that.

17 Any problem with that, Mr. Tabak?

18 MR. TABAK: If they don't delay the trial in  
19 getting him from wherever he is in jail, there is no  
20 problem with it.21 THE COURT: I suggest he remain in the nearby  
22 facility where he presently is lodged for the present so  
23 that we are not delayed either. Can that be done?24 MR. TABAK: We can leave him here for a  
25 reasonable amount of time. I would request that within a

rb t9b

6 M. Fernandez - redirect

1 reasonable amount of time such as over the weekend the  
2 defense decide if they do want to recall Mr. Fernandez  
3 because he is not a New Jersey prisoner.

4 THE COURT: I would suggest that you keep him  
5 available, I understand that, until Tuesday, at which time  
6 the defense can indicate to you if they wish him called,  
7 and then he can either remain or we can make arrangements  
8 for him to return when the defense wishes to have him  
9 appear to testify for the defense.

10 Are there any other questions at this time, Mr.  
11 Fernandez?

12 MR. FERNANDEZ: No, sir.

13 THE COURT: Mr. Tabak, do you have any redirect?

14 MR. TABAK: Yes, your Honor.

15 REDIRECT EXAMINATION

16 BY MR. TABAK:

17 Q. Mr. Fernandez, you testified that a number of  
18 individuals on the list which I believe is Exhibit 288  
19 never gave you a last name; is that correct?

20 A. That's correct.

21 Q. When Mr. Arocena told you that his name was  
22 Andres, did he give you a last name for himself?

23 A. No, he never did.

24 Q. You testified that the -- your understanding is  
25 the immunity order means you cannot be prosecuted

1 criminally for things you testify about; is that correct?

2 A. That's correct.

3 Q. What is your understanding about whether the  
4 Internal Revenue Service can go after you civilly to  
5 collect money that you owe in taxes?

6 A. I understand the Internal Revenue cannot go  
7 after me on a criminal basis but they can, of course, check  
8 my taxes and try to collect moneys from me. That is a fact  
9 I know.

10 Q. You testified that you wanted Mr. Vanio killed.  
11 What if any discussion did you have with Mr. Arocena about  
12 that?

13 A. I told Mr. Arocena the reasons, the reason I  
14 wanted to do it. And they did go out for many, many days  
15 and he was reporting to me on a daily basis of the progress,  
16 they had to find the house where he was living, he used to  
17 come in a plane every day into I believe at the time Miami  
18 airport, and from there, so they can establish surveillance  
19 to establish where this man was living at, where exactly he  
20 was staying.

21 They did locate him, he showed me a bunch of  
22 pictures of a house where he told me he was staying there.

23 Q. Who told you?

24 A. Mr. Arocena told me, and that I remember a  
25 couple of instances that I had to call it off because they

1 told me they were ready and for some reason I didn't want  
2 it to happen.

3 I never killed anyone, I never hurt anybody, so  
4 I did call it off.

5 Q. Who told you they were ready to kill Mr. Vanio?

6 A. Mr. Arocena told me they were ready, that to do  
7 it that night.

8 Finally I call him back and say, no, hold it, I  
9 don't want it to happen until further notice. So I never  
10 did anything, actually, to anybody.

11 Q. You testified about Enrique Castro on cross  
12 examination. Did you ever have a discussion with Enrique  
13 Castro about Omega 7?

14 A. Well, that night we were meeting at the Marriott  
15 Hotel in Miami, Enrique told me, I know that you have  
16 contributed, is the word, contributed a lot to the  
17 organization, but I think I have contributed a lot too,  
18 maybe not as much as you have, but I have contributed a lot.

19 So I left it there, I didn't go any further.

20 Q. What organization, if you know, was Mr. Castro  
21 referring to?

22 A. Omega 7.

23 MR. TABAK: No further questions.

24 MR. FERNANDEZ: Just one.

25 RECROSS EXAMINATION

1 BY MR. FERNANDEZ:

2 Q. Isn't it a fact that Mr. Vanio is alive and well  
3 and healthy in Point Key, Florida?

4 A. I don't know, sir. I haven't heard from Mr.  
5 Vanio for years. It should be, if nothing happened to him.

6 MR. FERNANDEZ: No further questions.

7 MR. TABAK: Nothing further, your Honor.

8 THE COURT: Very well, you may step down. It is  
9 possible, Mr. Fernandez, the defense may wish to call you  
10 as a defense witness. The government will be advised by  
11 defense counsel on that matter by Tuesday, and then further  
12 arrangements will be made. For now you are excused.

13 THE WITNESS: Thank you, your Honor.

14 (Witness excused)

15 MR. GREEN: Your Honor, the government calls  
16 Arthur Conner, who I will get.

17 ARTHUR CONNER,

18 called as a witness by the government, having been  
19 duly sworn, testified as follows:

20 THE CLERK: Please state and spell your full  
21 name.

22 THE WITNESS: My name is Arthur Conner,

23 C O N N E R.

24 THE COURT: You may inquire, counsel.

25 DIRECT EXAMINATION