

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 6:08-CR-176-ORL-28GJK

FRANK AMODEO,

Defendant.

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**MAY 13, 2009**

**Transcript of Proceedings  
HEARING ON SENTENCING  
Day 2**

**Before The Honorable JOHN ANTOON II  
United States District Judge**

APPEARANCES:

For the Plaintiff: Randy Gold  
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Proceedings recorded by mechanical stenography, transcript  
produced with computer-aided transcription.

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P R O C E E D I N G S

MR. SANDS: May I approach, Your Honor?

THE COURT: Yes, sir.

MR. SANDS: I discussed the comments you had made at the close of yesterday's session with my client last night and we think we have come up with a streamlined way to proceed which will expedite matters. I've talked with the government about it as well and we have a few stipulations.

What I propose to do, we'll put Mr. Amodeo back on the stand, but I want to focus on just a few discrete areas that are contested within the presentence report. Those areas would include, Your Honor, the effect of the transactions that took place in December of 2004, the relationship, that would be the first area.

The second area would be some testimony and some video presentation with regard to the relationship between Mr. Amodeo and a few other persons on whom Mr. Amodeo will say he relied at Mirabilis. That would also include contacts that those people had along with Mr. Amodeo with the IRS. And then the third section would simply be -- and again, that section, the second section really goes to the issue of diminished capacity and the extent to which, as I have pointed out in the sentencing memorandum, we believe that those factors, people that he had involved, the psychiatrists, the attorneys, etcetera, played into how this

1 offense could have occurred given Mr. Amodeo's psychological  
2 condition.

3 The third area that we would go into then would  
4 have to do with acceptance of responsibility really and would  
5 focus simply on the aftermath of the actual time period of  
6 the indictment in which Mr. Amodeo was attempting to provide  
7 substantial assistance to the government and attempting to  
8 comply with directives that he had received from the  
9 government.

10 The total amount of video that we actually would  
11 like to have the court watch doesn't amount to more than  
12 about 40 minutes all together. We've got little snippets. I  
13 think we've got them fairly organized today. So I think  
14 we've got a manageable presentation that actually won't take  
15 that long and will satisfy my client that he's gotten the  
16 information he wants to get out to the judge.

17 THE COURT: Okay. One thing you said was that  
18 part of the testimony would be based on disagreement with  
19 what is contained in the presentence report. Is that just  
20 the parts that are reflected as having been objected to?  
21 There are no objections other than those that are noted in  
22 the addendum, is that correct?

23 MR. SANDS: Well, yes, Your Honor, although Mr.  
24 Amodeo wants to make clear to you where, remember he wanted  
25 to clarify certain issues and I'm going to do that at the

1 very end, I'm going to give him an opportunity to go over  
2 with you with regard to a few specific areas of the statement  
3 of facts in the presentence report and explain to you exactly  
4 what he means so that we've got a good record on that, and  
5 that will only take a few minutes and I think it behooves us  
6 to do that. But what I'm really talking about is areas that  
7 it is clear from the objections that were filed that we have  
8 a disagreement, which was how to characterize what's going on  
9 in December 2004, and we have an agreement not with regard to  
10 anything that's in the presentence report, but simply with  
11 regard to how we characterize the facts for purposes of your  
12 evaluating diminished capacity in terms of his relationship  
13 to other people.

14 And then with regard to the last part, acceptance  
15 of responsibility, we do have a disagreement with how that is  
16 calculated and that is, in part, based on facts that have to  
17 do with Mr. Amodeo's period of cooperation after 2006.

18 THE COURT: That issue's raised. That issue's  
19 framed.

20 MR. GOLD: Your Honor, perhaps if I could  
21 clarify. There's not really a disagreement with the PSI or  
22 the statement of facts in the plea agreement. What both  
23 sides reserved the right to do is we argued that it's 181  
24 million, he was claiming it's 172 million. I think that's  
25 where he's going. Just so the court knows the importance of

1 it, it relates to a forfeiture issue and that is if it turns  
2 out to be consulting fees rather than payroll taxes, then  
3 perhaps Mr. Amodeo will have an argument on the home that was  
4 purchased with those funds. That really comes down to a  
5 forfeiture issue.

6 MR. SANDS: That's exactly right, Your Honor.

7 Obviously it doesn't really make much difference in the grand  
8 scheme of things in terms of the guidelines or probably in  
9 terms of the court's analysis whether it's 181 or 172 million  
10 dollars or in terms of the likelihood of ultimately being  
11 able to repay that money. It does make a difference  
12 potentially with regard to a forfeiture issue which doesn't  
13 even actually involve Mr. Amodeo because anything he has  
14 would be forfeited as substitute assets if not forfeited as  
15 direct proceeds. It really has to do simply with creating a  
16 proper record of what Mr. Amodeo thinks are the correct facts  
17 in the case, one, and two, it could have a collateral effect  
18 then with regard to his wife. They're no longer living  
19 together, but her claims with regard to the property that she  
20 lives in. So that's really what that's about. Although, Mr.  
21 Amodeo would certainly say he also thinks that this is the  
22 precursor to everything else that happens in 2005 and 2006  
23 and it has always been Mr. Amodeo's position and we've  
24 clearly laid it out in numerous submissions that he believes  
25 that he took the money that he took with regard to the

1 Sunshine companies plan in December of 2004 as consulting  
2 fees and that he didn't take it as a trustee basically to pay  
3 those funds over on behalf of the Sunshine companies to the  
4 IRS. And the difference is a technical difference, doesn't  
5 make a whole lot of difference -- doesn't make any difference  
6 in terms of the calculation of the guideline level with  
7 regard to the amount of loss because it's the same, between a  
8 hundred and 200 million, but it makes a difference to Mr.  
9 Amodeo in terms of the way that the court looks at the case  
10 for these other factors.

11 THE COURT: Okay.

12 MR. SLAUGHTER: Your Honor, may I say something?

13 THE COURT: Yes, sir.

14 MR. SLAUGHTER: I would like to call Richard  
15 Keifer who is a 31 year special agent with the FBI who while  
16 as a special agent and a field agent became a polygraph  
17 operator and was one of their top polygraphists. He's  
18 polygraphed the Attorney General of the United States,  
19 probably a hundred Assistant U.S. Attorneys, and he used to  
20 vet the FBI agents that came in off of black ops or working  
21 overseas. He tested Mr. Amodeo on certain questions  
22 concerning advice that he received from forensic accountants  
23 and advice he received from others and whether or not he  
24 believed that the advice they gave him was true.

25 Now, I know that generally polygraphs aren't

1       accepted, but they are accepted in sentencings, and you've  
2       accepted them in a case that I had a few, maybe a year ago,  
3       John Debets. I'm not doing this to take up time. A great  
4       deal of time was spent for this because we wanted to show Mr.  
5       Gold that what he believed these people were telling him, he  
6       believed. And Mr. Keifer, who was the president of the  
7       American College of Polygraphists, and when the Ramseys  
8       offered to take a polygraph, Colorado hired him. He was  
9       here, he was stationed here. I very seldom get a client to  
10      pass one, but he's passed at least four of these, and he's  
11      available at eleven, but I think it would give the court some  
12      insight into what Mr. Amodeo believed these experts were  
13      saying was correct and he was able to do.

14               And I just, if the court or Mr. Gold have strong  
15      objections that you don't want to hear this, I'll stop him,  
16      but I've got him coming down and I'd rather stop him if  
17      he's -- the court's not going to hear his testimony. It  
18      won't be long, but he will tell you these are good tests. I  
19      mean he will let the FBI, let anybody go through his charts,  
20      it's all computerized and he's got the test. He will sign  
21      them here in the court for the court's review.

22               MR. GOLD: I'm absolutely opposed. And I've got  
23      case law as well, Your Honor, if the court wishes case law.

24               MR. SLAUGHTER: Your Honor, there's plenty of  
25      case law. Mr. Gold -- this is so disingenuous. In every

1 plea agreement they say you must be willing to take a  
2 polygraph. There are plenty of cases where people have had  
3 their probation revoked because they didn't pass a polygraph.  
4 There's plenty of evidence that you can take this at the time  
5 of sentencing. We're not in a trial, we're at the time of  
6 sentencing. He's had these things for months. He just  
7 doesn't want you to see what the results were.

8 MR. GOLD: Your Honor, here's my problem, and it  
9 does deal with case law too. I've been given no notice until  
10 this morning that he wanted to call Mr. Keifer.

11 MR. SLAUGHTER: No. His name is on the list.  
12 Isn't his name on the witness list?

13 MR. GOLD: From yesterday?

14 MR. SANDS: It's also in the sentencing  
15 memorandum.

16 MR. GOLD: The fact that it's in the sentencing  
17 memorandum, we had every intention of moving to strike that  
18 from there, the polygraph results. If I had known I would  
19 have prepared for Mr. Keifer's cross, we may have had to have  
20 a Daubert hearing on top of it. This is not the appropriate  
21 time to start springing Mr. Keifer on us. I mean I notice  
22 that the polygraph report and his CV was in the materials,  
23 but not knowing that he was going to be called and being  
24 adamantly opposed to it.

25 THE COURT: Well, there are two issues I hear



1 being referenced. One is an issue of notice, which I think  
2 should be handled or could be handled rather informally in a  
3 sentencing hearing whereas probably would not be so handled  
4 in a trial setting. The other issue is one of substance, and  
5 both counsel seem very sure of their positions with regard to  
6 whether polygraph results are admissible in a sentencing  
7 hearing. I've been doing this some time and I've never had  
8 it come up with an objection. I've had it come up, but not  
9 ever had to resolve the issue. I think in your case --

10 MR. SLAUGHTER: It was John Debets.

11 THE COURT: Right. I remember the case and I  
12 remember the event you described, but I don't remember there  
13 being an objection to it.

14 MR. SLAUGHTER: No.

15 THE COURT: So that's the first question. And,  
16 of course, any cases saying that polygraph results are not  
17 admissible during the guilt phase of a trial are not helpful  
18 because everybody knows that. Do you have cases that deal  
19 with sentencing?

20 MR. GOLD: I did not, in the short time, once I  
21 saw everything, I did not have time to go looking  
22 specifically for sentencing. But the problem is to prepare  
23 for cross examination of Mr. Keifer, what I would now have to  
24 do is not only look at the report but have one of my own  
25 experts take a look to see if there are areas in the report

1 that are inaccurate or areas where I might have to cross  
2 examine Mr. Keifer about.

3 THE COURT: Have you seen the report?

4 MR. GOLD: Yes.

5 MR. SLAUGHTER: I gave them to him probably a  
6 week after Mr. Amodeo took the exams.

7 THE COURT: Where's Mr. Keifer live now?

8 MR. SLAUGHTER: He lives in Longwood. He had to  
9 change a couple things by, he was going to do some tests  
10 today. He said he could be here around eleven.

11 THE COURT: Okay. Let's proceed where we left  
12 off. You might be able to head him off and tell him not to  
13 come at eleven, but he lives here, maybe I'll take him later.

14 MR. SLAUGHTER: So I should tell him to hold off  
15 for today?

16 THE COURT: Yes.

17 MR. SLAUGHTER: For today?

18 THE COURT: Yes, sir.

19 MR. SANDS: Are you prepared to proceed, Your  
20 Honor?

21 THE COURT: Yes, sir.

22 MR. SANDS: Thank you.

23 CONTINUED DIRECT EXAMINATION

24 BY MR. SANDS:

25 Q. Mr. Amodeo, I'd like to move forward now from the time

1 period that we had in your testimony yesterday and talk about  
2 your association with a company called Presidion Corporation  
3 in the latter part of 2004.

4 A. Okay.

5 Q. What business is Presidion Corporation in?

6 A. Presidion Corporation was a publicly traded holding  
7 company and it owned a series of PEOs and a couple of  
8 insurance -- an insurance agent and broker.

9 Q. Could you explain to the court what you understand a  
10 PEO to be and how it operates?

11 A. A PEO was historically known as a staff leasing  
12 company where the customer would transfer its employees to  
13 the PEO, the PEO would process the benefits and the payroll  
14 of all of the employees while leasing the employees back to  
15 the customer, and then the PEO administered all the services  
16 that would have been historically managed by a traditional  
17 employer.

18 Q. Now, under that scenario then it's the PEO that  
19 actually ultimately collects the payroll taxes, including the  
20 trust fund portion of the payroll taxes, and then pays it  
21 over to the IRS?

22 A. That is correct.

23 Q. And you've indicated that this was a business that  
24 Presidion Corporation was in?

25 A. It was in that business.

1 Q. Did it operate that business directly or through  
2 subsidiary companies?

3 A. It operated it through subsidiary companies which was  
4 a cooperative management company, an insurance company called  
5 Presidion Solutions, Inc. Then through the independent PEOs  
6 which originally all Sunshine one through five is what they  
7 were referred to, the Sunshine companies.

8 Q. So when we talk in the future about the Sunshine  
9 companies, we're talking about a collection of PEOs that were  
10 owned by the Presidion Corporation?

11 A. That's correct.

12 Q. When did you first meet a gentleman by the name of  
13 Craig Vanderburg?

14 A. Sometime in August of 2004.

15 Q. And under what circumstances did you meet Mr.  
16 Vanderburg?

17 A. I was -- I had spoken with his, call it his partner,  
18 but I guess more formally the chairman of Presidion, John  
19 Burcham, the prior month. I had been referred to Mr. Burcham  
20 about his tax problem and about some secure creditor problem  
21 that they had at Presidion, see if I might be able to help  
22 them negotiate a solution.

23 Q. And at that point in time did you have conversations  
24 with Mr. Vanderburg and Mr. Baiers?

25 A. I had conversations with Mr. Vanderburg in August and

1 I do not recall if Mr. Baiers was present at that first  
2 meeting. After that, a whole series of conversations took  
3 place between myself and my associates, Mr. Vanderburg and  
4 his management.

5 Q. What, as a result of those meetings and conversations,  
6 did you understand to be Presidion Corporation's problem with  
7 regard to payroll taxes?

8 A. They were trying to fund their workers' comp insurance  
9 and a very cumbersome conversion of their IT system, so they  
10 had been behind on their payroll taxes, had accrued  
11 significant penalties over the prior years, and instead of  
12 paying the current period taxes had been paying the historic  
13 penalties.

14 Q. So I take it then it was your understanding at that  
15 point in time that Presidion Corporation through its  
16 subsidiaries had been collecting payroll taxes including the  
17 trust fund portions of taxes and not paying them over to the  
18 IRS?

19 A. That is correct.

20 Q. What was it that you were asked to do in connection  
21 with any of this?

22 A. I was going to try to provide them an alternative  
23 source of collateral for their workers' comp program, try to  
24 purchase the Hendricks note so that the Hendricks would stop  
25 harassing them, and then negotiate a settlement with the IRS

1 along the lines that I had done with the historic cases that  
2 started from that accounting firm and had continued on  
3 independently thereafter.

4 Q. Who was working with you as part of this overall  
5 project to help the Presidion Corporation achieve these  
6 objectives?

7 A. The original members were Jason Carlson, Dan Myers,  
8 Edie Curry, Jack Duval. Shortly thereafter Bob Curry and  
9 John Murphy became involved as well.

10 Q. Were they involved through a particular corporation?

11 A. The Matrix Network Orlando was in existence at the  
12 time and that was their operating entity. I was involved as  
13 Trafalgar Capital Group. Trafalgar Capital Group had another  
14 client and he had what turns out to be gold dust actually or  
15 precious metal dust. But at the time he had had an appraisal  
16 and an assay and everything else, we thought it would be a  
17 viable collateral for the insurance program.

18 MR. SANDS: May I approach, Your Honor?

19 THE COURT: Yes, sir.

20 Q. I'd like to show you what's been marked for  
21 identification purposes as defendant's exhibit 2. Do you  
22 recognize that document?

23 A. I do.

24 Q. What is that document?

25 A. It is the consulting agreement between AQMI Strategy

1 Corporation, my company, and Presidion Solutions, Inc., and  
2 the amendment to the consulting agreement.

3 Q. Now, is that the agreement under which you were to  
4 provide these services to Presidion Corporation?

5 A. The services I just mentioned were actually contained  
6 in a Trafalgar Capital Group letter agreement, but that  
7 agreement eventually turned into this more formal agreement.

8 Q. All right. May I approach again, Your Honor?

9 THE COURT: Yes.

10 Q. I'd like to show you what's been marked as defendant's  
11 exhibit 1. Is that the commitment letter you're talking  
12 about?

13 A. That's correct.

14 MR. SANDS: I'd like to move both exhibits 1 and  
15 2 into evidence.

16 MR. GOLD: No objection, Your Honor.

17 THE COURT: 1 and 2 are received in evidence.

18 BY MR. SANDS:

19 Q. Now, under the consultant agreement, how were you to  
20 be paid by Presidion Corporation for providing the services  
21 you were going to provide?

22 A. We were to be paid 75,000 dollars a month -- \$150,000  
23 down, \$750,000 deposit for expenses that would be incurred  
24 because they knew we'd be incurring outside professional  
25 advice, and then \$75,000 a month against our fee schedule

1 which was to be 25 percent of any tax savings and 50 percent  
2 of any other savings that occurred during the process.

3 Q. Now, did you eventually come up with a plan that you  
4 presented to Mr. Vanderburg as to how you were going to help  
5 them with this situation?

6 A. Yes. This is important from all the confusion that's  
7 come up. The original plan that was conceived was to take,  
8 to purchase a company -- for Presidion to purchase a  
9 corporation that had unused housing credits. Allen Dawn was  
10 the one that was selling these in the market. And that  
11 company would be purchased by Presidion, merged together,  
12 Sunshine companies would be merged into it and then put into  
13 Chapter 11, and we would get our fees in a regular ongoing  
14 basis from that event.

15 That hit a wall with the advisors. Number one,  
16 there was some issue as to whether the bankruptcy laws  
17 mandating automatic offset with the same creditor would apply  
18 to the government. Number two, a lot of people were suspect  
19 of the, of Allen Dawn and the minister that actually owned  
20 the housing credits, and so frankly what happened is this:  
21 I'm sitting down at Presidion's office in Jupiter and I only  
22 go there and sit in Craig's office, I never went there other  
23 than the conference room, and Chris O'Connor brings me in the  
24 organizational chart of the companies and he shows it to me.  
25 And I'm looking at the organizational chart of the companies



1 and I said, Chris, did you guys protect the corporate lines  
2 between Sunshine and Presidion Corporation? And he says yes,  
3 we always did. They're always different TIN numbers,  
4 different filings, Ernst and Young did this. The only reason  
5 you see these financial statements, Frank, is we have to  
6 consolidate them under FASBE something or another.

7 Q. When you say you protect, you meant that the money was  
8 kept separate from the subsidiary companies and Presidion  
9 Corporation?

10 A. And that they maintained the corporate veil  
11 constantly, that they protected the corporate veil. And then  
12 I said I have an answer, but because you guys are under  
13 criminal investigation in Detroit for racketeering, we need  
14 to walk down to the Taco Bell. And I got up and I took all  
15 their corporate executives down to the Taco Bell. I said let  
16 me tell you what I think. There is a much better, easier  
17 plan to solve your problem. It won't solve your problem,  
18 Craig, and it won't solve John Burcham's problem because  
19 Burcham wasn't present because your stock is going to get  
20 attached, but if I just buy these companies out from  
21 underneath you for nothing because they're worthless, you owe  
22 50, 60 million dollars in contingent and IRS claims, I'll  
23 take the companies, I'll go settle up your problems, you just  
24 have to pay the fee. But they're going to go off your  
25 balance sheet. And everybody looked around and said, gee,

1 it's really that simple. I said I think it's that simple.  
2 I'll call my guys, you call your professionals, and if it  
3 works, that's a plan.

4 Q. Now, is it correct to say then that your theory was  
5 that if you separated out the subsidiary corporations, the  
6 Sunshine companies, from Presidion Corporation, that  
7 Presidion Corporation therefore thereafter would have no  
8 liability for the Sunshine companies accumulated payroll tax  
9 debts?

10 A. Actually the theory hadn't gone that far. What the  
11 theory said at that time was that they'd be able to  
12 deconsolidate their financial statements and legitimately  
13 report to the SEC, their public filings, that here are our  
14 new financials because these companies with the debt have  
15 been divested. That was the theory. It subsequently came to  
16 be tested out or really at the request of Presidion's auditor  
17 how remote it would be that the public entity would have any  
18 liability for the preexisting debt.

19 Q. Were there tax memoranda prepared by attorneys with  
20 regard to that issue, whether or not there would be corporate  
21 liability by Presidion Corporation for the Sunshine companies  
22 debts even after the Sunshine companies were sold away from  
23 the company?

24 A. Yeah. Two memorandums were prepared by counsel for  
25 AQMI and one memorandum was prepared by counsel for

1 Presidion.

2 Q. I'd like to show you what's been marked for  
3 identification as defendant exhibits 17 and 19. Do you  
4 recognize those exhibits?

5 A. I do. 17 is a memorandum from Elena Wildermuth to  
6 myself on Berman Kean letterhead. And the second memorandum  
7 is one that was prepared for Presidion addressed to their  
8 general counsel, Jim Baiers, by Kostelanetz and Fink.

9 Q. Kostelanetz and Fink is the tax boutique firm in New  
10 York City?

11 A. Correct.

12 Q. Who were they representing?

13 A. Presidion Solutions, Presidion Corporation or both.

14 Q. And you mentioned Elena Wildermuth. Who was she  
15 working for?

16 A. For me.

17 Q. And who was she employed by?

18 A. Berman Kean and Riguera.

19 Q. How did you end up retaining that particular firm?

20 A. Richard Berman had been a trial attorney for me in a  
21 prior case and that case had successfully ended and he had  
22 kind of remained on as my personal attorney on a couple of  
23 matters thereafter and we had just, you know, gotten to be  
24 friends, if you will. And his firm had an LLM in taxation,  
25 that's Miss Wildermuth, and when there was a problem with our

1 original AQMI memo, he suggested that she would do a better  
2 job in preparing one than Mr. Haber. Mr. Haber was a staff  
3 attorney for me and he did a memo that, you know, seems to be  
4 reasonably accurate, I guess, but just doesn't look right.  
5 So the auditor didn't like it. It didn't have all the case  
6 citations and the copies of the particular lines of what was  
7 precedent in it, so we had a new one prepared.

8 Q. And as an upshot of the memo writing -- strike that.  
9 Move for the admission of what's been marked for  
10 identification purposes at 17 and 19 into evidence next in  
11 order.

12 MR. GOLD: No objection.

13 THE COURT: 17 and 19 are received for the  
14 defendant.

15 Q. Now, without getting into the specifics of those  
16 particular memos, what was your understanding as a result of  
17 the legal work that was being done by Kostelanetz and by the  
18 Berman firm as to whether the theory that the Sunshine  
19 companies could be separated from Presidion Corporation  
20 without any trailing liability to Presidion Corporation for  
21 the payroll taxes, whether that was a viable theory?

22 A. Kostelanetz and Fink my only contact was somewhere  
23 around November 30 or December 1 of 2004. Mr. Baiers, Mr.  
24 Vanderburg arranged a telephone conference with two of their  
25 partners. We had to wait for the second partner to show up

1 because they wouldn't have a phone call with just one partner  
2 present. I explained what was going to happen and they said,  
3 gee, this is a great idea. Less than 15 minutes. But they  
4 said we need to talk for a few more so we can at least bill  
5 an hour. They were being funny with the last statement, I  
6 hope. And they then said, okay, we heard everything you  
7 needed to say and we're going to tell our clients to go ahead  
8 with it. And that was the last I would hear of them until  
9 somewhere a couple years later I would eventually see the  
10 draft of their opinion. I don't know if that was before or  
11 after the investigation started, but it would have been at  
12 the end of it, if anything.

13 Other than that, Kostelanetz and Fink represented  
14 Presidion and maybe Craig and Jim individually as part of  
15 that Presidion engagement as to what their exposure would be.

16 Q. Did there come a time toward the end of 2004 then when  
17 you developed a plan whereby Presidion Corporation would sell  
18 off the Sunshine companies in order to reap the benefits  
19 under its balance sheet, etcetera, and not having those  
20 payroll tax liabilities?

21 A. Right after that phone call. Just prior to the phone  
22 call they wanted to talk to Rachlin, and after I had had this  
23 one, I had given them permission to go ahead and call  
24 directly if they wanted.

25 Q. Now, pursuant to that plan, who was going to buy the

1 Sunshine companies?

2 A. A company, Wellington Capital Group, that I had  
3 already established and that had done a couple of prior  
4 liquidations before.

5 Q. And how much was Wellington Capital going to buy the  
6 Sunshine companies for?

7 A. It was going to pay \$500,000 which was based on the  
8 current value of a licensed PEO in Florida. Now, frankly, I  
9 don't think Presidion was worth anything, but the payment was  
10 designed so that nobody could challenge the consideration  
11 later.

12 Q. Was the actual booked business, the PEO's contract  
13 that underlay the Sunshine companies, going to be provided  
14 as, along with the company itself as part of the sale?

15 A. No, they were not. They were going to be transferred  
16 by Presidion to its Paradigm subsidiary or I thought  
17 originally as PBS subsidiary, on December 31, 2004, before  
18 the business was sold.

19 Q. So what was Wellington actually going to get for its  
20 \$500,000 then if the PEO business was not included?

21 A. Wellington really wasn't going to get anything. I was  
22 going to get a fee which was to be paid by Presidion so that  
23 it didn't come out of the taxpayers of 25 percent of what we  
24 saved them and we knew we were going to make in a new  
25 consulting contract which would save them some money on their

1 insurance, and any money that I could salvage out of the  
2 non-indebted Sunshine entities. As it would turn out some of  
3 the Sunshine entities actually had like tax refunds coming  
4 and there were some refund checks done there. So that's what  
5 was supposed to be recovered.

6 Q. What work did you imagine or envision that you would  
7 have to do with regard to the Sunshine companies once you  
8 actually acquired them?

9 A. Well, the project was gigantic. They had multiple  
10 lawsuits, over a dozen lawsuits going including a really  
11 nasty class action lawsuit. The first thing I had to do was  
12 go get all these warehouses boxes. I had the receiver forget  
13 to pay the rent and my law records got destroyed, so we went  
14 and gathered up millions of records immediately after the  
15 filing of the case and put them in a warehouse unit so that  
16 they wouldn't get lost in case there was some subsequent  
17 inquiry, and because we knew that the CID investigation in  
18 Michigan was continuing. Although we were told that it was  
19 going to be terminated, it hadn't been yet, so we were going  
20 to have to hold on to those documents.

21 We were going to have to hire lawyers and  
22 represent Sunshine in all these actions. We're going to have  
23 to deal with the IRS in its case. And the last and all the  
24 way up until less than a month ago I continued to deal with  
25 the IRS out of Chicago on solving Sunshine issues, correcting

1 W-2s, whether an employee was in this period of time, winding  
2 down a company that had been in existence from 1983 to the  
3 present and had issued literally hundreds of W-2s. It's a  
4 monster task.

5 Q. Now, we've already entered into evidence a consultant  
6 agreement which appears to indicate that payments would only  
7 be made later on in 2005 with regard to any tax savings you  
8 could provide to Presidion Corporation. Were you willing to  
9 move forward with this particular deal and acquire the  
10 Sunshine companies with everything that entailed on the basis  
11 of consideration you might or might not receive in the  
12 future?

13 A. No, not only was I not willing to do it, I would never  
14 even have gotten around to being convinced because I'm  
15 sometimes stupidly persuaded to do things, but the rest of  
16 the Mirabilis AQMI Wellington people, Mr. Berman, nobody  
17 liked the Presidion people. They didn't trust them. They  
18 don't trust them. Mr. Myers refused to be in Orlando on the  
19 same day that Craig Vanderburg was in the city because he  
20 didn't want to be associated with him. So the only way to go  
21 forward so that I could pay Edie and Hans and everybody else  
22 was to have a large sum of money up front.

23 Q. And did you communicate that to Mr. Vanderburg?

24 A. I did.

25 Q. And when did you communicate that to him?



1 A. December 2 or 3, right after the Kostelanetz phone  
2 call.

3 Q. Was that an in person meeting or a telephone call?

4 A. Telephone call.

5 Q. And what if anything did Mr. Vanderburg tell you in  
6 response?

7 A. That they were, December would be an okay month for  
8 them because they had met their insurance requirements and  
9 they should be able to make a decent amount of payment to me.  
10 We didn't discuss a number. I think his number was much  
11 smaller than what my number was at the time.

12 Q. Do you recall what your number was?

13 A. I didn't tell him what my number was, but my number  
14 was ten million dollars.

15 Q. Now, I'd like to move forward a little bit and show  
16 you what's been marked for identification purposes as  
17 defendant's exhibit 5?

18 THE COURT: I want to make sure I understand  
19 this. You were going to buy the Sunshine companies for  
20 \$500,000 through Wellington.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And with that, you thought you were  
23 taking the tax liability that was outstanding, right?

24 THE DEFENDANT: Not that I was gaining any  
25 liability for the tax liability that was outstanding, just

1 that I was taking it away from the publicly traded  
2 corporation.

3 THE COURT: Where would it go? If you were  
4 taking it away from Presidion, where would it go?

5 THE DEFENDANT: It stayed with the Sunshine  
6 companies. It never changed.

7 THE COURT: Well, so you and Sunshine had, you  
8 took that tax liability with the purchase, right?

9 THE DEFENDANT: I took responsibility for it, but  
10 not for paying it, yes.

11 THE COURT: Well, when you say you took  
12 responsibility for it, but not to pay it, what do you mean?

13 THE DEFENDANT: Means that when I dealt with the  
14 IRS in the past, they made it clear to me that if the  
15 liability incurred before I was involved, I wouldn't be  
16 personally responsible for it.

17 BY MR. SANDS:

18 Q. Mr. Amodeo -- I might be able to clarify, Your Honor.

19 You're talking about the difference between the  
20 corporation being liable for the tax, the Sunshine companies  
21 being liable for the tax and you being personally liable for  
22 the tax separate and apart from the corporation?

23 A. Correct. That's what I meant.

24 Q. And your understanding was that the Sunshine companies  
25 would remain liable for the tax, but because you were not a

1 responsible person --

2 A. I would not be. Mr. Vanderburg and Mr. Baiers would  
3 still be. They would still remain individually liable for  
4 it. I told them that, and I told Miss Berkowitz that when I  
5 met with her that I understood the officers of Presidion  
6 would still be personally liable for the tax, but I didn't  
7 believe that the corporation would be liable for the tax.

8 MR. SANDS: I think that we can --

9 THE COURT: You didn't think that you would  
10 become a responsible person by --

11 THE DEFENDANT: No, I did not.

12 BY MR. SANDS:

13 Q. Was it your understanding, Mr. Amodeo, that the  
14 responsible persons would be the persons who had been  
15 responsible for collecting the taxes and paying them over at  
16 the Sunshine companies before the Sunshine companies were  
17 bought by you?

18 A. That's correct.

19 Q. Now, after the Sunshine companies were bought by you  
20 or bought by Wellington, if there had been additional  
21 collections at that point in time, would you potentially have  
22 been personally responsible?

23 A. I would have been personally responsible.

24 Q. Right. But after the acquisition, did the Sunshine  
25 companies make any collections of payroll taxes?

1 A. No. The plan called for the book of business to be  
2 transferred before they were purchased and the companies were  
3 shut down immediately.

4 Q. So to answer the judge's question, who did you  
5 understand, in that time period of December 2004, who was  
6 personally responsible under the hundred percent penalty for  
7 the non-payment of any payroll taxes during that period?

8 A. The controlling person and the licensed person in  
9 Florida of the Sunshine companies, their president and chief  
10 financial officer.

11 Q. Did you have any involvement in the Sunshine companies  
12 in terms of being an officer or an employee during December  
13 2004, before the property was sold, the corporation was sold  
14 on December 31?

15 A. No.

16 Q. Were the memos that you ultimately received supportive  
17 of the idea that the liability under the hundred percent  
18 penalty would adhere to Mr. Vanderburg and Mr. Baiers, the  
19 principals of Presidion Corporation, rather than a successor  
20 purchaser?

21 A. Yes. All the memos were consistent with that  
22 position, what the IRS called the strict SILO theory, IRS's  
23 term.

24 Q. Now, you just testified a minute ago that you were  
25 relying on the promise of some potential future payment to

1 take on the responsibility of the Sunshine companies in  
2 December 2004 without some payment up front, is that correct?

3 A. That's correct.

4 Q. Now, again, as the judge has asked, what  
5 responsibilities are you taking on if you don't have a  
6 personal responsibility for the accrued Sunshine companies  
7 payroll taxes, what exactly is it that you're taking on  
8 that's burdensome?

9 A. I still have a fiduciary liability to close the  
10 business, to handle the lawsuits, to wind down its affairs,  
11 to file reports and returns for all five of the companies  
12 because I became the liquidating director. So I mean I had  
13 duties under Florida law that I had to fulfill, I just didn't  
14 have any operating the business, it was closing the business.

15 Q. Did you also have duties with respect to negotiating  
16 with the IRS over the Sunshine companies own tax liabilities?

17 A. One of the original meetings in terms of how my role  
18 had shifted was I was now the representative of the  
19 companies. The IRS now saw me as the client as opposed to  
20 the consultant, at at least the first meeting of the IRS in  
21 January of 2005.

22 Q. And did you, in fact, become involved in subsequent  
23 negotiations over the course of the next months and even  
24 years with the IRS about the Sunshine companies' liabilities?

25 A. Yes.

1 Q. All right. Now, I'd like to direct your attention  
2 to -- may I approach, Your Honor?

3 THE COURT: Yes, sir.

4 Q. A document which has been marked for identification  
5 purposes as defendant's exhibit 5. Do you recognize that  
6 document?

7 A. I do.

8 Q. And what is that document?

9 A. These are the limited power of attorney documents that  
10 I had, the first -- well, the top page is an unsigned set of  
11 instructions to the limited power of attorney. The second  
12 sheet is a limited power of attorney that I had requested be  
13 prepared when the closing got delayed from December 8 to  
14 December 31.

15 Q. Okay. Let's break that down. Who was the -- who  
16 provided you these documents?

17 A. Jim Baiers.

18 Q. This is Jim Baiers at the Presidion Corporation, the  
19 company you were contracting with?

20 A. That's correct.

21 Q. And what was your understanding, again, explain to the  
22 judge, what was your understanding of the purpose of the  
23 power of attorney?

24 A. The power of attorney was such that if on December 31  
25 the deal didn't close, then Presidion wanted their 8.9

1 million dollars back, one way or another. The power of  
2 attorney was such that I did not have to pay it to Presidion.  
3 I could pay it to anybody I wanted to. Which truthfully at  
4 that stage of the game if it hadn't closed it probably would  
5 have been interplead because there was priority secured  
6 creditors who had a lien that they could probably claim, and  
7 then there was the IRS who would be fighting and the  
8 insurance companies, so it would have had to have been  
9 interplead, less a reasonable charge for fees which I could  
10 have made. That was the purpose of the power of attorney.

11 Q. Well, let's make clear for the court, the power of  
12 attorney actually would enable you to deal directly with the  
13 IRS, even though you didn't at that point in time own the  
14 Sunshine companies, correct?

15 A. That's correct.

16 Q. Now, you mentioned that there was a memorandum that  
17 accompanied the power of attorney, correct?

18 A. Yes.

19 Q. And could you explain to the court what that  
20 memorandum was? Again, this was from Baiers, correct?

21 A. That's correct.

22 Q. Can you explain what the memorandum was all about?

23 A. It was trying to -- actually when I first saw it I  
24 figured it was their way of trying to get out of paying the  
25 fee.

1 Q. Well, what did it ask you to do?

2 A. Oh. It said that I would have to deposit the money  
3 into a specific bank account, that on each and every day in  
4 which money was deposited into account -- I should just read  
5 it. The same day as the receipt of the tax deposits into  
6 this account, I, meaning Frank, will cause a certified check  
7 be made payable to the Internal Revenue Service and have the  
8 original certified check delivered to Laurie S. Holtz for the  
9 certified public accounting firm of Rachlin, Cohen and Holtz  
10 who is to hold the certified check until such time as I  
11 direct said firm to provide them to me for delivery to the  
12 IRS.

13 Q. Now, to break that down, was it your understanding at  
14 that point in time that they were, in essence, asking you to  
15 take monies that they would give you and hold them for future  
16 payment to the IRS?

17 A. That's what they were telling me. And they told me at  
18 the bottom of this in the next paragraph that if the deal  
19 didn't close, the deal didn't close, I give the checks back  
20 to them. By this time, Edie Curry had done an excruciating  
21 background check on all of these people, including what they  
22 had done at SES, so we were on a hundred percent alert that  
23 they're beginning to have all kinds of indications that they  
24 were involved in insurance fraud, letter of credit fraud,  
25 bank fraud, check kiting, all this other stuff. That last



1 paragraph told me exactly what was going to happen. And Mr.  
2 Berman confirmed it. They were going to do the same thing to  
3 me that Merrill Lynch tried to do in the Smith International  
4 case, give me the money, take the money back, and then say  
5 oh, it's his fault. So I got this, hit the roof.

6 Q. Did you send out a responsive e-mail once you had  
7 received that memorandum?

8 A. I did.

9 Q. I'd like to show you what's been marked for  
10 identification purposes as defendant's exhibit 6. May I  
11 approach, Your Honor?

12 THE COURT: Yes.

13 Q. Do you recognize that exhibit, Mr. Amodeo?

14 A. I do.

15 Q. And is that exhibit an e-mail from you?

16 A. In the chain of e-mails is an e-mail from me to Craig.

17 Q. Could you read -- it's a relatively brief e-mail, Your  
18 Honor. Could you read that e-mail?

19 A. Guys. I know you are nervous because your situation  
20 is about to change substantially. We are about to eliminate  
21 these taxes with no trailing liability to any party. This  
22 strategy is only executed on my own behalf because its value  
23 would rapidly decrease as Congress moved to close the  
24 loophole, so you're either in or you're out. At least this  
25 way you are no longer the responsible party for the taxes.

1 If on the other hand you prefer another strategy, just let me  
2 know and we will unwind the existing relationship. You have  
3 to view yourself in the future as being principals of a much  
4 larger enterprise. Talk to the people who have been  
5 previously involved and you will find that everybody is  
6 always treated fairly when they have -- even when they have  
7 not reciprocated. So stop worrying, but if you can't, then  
8 we need to do something different now.

9 Q. What were you trying to convey to them through that  
10 e-mail?

11 A. Is if they didn't want to do the deal and pay the fee,  
12 we'll just figure out some other solution like the bankruptcy  
13 that I had been talking about all along.

14 Q. Well, in what manner had you interpreted their  
15 instructions and power of attorney as being some sort of an  
16 indication that they weren't willing to do the deal and pay  
17 you the fee up front?

18 A. Well, because they said that the money goes back to  
19 them if the deal doesn't close and that was as much, I mean  
20 they could just say we're not going to sell the business to  
21 you.

22 Q. And they'd also indicated that you were supposed to  
23 pay the money over on a daily basis to Mr. Holtz, correct?

24 MR. GOLD: Objection, Your Honor. I've been  
25 holding off on objections regarding leading, but I'd like Mr.

1 Amodeo to testify here.

2 THE COURT: Sustained.

3 Q. What else did they specify that you needed to do in  
4 that memorandum of instructions?

5 A. That I had to daily make a check and give it to Mr.  
6 Holtz, and that Mr. Holtz was to hold those checks until they  
7 were to be delivered directly to the IRS or returned to the  
8 principals of Presidion.

9 MR. SANDS: I'd like to move for the admission  
10 into evidence of defendant's exhibits five and six.

11 MR. GOLD: No objection.

12 THE COURT: Five and six are received in  
13 evidence.

14 BY MR. SANDS:

15 Q. Is there a subsequent e-mail trail in that document  
16 indicating a subsequent e-mail that was sent out in response  
17 to your e-mail?

18 A. Yes.

19 Q. Who was that e-mail from and who was it to?

20 A. It's from Jim Baiers to Craig Vanderburg.

21 Q. And what does it say?

22 A. It says let's call and settle him down. By the way, I  
23 like this e-mail for the files. Jim Baiers wrote this to  
24 Craig Vanderburg. I didn't see that e-mail until my raid on  
25 Troy as the government so artfully called it when I first did

1 it and went and got the actual computers, which by this time  
2 belonged to Wellington which is in 2007. I then found their  
3 internal communication in light of my response where it said,  
4 you know, settle him down. They clearly didn't want me to go  
5 away and they dropped any reference to any restraint on  
6 the -- any instructions on the power of attorney after this  
7 time.

8 Q. In the memorandum that accompanies the power of  
9 attorney, was there a place in the memorandum that you could,  
10 you would sign in acknowledgment?

11 A. Yes.

12 Q. Did you ever sign and return back that memorandum?

13 A. No.

14 Q. Why didn't you?

15 A. Because it wasn't the deal at all. The money was  
16 fees. They were in our hand irrevocably once received. The  
17 only question was how much. Truthfully, if they had pulled  
18 the deal in December I would have probably charged a million  
19 dollars for liquidated damages and the sent the rest of the  
20 money to the nearest circuit court.

21 Q. Subsequent to this e-mail, did you have any  
22 conversations with Mr. Vanderburg regarding what was going to  
23 be done, whether the deal was going to fall through or not?

24 A. I called Craig after I settled down from my e-mail,  
25 wandered around the floor a couple of times, which was

1 circular, and I called him and just said, Craig, look, I  
2 really like the PEO, you really need our business, especially  
3 Jason's family, so if you don't want to do this, we don't do  
4 it, but otherwise you have to pay the fee, nobody trusts you.  
5 He says I'll pay the fee, Frank, but we got to kind of keep  
6 it on the Q-T because some of my employees will be upset and  
7 I don't want a public disclosure. I don't have to file an  
8 8-K until it's 72 hours after a transaction occurs or a 10-K,  
9 I don't know which one. And so you have to keep it on the  
10 Q-T until the deal is closed.

11 Q. And did they subsequently, and I'm talking about the  
12 Presidion Corporation here, start making payments to your  
13 company?

14 A. Yes.

15 Q. Over what period of time did they make payments?

16 A. Through the rest of the month, December 10 or 14 or  
17 something they got started and they made payments to the rest  
18 of the month.

19 Q. And how much total did they pay during that period of  
20 time?

21 A. 8.9 million.

22 Q. Did you receive any communications from Mr. Vanderburg  
23 during that period of time asking you why you had not  
24 returned the signed memorandum of instructions?

25 A. No.

1 Q. Did you receive any inquiries from Mr. Vanderburg or  
2 anybody else during that period of time asking you whether  
3 you were actually paying monies over pursuant to the  
4 memorandum of instructions to Mr. Holtz to hold on a daily  
5 basis?

6 A. No.

7 Q. Did you ever receive any word from Mr. Holtz that  
8 anybody had ever made any inquiries to him about whether he  
9 was holding this money on a daily basis?

10 A. No.

11 Q. Did Mr. Vanderburg know that you were a convicted  
12 felon?

13 A. He did.

14 Q. How did he know that?

15 A. Because on the week of October 18 when I signed the  
16 original consultant agreement, I used my normal business  
17 practice. I drove down to Jupiter, Florida, I met with him  
18 and Jim Baiers, and I went through my entire history, the  
19 disease, the bipolar condition.

20 During that meeting something else occurred. He  
21 told me they had already known about it, they had been told  
22 about it by Risk Transfer who had done a background check on  
23 me. Risk Transfer is an insurance agent that represented  
24 Presidion. They also provided the E and O coverage for  
25 Matrix Network up here in Orlando. And I knew Risk Transfer

1 had done this and told them because Brad Isaac of Risk  
2 Transfer had told Woody Johnson and John Murphy over the  
3 prior weekend that they had already told Presidion and that  
4 because of the relationship they had a conflict of interest  
5 and they were going to not act as Matrix Network's insurance  
6 agent in the future, that when the policy expired they'd have  
7 to go to a different company.

8 Q. Did the deal go through? Did you eventually acquire  
9 through Wellington the Sunshine companies?

10 A. It did.

11 Q. Now, prior to the deal going through, did you meet  
12 with advisors in late December to discuss the deal?

13 A. I did.

14 Q. Who did you meet with?

15 A. In addition to the original individuals I named as I  
16 now had funds coming that would allow me to retain them, I  
17 met with Richard Berman, Hans Beyer, and members of Laurie  
18 Holtz's firm which included Mortimer Holster or Holliman,  
19 David Appel, Matt Druckman, Sharmila Khanorkar. I met with  
20 Ken Levine and Thomas Too in anticipation of the Sunshine  
21 transaction.

22 Q. Was there a meeting that was actually held on December  
23 21?

24 A. There was.

25 Q. And who was present at that meeting?

1 A. There was Jim Baiers of Presidion was present. Edie  
2 Curry was present. Jason Carlson was present. Laurie Holtz  
3 was present. Sharmila Khanorkar was present. David Appel  
4 was present. And maybe a couple of other Rachlin's employees  
5 were present. Ken Levine from the Too firm was present. Mr.  
6 Berman I think had a few minutes on the telephone but he had  
7 a calendaring problem so he wasn't present. And those are  
8 the ones I can remember off the top of my head, though I have  
9 Mr. Baiers' notes and he was making records of who else might  
10 have been there.

11 MR. SANDS: May I approach, Your Honor?

12 THE COURT: Yes, sir.

13 Q. I'm showing you what's been marked for identification  
14 purposes as defendant's exhibit 7 and 8. Do you recognize  
15 defendant exhibit 7?

16 A. I do.

17 Q. And what is that?

18 A. These are the handwritten notes from Mr. Baiers  
19 concerning this meeting. These notes were obtained Mr.  
20 Baiers' files when Presidion Solutions was shut down.

21 Q. And what is exhibit 8?

22 A. Exhibit 8 is the agenda for the meeting, the typed  
23 agenda for the meeting.

24 MR. SANDS: I'd like to move for the admission of  
25 defendant's exhibits marked 7 and 8 into evidence.



1 MR. GOLD: No objection, Your Honor.

2 THE COURT: 7 and 8 are received in evidence.

3 BY MR. SANDS:

4 Q. Mr. Amodeo, did you withhold any information about the  
5 facts and circumstances of this deal from any of the people  
6 at the meeting?

7 A. No.

8 Q. Did anyone at the meeting raise any objections to you  
9 about the deal as it was structured?

10 A. No.

11 Q. Now, you mentioned -- did you mention Mr. Holtz?

12 A. Yes, Mr. Holtz was there.

13 Q. What was your relationship at that point in time to  
14 Mr. Holtz?

15 A. Laurie Holtz had become sort of my closest business  
16 advisor. He had moved beyond the forensic accounting  
17 relationship and become, you know, a personal and business  
18 advisor on lots of matters. That's why he brought in so many  
19 members of his firm for this meeting so that they could take  
20 up all the particular areas.

21 Q. What role did you want him to play with regard to this  
22 particular transaction?

23 A. Sort of like the administrative head. He was the guy  
24 that would make sure that -- he didn't mind telling people  
25 things straightforward and point-blank. Too often I had

1 found that I had glazed things over and I tried to make  
2 people feel good about it and I don't really get hard nosed  
3 until I actually get pushed to a wall, but Laurie was going  
4 to come in and make sure that people did what they were  
5 supposed to, that they followed their assignments and they  
6 stayed on their plan and kind of coordinate the activities.  
7 He was also going to put his master imprimatur on how to  
8 present and negotiate the deal with the IRS.

9 Q. What did you understand at that point in time Mr.  
10 Holtz's background to be?

11 A. I understood that Mr. Holtz was probably the founder  
12 of forensic accounting maybe in the world and that certainly  
13 since his big gold case that had been done in the Sixties or  
14 Seventies with Mr. Too that he was recognized as the, one of  
15 the leading forensic accountants by the government.

16 Q. Did you also become involved during this same period  
17 of time with a gentleman by the name of Mr. Marrero who was a  
18 principal in Mr. Holtz's firm?

19 A. I did.

20 Q. What did you understand Mr. Marrero's background to  
21 be?

22 A. I understood that Mr. Marrero had been the former head  
23 of the CID in the South Florida region including the  
24 Caribbean, and deputy commissioner, I understand that's not  
25 quite what his title was, at the IRS in Washington in charge

1 of developing PEO policy.

2 Q. Was Mr. Marrero at the meeting?

3 A. Mr. Marrero was not at the meeting. He was in their  
4 Fort Lauderdale office, the meeting was in Miami.

5 Q. Did Mr. Marrero subsequently become involved in the  
6 case in some way?

7 A. Yes, I went by and met Mr. Marrero because he required  
8 a couple of hour interview before he took on a client  
9 personally, so I went and had that interview, talked to him  
10 about what was going on and answered questions about my past,  
11 which I did at this meeting as well at Mr. Holtz's request,  
12 and then he became the power of attorney for the Sunshine  
13 companies.

14 Q. Now, I want to make clear here, were Mr. Holtz and Mr.  
15 Marrero brought into this case on your initiative or on  
16 somebody else's initiative?

17 A. On my initiative.

18 Q. When did the deal actually go through?

19 A. Probably January 2 it was actually when it went  
20 through. There was some problem with John Burcham which I've  
21 never been able to get clear because it's with John Burcham  
22 and his partners and so it really got delayed to January 2,  
23 but the official closing date is December 31. But there was  
24 a couple day transition issue.

25 Q. All right. Now, just if you could briefly explain to

1 the court what you subsequently did with regard to the  
2 Sunshine companies in terms of winding them down.

3 A. I went, I substituted in or in all the legal cases. I  
4 got all the boxes, put them in warehouses in Hollywood,  
5 Florida. Set up a system to deal with the W-2s that were  
6 just being issued because the end of a year so a bunch of  
7 W-2s were being issued and historic claims and issues. And  
8 then I contacted the IRS. I called, I was going down to see  
9 Miss Berkowitz on January 5, 2006 -- 2005 regarding another  
10 case. She had handled a prior case of a similar nature.

11 Q. Miss Berkowitz was a revenue agent or an officer with  
12 the IRS?

13 A. That's correct. And when I went down there, I told  
14 her I had a big case I was bringing with me, or Mr. Myers  
15 told her this actually.

16 Q. And did you ultimately end up meeting with her?

17 A. I ended up meeting with her and one of their  
18 bankruptcy specialists.

19 Q. And what did you tell her at that meeting?

20 A. That I had a 25 million dollar tax case, greater than  
21 25 million dollars, no penalties and interest in that, that  
22 it was going to be shut down so that I'd be taking over and  
23 running it, and that I wanted to try to work out some kind of  
24 solution. Most importantly is if it worked well, the former  
25 responsible persons, the former owners, would get a whole

1 bunch of money out of a stock valuation, so if she attached  
2 it, the IRS would get paid, and that was my plan for them to  
3 get paid back.

4 Q. When you talk about the former owners, are you talking  
5 about Mr. Vanderburg and Baiers?

6 A. Vanderburg and Burcham would have a substantial amount  
7 of money coming because of the way my plan worked and the IRS  
8 would get almost all.

9 Q. The theory being that the Presidion Corporation stock  
10 value would increase and they would have more wealth?

11 A. Correct.

12 MR. GOLD: Objection, leading.

13 THE COURT: Sustained.

14 Q. What was the theory?

15 A. The theory was when the tax debt came off the  
16 consolidated financials, Presidion would now look like it was  
17 going to be in the future a profitable company and have  
18 considerably more value, and since it was publicly traded, as  
19 Mr. Posner tells us, the value will go whack, way up  
20 immediately. That's what the theory was for Presidion. And  
21 it seems there is, there was some truth to that. I mean, you  
22 know, this is the way it was expounded by Vanderburg and  
23 their whole crew.

24 There was an increase in price of the Presidion  
25 stock during this period of time. What I didn't know and

1 what I don't think anybody on my side understood because we  
2 hadn't understood the fundamentals of their business at the  
3 time is just getting rid of the taxes didn't solve the  
4 problem. You had to get underneath their workers' comp, you  
5 had to get all their contingent liabilities and their bank  
6 account float to realize that there was a big snowball coming  
7 down the hill and all I had done is take the first snowball  
8 out, the second one was still rolling our way, and we  
9 wouldn't find that out until the second part of this. But  
10 that's what I told Miss Berkowitz. Their stock will be worth  
11 it, you assess them personally, you get paid.

12 Q. What if any involvement did Mr. Marrero subsequently  
13 have in negotiations with the IRS?

14 A. Mr. Marrero was there with me that day.

15 Q. Did he have any subsequent involvement?

16 A. He was the principal power of attorney for the first  
17 six months, and then he reviewed any correspondence of mine  
18 that would go to the IRS thereafter.

19 Q. In that capacity, did he have subsequent meetings with  
20 Revenue Agent Berkowitz?

21 A. Several occasions.

22 Q. Now, how much money did you personally get out of the  
23 8.9 million dollars that was paid over to Wellington?

24 A. Of the 8.9, 40 percent was my personal fee of all the  
25 money that came in and was collected, so it means, of the 8.9

1 million, 3.6 should have been what I personally got. I think  
2 that number is a little bit higher from having seen  
3 subsequent review of the numbers and I may have gotten four  
4 million dollars of the first 8.9, or 4.2.

5 Q. Where did the rest of the money go?

6 A. It was dispersed from AQMI to a variety of AQMI  
7 companies that were owned, operated by the other members of  
8 the consulting team, the names that I mentioned before.  
9 Payment of professional fees. Establishing, you know,  
10 Mirabilis's offices. The Mirabilis people were the other  
11 consultants and they were entitled to the rest of the money.  
12 It wasn't all my money. I just got the contract and by my  
13 deal with Bob Curry and Matrix, 40 percent to the finder, the  
14 rest to the company.

15 Q. What did you do with the money that went to you  
16 personally?

17 A. I paid some of it into my stepson's trust to make sure  
18 that because his dad, like I said, used to be a judge and  
19 never, hadn't seen him since he was six. I wanted to make  
20 sure Gentry always had care. So that was the first thing I  
21 did. And then I, even though my wife did it kicking and  
22 screaming, I bought her a house. I said Claire, I want to  
23 buy you this house because you spent 20 years suffering  
24 through, and I bought her the house. And then I put some  
25 money in the bank. And Mr. Berman said he's got a couple of

1 really good deals from his car dealer down in Boca Raton, his  
2 client, so I bought a car from that dealer, and then I bought  
3 Presidion's, I guess I bought Presidion's old BMW. They had  
4 a BMW that was in the middle of a lease and Mr. Amar had got  
5 kind of his heel into it. Mr. Amar is very frugal. He said  
6 nobody's ever driving this BMW again. The problem is you  
7 couldn't get it off lease without a big deficiency, so I  
8 bought it out of Presidion so I would have another car to  
9 drive.

10 Q. Did you buy any other real property other than the  
11 house for your wife?

12 A. Some subsequent period of time I bought a condominium  
13 which was, and the reason I bought it is because one day when  
14 I was just renting that little house from when I was with the  
15 accounting firm, we walked by this townhouse that was under  
16 construction, we walked in it and upstairs and Claire just  
17 liked it, so one day I just went and bought it. Here's a  
18 gift.

19 Q. Just for purposes of clarifying what we're talking  
20 about, what's the address of the property you bought for your  
21 wife?

22 A. 709 Euclid was the residence and 1159 Delaney is the  
23 town house.

24 Q. And that subsequent property, the townhouse that you  
25 purchased, with what funds did you purchase that townhouse?



1 A. Just funds out of my bank account I would.

2 Q. Were those funds ultimately derived from the payment  
3 that you received for the Sunshine companies plan in December  
4 of 2004?

5 A. Yes.

6 Q. Now, I'd like to move on, Your Honor, to the next  
7 section that we talked about. I want to talk with you a  
8 little bit about people that you dealt with at Mirabilis and  
9 what their relationship was to you. You've already talked  
10 about Mr. Holtz, correct?

11 A. Correct.

12 Q. What was Mr. Berman's relationship to you?

13 A. Mr. Berman was my principal attorney.

14 Q. How long had you known Mr. Berman?

15 A. Oh, it was the, had to be early 2004, middle, I mean  
16 spring of 2004. 2003. I'm sorry.

17 Q. What sort of business relationship had you had since  
18 that point in time?

19 A. We worked pretty closely in the Smith case and then  
20 just he got to like me and I got to like him, and after that  
21 I had gotten his advice on a couple of the business  
22 transactions. His words to me at the end of Smith were never  
23 do anything again unless you tell me in advance. I'll keep  
24 you out of trouble. So I started doing that.

25 Q. When you subsequently became involved in what in the

1           sentencing memorandum is referred to as the PBS plan, did you  
2           involve Mr. Holtz?

3           A.           Yes.

4           Q.           Why?

5           A.           Because he was going to handle how to present the  
6           thing to the IRS. I mean he was there to make sure that I  
7           and nobody, none of the young junior guys stepped over any  
8           lines. His job was to make sure our plan was legitimate and  
9           legal and didn't get anybody in trouble, and also didn't  
10          cause me to lose these fees I had just gotten. I mean I  
11          didn't want to take any chance on getting sued any more.

12          Q.          What if any concerns did you have about you stepping  
13          over a line?

14          A.          I was bipolar. I had always known I was bipolar.  
15          And, you know, I wasn't doing, you know, I was never ever  
16          again comfortable that being bipolar that I wouldn't -- would  
17          be able to have the proper perspective unless I had some  
18          balance, somebody to be a sounding board. Mr. Holtz said  
19          I'll watch you and if I ever think you're just going a little  
20          bit crazy, I'm going to call you to the carpet. I'm not  
21          afraid to say no. I'm a wealthy man, I don't need your  
22          money, I don't need your prestige, I want to do something  
23          different in life, and you sound like stuff you're doing is  
24          really exciting.

25          Q.          What if any involvement did Mr. Berman have in the PBS

1 plan?

2 A. Mr. Berman's involvement in the PBS plan was his  
3 offices were kind of our functional operating facility.  
4 That's where we would meet to organize and debrief. And he,  
5 otherwise he just kind of acted as sort of over floating  
6 counsel. I wouldn't say that Mr. Berman got into the details  
7 of the action plan of the PBS plan, he was just present when  
8 it was discussed and set out.

9 Q. In implementing the PBS plan in 2006, who else were  
10 you relying upon for advice and counsel with regard to this  
11 plan?

12 A. The PBS planning team was Hans Beyer --

13 Q. Briefly just describe who that person is.

14 A. He was a partner of Buchanan and Ingersoll. He was  
15 co- chair of the creditors debtors bar -- the creditors  
16 debtors committee of the Florida Bar. He had been my  
17 attorney since I had a case with Atlantic America Capital  
18 Group and they were my client. At that time he was their  
19 attorney, then he became my attorney. And so he's a  
20 bankruptcy expert. He did the -- his case I guess is the  
21 current standard in the Eleventh Circuit on subsequent  
22 liability of a transferee and it was the Evergreen case and  
23 he was the attorney for the creditors.

24 Q. Anybody else? You've mentioned Mr. Holtz, Mr. Berman,  
25 Mr. Beyer.

1 A. Edie Curry. Edie Curry was a UCC Article 9 expert by  
2 her own account and was the one that would, had confirmed  
3 that the use of payroll taxes was, one, not illegal, and  
4 that, two, that the liens of a properly perfected security  
5 interest primed any unsecured creditor including the IRS. So  
6 go on or?

7 Q. Were there any other principal persons, attorneys,  
8 accountants, that you relied upon?

9 A. By this time Jim Baiers, who was, since PBS would now  
10 be me, Jim Baiers was general counsel. He had confirmed that  
11 Mr. Patterson, the special agent in charge of the Detroit,  
12 Michigan criminal racketeering investigation had confirmed  
13 that delinquent taxes were a civil matter only and he had  
14 produced for me the February 4 letter from Assistant U.S.  
15 Attorney Corbett which said they found no criminal conduct  
16 with Presidion and they were going to close that  
17 investigation.

18 Q. Was that from Special Agent Patterson?

19 A. That's correct.

20 Q. I'd like to show you what's been marked for  
21 identification purposes as defendant's exhibit 13. May I  
22 approach?

23 THE COURT: Yes, sir.

24 Q. Is that the letter you're talking about?

25 A. That is correct.

1 MR. SANDS: Move for the admission of exhibit 13  
2 into evidence.

3 MR. GOLD: No objection, Your Honor.

4 THE COURT: 13 is received in evidence.

5 THE WITNESS: Next was Robert Moreyra. In fact,  
6 Moreyra and I hadn't talked much since the Sunshine plan  
7 since all the money had been disbursed.

8 Moreyra was an investment banker at American  
9 Alliance Capital. He came and told me how well connected his  
10 partners were and everything else, which didn't mean a lot to  
11 me at the time, they would in a year, but what he did tell me  
12 is that they had been watching some PEO transactions and  
13 these companies are trading 37, 44, 45 times earnings. And  
14 that if this PEO generated any kind of cash flow that I'm  
15 talking about, he could make it worth hundreds of millions of  
16 dollars. And always we needed to do is make sure we got rid  
17 of the hairs, that was the term they used. You got to get me  
18 the PEO without the hairs, Frank. If you can do that, be  
19 hundreds of millions of dollars.

20 Q. Let me step back for a moment. Understanding that the  
21 judge has read the sentencing memorandum, just please explain  
22 in a nutshell what your plan was, the PBS plan in the second  
23 half of 2006 involving the PBS company.

24 A. To not pay the payroll taxes, to pay off all the other  
25 debts, to build an infrastructure that would let the book of

1 business be put in that was clean, and essentially shaving  
2 off all the hairs, and then selling the company, paying off  
3 the taxes and reaping the profits.

4 Q. Did you discuss the PBS plan with the attorneys and  
5 advisors you just testified about?

6 A. Yes.

7 Q. Did anyone raise any objections to the PBS plan?

8 A. Only that Craig Vanderburg was still there, that we  
9 should probably fire him right away as opposed to waiting for  
10 the 10-Ks and 10-Qs to be filed. My response was who's going  
11 to sign them because Sarbanes-Oxley was kind of out there and  
12 everybody said, well, maybe he should stay just till he signs  
13 them.

14 Q. What affect if any did the lack of any objections from  
15 your advisors have on your own decision making with regard to  
16 whether to go through with the PBS plan?

17 A. Complete hundred percent, you know, confidence that I  
18 was just brilliant. I mean I just figured, okay, see, all  
19 these smart credentialed, well-established, non-flawed  
20 individuals had confirmed my idea, so I'm good to go.

21 Q. And what did you ultimately intend on doing with all  
22 that money that was being withheld from the IRS in payroll  
23 tax collections from the various PEO companies?

24 A. It was used to pay operating expenses, creditors, and  
25 to build the infrastructure of the, of AEM.

1 Q. And what was your bigger plan?

2 A. Oh, beyond taking over the world you mean? You mean  
3 selling and going public?

4 Q. Well, tell me about that.

5 A. Oh. Once the -- what had happened earlier in the year  
6 is Fred Sandlin, one of the founders of the Sunshine  
7 companies, had bought a shell called AEM, and he had become  
8 really close with Edie and so he was going to sell his shell  
9 to Presidion, and Edie, we blocked that sale because by that  
10 time Mirabilis was saying we want to be in the PEO business  
11 and we don't like Craig and Jim. Frank, we told you, they're  
12 bad news, snakes in the grass, blah, blah, blah, and we're  
13 going to keep this AEM shell which had had a very favorable  
14 suit array and we're going to build our own PEO business. I  
15 said okay, you've got that shell right there. And when Craig  
16 came down and saw me again, it was the match made in heaven.  
17 Mirabilis with its perfectly clean board of directors, its  
18 very responsible pristine officers, and Presidion with a big  
19 gigantic book of business and the hairy woolly as Robert  
20 Moreyra said. Take Presidion's contracts, put them in AEM,  
21 make an agreement so that Presidion gets the money back,  
22 Presidion pays the money to the IRS, this company gets sold,  
23 many hundreds of millions of dollars.

24 Q. You mentioned pristine officers. Certainly you  
25 weren't pristine at that point in time, you were a convicted

1 felon. Who were you talking about?

2 A. Which is why I am infuriated. In May of 2005, read  
3 the reports, I wanted to be the controlling person of  
4 Presidion. I wanted to walk in the door and say these are my  
5 decisions, I make them, I'll decide them and I'll take  
6 responsibility for them. Mr. Berman said, no. The law firm  
7 of Foley and Lardner said, nope, you can't do it. We have to  
8 go to public hearings, your background's going to come out.  
9 I said my background is on my website, who cares if it comes  
10 out. I said it doesn't matter. You can't be a viable public  
11 entity. We can't be a viable public entity with you at the  
12 head of it. You can't do that. And they said furthermore,  
13 if you do this, this, this, this, you're a controlling person  
14 of the PEO and you're responsible for it, so you shouldn't do  
15 them. I didn't do them at that point in time, but I wasn't  
16 the pristine head of it. The pristine head of it would be  
17 Frank Hailstones and eventually the new person with more  
18 expertise, Mike Stanley, Laurie Holtz, Jim Berman, Jim  
19 Sadrianna. And more or less started expanding rapidly,  
20 beginning in June of 2005, filling up a board of directors of  
21 absolutely a hundred percent pristine backgrounds. Full-time  
22 employees, not part-time employees, not consultants and not  
23 people who used their name. They came on, got paid 120, 150,  
24 300,000 dollars a year and got the large stake of Mirabilis.  
25 That was what would happen.



1                   So that was the pristine company that ultimately  
2 would result, take over the Presidion book of business,  
3 taking my idea, sell it and make a whole bunch of money on  
4 it.

5           Q.        You mentioned a grander plan. What was your grander  
6 plan?

7           A.        The grander plan was tie in my world global theory to  
8 making a lot of money on Mirabilis and any PEO. The PEO  
9 would take the money, buy companies that had lots of  
10 employees, connect them up, and then the other company would  
11 be worth more money, they had lower labor costs because of  
12 the PEO, and the PEO would be worth more money because it had  
13 more employees. That was the grander plan. The question was  
14 how to capitalize it. In all the discussions Robert said he  
15 needed the hairs off, first of all, so the way to capitalize  
16 it was use some of the tax money to buy some companies that  
17 made both the businesses worth more and made everybody more  
18 likely to be repaid.

19          Q.        Did you actually think at this time that eventually  
20 this would somehow lead to your being the emperor of the  
21 earth and governments would wither away?

22          A.        Absolutely. The notion was that -- here's the way I  
23 thought about it. I understand now it seems kind of  
24 farfetched, but at the deep core I still believe it. You put  
25 this company into an area and enough people go to work for

1 it, here's what you do. It was on that tape. If you work  
2 for the company for a year, you get a \$500 gift certificate  
3 to go to any one of our stores and buy things. If you worked  
4 for the company for another year, you get a free custom made  
5 suit and eventually you give rewards to people who just stay  
6 long enough, you get enough employees involved, you get their  
7 families involved, and then you know what happens? If you  
8 want to change the way somebody votes on zoning committees,  
9 it's really simple. You send out a notice in the paycheck  
10 and say we really think it's in all of our best interest if  
11 you vote this way. Suddenly it doesn't matter because the  
12 people are going to know what's really going on and you're be  
13 able to direct votes. That's what I thought would ultimately  
14 happen, not with Mirabilis and AEM. Mirabilis and AEM would  
15 be sold to make enough money to pay the IRS to let everybody  
16 cash out, and then I'd have enough capital to go do it again.

17 Q. Did you share your thoughts about your final end game,  
18 your capital genesis plan with the other people at Mirabilis?

19 A. Absolutely. Mr. Billings had the best line of all  
20 because he brought in some law enforcement -- when he was in  
21 trouble in the Congo, we had a lot of real current law  
22 enforcement with us, that's why when you watch the Congo you  
23 have those faces blacked out because they weren't really  
24 supposed to be in our offices. And later on when we were,  
25 everything was good, he would introduce them, this is Frank

1 Amodeo who wants to take over the world, but in a good way,  
2 not a bad way. So don't worry about it, it's okay that he  
3 wants to be emperor because it's a good thing and it's not  
4 quite like it sounds. That was his description.

5 Q. Did you share -- let me step back. What was Dr.  
6 Pollack's involvement, if any, in Mirabilis during the period  
7 of the implementation of the PBS plan and thereafter, second  
8 half of 2005 and on?

9 A. Dr. Pollack was a director of both Presidion and  
10 Mirabilis and he was charged with handling the communications  
11 between Presidion and Mirabilis because they didn't like to  
12 talk to each other. I mean they really despised each other.  
13 And at some point in time I just couldn't take it. And so  
14 Dr. Pollack, since he was a director of both companies,  
15 handled that role. Particularly with the group that came in  
16 with Laurie, I mean they were very quiet but they were very  
17 conscientious that everything was done right as to PEO  
18 licensing and stuff and they were very upset by the kind of  
19 loosey-goosey things that were in transition.

20 Q. Did you share your ideas about world domination with  
21 Dr. Pollack?

22 A. Yes.

23 Q. What did he tell you?

24 A. He told me it would probably be a really good thing to  
25 have the world changed and maybe I'd get the Star Trek utopia

1 when it all got done. And along the way he would give me  
2 advice on how to accomplish it.

3 THE COURT: Well, we're going to take a break  
4 right now anyway.

5 Court is in recess for 15 minutes.

6 (BRIEF RECESS.)

7 THE COURT: You may proceed.

8 MR. SANDS: I have some additional exhibits which  
9 may be shown. I just want the judge to have copies. I've  
10 scrawled the number on the top. Those are in addition to the  
11 ones I've already provided to the court.

12 Q. Mr. Amodeo, we were talking just a moment ago about  
13 Dr. Pollack. I'd like to direct your attention to what's  
14 been marked for identification purposes as defendant's  
15 exhibit 51. May I approach, Your Honor?

16 THE COURT: Yes, sir.

17 Q. Do you recognize that exhibit?

18 A. I do.

19 Q. What is that exhibit?

20 A. This is a book and a photo given to me by Dr. Pollack.

21 Q. What's the name of the book?

22 A. *How to Start Your Own Country.*

23 Q. Okay. That is a Xerox of the cover of the book and an  
24 inscription on the inside, is that right?

25 A. That is correct.

1 Q. Did you read the book?

2 A. No, I did not.

3 MR. SANDS: I'd like to move for the admission of  
4 that document into evidence as number 51 in order.

5 THE COURT: 51 is received in evidence.

6 MR. GOLD: Wait, Your Honor. I just need to take  
7 a look at it. He showed it to us. I didn't get a copy. I  
8 just want to take a look at something.

9 THE COURT: You can have my copy.

10 MR. GOLD: Your Honor, I have no objection.

11 THE COURT: 51 is received in evidence.

12 BY MR. SANDS:

13 Q. Mr. Amodeo, would you read the inscription on the  
14 inside of that book?

15 A. 7-18-05. To my friend, Frank. The first word is  
16 thank you for allowing me to share in your dream and your  
17 journey. We will succeed. Bob.

18 Q. I'd like to show you now what's been marked for  
19 identification purposes as defendant's exhibit 52. May I  
20 approach, Your Honor?

21 THE COURT: Yes, sir.

22 Q. Do you recognize that exhibit?

23 A. I do.

24 Q. What is that exhibit?

25 A. This is a communication between my wife and Dr.

1 Pollack in March of 2006.

2 Q. What sort of communication is it?

3 A. It's an e-mail. What it's about or --

4 Q. What are the circumstances of the e-mail as you  
5 understand it?

6 A. Dr. Pollack and his wife had invited my wife and me  
7 out to dinner really trying to reconcile with her since we  
8 had been, you know, really in stress since, you know, the end  
9 of '05 when she felt I was way off my chain again, and she  
10 then writes -- and the dinner got called off. My wife at the  
11 last moment just said I'm not going to go out with you  
12 talking about conquering the world, and so she canceled the  
13 meeting. She wanted to make sure that I made it very clear  
14 to the Pollacks that it wasn't them that was any problem with  
15 that dinner, and that's what starts this e-mail chain with  
16 which there are a couple or three pages that related to it.  
17 And then finally she is clearing up once and for all, this is  
18 what that last description was, is, in case Frank did not  
19 fully inform you, I refused to go anywhere with Frank that  
20 weekend. This is due to the fact that it's often very  
21 difficult to be around a megalomaniac. When my senses tell  
22 me I need a break from it, I pay attention and do it. And  
23 Dr. Pollack sends back, you know, that he understands.

24 Q. Is there reference in that to enablers?

25 A. Oh, yes. The next paragraph is that when she says she

1 needs a break from it and she does it, true, it creates  
2 scheduling problems from time to time. However, that is just  
3 one of the awkward side affects of life with Frank. Almost  
4 everyone has enabled Frank's peculiarity. I am the one that  
5 lives with it at close range. Talk to Frank about a date and  
6 let me know what he says. Hint, nail him down and have Dana  
7 confirm it on his calendar.

8 The top, just previous, perhaps you  
9 misunderstood, I did not blow off our previous engagement  
10 which I had looked forward to and certainly not because of  
11 any other business activities, and then she went into it was  
12 because of me.

13 MR. SANDS: Move per the stipulation with the  
14 government for the stipulation of defendant's exhibit 52 at  
15 this time.

16 MR. GOLD: We had agreed, Your Honor.

17 THE COURT: 52 is received in evidence.

18 BY MR. SANDS:

19 Q. Turning away from Dr. Pollack for a moment, did you  
20 also discuss your plans for world domination with attorney  
21 Berman?

22 A. I did.

23 Q. And what conversations did you have with him about  
24 that?

25 A. The first time I met Mr. Berman in person, Mr. Berman

1 came up here to attend the deposition with me, and the first  
2 day of the deposition in the Smith case proved to be a, you  
3 know, an interesting process as everybody said in that the  
4 counsel for the other side caught me in the bathroom and  
5 basically said you won't turn me into the bar if I ask you a  
6 question, and I like, no, go ahead. He says you seem to be  
7 enjoying yourself today and I'm beat. I'm like, yeah, this  
8 is fun. I went, that evening Mr. Berman and I got together  
9 and he said what are you really planning to do. And I went,  
10 take over the world.

11 Q. When was this?

12 A. This is in '04. And he says you're going to take over  
13 the world from Orlando? You need to come to a bigger city.  
14 I'm like, no, Orlando is good. Nobody will see me in  
15 Orlando. He goes, yeah, that's a good idea, maybe we should  
16 just move up here. And so it's, Berman knew the plan from  
17 the beginning. And he knew I was serious, too, and it wasn't  
18 a joke.

19 Q. Mr. Amodeo, how many people as best you can estimate  
20 were involved in the PBS plan on behalf of Mirabilis and its  
21 related companies?

22 A. If we talk about the PBS plan and its extension to the  
23 AEM period in 2006, there are 120 attorneys accountants and  
24 PEO experts involved in the plan, not just in planning,  
25 participating in the plan. Understand all the people I've



1 mentioned here today, nobody ever executed a transaction that  
2 dealt with payroll taxes. Those were all dealt with by other  
3 CPAs who haven't been mentioned today.

4 Q. How many people benefited from the plan by which  
5 payroll taxes weren't being paid over to the IRS, instead  
6 were being used for other purposes?

7 A. Hundreds, but probably a hundred significantly.

8 Q. I'd like to show you what's been marked for  
9 identification purposes as defendant's exhibit 53. May I  
10 approach, Your Honor?

11 THE COURT: Yes, sir.

12 Q. Are you familiar with that document?

13 A. I am.

14 Q. Is that a document that you prepared?

15 A. Actually prepared by members of my staff during the  
16 investigation, so, yes, prepared under my guidance.

17 Q. And what does that document purport to show?

18 A. What happened is it works out this way, I went and met  
19 with Bob Pannoff, one of the other defense counsels, and Mr.  
20 Pannoff told me that, two things, said open up a dictionary  
21 and look under grandiose and you'll see your picture as a  
22 definition. And then the second thing is you're a tar baby.  
23 He said why don't you go find out where the money went. I'm  
24 like I have all these accountants, I said we should have  
25 books. He said trace your funds and find out who actually

1 benefited from them, not what the journal entries are. This  
2 report shows the amount of money that flowed directly or  
3 indirectly through companies to these groups of individuals.  
4 And the reasons there's groups of individuals is we couldn't  
5 break out Nexia certification. It's something that seems to  
6 be co-owned by many people and was developed under our watch.  
7 They flew in the private jet to get the information and have  
8 the meetings and everything else. So we just lumped together  
9 that plane trip into this cost. But Jay who did primarily  
10 all the work behind it has 400,000 lines of Excel spread  
11 sheet all tied out to bank account to bank statements in the  
12 same report and we have turned that over. This is  
13 beneficiaries of funds unrelated to the PEO business with the  
14 exception of Mr. Hughes, Espinosa and Luccia, they did  
15 provide some insurance. I know that 27.3 million of it is  
16 based on Allstar's contract and is illegal. I know that 11  
17 million of it is in dispute in an administrative case and may  
18 be repaid. The rest of it might have been legitimate  
19 insurance coverage. So that number is a little, is probably  
20 high for that reason.

21 MR. SANDS: I'd like to move for the admission of  
22 defendant's exhibit 53 into evidence.

23 MR. GOLD: No objection.

24 THE COURT: Who are these people? I haven't  
25 heard all these names before.

1 THE DEFENDANT: Your Honor, up in the left-hand  
2 corner, Hans Beyer was a --

3 THE COURT: I've heard those names.

4 THE DEFENDANT: Okay.

5 THE COURT: But how are they grouped together?  
6 They're in groups of three and four. What ties the groups  
7 together?

8 THE DEFENDANT: They have joint financial  
9 interest in businesses that receive money. Other than from  
10 Mirabilis. Mr. Collins, Mr. Moreyra and Mr. Bryant were part  
11 of a mortgage company that got nearly four million dollars  
12 from Mirabilis and the money disappeared and the companies  
13 went under and we've been trying to find it until I ran into  
14 government seizure action and couldn't pay people to look any  
15 more. But they got four million dollars in what I know to be  
16 fraudulent mortgages because I talked to them and they told  
17 me what they were doing and I was horrified, but by then the  
18 business was gone, it was closed, over, finished, out the  
19 door. Afterwards we found out that Hans Beyer was a partner  
20 in that same mortgage company, that's why he got grouped into  
21 that sum of money.

22 Robi Roberts, Dan Kelly and Dan Dansby all own  
23 RKT Constructors. RKT Constructors' contracts were moved to  
24 another construction company which they all hold an interest  
25 in, that's why their names were put there.

1 Glenn Thompson, Don Nooe and Arthur Roy were the  
2 people that had the precious metal that proved to be, they  
3 had the false assay and the, you know, make believe gold  
4 plant in El Paso, the processing plant.

5 Bob Sacco, Tracy Taylor, Carey Painter and Robert  
6 Pollack were all together in Pay Source which ended up with a  
7 large portion of the PEO book of business without paying any  
8 consideration. That lawsuit remains pending and according to  
9 the lawyers there was a two million dollar settlement on the  
10 verge of being paid over when they used the seizure action to  
11 delay that process.

12 Steve Zadrick, Caprice LaCroix and Michael  
13 Herring, they set up a condo development company of which Mr.  
14 Berman got one of their condos for bringing them in and  
15 raising this money and we have never seen a nickel repaid.

16 Chaviers, Hancock and Ledbetter were in the PEO  
17 industry and they own Hancock Group which was sold, they got  
18 it cashed out and then they got the business back.

19 Michael Mapes and Milton Peterson, same deal  
20 except they also received about a million and a half in  
21 insurance money that went to a company called LUA from AEM  
22 directly and it's never been accounted for. And it can't be  
23 accounted for, there's nobody to do it at the moment. It was  
24 just me and the bankruptcy estate's got some portion of it  
25 and the U.S. Attorney's Office is in between the collection

1 efforts now on the rest.

2 Ken Hendricks, Bob Gaines and Fred Sandlin are  
3 the original owners of the Sunshine companies and Paradigm  
4 and, as Mr. Pannoff described it and seems to be subsequently  
5 held up, he thinks they suckered in Vanderburg and then  
6 Vanderburg got me.

7 Vanderburg, Baiers and Burcham are obvious,  
8 although that Vanderburg got some of his money from his  
9 Allstar plan with Paul Hughes.

10 And then O'Connor, Kirkpatrick and Rendel are  
11 Presidion officers who got paid really to leave and got out  
12 before everything collapsed.

13 This is representative of a big long chart of we  
14 tracked every disbursement from every PEO and I think I have  
15 it here although it wasn't to be put in today down to a  
16 dollar 84 during the offense period of time. And then we  
17 went through and we grouped together some which would be  
18 significant just as a diagram.

19 Q. I'd like to show you now -- was that admitted into  
20 evidence? I would move so.

21 THE COURT: I think it was. It's received as  
22 defendant's 53.

23 MR. SANDS: Thank you, Your Honor.

24 BY MR. SANDS:

25 Q. I would like to show you now what's been marked for

1 identification purposes as defendant's exhibit 54. Do you  
2 recognize that exhibit?

3 A. I do.

4 Q. What is that exhibit?

5 A. That exhibit was designed to show the amount of money  
6 that I earned by my contracts and the amount of money that I  
7 received or invested in these group of companies during the  
8 offense period of time. And what I asked have happen  
9 afterwards is I had Mr. Stallenworth go back and look up  
10 every transaction and recalculate them so that it was done  
11 based upon bank statements and transfers and not journal  
12 entries, not the journal entries that were done by other  
13 people and I had become suspicious of their accuracy. And so  
14 that's how much money I made.

15 MR. SANDS: Move for the admission of defendant's  
16 exhibit 54 into evidence at this time.

17 MR. GOLD: No objection, Your Honor.

18 THE COURT: 54 is received in evidence.

19 BY MR. SANDS:

20 Q. Other than the money you received out of the 8.9  
21 million from the Sunshine companies' plan in 2004, how much  
22 money did you get personally as a result of your continuing  
23 activities with Mirabilis through the PBS plan and beyond?

24 A. The total amount I received was less than I was  
25 supposed to get out of the original contract. I did get it

1 over a period of time because I couldn't take all the money  
2 out at once since it was needed for different operating  
3 effects and during the latter part of the transactions,  
4 especially in 2006, I ended up in a net loss position because  
5 I was putting more money in than taking out. Money started  
6 going backwards, particularly to fund their IT system.

7 Q. You mentioned some of the other persons who you relied  
8 upon in making your own judgments. Can you give the court an  
9 idea of what kind of salaries those people were earning at  
10 Mirabilis during the timeframe of the indictment?

11 A. Yes. Dr. Pollack would be paid \$300,000 plus bonus.  
12 Frank Hailstones was probably 240 plus bonus. Richard Berman  
13 was 240 plus bonus. Laurie Holtz was 300,000 plus bonus.  
14 And all of them had a share, a 4750 share stake in the  
15 company which could be worth, you know, nothing or 20 million  
16 dollars depending on what it sold for.

17 Q. Did you mention Mr. Vanderburg?

18 A. Mr. Vanderburg got paid 300,000 dollars a year, he  
19 stood to get the IRS paid off and retain a 7 percent interest  
20 in the sale of the book of business.

21 Q. So notwithstanding the fact that you had this  
22 disagreement in mid December of 2004 about the application of  
23 the funds pursuant to the memorandum of instructions, Mr.  
24 Vanderburg continued to do business with you thereafter?

25 A. Mr. Vanderburg was the -- Mr. Vanderburg and Mr.

1 Baiers were the last ones to go besides the little group of  
2 heroes that stayed around, mid management that kind of helped  
3 wind it up. They were here all the way to June of '07. Mr.  
4 Vanderburg and Mr. Baiers were primarily responsible for the  
5 acquisition of PEOs at Mirabilis. That's what they did all  
6 the time.

7 Q. Well, did they ever complain to you after December of  
8 2004 about your not having applied the funds in accordance  
9 with the original memorandum of instructions?

10 A. No.

11 Q. Do you know how they ultimately booked that 8.9  
12 million payment in the corporate books and records of the  
13 Presidion Corporation?

14 A. They booked it as a contribution to Sunshine basis, so  
15 it offset some gain, an expense, but a particular kind of  
16 expense.

17 Q. To your knowledge, did they ever make any referrals to  
18 the Department of Justice or any other law enforcement  
19 authorities with regard to the monies that you had taken in  
20 December of 2004?

21 A. No. As a matter of fact, I've seen the notes of their  
22 discussion with the U.S. Attorney's Office and the FBI agents  
23 and it has absolutely nothing to do with any of it except to  
24 say that their partners in Orlando are working with the IRS  
25 in Miami.



1 MR. SANDS: Your Honor, at this time I'd like to  
2 show Mr. Amodeo some excerpts from a few videotapes that I  
3 mentioned earlier this morning. I think it doesn't run more  
4 than a total of about 40 minutes.

5 THE COURT: Okay.

6 MR. SANDS: If I have the court's approval, could  
7 I operate it from here?

8 THE COURT: Yes, sir. Has it been offered in  
9 evidence?

10 MR. SANDS: May I have just a moment, Your Honor?

11 THE COURT: Yes.

12 (DISCUSSION OFF THE RECORD.)

13 MR. SANDS: I think that it would make the most  
14 sense to go ahead and offer them into evidence and preserve  
15 them in that way for any appellate purposes.

16 THE COURT: Okay.

17 MR. SANDS: The first is an excerpt from 4-20-05  
18 and I'll have Mr. Amodeo authenticate it.

19 THE COURT: Is there any objection?

20 MR. GOLD: No, Your Honor, there wasn't.

21 THE COURT: It's received as 55. Would that be  
22 the next number?

23 MR. SANDS: Yes.

24 THE COURT: It's received as 55 for the defendant  
25 and you may publish it.

1 MR. SANDS: May Mr. Amodeo come down for a minute  
2 to make sure we have the sound working?

3 (DISCUSSION OFF THE RECORD.)

4 MR. SANDS: We obviously have an audio problem,  
5 Your Honor.

6 THE COURT: Why don't you take a minute and get  
7 that and what other audio or visual demonstrative exhibits  
8 you have all lined up and Miss Darley will get me when you're  
9 ready.

10 (BRIEF RECESS.)

11 MR. SANDS: Your Honor, because of the nature of  
12 these tapes, I think, they're actual remote cameras and audio  
13 that picks up the sound from a conference room. It looks  
14 like we're going to need to bring in some speakers that will  
15 play it a little bit louder than we can through here. What I  
16 want to do so I don't waste any more of the court's time is  
17 we're going to get that taken care of at lunchtime and we're  
18 going to go ahead and proceed with the third part, the last  
19 part of the testimony that I had talked with you about which  
20 relates to post offense cooperation and issues regarding for  
21 the presentence report determination of acceptance of  
22 responsibility, etcetera.

23 BY MR. SANDS:

24 Q. Mr. Amodeo, did there come a time when you actually  
25 began cooperating with the government in this case?

1 A. Yes.

2 Q. And when was that?

3 A. I think originally it was the, in terms of compliance  
4 with collecting the information for the subpoenas was like  
5 the last week of December, and then I went in for a  
6 debriefing sometime in early February of 2007.

7 Q. What did you do in terms of compliance with the  
8 subpoenas?

9 A. The subpoenas had been issued I think to as many as 70  
10 different companies. I began to collect and accumulate the  
11 documents, have the documents organized and scanned to be  
12 turned over to the government.

13 Q. Who was representing you at that time?

14 A. Butch Slaughter and Robert Pannoff.

15 THE COURT: Who is the second person?

16 A. Robert Pannoff, an attorney from Miami.

17 Q. After you had collected the records and provided them  
18 to the government, what if anything did you do as part of  
19 your cooperation with the government?

20 A. Turning over the records has been an ongoing process  
21 up to a month ago even because there are so many of them.

22 Q. Can you give the court an idea of the quantum of  
23 records we're talking about here that you had to try to  
24 assemble?

25 A. Probably 15 million pages, 27,000 hours of video. I

1 have a warehouse, but it wasn't just gathering, it was  
2 organizing it. To start with there was a bunch of boxes in  
3 Jupiter, Florida, the main facility, and the landlord was  
4 locking us out so we got into a big fight so we could get  
5 access to them and stored them in pods. We couldn't turn  
6 them over to the government because they didn't have the  
7 funds. We had them in the parking lot in pods for many  
8 months. That's the type of work we had to do to organize the  
9 documents.

10 Q. What else did you do to organize the documents for the  
11 government?

12 A. We did several things. We began to create time lines,  
13 general time lines, issue time lines, time lines on companies  
14 and time lines on individuals. We then scanned the documents  
15 into various red sheets, time map or Excel. We would write a  
16 description of the days of the meetings, who was present,  
17 when they were present, what was discussed. We tried to make  
18 it relevant to what the issues in the case were. And then we  
19 organized notebooks. We compiled about -- I'm sorry. In  
20 order. We started creating special folders. The government  
21 asked if I could create a culpability chart that took into  
22 account compensation, awareness, you know, relationship to  
23 the companies, and that chart was produced and from that we  
24 began to produce what became known as blue files. And blue  
25 files were ones we kept. We turned over red and green files

1 to Mr. Slaughter who would then pass on the green file to the  
2 government. And this was a compilation of individual  
3 specific documents on people who held significant roles or  
4 potential witnesses in any of the various companies.

5 Q. How many of those green files did you turn over to the  
6 government?

7 A. I believe 64 were turned over to the government of the  
8 102 that were created.

9 Q. And over what period of time were you compiling and  
10 distributing that information to the government?

11 A. The green files were constructed between January,  
12 which was before the first debriefing in June, and thereafter  
13 we went through creating notebooks which are big black  
14 binders like those back there. I brought some examples of  
15 what was actually done.

16 Q. Were you also debriefed in any way by agents of the  
17 government?

18 A. I met with them in, on what seems to be every week at  
19 the beginning and then seems to be every other week through  
20 May.

21 Q. Please let the court know what year we're talking  
22 about.

23 A. I'm sorry. 2007. I met with the government on a  
24 dozen occasions at least in their offices, and, you know,  
25 anywhere from four to eight hours in those first meetings.

1 Q. Who specifically were you meeting with?

2 A. I met with Assistant U.S. Attorney Gold, Special  
3 Agents Smith and McCabe. One Assistant U.S. Attorney or I  
4 guess attorney for the U.S. trustee, Theresa Botner. I met  
5 with a woman from the FBI who's since retired and she was a  
6 friend of Kevin Billings, oh, Susan Gill, that was her name.  
7 And periodically they had several other representatives of  
8 the government present.

9 Q. Did you at any point in time refuse any request for  
10 any sort of an interview?

11 A. No, I haven't.

12 Q. Other than providing a vast amount of documents to the  
13 government, organizing those documents into folders with  
14 regard to particular individuals and making yourself  
15 available for hours and hours of debriefings, what if  
16 anything else did you do to assist the government as part of  
17 your cooperation?

18 A. I conducted seven undercover surveillance activities  
19 with them where I agreed to have my condominium wired with  
20 video and audio recording and to ask questions of potential  
21 members of the investigation.

22 Q. And without going into the names of particular people  
23 who were the subject of those tapes, how many different  
24 people were involved?

25 A. Six.

1 Q. And over what period of time were you providing this  
2 cooperation?

3 A. This was February through April of 2007.

4 Q. Now, in addition to that cooperation and ongoing  
5 investigation, did you provide any assistance to the  
6 government with regard to the disposition of assets?

7 A. Yes.

8 Q. Please explain to the court what it is you did.

9 A. Sometime in -- in may 2007 Mirabilis had completely  
10 lost any semblance of control in that all the officers and  
11 directors were gone by then and the last semi independent  
12 person that was there was a gentleman named Mark Burnett, an  
13 attorney out of Tampa, a bankruptcy attorney by trade, and he  
14 was afraid that he was going to get caught up in some kind of  
15 money laundering issue and so he left, which frankly I had  
16 had a conversation with Mr. Gold about it before he left and  
17 Mr. Gold said if you wanted Mark to be gone, would he be  
18 gone? I'd say yeah, he'd probably be gone, but he still is  
19 Mirabilis and I'm not stepping on his toes. But we agreed  
20 that day that it would be bad for a receiver to be appointed  
21 or bad for a Chapter 11 to be filed, and so I then said I  
22 have a security interest in the assets and was told to go  
23 ahead and wind up Mirabilis.

24 Q. Who told you to wind up Mirabilis?

25 A. Mr. Gold.

1 Q. And did he give you any instructions on how it was  
2 that you were supposed to go about winding up Mirabilis?

3 A. No. Said he didn't want to know.

4 Q. What did you do to try to wind up Mirabilis?

5 A. I sold off the assets that were there. I then began  
6 to take the information that we've been compiling and  
7 organizing it to go after the individuals on this sheet and  
8 others who still owed Mirabilis money. Some had stole the  
9 money. Some just owed the investments back. And I commenced  
10 30 lawsuits with different firms all over the country to go  
11 collect the debts.

12 Q. Now, when was the first date in which you actually  
13 started this activity, commencing these lawsuits?

14 A. The first stuff we did in May of '07 was we were in a  
15 defensive mode, that is one of the dangers that had been  
16 foreseen was that all these people had filed what were pretty  
17 frivolous lawsuits against Mirabilis and they were going to  
18 tie up all the assets with liens, so two or three attempts  
19 were spent defending Mirabilis actions, then the fall came  
20 and by September the first affirmative actions were filed. I  
21 mean it was the end of September of 2007.

22 Q. What if any interaction were you having with Mr. Gold  
23 or any members of his prosecution team with regard to those  
24 collection activities during that time period?

25 A. Not a great deal. I was pretty much left on my own to



1 do that. I mean there was inquiries just prior to that.  
2 They had discovered that the payroll taxes for AEM, that's  
3 Mirabilis's PEO, were not being paid. They made a call to  
4 Butch's office, Butch called me, I called somebody else, and  
5 we then went about correcting the 2007 deficiency and agreed  
6 that we'd take the first collections of money, we'd apply  
7 them to the latest period of time so 2007 wouldn't be in the  
8 offense conduct and cleared that debt up. That took until  
9 sometime in June to get accomplished from the time I got  
10 noticed. And then I didn't have a lot of contact with them  
11 after that period of time about the liquidation of the  
12 businesses.

13 They did get litigation plans as I understand  
14 periodically that they were sent through in the document  
15 request because we produced this multi colored sheet several  
16 pages long, although I understand from people that when Miss  
17 Cream saw them eventually way after the seizure event, she  
18 seemed to be pretty shocked and may not have seen them before  
19 then, but they were in our document distribution. There  
20 wasn't any other communications with them regarding it.

21 Q. Did there come a time when you contemplated a  
22 bankruptcy with regard to Mirabilis?

23 A. In May of 2008 a problem had occurred. There were  
24 three young people who used to be my staff members at AQMI or  
25 middle management at Mirabilis who stayed around to wind up

1 the business, and once the seizure orders came out and a  
2 threat that they were somehow in this conspiracy, they really  
3 didn't know what to do. And so we had some assets in  
4 bankruptcy and were trying to get them back for the IRS, and  
5 Elizabeth Green was representing us in the bankruptcy action,  
6 us being AQMI in the bankruptcy action, and she had come up  
7 with an idea that her firm used under the new Chapter 11 law  
8 and had mentioned it to some of my counsel and to one of the  
9 staff members, and so the solution was to let these three  
10 people who could no longer get paid go on with their lives,  
11 resign as officers and directors of the company, and get a  
12 trustee appointed who would wind up the affairs of Mirabilis  
13 in whichever way could be done. Only critical part about it  
14 was there was an asset, a real estate asset which was about  
15 to be foreclosed upon, and because we couldn't pay them, the  
16 attorney that was representing us had withdrawn. So we filed  
17 a bankruptcy to protect that asset and to get somebody  
18 appointed and a court to oversee the rest of the liquidation.

19 Q. Now, during that same general time period, we're  
20 talking about mid 2008 here, is that correct?

21 A. Correct.

22 Q. Did you also as part of your general efforts settle a  
23 claim with a company called Sunz Insurance?

24 A. I did.

25 Q. Tell us about that.

1 A. Sunz Insurance was a workers' comp carrier for AEM  
2 that was covering the PBS book of business in its last year  
3 of operations, and then again in 2007. And their policy  
4 called for collateral payments which got paid from the  
5 workers' comp funds. Worker comp premiums are designed to  
6 provide the insurance company with a buffer against future  
7 claims, not claims today, but they have to pay out workers'  
8 comp claims over seven years. They got a bunch of money and  
9 they tried to keep it all, and so I started negotiating with  
10 them just like the 11 million dollars I said that Mr. Hughes'  
11 company has to get that money back. And that money came back  
12 and I used it to fund operations, to settle up the rest of  
13 the debts of Mirabilis and AQMI. I paid \$770,000 to the IRS  
14 which I thought was their portion of the money. And I wrote  
15 a whole bunch of checks to 20 different law firms to keep  
16 collecting the money, the hundred million dollars that's  
17 sitting out there that nobody seems to want.

18 Q. I may have misspoke the original question. When did  
19 you enter into that settlement with Sunz?

20 A. December of '07, beginning of January of '08.

21 Q. Okay. Now, in connection with that particular  
22 settlement with Sunz back in December of '07, beginning of  
23 '08, did you discuss that settlement at the time of the  
24 settlement with Mr. Gold or any member of the prosecution  
25 team?

1 A. No.

2 Q. What was your understanding of whether your efforts in  
3 entering into settlement were consistent with your marching  
4 orders from Mr. Gold?

5 A. Oh, I thought everybody was going to be thrilled. The  
6 company, the experts in the industry have testified that this  
7 was a one million dollar value if we had settled it, so the  
8 fact that I was able to get four and a half million dollars,  
9 300,000 went for expenses that related to the settlement, I  
10 thought everybody would be happy. I got five times as much  
11 as anybody thought was going to be paid, just like I did in  
12 the Win Par bankruptcy. The asset was going to be foreclosed  
13 upon and in 26 minutes, I mean it wasn't even like it was  
14 close. And Mark Burnett was like don't file the bankruptcy,  
15 don't file the bankruptcy, Gold said he's going to put you in  
16 jail for life, don't file for bankruptcy. I said there's 26  
17 minutes and we're going to lose a seven million dollar asset.  
18 I'm going to file the bankruptcy. I filed the bankruptcy in  
19 Tennessee. We got seven million dollars. Five and a half  
20 was coming to the government, although I have pretty good  
21 reason to believe they're going to give two million of it  
22 away to the people who tried to steal it in the first place.  
23 So I don't know why they would be upset with Win Par and  
24 Sunz, I got ten million dollars that didn't exist when this  
25 got started and somehow they're mad at me.

1 Q. What was your understanding at the time you made those  
2 settlements as to who the ultimate beneficiary would be of  
3 those settlements?

4 A. The IRS. Twenty attorneys, I would like them all  
5 here, and, again, I respect the judge's time for redundancy,  
6 but to bring them all in, they were told what was going on  
7 when I hired them, they knew it, they even put it in the  
8 pleadings in most cases to protect themselves, the funds will  
9 be held by our firm and turned over to the IRS if they're  
10 collected.

11 Q. What if any instructions or directions did you get  
12 from Mr. Gold with regard to whether you could go out and use  
13 funds to hire attorneys, etcetera?

14 A. No instructions. I was told that I don't want to hear  
15 about how you're winding it up, it's a business matter, it's  
16 not a legal matter, and I understood that.

17 Q. Was it your understanding, sir, that you were not  
18 able, not allowed to hire attorneys on an hourly basis as  
19 opposed to a contingency fee?

20 A. No. I knew that the two big cases, the case against  
21 Berman and Holtz would be done by contingency because we  
22 already discussed that, and I knew that the potential case  
23 against Buchanan and Ingersoll would be the same. But the  
24 rest of them, no instructions on whatsoever. And I went with  
25 Mr. Slaughter's aid to find an attorney who knew my family to

1 take those first three cases on contingency. Contingencies  
2 are pretty big chunks of what I think are pretty big awards,  
3 but they're footing the bill and those are the ones that are  
4 still running now after the money is gone.

5 Q. When did you first receive any notice from the  
6 government that they were aware of the five million dollar  
7 settlement with Sunz and of your use of those funds to pay  
8 attorneys fees?

9 A. Sometime in March of 2008 I got a call from Mr.  
10 Slaughter who asked if we had financial records on it, I said  
11 sure and had Mr. Stotlemart (ph) print them up and send them  
12 over.

13 Q. And what was the upshot of your providing that  
14 information to the government at that time?

15 A. The government moved to seize particular assets,  
16 although they didn't touch any of my corporations.

17 Q. And did you understand at that time what the conflict  
18 was with Mr. Gold, why this was leading to the seizure of the  
19 assets of the attorneys who were, had been retained to pursue  
20 these various lawsuits? What was your understanding of what  
21 your problem was with the government at this point?

22 A. Mr. Slaughter said it was payment of the fees to the  
23 attorneys. That was my understanding of the problem. I  
24 don't believe I've ever discussed this issue with Mr. Gold or  
25 any of the agents.

1 Q. And when did this problem erupt?

2 A. In 2008, March of 2008.

3 Q. Was this around the same time that you were  
4 contemplating the bankruptcy?

5 A. No. The bankruptcy was a consequence of the seizure.

6 Q. And why was it a consequence of the seizure of the  
7 attorneys assets?

8 A. Because the lawsuits were going to be defaulted on if  
9 the stay wasn't put in place since the attorneys were  
10 resigning. Mirabilis or AQMI's attorney, as the case may be,  
11 were quitting because they didn't have any more money, their  
12 money had just got taken, and so they were just going to  
13 resign, and all these lawsuits were going to lose, good  
14 claims were going to be lost by default.

15 Q. Now, what was your belief from this entire period from  
16 the beginning of 2007 to mid 2008 when the bankruptcy is  
17 filed as to whether you were acting in the best interest of  
18 the government or not?

19 A. It was my mission. Miss Curry sends an e-mail to Jim  
20 Leusner saying, oh, I bet he thinks he's an agent of the IRS.  
21 Yeah, I did. That was pretty accurate. Once Mr. Pannoff had  
22 convinced me that these people took this money and that I was  
23 a tar baby, I had a mission. I'm going to go get the money  
24 back. Because that was my plan from the beginning. Nobody  
25 gets any profit until the creditors are paid and the creditor

1 was the IRS. That's the PBS plan, that was the rule, that  
2 fair is fair, that's the principle upon which this entire  
3 thing, not this, everything I did was built. I was going to  
4 go get the money back if nobody else did. And I was told by  
5 Brian Phillips, the government's not going to do it. Mr.  
6 Phillips said I worked in asset forfeiture for a long time,  
7 they don't have the budget, they don't have the resources and  
8 they don't have all this wonderful computer system  
9 technology. We built a computer system in Summation that  
10 cross coordinates millions of documents. If you know what  
11 you're doing, bang, anything you want. You know, we built  
12 all the Power Points on all the individuals. When a lawyer  
13 would call up, you know, the law firm that was representing  
14 or the staff attorneys that were working on this, within a  
15 day they got tremendous amounts of compiled data for any of  
16 the civil cases. And since the government wasn't in that  
17 business, we just thought we were collecting it for them.  
18 And I thought it would help me here, no doubt about it. It  
19 would help me here. In fact, I believed, as part of this,  
20 that the money I collected would actually reduce the time,  
21 just a straight out time reduction on money. That was my  
22 impression, maybe inappropriately, because of the Pearlman  
23 case, but that was my impression as part of this, but that  
24 took place after I started the dedicated mission to recover  
25 the assets of Mirabilis and pay them to the IRS.



1 Q. You mentioned a lawsuit filed -- and we're getting  
2 close to finishing this section, Your Honor. You mentioned a  
3 lawsuit that was or lawsuits that were filed against Mr.  
4 Holtz and Mr. Berman. Can you explain, when were those  
5 lawsuits filed?

6 A. November of 2008.

7 Q. What was your -- were you involved in filing those law  
8 sites?

9 A. I was.

10 Q. Who filed those lawsuits on your behalf?

11 A. The law firm of Maher, Guiley and Maher.

12 Q. That's a local law firm?

13 A. I think they're a national firm, but, yeah, they're  
14 local firm with a national recognition.

15 Q. And what was your intention in filing those lawsuits  
16 against Mr. Berman and Mr. Holtz?

17 A. To recover the damages from their original advice or  
18 their ongoing advice. It wasn't just the original advice.

19 Q. I take it that this is a lawsuit seeking money  
20 damages?

21 A. Correct.

22 Q. In the nature of professional malpractice?

23 A. That is correct.

24 Q. What is your understanding today of who the ultimate  
25 beneficiary of any such lawsuit against Mr. Berman and Mr.

1 Holtz is going to be?

2 A. The United States.

3 Q. I'd like to show you what's been marked for  
4 identification purposes as defense exhibit 43. May I  
5 approach, Your Honor?

6 THE COURT: Yes, sir.

7 Q. Do you recognize that document?

8 A. I do.

9 Q. What is that document?

10 A. It is the first amended complaint in the lawsuit of  
11 Frank Amodeo versus Berman, Kean and Riguera.

12 Q. Was that a document that was filed on your behalf or  
13 with your approval?

14 A. It was.

15 Q. And is that document reflect the allegations that  
16 you're making against Mr. Berman?

17 A. Yes.

18 Q. I take it you make similar allegations against Mr.  
19 Holtz in his lawsuit?

20 A. I did.

21 MR. SANDS: Move for the admission of that  
22 document as defendant's exhibit 56 in order.

23 MR. GOLD: No objection, Your Honor.

24 THE COURT: 56 is received in evidence.

25 MR. SANDS: May I have a moment, Your Honor?

1 THE COURT: Yes, sir.

2 (DISCUSSION OFF THE RECORD.)

3 MR. SLAUGHTER: Your Honor, can I make one  
4 representation without going through the question and answer  
5 with Mr. Amodeo?

6 THE COURT: Yes, sir.

7 MR. SLAUGHTER: At one point early on he went up  
8 to Troy, Michigan, and I don't know how many computers he  
9 took, but he took the servers and the computers and brought  
10 them down here, put them in a warehouse. We retained an IT  
11 expert named Rich Connors and they built the largest  
12 Summation database in the United States and they downloaded  
13 all of the computers into that, and then they took all of the  
14 hard copies from the suit and downloaded them into that. And  
15 then I had an employee who I used, the only thing that he did  
16 was if Mr. Gold or Mr. Smith, Mr. McCabe would call up and  
17 say give me documents, let's see, on Edie Curry or somebody  
18 else, he would search this database and pull up every e-mail  
19 and look for the e-mails that would be relevant to what they  
20 were looking for, make copies and take them over to them or  
21 we would e-mail them. The cost of the Summation alone was  
22 \$60,000, and I think I paid Mr. Denda about \$160,000 during  
23 this period of time, and that's he worked for, his only job  
24 was to help obtain information to help in Mr. Amodeo's  
25 cooperation. I think the bankruptcy court now has seized the

1 summation database.

2 BY MR. SANDS:

3 Q. Mr. Amodeo, do you have any other information you want  
4 to provide with regard to your ongoing cooperation with the  
5 government?

6 A. I'll just do a real quick list for that. One of the  
7 things I found I would periodically get calls from Assistant  
8 United States Attorney Gold, I'd be connected in conference  
9 call with Mr. Slaughter and help prepare questions for  
10 witnesses, including while he was driving to see them while  
11 they were in other prisons like Charles Spinelli, questions  
12 for John Burcham, Genethra Myers, these special agents often  
13 need to locate addresses such as Matt Porter and Sharmila  
14 Khanorkar. My office was the one that did the location. I  
15 helped them track down Craig Vanderburg and where he was so  
16 he could get his target letter as opposed to him continuing  
17 to avoid it. I provided the tapes and explained it. They  
18 want to understand the Mike Stanley videotape. I went to Mr.  
19 Slaughter's office and did it.

20 And when there was questions and information  
21 about who knew about which taxes, which particular officers  
22 and employees knew the taxes weren't being paid and knew they  
23 weren't being paid, most of the information could be deprived  
24 from a man by the name of Luis Ramos. Mr. Ramos came to work  
25 with me in the closing of the business. Mr. Ramos came in

1 and said the U.S. Attorney came in and wanted to talk to me.  
2 What should I do? I said go and see them. Without an  
3 attorney go over and tell them everything you know. And Luis  
4 went over there and immediately began to provide them any  
5 data they needed and answered any questions they want.

6 So, you know, I've been transcribing the  
7 undercover tapes. I have them, I'm doing the transcriptions.  
8 I'm paying for it. You know, I converted the tapes to  
9 viewable forms so people can actually see what took place.  
10 And this is the kind of stuff that in the plea agreements and  
11 the indictments were written by my lawyers. If you go look  
12 at the language in draft documents, they were prepared by the  
13 civil attorneys doing mock indictments which are all in the  
14 Summation database.

15 Q. What about the, tell the court just briefly about the  
16 surveillance system that was in place at Mirabilis. First of  
17 all, how did that get there?

18 A. We were in the business, meaning a Very Private Eye  
19 which was a company that preexisted Mirabilis was in the  
20 business of providing private investigations and they got  
21 hooked up with a client of Robert Moreyra, Technovations and  
22 doing closed circuit TVs. So the business was Very Private  
23 Eye installed closed circuit TVs. McDonalds was the biggest  
24 customers. And one of those Frankisms, if we're going to  
25 sell it, we should be using it. So they decided where to put

1           them, but I decided it was a good idea to put them, everybody  
2           did, I don't want to take credit for that, is that all the  
3           main public areas should have cameras and audio recordings.  
4           The reason it worked really well for me is because that's how  
5           I kept my notes. I didn't have to keep notes on paper any  
6           more, I didn't have to have somebody come and transcribe like  
7           I did, it was all recorded so I'd just go listen to what  
8           happened and then I knew -- I would see 30, 40 people an hour  
9           in my meetings. I understand that's a mania, but I didn't  
10          understand then it was the mania. I thought I was just  
11          brilliant, click, click, click, click, and then I would  
12          forget to do things. So putting in the closed circuit TV  
13          system let me keep track of everything, it was no longer a  
14          problem.

15          Q.           What if any steps did you take in the latter part of  
16          2006 to preserve that system for future review of the tapes?

17          A.           I went, I sent my staff to get the, my security staff  
18          to go get the recorders from all the offices because I  
19          remembered that Mr. Berman and Mr. Holtz wanted me to destroy  
20          the tape of the mock deposition. And they brought those  
21          back, we only thought it covered 30 days, we did not know how  
22          long was there, we thought it was a 30 day tape, until  
23          October of 2007 when I started playing them for the agents.  
24          That's when we discovered we actually have six or seven  
25          months on each of the machines and each of the machines had

1 16 cameras.

2 Q. Did you turn over all that information to the agents?

3 A. I've offered it all to the agents. Most of it's in  
4 Summation. They've never come by to get the originals from  
5 Suntrust yet, but everything else is there.

6 MR. SANDS: Your Honor, this might be a good time  
7 to break and we'll get the video set up for after lunch.

8 THE COURT: Okay. See you all back at 1:30.

9 (LUNCH RECESS.)

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## AFTERNOON SESSION

1  
2 MR. SANDS: Your Honor, we were just about to  
3 proceed to the tapes, we've got some external speakers now  
4 that we're going to try to use. Just a quick housekeeping  
5 detail, I have one question I need to ask Mr. Amodeo before  
6 we start that.

## CONTINUED DIRECT EXAMINATION

7  
8 BY MR. SANDS:

9 Q. Mr. Amodeo, you previously testified that today you  
10 don't have any recollection of having been given back in mid  
11 2007 explicit instructions by Mr. Gold not to use monies to  
12 retain attorneys except on contingency, correct?

13 A. Correct.

14 Q. Were you receiving any bipolar medications back in mid  
15 2007?

16 A. No.

17 Q. Do you concede that it is possible that you actually  
18 did get instructions with regard to that and you do not  
19 recall it today?

20 A. Yeah, I concede that. Especially the day when it was  
21 decided that there would be no trustee or receiver appointed  
22 and I would just liquidate, flaming sword type mission, it's  
23 quite possible that I stopped listening at that point in  
24 time.

25 MR. SANDS: I think Mr. Slaughter would like to



1 make a representation to the court as well.

2 MR. SLAUGHTER: From a historical standpoint, we  
3 were pretty much hand and glove with Mr. Gold and the agents  
4 and I brought in two law firms, Chris Searcy of Palm Beach  
5 and Mike Maher. Mike Maher was one of the tobacco lawyers.

6 THE COURT: I know those lawyers, I just don't  
7 usually see them in this kind of case.

8 MR. SLAUGHTER: Well, they were brought in on a  
9 contingency and met with Mr. Gold and Miss Cream and --

10 THE COURT: Oh, they were brought in, the  
11 professional liability.

12 MR. SLAUGHTER: Yes. And to also go after some  
13 of the insurance money. There was a pretty good bit of  
14 insurance money out there. One was with -- what was the  
15 name, Frank.

16 THE DEFENDANT: FCIC and SUA and Allstar.

17 MR. SLAUGHTER: So we had a number of  
18 conferences, Frank may have been at some of them, but it was  
19 clear that they were working on a contingency. And I knew he  
20 was working with some lawyers that were in his little  
21 operation and I thought that they were answering motions,  
22 etcetera, that were being filed against him. I also knew  
23 that he was working with Mateer and Harbert, and Balch and  
24 Bingham, and I thought they were on a contingency. I  
25 probably should have picked up the phone and said how are

1 these guys getting paid, but I just figured because Mr. Gold  
2 had been emphatic on numerous occasions that it be  
3 contingency, so I just took it for granted that, because I  
4 was getting reports from Frank that these lawyers thought  
5 that he had great suits and that they were taking on a  
6 contingency.

7 THE COURT: What happened with Searcy?

8 MR. SLAUGHTER: They're still, I think they're  
9 set up for some kind of an arbitration.

10 MS. CREAM: There's a mediation tentatively  
11 scheduled for later in the month, Your Honor. But I think  
12 the court's question only goes to the issue of the fee, is  
13 that correct?

14 THE COURT: I was a little bit confused. I think  
15 it's been cleared up by your response. The lawyers in-house  
16 or as Mr. Slaughter said the inner circle were not working,  
17 those being paid on an hourly rate were not working on the  
18 same cases that Mr. Maher and Mr. Searcy were working on on a  
19 contingency case.

20 MR. SLAUGHTER: This is my understanding because  
21 I talked to Mr. Gold about it and he didn't like some of the  
22 pleadings that they were putting in. But then I heard from  
23 Mr. Amodeo that Mateer and Harbert had done some work and  
24 thought he had a great case and I don't know who they were  
25 looking at, and I don't know who Balch and Bingham were

1 looking at, but we certainly had our hands full with the  
2 Chris Searcy and Maher firm going after four or five. There  
3 were some really good suits against these insurance companies  
4 and potentially against the professionals. So it was said,  
5 whether he picked up on it, it's obvious because when I  
6 called him when they called me on it, he was very surprised  
7 that he was doing this with paying them and it wasn't  
8 permitted.

9 THE COURT: Okay.

10 BY MR. SANDS:

11 Q. Mr. Amodeo, I'm now going to show you a series of  
12 videos, and I will ask you to identify particular persons and  
13 the setting in the video.

14 First of all, I'm going to show you a video  
15 relating to April 20, 2005. That is the video that was  
16 previously admitted I believe as 55, and we'll go ahead and  
17 make another attempt at playing it now.

18 What was the circumstance of this video?

19 A. This was what we called an omnibus conference. We  
20 asked a whole bunch of people from all the various companies  
21 to come in and get to know each other and kind of make sure  
22 that the companies dealt with each other in terms of what  
23 business relations could be done, and it was really an  
24 introduction of Presidion to everybody else since ultimately  
25 they were supposed to use Presidion to provide services.

1 Q. And in this first video, this is a three minute  
2 snippet, do you recall who was speaking on this?

3 A. Yeah. What happened is at the end of what was a  
4 speech by me, Laurie Holtz came up and whispered to me that  
5 what I really should do is have everybody in the room stand  
6 up, tell their background and how they're involved. This  
7 first clip is Richard Berman who led off that process.

8 Q. All right. Let's give it a try.

9 (VIDEO PLAYING.)

10 THE COURT: Now, I will tell you I heard very  
11 little of that. I understood very little of it. I  
12 understood making a joke about egos and I heard him say his  
13 name, and I don't think I heard much else. I mean I could  
14 hear it, I just couldn't decipher the words. Maybe it's my  
15 speaker up here.

16 MR. GOLD: No, Your Honor. We have the same  
17 problem here.

18 THE COURT: I heard Rule 11, but I had no  
19 understanding of the context in which that reference was  
20 made.

21 MR. SLAUGHTER: The essence of what he said was  
22 that Frank listens to him and he's a good client and he  
23 follows his advice and he's compliant. But we've got to get  
24 a better way to deliver this to you. I don't know whether  
25 it's earphones.

1 THE COURT: Well, did you hear it?

2 MR. SLAUGHTER: I could hear it, yeah, but I've  
3 listened to it 20 times.

4 MR. SANDS: The relevant parts of it you can see  
5 from the sentencing memorandum which really have to do with  
6 him indicating that Frank's a client who listens and takes  
7 instructions and criticisms.

8 THE COURT: I remember reading that. Is that all  
9 that was about?

10 MR. SANDS: There obviously is a little bit more  
11 there, Your Honor, but again, I thought that was the most  
12 important part, too. I'm going to play just a few snippets  
13 of different people that were at this meeting and some of  
14 that is in the memo. Not everything they say is though.

15 The next snippet is from the same conference,  
16 correct?

17 THE WITNESS: Same conference.

18 Q. And who does this depict?

19 A. This is going to depict Sharmila Khanorkar, Laurie  
20 Holtz and Bob Pollack. And there are other people in the  
21 picture, but those are the ones you've got on cue.

22 Q. And, again, are these people making comments?

23 A. They're making comments.

24 Q. About you?

25 A. About me and their relations and what their

1 backgrounds are.

2 (VIDEO PLAYING.)

3 Q. Now, is this Khanorkar?

4 A. This is Khanorkar.

5 Q. Now, this is Laurie Holtz you've been testifying  
6 about?

7 A. That's correct.

8 THE COURT: So far the only thing that I've heard  
9 is that Mr. Miller has a PEO is a franchise, so this is not a  
10 good use of my time frankly unless you want to just point out  
11 the people or, if you want, you can agree as to the summary  
12 of what they've said if it's different from what's in the  
13 sentencing memo. I'll be glad to hear you, but I don't want  
14 you to be assuming, I'm not upset about it, I just don't want  
15 you to assume that I'm understanding this when I'm not.

16 MR. SANDS: Your Honor, I understand. I'm having  
17 problems even hearing things that can easily be heard under  
18 the better system now.

19 THE COURT: I didn't hear a word that Mr. Holtz  
20 said or that Miss Khanorkar said or that the first gentleman  
21 said. I think she was saying he had a big heart, but I'm not  
22 sure of that.

23 MR. SANDS: I think that, and if I may get a  
24 stipulation from the government on this to move forward,  
25 Khanorkar jokingly had explained in talking about Frank, I

1 always come away from a meeting with Frank with a very giddy  
2 high that lasts for at least a couple of days.

3 THE COURT: I didn't hear that, but I read it in  
4 the memo.

5 MR. SANDS: Right, Your Honor. Obviously what I  
6 write was not evidence and obviously Mr. Amodeo --

7 THE COURT: It wasn't evidence but Mr. Gold at  
8 the beginning offered to stipulate that this is what your  
9 client believed the facts to be.

10 MR. SANDS: Yes. As I understand it, and does  
11 that stipulation still hold, that this is what he believes  
12 the facts to be?

13 MR. GOLD: Yeah.

14 THE COURT: Page one through 90.

15 MR. SANDS: Yes. One through 90. I'll take that  
16 stipulation then as a given.

17 The only real reason I'm pointing some of these  
18 things out is although he is willing to make that stipulation  
19 as to what my client's recollection is, obviously my client's  
20 recollection is subject to impeachment based on his mental  
21 condition, if nothing else, and I accept and appreciate that  
22 he's willing to accept my representations with regard to  
23 actually what's on these tapes. And indeed that is what's on  
24 these tapes. I wanted to give Your Honor an opportunity to  
25 listen to them as well.

1 Holtz I don't have, you'll see, we just heard him  
2 and I don't have him in here and what I will represent to the  
3 court and the reason I don't have it in here is I couldn't  
4 hear it perfectly either. He says I am a something sitting  
5 on Frank's shoulder.

6 MR. SLAUGHTER: A Guisepe-like Pinocchio telling  
7 him what to do and giving him advice and Frank says he's my  
8 guardian angel. I'm listening to it in my office with  
9 earphones on and have listened to it many times. I have some  
10 very small earphones in the courtroom for my Ipod if you  
11 wanted to listen to them.

12 MR. SANDS: But I think based on the  
13 representation, if Mr. Amodeo will allow me, based on the  
14 representation from Mr. Gold and from the court, I can very  
15 quickly in a matter of two or three minutes just go through a  
16 few instances in which we have, instead of me playing these  
17 things for you, I can just indicate where they're found in  
18 the transcript of the sentencing memorandum, if that is  
19 acceptable to the court. And pursuant to the stipulation  
20 then it would just be a reading of that. Is that acceptable,  
21 Mr. Amodeo?

22 THE DEFENDANT: The ones that are missing. I  
23 think the other three may play better because they're in a  
24 better format.

25 MR. SANDS: I am not confident. A lot of the



1 other ones are even worse in some respects in that the  
2 surveillance system at the office with a remote mike, you can  
3 listen to it, you can get them, but it's true it's better  
4 with headphones on.

5 The next one that we had intended to show to the  
6 court relates to an April 18, 2006 Mirabilis chairman's  
7 finance meeting attended by, and Mr. Amodeo would identify  
8 these people if we were actually to show it, but attended by  
9 CFO Glover, Mirabilis CEO Simo, Mirabilis CEO Hailstones,  
10 Mirabilis executive vice president Curry, Mirabilis chairman  
11 Holtz and Sharmila Khanorkar and Steven Holtz, so the son of  
12 the father, Laurie Holtz.

13 Glover claims in the course of that that the PBS  
14 book of business is, quote, not really our, meaning Mirabilis  
15 AEM book of business, unquote. He goes on to state that they  
16 have, quote, drawn a very thin line in the sand, end quote,  
17 and Amodeo thinks that they are well insulated. Much of the  
18 rest of the meeting is spent talking around that issue.  
19 Holtz asks Glover if there's some way that they, Mirabilis,  
20 can get information on the tax payments from Presidion. This  
21 is not withstanding the fact that the payroll tax and payroll  
22 deposits were then being run through the bank accounts.  
23 Glover responds probably not and goes on to note that, quote,  
24 they're negotiating the IRS resolution and the proposal's 144  
25 million.

1                   This is the people I've just identified talking  
2                   frankly about the situation as it exists way back in April of  
3                   2006, six months before the initiation of the government's  
4                   investigation. Holtz states that he knows about the  
5                   investigations, to which Glover again replies then you know  
6                   how bad it is. Holtz concludes by worrying aloud that,  
7                   quote, what would be bad to me is if in the middle of doing  
8                   that, he's talking about negotiating with the IRS, they, the  
9                   IRS, found out that they, Presidion, were grabbing the money  
10                  and that everything we're doing over there, nobody is going  
11                  to know that it was theirs because it was part of the time  
12                  that we were part of it.

13                  Much of the rest of the meeting if you listen to  
14                  it is devoted to discussion of Mirabilis AEM's liability for  
15                  the unpaid employment taxes with Hailstones reaching the  
16                  conclusion that exposure is basically limited to the first  
17                  quarter of 2006 due to the fact, if you read through the  
18                  memorandum, that it was in the first quarter of 2006 where  
19                  they actually sent out letters to the individual PEO clients  
20                  saying that they were running the book of business at that  
21                  point in time. But not dated.

22                  The next video I would have shown, again, is a  
23                  video which immediately followed that April 18, 2006  
24                  chairman's finance committee meeting. Holtz attends another  
25                  meeting with Khanorkar and Curry which he references the

1 upcoming meeting that they're having with the IRS regarding  
2 the payment of delinquent taxes and indicates that he intends  
3 to go over the, quote, bullet presentation for that meeting  
4 with Curry. And in a later taped discussion with the son he  
5 indicates he made charts that he wanted to use at that  
6 meeting. At the second part of the meeting he does say, yes,  
7 that he is too big a wheel, he doesn't want to go because he  
8 doesn't want to raise eyebrows.

9 MR. GOLD: Your Honor, if I can just ask, is that  
10 in the stip?

11 MR. SANDS: That's not in this. You're right.  
12 I'm sorry. I'm listening to counsel here. What I have here  
13 is what I indicated that's in that meeting.

14 Finally, on that same date, there is a tape of  
15 father and son, Laurie Holtz and his son, Steven Holtz,  
16 talking privately in one of the conference rooms in which the  
17 following conversation occurs. The senior Holtz, Laurie  
18 Holtz, indicates that Amodeo was looking forward to, quote,  
19 huge deals that may or may not happen, end quote. His son  
20 responds, quote, there's a fine line between ambition,  
21 ambitious and delusional, end quote. The senior Holtz  
22 replies, to me reaching across the table is success. He's  
23 talking about Amodeo wants to reach across the world, end  
24 quote. The senior Holtz concludes by saying if this thing is  
25 a success, we could make a bleeping fortune and you get a

1 piece, end quote.

2 MR. SANDS: Does that accord with your  
3 recollection of those tapes, Mr. Amodeo?

4 THE DEFENDANT: Yes.

5 MR. SANDS: Now, finally, Your Honor, is Mr.  
6 Amodeo had mentioned at the very beginning of this proceeding  
7 he had issues, you'll recall we talked about how the plea  
8 agreement had been carefully drafted to preserve certain  
9 differences of opinion that could be hashed out at a later  
10 point in time. Mr. Amodeo has indicated to me that he would  
11 like to point out specific instances within the plea  
12 agreement and then carried over into the presentence report  
13 where he thinks those clarifications are necessary. And I  
14 would like to give him the opportunity to do that, just ask  
15 him what particular passages he's talking about and what  
16 clarification he thinks --

17 THE COURT: Have you talked to Mr. Gold about  
18 this? I think it would behoove you and your client to talk  
19 to Mr. Gold before you embark on that course.

20 MR. SANDS: I have no problem in doing that. He  
21 can be given an opportunity to do that maybe after his cross  
22 examination or at some point later in this proceeding before  
23 we conclude.

24 THE COURT: Right. I'm not saying I'm not going  
25 to listen to it and I'll listen to it now, I just want

1 everybody to be on the same page. It's one thing to -- well,  
2 let me back up. You've come in here and told me you have a  
3 client that suffers from a bipolar disorder and goes through  
4 manic episodes and has delusions of grandeur and gets things,  
5 in a nutshell gets things out of perspective. He's said as  
6 much himself, he gets things out of perspective. If this  
7 isn't done carefully so you know exactly where he's going and  
8 what page he's on, he may get in trouble with the plea  
9 agreement. I don't know. And I'm just trying to make sure  
10 that we're all on the same page and you have an idea of what  
11 the government's position is and that Mr. Amodeo has an  
12 understanding -- understands what the government's position  
13 is before we go down that road.

14 MR. SANDS: I understand completely.

15 THE COURT: I'll give you time to do it.

16 MR. SANDS: I just want to make sure that  
17 anything Mr. Amodeo wants to bring to the attention of the  
18 court, he brings to the attention of the court.

19 THE COURT: That's right. And he will have that  
20 opportunity.

21 MR. SANDS: I think that's an excellent idea. We  
22 can table that.

23 THE COURT: Because you all know typically this  
24 part of the hearing is more in the way of allocution, and  
25 this is not a conventional sentencing hearing.

1 MR. SANDS: No. And all I can say to that, I  
2 guess, is it's not a conventional case. And I'm just trying  
3 to make sure that I safeguard whatever rights or inclinations  
4 Mr. Amodeo has with regard to what he wants presented in his  
5 case. So he can't, I don't want to have a situation where --

6 THE COURT: I understand that you're doing your  
7 very best to represent your client and I think you've done a  
8 very good job. I don't know that I've had a sentencing  
9 memorandum in that great a detail and brought out, you and  
10 Mr. Slaughter have brought out a lot of information. But I  
11 want this record to be clear that I'm giving you an  
12 opportunity to talk to Mr. Gold before we do what you're  
13 suggesting just so you'll have an opportunity to confer with  
14 Mr. Amodeo.

15 So we'll take a five minute break.

16 MR. SANDS: Or we can just go ahead and proceed  
17 if you like with Mr. Gold's presentation.

18 MR. GOLD: Your Honor, I kind of like to know  
19 what he's going to say before I go on cross examination.

20 THE COURT: I think if you don't have an  
21 understanding up front, Mr. Sands, it could be treacherous  
22 going for you or for your client.

23 MR. SANDS: Well, cross examination you mean.

24 THE COURT: Well, not necessarily. I don't know  
25 how much the answers will stay within the bounds of the

1 questions.

2 MR. SANDS: We'll take a little time to talk with  
3 Mr. Gold.

4 (BRIEF RECESS.)

5 MR. SANDS: May I be heard, Your Honor?

6 THE COURT: Yes, sir.

7 MR. SANDS: With regard to the issue you raised,  
8 I've spoken with Mr. Amodeo, I've spoken with Mr. Gold. The  
9 issue was it didn't involve an issue of Mr. Amodeo attempting  
10 to step back from things that are in the plea agreement. He  
11 accepts the statement of facts in the plea agreement. There  
12 were some small changes with regard to some of the wording on  
13 some facts in the presentence report.

14 Mr. Amodeo, and we'll get Mr. Amodeo to agree, if  
15 he does, Mr. Amodeo agrees that for the purposes of this  
16 sentencing those changes are not pertinent to what the judge  
17 needs to know in the sentencing and there's nothing that he  
18 needs to contest for purposes of this sentencing. What Mr.  
19 Amodeo was concerned about, I think, is simply that he didn't  
20 want the court to think that that was exactly verbatim what  
21 was in the plea agreement statement of facts and obviously  
22 it's not exactly the same.

23 THE COURT: Okay. I understand.

24 MR. SANDS: Agreed?

25 THE DEFENDANT: Yes.

1 THE COURT: Thank you, sir.

2 Mr. Gold.

3 MR. GOLD: May I proceed, Your Honor?

4 CROSS EXAMINATION

5 BY MR. GOLD:

6 Q. Good afternoon, Mr. Amodeo. I want to take you back  
7 to some of your testimony yesterday. You testified about  
8 your previous conviction, correct?

9 A. Yes, sir.

10 Q. And I just want to make sure that I've got the facts  
11 of that conviction straight. A woman by the name of Louise  
12 Hughston, H U G H S T O N, gave you \$50,000?

13 A. Yes.

14 Q. And that was for her son's bankruptcy?

15 A. Yes.

16 Q. And that was to be placed in your trust account?

17 A. No. I didn't have a trust account at the time. I had  
18 already closed my practice. It would be put in another  
19 attorney's account.

20 Q. When did you close your trust account?

21 A. 1992, '93, as soon as the law firm closed. I  
22 didn't -- one of the things, Mr. Gold, that is something that  
23 kind of is my first indication of problems. I don't even  
24 have a bank account today that has checks on it. I haven't  
25 written like checks because I can't, I don't balance bank



1 accounts. Every check account I've ever had I've overdrawn  
2 and so I like overdrew bank accounts early and I stopped  
3 having accounts, especially trust accounts, back in early  
4 Nineties.

5 Q. Even though as a lawyer you were required to have a  
6 trust account, were you not?

7 A. I don't remember at the time. My firm had a trust  
8 account and then when I quit, I was out of practice, I wasn't  
9 taking any more cases when the firm dissolved.

10 Q. And then you did start taking cases after that, didn't  
11 you?

12 A. Just Ladd's, just one.

13 Q. And at that time, knowing that you were operating as  
14 an attorney, you didn't set up a trust account?

15 A. I did not.

16 Q. So you placed the money into the trust account of  
17 another attorney?

18 A. That's correct.

19 Q. So when you told Mrs. Hughston that you were going to  
20 segregate that money that you were supposed to hold in trust,  
21 you lied to her?

22 A. Can you try that again? When I told her I was going  
23 to segregate the funds?

24 Q. Well, you told her, did you not, that money was going  
25 to be set aside strictly for her son-in-law's debts?

1 A. That was a lie, yes.

2 Q. And you told her that she would have a first position  
3 lien on her son-in-law's property which would protect her  
4 investment if the plan was not successful?

5 A. That's correct.

6 Q. That was also a lie?

7 A. That was the original plan and that didn't go through  
8 and so that's the fraud in my mind.

9 Q. You also told her that you would not disburse the  
10 money for any other purpose?

11 A. Yes.

12 Q. That was a lie?

13 A. Yes.

14 Q. And you told her that if the plan wasn't confirmed,  
15 she would get the money back?

16 A. That was the biggest problem.

17 Q. The plan didn't get confirmed, did it?

18 A. No, it did not.

19 Q. And you didn't give her the money back?

20 A. I did not.

21 Q. So your statement to her that you would return the  
22 money turned out to be a lie?

23 A. Yes, it did.

24 Q. And at the time all these lies served your purpose,  
25 did they not?

1 A. Yes.

2 Q. Now, she's not the only one from whom you stole money  
3 during this timeframe, was she? Let me give you some names,  
4 see if they ring a bell. Norman Oleesky, O L E E S K Y.

5 A. I would disagree with the characterization of Mr.  
6 Oleesky's money being stolen. Mr. Oleesky was a partner in  
7 the Pentagon Group.

8 Q. But you took money from him that you weren't entitled  
9 to?

10 A. I don't believe so, but again, I don't remember '91.  
11 I don't think so.

12 Q. What about John Purdue?

13 A. Mr. Purdue was a bankruptcy client and when I did the  
14 plea in the prior criminal case, I looked through some of the  
15 allegations, there were about 12 or 13. I found four or five  
16 I thought had some merit. I believe Mr. Purdue was one of  
17 those.

18 Q. So that you're admitting that you may have stolen  
19 money from Mr. Purdue?

20 A. That's correct.

21 Q. And you would have told him the same type of thing,  
22 that the money that he was giving you, that he trusted you  
23 with, that you wouldn't do anything with it?

24 A. Probably that I would have used it for fees in his  
25 case, but I would have had to wait to get court approval to

1 take it down as fees.

2 Q. And you didn't do that, did you?

3 A. I didn't wait for court approval, no.

4 Q. Claudia Arthur.

5 A. Miss Arthur is a major dispute because she was a  
6 partner for a long period of time and I disagree with that  
7 characterization.

8 Q. Meyoung, M E Y O U N G, Lee?

9 A. She was one that I was really willing to plead guilty  
10 to but they said the statute had run and I couldn't. She  
11 certainly is the case.

12 Q. So you stole money from her, too?

13 A. Mr. Gold, I want to make sure the characterization is  
14 right. She deposited 10,000 to my law firm trust account.  
15 That firm split up and the three partners went their  
16 different ways. She didn't get her money back, but I wasn't  
17 the only partner at the time and I didn't, I did not go take  
18 the trust account money and put it in my pocket. There just  
19 wasn't any money there when the firm dissolved.

20 Q. Somebody had taken that money, hadn't they?

21 A. That money had been spent on operations, yes.

22 Q. Donald Powell. If you don't remember, just tell me.

23 A. I don't remember.

24 THE COURT: Let me ask a question, Mr. Amodeo.

25 Were your partners prosecuted, to your knowledge?

1 THE DEFENDANT: No, sir.

2 THE COURT: I mean were they disciplined by the  
3 bar in Georgia?

4 THE DEFENDANT: Yes, sir. In fact, one of the  
5 things that had been important for me to bring up in this  
6 process was both of my partners were given, they requested of  
7 the bar something I didn't do, which may have averted this  
8 process for me, they were suspended, their license, and they  
9 went into a drug rehabilitation program, one for alcohol  
10 abuse and one for cocaine, and if I had had the diagnosis on  
11 the mental condition then, it's believed by my wife and  
12 others now that I may have gone and got treatment and not  
13 been either disbarred or prosecuted, that I just simply would  
14 have been suspended and allowed to reenter practice and make  
15 payments.

16 MR. GOLD: Let me move on a second.

17 BY MR. GOLD:

18 Q. The disbarment of which you spoke, that complaint was  
19 different than Louise Hughston, was it not?

20 A. That's correct.

21 Q. Now, you said on direct examination that you  
22 surrendered your bar license in 1993.

23 A. I agreed to a voluntary suspension. There was an  
24 emergency hearing and I agreed to voluntary suspension of my  
25 license. And then I was disbarred about three or four years

1 later in absentia.

2 Q. Well, in absentia. You know that the bar attempted to  
3 contact you, did they not?

4 A. I had counsel for most of that process and the first  
5 time I ever saw the bar complaint was when it was attached to  
6 a bankruptcy pleading in Orlando by John Anthony of Gray  
7 Robinson. I didn't see a disbarment notice before then. But  
8 I wasn't fighting the disbarment any longer. I was, you  
9 know, I had recognized that my conduct was unethical and that  
10 I didn't need to be practicing law.

11 Q. Now, let's talk about that particular complaint. That  
12 compliant was Alfie Pearl?

13 A. Correct.

14 Q. And she too gave you money to pay her creditors in  
15 bankruptcy proceeding?

16 A. No.

17 Q. No?

18 A. No.

19 Q. What did she give you money for?

20 A. Miss Pearl was in the collection business and she paid  
21 over about \$87,000 to settle up a dispute with one of her  
22 customers. My partner handled the great bulk of that case  
23 and settled it for her, and the argument is whether the  
24 balance of that money were fees or was returned to Miss  
25 Pearl. And a great deal of the problem in that case is we

1 lost our records, if you remember the receiver threw them  
2 out, and so I was unable to find out whether we put in enough  
3 time to justify the \$30,000. Nonetheless, Miss Pearl brought  
4 criminal charges against me and because it was important just  
5 to, frankly, because I was just afraid at the time, I gave  
6 Miss Pearl \$30,000 back and got the criminal charges  
7 dismissed. And that was the end of the Pearl matter.

8 MR. GOLD: May I approach, Your Honor?

9 THE COURT: Yes, sir.

10 BY MR. GOLD:

11 Q. Let me show you what's been marked as government  
12 exhibit number 5. Do you recognize that as the state of  
13 Georgia opinion for your disbarment?

14 A. That's what it says, yes.

15 Q. And do you see down there the formal complaint on the  
16 right-hand side, formal complaint was based upon a grievance  
17 filed by Alfie Pearl which alleged that she hired you for  
18 legal services related to debt relief and personal and  
19 corporate financial planning.

20 A. The resolution of her dispute with her customer is I  
21 think what they mean by that.

22 Q. Well, that's not what that says though, is it?

23 A. Well, I think so. It was debt relief, \$87,000 was put  
24 in to settle this debt.

25 Q. Well, at the time you were doing bankruptcy work,

1 weren't you?

2 A. Yes. I mean I did bankruptcy work at the time. But  
3 Miss Pearl's debt wasn't dischargeable in bankruptcy. It was  
4 a fraudulent taking of the money from her customer. She  
5 collected 200 and some thousand dollars, she hadn't paid the  
6 customer. At the time the bankruptcy limitations for filing  
7 Chapter 13 were like 150,000. The only way to discharge  
8 fraud in bankruptcy is in Chapter 13 and then you kind of  
9 have to get lucky. She couldn't file 13, there was no  
10 bankruptcy alternative for her.

11 Q. Let me see if I can cut to the chase here. In effect,  
12 it's alleged that you stole money from her?

13 A. Yes.

14 Q. All right. Now, you testified on direct examination  
15 that you told people at Hyatt that your family was rich?

16 A. Yes.

17 Q. You said you didn't know why you lied?

18 A. Correct.

19 Q. It was a lie, wasn't it?

20 A. Oh, yes.

21 Q. And in your mind, the lie served your purpose at that  
22 time, did it not?

23 A. I'm sure it did.

24 Q. And when you talked about the Sudafed that you were  
25 on, you said that when you were taking 16 Sudafed pills a



1 day, you didn't tell your wife?

2 A. That's true.

3 Q. Because you didn't want her to yell at you?

4 A. That's right.

5 Q. And you had actually told her that you had stopped  
6 taking the cold medicine?

7 A. I told her I stopped taking the Isochlor, yes.

8 Q. And it was a lie?

9 A. No. I stopped the Isochlor. She didn't know how much  
10 Sudafed I was taking. She knew I was taking allergy  
11 medicine.

12 Q. So maybe you weren't lying to her, but you were hiding  
13 it from her?

14 A. Yes, I was hiding it from her.

15 Q. And that, too, because it served your purpose at the  
16 time?

17 A. Yes.

18 Q. You were talking about this 8.9 million dollars, okay.  
19 Now, before we get to there, there was an audit that was  
20 being conducted by UHY, was there not?

21 A. Yes.

22 Q. All right. And it was for the, it was for Presidion,  
23 is that correct?

24 A. Yes.

25 Q. And you lied to the auditors during that engagement,

1 did you not?

2 A. No.

3 MR. GOLD: May I approach the witness, Your  
4 Honor?

5 THE COURT: Yes, sir.

6 Q. Let me show you what's been marked as government  
7 exhibit number 6. Do you recognize that document?

8 A. I do.

9 Q. All right. And that is a letter from you to Michael  
10 Hirsch who was an auditor at UHY, is that correct?

11 A. That is correct.

12 Q. All right. And in there -- and that letter is also  
13 signed by you, is it not?

14 A. It is.

15 Q. It says I do not and have never owned any stock or  
16 equity in Mirabilis?

17 A. Correct.

18 Q. And it also says I have never been an employee,  
19 officer or director of Mirabilis?

20 A. Correct.

21 Q. Those statements are false, aren't they?

22 A. No, those statements are not false.

23 Q. All right. If I could approach again. Let me show  
24 you what's been marked as government exhibit number 7. Do  
25 you recognize government exhibit number 7?

1 A. I do.

2 Q. That is a financial statement that you prepared, did  
3 you not?

4 A. No, actually I did not.

5 Q. Well --

6 A. This statement was prepared on my behalf without me.

7 Q. Well, it's signed by you down at the bottom, is it  
8 not?

9 A. It is.

10 Q. And it's dated August 26 of '05?

11 A. Of '08.

12 Q. Well, if you look up at the top of the very first  
13 page, statement date, 8-26-05, does it not?

14 A. Yes.

15 Q. All right. You would agree that under securities  
16 owned, 24,000 Mirabilis class A stocks with a market value of  
17 over 38 million dollars are listed there?

18 A. I agree it's listed on this paper.

19 Q. And you signed that piece of paper acknowledging it?

20 A. Only as a future interest, but, yes.

21 Q. Does it say anything on that form about a future  
22 interest?

23 A. No. But I didn't have the stock.

24 Q. Okay. So, in effect, what you're telling us now is  
25 what's contained on that piece of paper is a lie?

1 A. Yes, but I think everybody knew it when I did it. Mr.  
2 Myers knew it when he prepared it.

3 Q. All right. Now, take a look -- may I approach again?

4 THE COURT: Yes, sir.

5 Q. Take a look at exhibit number 8. Do you recognize  
6 that document?

7 A. I do.

8 Q. All right. And that is minutes of Mirabilis Ventures,  
9 Inc. dated February 15, 2005, a special joint meeting of the  
10 directors and shareholders, is that correct?

11 A. That's correct.

12 Q. And on page 2 it says -- it's signed by you, is it  
13 not?

14 A. Yes, it is.

15 Q. It says Frank Amodeo is sole director and shareholder?

16 A. Yes, it does.

17 Q. So --

18 A. We've been over this, Mr. Gold, you know I was only a  
19 proxy for Mr. Amar. They didn't give me the stock. He held  
20 the stock because he didn't get his money. By the time he  
21 got his payments, they didn't release the shares to me. They  
22 didn't want me involved.

23 Q. My question is does that say that you were the sole  
24 director and shareholder?

25 A. It does say that.

1 Q. And did you ever bring this to the attention of the  
2 UHY auditors at the time that you wrote exhibit number 6?

3 A. No, I didn't.

4 Q. All right. Let's talk about the lie to the Social  
5 Security disability people. You said that when, on direct  
6 examination that when you went for the Social Security  
7 examination you bragged about prospects that you knew you  
8 didn't have?

9 A. I did.

10 Q. Which means you lied?

11 A. Yes, I did.

12 Q. And you lied because in your mind it served your  
13 purpose at the time?

14 A. Yes. I think that boosting my ego was my purpose,  
15 but, yes, I did.

16 Q. But the lie served your purpose?

17 A. Yes.

18 Q. Now, you said that when you got out of jail in  
19 September of 2000 you had no money?

20 A. Correct.

21 Q. And that that was one of the reasons that you couldn't  
22 get psychiatric treatment?

23 A. Yes.

24 Q. And that this continued until at least 2003?

25 A. Whoa, no. That's not what I said. I said that when I

1 went to the halfway house the first time I had no money and I  
2 couldn't get psychiatric treatment. When I got out from  
3 Pensacola after having been violated, it took me a month or  
4 so and then Dr. Trim gave me psychiatric treatment and I was  
5 able to pay for it.

6 Q. For how long a period of time?

7 A. A little over a -- it was past 9-11 because I remember  
8 I was with Dr. Trim at 9-11. A couple months or so after  
9 9-11 I began to run out of money.

10 Q. Well, you had made it sound on direct examination that  
11 when you came out you really didn't have a lot of money to  
12 deal with.

13 A. I didn't.

14 Q. And yet you mentioned Yaniv Amar a couple minutes ago.  
15 He paid you \$60,000 for two month's work after you got out of  
16 jail, didn't he?

17 A. Correct.

18 Q. And then he paid you another \$40,000 to help you close  
19 out that business?

20 A. Yes, he did.

21 Q. All right. So from the time you got out of jail until  
22 a few months into '05, I'm sorry, into '01, you had a hundred  
23 thousand dollars that you had earned?

24 A. Yes.

25 Q. Now, you also testified that while in prison you

1 stopped taking any cold medications?

2 A. Correct.

3 Q. And you stopped taking them permanently I believe you  
4 said?

5 A. Yes, I did.

6 Q. So as I recall you said that as of '03 and even to  
7 this date, no more cold medications, just iced tea?

8 A. Just iced tea.

9 Q. So you weren't taking any cold medications from 2004  
10 through 2006?

11 A. That's correct.

12 Q. So you didn't have a dependence on the cold  
13 medications for that period of time?

14 A. No, I did not.

15 Q. Now, you also said that shortly thereafter you were  
16 doing some consulting for distressed businesses?

17 A. Call centers in particular, yes.

18 Q. Well, as of 2003 you said you were doing consulting  
19 for, I believe, some construction folks?

20 A. 2003 was print companies and call centers.

21 Q. All right. And on direct examination you said that  
22 you were paid a large amount of money, did you not?

23 A. I mean I think comparatively large amount of money  
24 would be appropriate. I don't remember saying large amount  
25 of money actually. I was paid very well by some of these

1 call centers, they paid me 30, 40, 50,000 dollars to close  
2 their businesses down.

3 Q. And knowing that you had this bipolar disorder, you  
4 didn't seek any therapy at that time, did you?

5 A. I stayed with the probation officer's, Dr. Shuker,  
6 till I was finished in September of '03, and then, no, I  
7 didn't.

8 Q. Even though you had the money to do so?

9 A. Even though I had the money to do so.

10 Q. Right. And then by the end of '04 and into '05 you  
11 testified that you made several million dollars in consulting  
12 fees and, despite having that money, you didn't go to see a  
13 therapist, did you?

14 A. No. It's been told to me by virtually everybody --

15 Q. I'm sorry. That question only calls for a yes or no  
16 answer, if you could.

17 A. I don't think I can, but I can tell you that it took a  
18 while for me to get to a therapist, yes. I didn't go right  
19 away.

20 Q. All right. And you said that Dr. Pollack was to keep  
21 an eye on you?

22 A. Yes.

23 Q. And to tell you if you were going over the edge?

24 A. That's correct.

25 Q. He never told you you were going over the edge?



1 A. On a few occasions he told me I had to go home and  
2 settle down and then he told me to quit eating carbohydrates  
3 because they were aggravating my mental condition.

4 Q. Well, he continued to be in business with you, did he  
5 not?

6 A. He did.

7 Q. He worked with you side by side?

8 A. All the way through December 2006.

9 Q. And he met with you almost daily during the weekdays  
10 as part of your breakfast club?

11 A. Breakfast club is somebody else's term, but Dr.  
12 Pollack did meet with me either at the breakfast meeting or  
13 later in the morning.

14 Q. All right. Let's talk about this consulting  
15 agreement. And you basically say that this consulting  
16 agreement allowed you to have 8.9 million dollars in fees?

17 A. More than that.

18 Q. This is the justification for it.

19 A. More than that, yes.

20 Q. Well, in this particular document, it's not in the  
21 document itself, it's actually in the addendum, is it not,  
22 where it talks about how much you're supposed to be paid?

23 A. Most likely. The way that was originally constructed  
24 was addendums for different engagements, I think.

25 MR. GOLD: Your Honor, may I approach.

1 THE COURT: Yes, sir, you may.

2 Q. And towards the back, I believe the back two pages, it  
3 says consultant shall be entitled to \$150,000 non-refundable  
4 base fee, correct?

5 A. Correct.

6 Q. And 25 percent of any tax savings?

7 A. Correct.

8 Q. It is also says the liability for the current  
9 obligations are 13 million dollars, correct?

10 A. It's considered to be 13 million dollars, that's  
11 correct.

12 Q. For Sunshine companies. And you even put in an  
13 example here of how much you might ultimately be entitled to  
14 if you save them money?

15 A. Correct.

16 Q. Now, you testified on direct that you were entitled to  
17 \$750,000 in expenses?

18 A. That was my memory. It looks like it's 500,000 from  
19 reading the agreement.

20 Q. If you can point to me where it says \$500,000 for  
21 expenses.

22 A. \$500,000 here is the liquidated damage fee for early  
23 termination.

24 Q. So you would agree that there's nothing in there that  
25 says anything about you being entitled to \$750,000?

1 A. Not in this agreement.

2 Q. This agreement embodied your entire understanding with  
3 the folks at Presidion and Sunshine, did it not?

4 A. In October it did, yes.

5 Q. Now, and what it also says is that starting in January  
6 of '05 they were to set aside \$75,000 monthly for your fee?

7 A. That's correct.

8 Q. You know that by the end of December of 2004 the  
9 Sunshine companies had sent 8.9 million dollars to AQMI?

10 A. Yes.

11 Q. So what in effect you're saying is you earned fees of  
12 8.9 million based upon a liability of 13 million dollars?

13 A. No. Earned 8.9 million based upon the fact of three  
14 years' prospective work in liquidating the Sunshine  
15 litigation. And that wasn't all. They had to pay more.

16 Q. Well, wait. Is there anything in this agreement that  
17 said you were supposed to get those type of fees for  
18 prospective work?

19 A. Not in this agreement, no.

20 Q. And what you're -- as a matter of fact, by January of  
21 '05, when you had received the 8.9 million dollars to AQMI,  
22 you had not saved Sunshine or Presidion a single penny at  
23 that point?

24 A. No, I don't believe that's the case. I believe, just  
25 as it's proved to be the case, the IRS agreed with us and

1 never went after any of the corporations.

2 Q. My question is as of that point in time you had never  
3 saved them a single dime?

4 A. Yes. We saved them the entire thing, Sunshine  
5 companies was owned by Wellington, Presidion did not owe it  
6 any longer.

7 Q. Well, Wellington was your company?

8 A. Right. If anybody was responsible then, it was the  
9 individuals of Presidion and I was responsible for handling  
10 the matter. That's what happened on January 1 or 2 of 2005.

11 Q. But the money had been disbursed to you by December 31  
12 of '04 before you took over owning the business?

13 A. Correct.

14 Q. And at that point you hadn't saved anybody, whether it  
15 was your own Wellington company or Sunshine, any money?

16 A. Yes.

17 Q. Now, you were asked by the auditors to tell them what  
18 the 8.9 million dollars was for, were you not?

19 A. No, that's not what was done. They sent me a letter,  
20 yes. Greg sent me a letter.

21 Q. Let me show you what's been marked as government  
22 exhibit number 2. Do you recognize that letter?

23 A. I do.

24 Q. And that letter is from Presidion Solutions. It says,  
25 well, it's addressed to AQMI Strategy Corp. which is you,

1 correct?

2 A. Yes, sir.

3 Q. And it's signed by Craig Vanderburg?

4 A. Yes.

5 Q. And down there they wanted to know about the 8.9  
6 million dollar deposit.

7 A. Correct.

8 Q. And you wrote in for tax controversy resolution, did  
9 you not?

10 A. I did.

11 Q. And down at the bottom you signed it saying Frank L.  
12 Amodeo?

13 A. I do believe that's my stamp, but I do acknowledge  
14 this.

15 Q. Okay. So what this says is that the 8.9 million is  
16 monies that they, that somebody was holding in trust, it  
17 wasn't for fees?

18 A. Okay, Mr. Gold, am I going to be able to answer this  
19 question? If you will, I'll tell you. I'm just going to  
20 answer the question and tell you what happened the way it  
21 was.

22 This was sent out on February 11 or something and  
23 I originally rejected it all together. I wouldn't return  
24 this to Craig until March 29 when he insisted on it so that  
25 his audit could be done and Presidion could finish it. At no

1 time was there a representation that this money was held.  
2 They all knew it hadn't been held. They knew it had been  
3 spent. All it says is retroactively to December 31, 2004, we  
4 would owe them the money. Let me tell you why they did it  
5 and the auditor knew it. The auditor said if I took it as  
6 fees in December, they would have to expense it and it would  
7 show up as a loss. By making it a deposit to January 1 when  
8 the agreement closed, they could make the balance sheets look  
9 better in 2004. Trust me. I now think that's a pretty  
10 sleazy thing to do, but frankly during the time period, I was  
11 listening to UHY auditors and, guess what, I wasn't talking  
12 to them directly, Craig was talking to them. I don't  
13 remember talking to them until May when they called to tell  
14 me about the retroactive note and then I insisted upon them  
15 making sure it was understood on the face of the document  
16 that they were backdating it before I had agreed to it.

17 Q. You would agree that this document says that as of  
18 December 31, 2004 it was a deposit for the tax controversy?

19 A. This document says that.

20 Q. Now, on page six of that consultant agreement, in  
21 there it talks about consultant, being you, shall indemnify  
22 and hold harmless and defend Presidion from any and all  
23 claims, liabilities, damages, taxes, fines or penalties  
24 sought or recovered by any governmental agency, including but  
25 not limited to the IRS, arising out of consultant's alleged

1 failure to pay such taxes or make contributions. Isn't that  
2 what that says?

3 A. Yes.

4 Q. So at that point, that clause basically contemplated  
5 the fact that you might not be paying the payroll taxes?

6 A. No. Let me tell you what. This contract was done by  
7 us to indemnify independent contractors. You know what that  
8 means? That's if you're a 1099 employee, guess what? If  
9 you're a 1099 employee and the government says you're  
10 supposed to withhold, you can become liable for it. It has  
11 nothing to do with corporate entities, it has to do with  
12 individuals who aren't getting W-2s. Remember the date of  
13 this October agreement? There was no contemplation of me  
14 holding any money for anybody or AQMI or Matrix. Always what  
15 we were going to do is provide negotiating services for them.  
16 This was weeks before the revised plan came up and the  
17 revised plan called for a whole different compensation  
18 scheme. But that paragraph in this boilerplate contract has  
19 absolutely nothing to do with company holding money. If you  
20 look at the Brookmeade contract, it has the same language in  
21 it.

22 Q. Let me ask you this question: You said that this, on  
23 defense exhibit number 5, the instruction pursuant to the  
24 limited power of attorney, you refused to sign that?

25 A. Yes.

1 Q. In effect, they were saying to you that we want you to  
2 put the money into a special account to make sure it gets to  
3 the IRS?

4 A. Yes.

5 Q. This document says Mr. Amodeo, we don't trust you, we  
6 want to make sure it gets to the IRS so we don't get in any  
7 deeper?

8 A. Right. And I told them no.

9 Q. Now, you had already been involved with companies  
10 where payroll taxes hadn't been paid?

11 A. Many.

12 Q. I'm sorry.

13 A. Many.

14 Q. Many. Including Synentre, S Y N E N T R E, and  
15 Primary Bookkeeping?

16 A. That's correct.

17 Q. So you knew that payroll taxes had to be paid?

18 A. Yes.

19 Q. No question in your mind?

20 A. None.

21 Q. And as a matter of fact, the IRS went after you for  
22 several hundred thousand dollars on taxes from 2001, isn't  
23 that true, and you eventually paid some of those monies?

24 A. I eventually paid the IRS monies from a company that  
25 didn't pay, yes, that I was a responsible person for. I was



1 well aware that, you know, as a responsible person we just  
2 couldn't pay the taxes and the IRS will pursue you until they  
3 get their money. No question about it.

4 Q. Now, exhibit number 3 that you spoke of, do you have  
5 that in front of you? Maybe you didn't identify that  
6 earlier.

7 A. No. I didn't get a number three.

8 Q. All right. Well, let's move on a second. In fact, by  
9 the end of December 2004, the Sunshine liabilities had jumped  
10 to 55 million dollars, had they not?

11 A. I know that the Sunshine liabilities were 52 million  
12 dollars by the end of 2004.

13 Q. All right. And you're the one who actually signed the  
14 941s for those payroll taxes?

15 A. Well, if you read those 941s, I have a big  
16 qualification written right across it, that I wasn't there  
17 when they withheld that as monies or didn't pay them over.  
18 But I did turn them in to Miss Berkowitz because she needed  
19 tax returns, yes.

20 Q. Now, your original agreement contemplated 13 million  
21 dollars, did it not?

22 A. Correct.

23 Q. Not 55 million dollars?

24 A. Yes.

25 Q. And when you found out that it was 55 million dollars,

1 you didn't go to Vanderburg and Baiers and said, hey, guys,  
2 there's something wrong here, I only signed on for 13  
3 million?

4 A. No. I raised my fee.

5 Q. Well, you had already claimed that you had a fee of  
6 ten million.

7 A. Well, I had a fee of 13 million plus what I saved in  
8 other areas now. I wasn't afraid of taking on these kind of  
9 responsibilities. Let me tell you what, that seems to be  
10 part of the disorder from what I know now, I don't see those  
11 kind of risks. Frankly everybody around me says I was crazy  
12 to take on even the first liability, they think I should have  
13 just not done it. But just because it's 50 million, it's a  
14 bigger case. That's thrilling for me.

15 Q. You didn't try and back out of the deal?

16 A. No. I just said you'll have to pay more money.

17 Q. So effectively when we talk about these Sunshine  
18 taxes, the ones who were supposed to be responsible were  
19 Baiers, Vanderburg and Burcham, right?

20 A. There may have been a couple of others.

21 Q. And the odds are they weren't ever going to pay those  
22 taxes?

23 A. Not unless their Presidion stock was worthwhile.

24 Q. And at that point it wasn't worth anything?

25 A. That's correct.

1 Q. So you wind up taking over these liabilities, correct?

2 A. That's correct.

3 Q. And, well, actually, I think you said your company  
4 took them over?

5 A. Right. I didn't have personal liability for them.  
6 That would have even been crazier than I am.

7 Q. So what you're saying is you didn't have any personal  
8 liability for them?

9 A. Correct.

10 Q. Sunshine companies didn't have any personal liability?

11 A. Sunshine companies did have liability for them.

12 Q. But Sunshine companies wasn't going to pay those  
13 taxes, were they?

14 A. No. They were going to pay a portion of them. We  
15 were able to get some money back, but wouldn't have paid them  
16 in full.

17 Q. You said that you went to talk to Berkowitz in January  
18 of 2005 about another client's tax problem.

19 A. Correct.

20 Q. That problem was your problem, wasn't it? It wasn't  
21 another compliant?

22 A. Well, it's Primary Bookkeeping. It's the Primary  
23 Bookkeeping client. I went down as the attorney, Dan Bryant  
24 was the power of attorney, the deal was Sunshine.

25 Q. You made it sound like totally something unrelated.

1 A. When the company that didn't pay for it -- it arises  
2 this way. The company, what takes place with Primary  
3 Bookkeeping is the following: Atlas Welding borrowed money  
4 really from Yaniv because he was the only one that had any  
5 money and made some payrolls. Kept on making net payrolls  
6 for Atlas Welding. Atlas Welding files bankruptcy. Never  
7 repays. In fact, got a \$500,000 judgment against him. Now  
8 there's the client. Now they come back and say Primary  
9 Bookkeeping is going to owe them money, you know, and Mr.  
10 Amar and Mr. Beavers, who are operating it, are going to be  
11 responsible persons. Well, I don't let my friends get hit by  
12 a train to see her and said I'm Primary Bookkeeping, this is  
13 Dan Myers and I'm going to get this resolved.

14 Q. Are you suggesting you misrepresented things to the  
15 IRS?

16 A. No.

17 Q. Now, when you said that you were going to negotiate  
18 the Sunshine companies, you had already received the 8.9  
19 million, had you not?

20 A. Yes.

21 Q. Spent it pretty quick?

22 A. Transferred it quick, yes.

23 Q. All right. And you had absolutely no money then to  
24 negotiate with the IRS to pay these taxes? You said you were  
25 going to --

1 A. I wasn't going to use the 8.9 million to negotiate  
2 with the IRS. Those were the fees.

3 Q. And you said -- well then, that was the only money you  
4 really had, wasn't it?

5 A. No. There was insurance deposits that had to be  
6 reclaimed. They had a lawsuit pending against Blue Cross and  
7 Blue Shield. They had a five million dollar pending judgment  
8 against Sierra TPA and Epic TPA. I was going to collect  
9 whatever money I could and I was going to make sure that the  
10 stock that Craig, Jim and John had which was supposed to be  
11 worth a lot of money was securing the IRS position. That's  
12 what I told them the first day, I mean it just wasn't hidden.  
13 Tax their stock, that's the only way payment in full can be  
14 accomplished, but there is some other money out there and if  
15 we have a chance to pursue it, we'll get it and there will be  
16 some repayment.

17 Q. As of August of '06, that money, you had not finished  
18 negotiating with the IRS, had you?

19 A. No.

20 Q. To this day you haven't finished negotiating with the  
21 IRS?

22 A. No.

23 Q. And all these monies that you claim that you might  
24 have had didn't come into your possession?

25 A. No. In fact, no. The Sunshine money did not come

1 into my possession, that's correct.

2 Q. So effectively you were going to go to the IRS and say  
3 I'm going to pay you X amount of money even though you didn't  
4 have it and you really were not going to --

5 A. I believe the IRS was paid 2.7 million dollars against  
6 the Sunshine debt and, no, maybe in fact it was probably  
7 closer to six that was collected and paid to the IRS. I know  
8 the Mirabilis note that was 1.245 million. I know that they  
9 filed a lien against Craig and John Burcham for 2.2 million  
10 which was released after payment.

11 Q. You didn't pay that money?

12 A. Oh, yes, I did. I mean not me personally, but the  
13 companies did.

14 Q. Which companies?

15 A. Either Titanium Technologies or the Presidion  
16 companies.

17 Q. And that money that you used to pay was stolen payroll  
18 tax money? That's what you used to pay it, wasn't it?

19 A. Ultimately, yes. They didn't balance out. Weren't  
20 paying the current taxes and were paying the old taxes.

21 Q. Wait a minute. It wasn't that they weren't paying it,  
22 you were directing them not to pay it.

23 A. Directing, yes, I was directing them not to pay it.  
24 It was my plan.

25 Q. So what I said a minute ago was correct, that the

1 money that was used to pay the Sunshine taxes was money  
2 stolen from the PBS taxes?

3 A. Some of it, Mr. Gold, yes. Not all of it. I can't  
4 tell you how much today.

5 Q. Now, you also said that you had a private agreement  
6 with Craig Vanderburg. We have to keep this on the Q-T I  
7 think were your words?

8 A. Yes. That's what he said.

9 Q. There is not a single document that exists that  
10 reflects that agreement, is there?

11 A. I think there's an e-mail to me and Chris O'Connor  
12 telling Chris, I can't talk to him unless I see him in person  
13 because of Craig, but, no, nothing else.

14 Q. And you've spoken with the agents and myself on  
15 several occasions, have you not?

16 A. Correct.

17 Q. Never once in all of those meetings did you ever say  
18 anything about a private agreement with Mr. Vanderburg?

19 A. I don't have a recollection of this being an issue,  
20 but, I mean I don't understand when we discussed it at all.  
21 But, no, I don't remember telling you that I had a private  
22 agreement with Mr. Vanderburg.

23 Q. Now, you mentioned some undercover discussions that  
24 you had with various people.

25 A. Yes.

1 Q. During any of those undercover discussions, did you  
2 ever say anything about that private agreement?

3 A. No. I did talk about the fees though with Mr. Baiers.

4 Q. You never said anything about a private agreement with  
5 Mr. Vanderburg.

6 A. No. I didn't think it was an issue.

7 Q. Now, you first came up with this idea when you figured  
8 out that you needed a way to save some interest in the home  
9 for your wife?

10 A. No. I've always contended that these were fees and  
11 only fees. There's never been a question about that ever.  
12 Not once. Not from day one and not right up till this  
13 afternoon.

14 Q. You said that you used the AQMI funds to pay for the  
15 condo?

16 A. My portion of them. No. What I said was funds that  
17 were my -- my share of what the AQMI fees were is what  
18 actually paid for the condo. I understand that some of the  
19 money I didn't get paid, I got paid later, but when it got  
20 booked it was always booked against what I earned from the  
21 Sunshine fees. I never got all the money from the Sunshine  
22 fees.

23 Q. In fact, what happened was the money that was used for  
24 the condo came out of the stolen payroll taxes?

25 A. Yes. It came out of Presidion's money, that's true.



1 Q. It didn't come from Sunshine company?

2 A. I don't think so, no.

3 Q. As a matter of fact, it went from the ultimate master  
4 account to the reserve account and then to Mr. Berman's trust  
5 account and then to the closing agent?

6 A. Probably, yes.

7 Q. So your statement this morning that your fees from  
8 Sunshine were used to pay the condo are wrong?

9 A. No, sir. Listen. You know, I mean you're good at  
10 what you do, but I just can't let that happen. I was owed a  
11 certain amount of money by Presidion. Presidion paid me.  
12 Now, this is the contention that we've had all along. I  
13 completely agree with you there's something above 126 million  
14 dollars in payroll taxes that were collected and not paid  
15 over. Now, I know this and you know this because the only  
16 person who's done these returns is me. But every number  
17 above that, there's no way anybody could have an answer to  
18 because I don't have an answer to. All right.

19 Q. You're the only one smart enough to have that answer?

20 A. No. I'm the only one that's done the work. I spent  
21 three years doing it. Now, listen, if you will. All that  
22 happened is Presidion paid off the balance of the fees that  
23 it owed under these contracts, and I took that money out to  
24 buy the condo. That's what it was. Now, you say it came  
25 from stolen payroll funds and I agree, it came at a time when

1 they were -- when I was taking payroll money. I'm not saying  
2 it's the same money. For me, that's a big difference. I see  
3 lines and I can't get around them. And that's just the way I  
4 think. If I was owed money, I did not let the money come out  
5 of the Presidion account, but I was owed money from before.

6 Q. Wait. If you were owed money you wouldn't have taken  
7 it out? You took 64 million out of the master account and  
8 put it into the reserve account, didn't you?

9 A. Yes.

10 Q. And the condo wasn't purchased in December of '05?

11 A. That's correct.

12 Q. And you said you gave the house to your wife as a gift  
13 effectively?

14 A. Yes.

15 Q. It wasn't put into her name, was it?

16 A. No, it wasn't put into her name.

17 Q. It wasn't put into your name either?

18 A. No, it wasn't.

19 Q. It was put into a trust?

20 A. Partnership, yes.

21 Q. So on paper it doesn't appear that this was a gift to  
22 your wife?

23 A. On paper it doesn't. I have to -- I believe you've  
24 already been told why that occurred. It had nothing to do  
25 with me. My wife's former husband, Gentry's father, had

1 threatened her, she testified in a criminal case against him,  
2 and she wanted it done so that he wouldn't know where she  
3 lived because she was afraid. That's why it was done that  
4 way.

5 Q. Let's talk about the December 20 or 21st meeting I  
6 guess that you referred to earlier.

7 A. Yes.

8 Q. There were other meetings that led up to that meeting,  
9 were there not?

10 A. Yes.

11 Q. Specifically there was a November 17 meeting?

12 A. I don't remember the November 17 meeting, but I  
13 wouldn't doubt that. There were many meetings leading up to  
14 the 21st meeting.

15 Q. There was a meeting between you, Mr. Vanderburg, Mr.  
16 O'Connor and Edie Curry?

17 A. And Mr. Amar.

18 Q. And didn't that meeting, didn't Mr. Vanderburg himself  
19 tell you that it was a crime to use payroll taxes for any  
20 purpose other than payroll taxes?

21 A. No.

22 Q. You never told Mr. Holtz or Miss Curry or anybody else  
23 that your strategy was to stop paying the payroll taxes?

24 A. That's not true.

25 Q. You told Mr. Holtz and Miss Curry, for example, that

1 you wanted to make sure that everything was done properly?

2 A. Correct.

3 Q. So that there weren't any further problems with  
4 payroll taxes like at Sunshine?

5 A. Yes.

6 Q. And you specifically said that you weren't going to  
7 steal any payroll taxes?

8 A. I'm sure I did.

9 Q. Okay. So that's what you told them and then you wound  
10 up stealing them anyway?

11 A. Mr. Gold, at the time, and Miss Curry can confirm this  
12 and Mr. Holtz as well and I guess I'll have to bring back the  
13 tapes, they told me it wasn't illegal to not pay the payroll  
14 taxes. They agreed with me. They were well aware of the  
15 plan. They controlled the accounting systems, I didn't. And  
16 the money flowed from accounts which they were signers on to  
17 accounts which -- when I say they, I mean their officers,  
18 from one account of theirs to another. I wasn't even in that  
19 process. I did approve it. It was my plan. And often  
20 people would run things by and I would say, yeah, go ahead.  
21 So I'm not saying I don't know about it and I wasn't in the  
22 mix of it. I'm just telling you it wasn't me telling them  
23 something. They did it themselves.

24 Q. You also said at the time you would never have access  
25 to the checkbook for the companies.

1 A. Probably back in the Trafalgar Matrix days that would  
2 be the case.

3 Q. Well, wasn't it the case when you were dealing with  
4 your initial group?

5 A. When I was dealing with my initial group it was  
6 probably definitely. Woody Johnson kept hold of those  
7 checkbooks like they were absolute gold. He knew I was  
8 reckless.

9 Q. Now, if you could take a look at exhibit 13. You said  
10 that you learned that the IRS had discontinued their  
11 investigation of Burcham, Baiers and Vanderburg, correct?

12 A. Yes.

13 Q. And you said that you were told that it was just a  
14 civil matter, payroll taxes?

15 A. Yes.

16 Q. Point me to anything in exhibit number 13 that says  
17 that.

18 A. I don't have an exhibit 13. But I know which letter  
19 you're talking to. You can just hold the letter. Why don't  
20 you listen to the undercover tapes? Craig says it again on  
21 two different occasions.

22 Q. My question is in this letter it says nothing about it  
23 being just a civil matter.

24 A. No. Mr. Baiers told me that was Mr. Patterson's  
25 opinion and then Craig confirmed it twice on the videotapes.

1 Q. So you're saying that you didn't know that it was a  
2 crime to take the payroll taxes?

3 A. The reason for the conflict issue is because until Mr.  
4 Slaughter told me -- no, let me correct that. I didn't even  
5 believe Mr. Slaughter when he told me. Until (INAUDIBLE)  
6 after Sabbath, I didn't know it was a crime to take the  
7 payroll taxes. I thought you could be subject to a big  
8 penalty, I didn't know it was illegal until -- Mr. Slaughter  
9 communicated with me sometime in December of 2006 that it was  
10 a, it was unlawful to delay payment of payroll taxes, and I  
11 didn't even really completely believe Mr. Slaughter at the  
12 time. I asked Mr. Amar if he would use his computer thing  
13 because he's pretty good with those and he ran Ask Law dot  
14 com, pulled up 7202, called me back after Sabbath, he's  
15 strictly orthodox, and asked what the blank we had been doing  
16 for the last two years because nobody had read that section.

17 Q. Let me ask you first, are you familiar with a person  
18 by the name of Matt Porter?

19 A. I am.

20 Q. Who is Matt Porter?

21 A. Matt Porter was a legal assistant at, for me, and then  
22 he was, he had some role with the security firm after he  
23 finished doing work for me.

24 MR. GOLD: May I approach, Your Honor?

25 THE COURT: Yes, sir.

1 Q. Let me show you exhibit number 7. Do you recognize  
2 that document?

3 A. This particular, this seems to be something around the  
4 time of the Elena tax memos, the first Berman tax memos, and  
5 so I don't recognize this little teeny paragraph, but I think  
6 I know the time and what it's referring to.

7 Q. And it appears that most of it went from Matt Porter  
8 to Craig Vanderburg, and then it was passed on eventually to  
9 you as well?

10 A. If this is the -- I doubt it, but -- when you say it  
11 appears, appears is a good thing. I don't use computers.  
12 Things made out to me would never have gone to me. As your  
13 IT people know, none of my e-mails have never been opened  
14 because I didn't know how to do it.

15 Q. Well, you would agree that it is copied to you?

16 A. It is copied to me, yes.

17 Q. And you would agree that there is a comment to Craig  
18 from Frank being you, correct?

19 A. Yes.

20 Q. And if you could take a look over at page three under  
21 subparagraph three, could you read what that says?

22 A. Page three, subparagraph three?

23 Q. Yes, sir. Let me read it for you. It says the IRS  
24 may impose criminal and civil penalties pursuant to section  
25 7202 and 7215 against any person for willful failure to

1 comply with requirements of 7512. It says in here that there  
2 were criminal penalties, were there not?

3 A. It does, Mr. Gold. Now, let me explain. Number one,  
4 you're well aware because you've seen all the Outlook  
5 exchanges, I never read these agreements, that's what I had  
6 all the lawyers for.

7 Number two, even if I had read it, all it would  
8 have done is inspired me further. It doesn't say you get  
9 criminal violations unless you violate 7512, and there was no  
10 violation of 7512, which I now know to mean that you had to  
11 have a direct and specific order from the IRS to segregate  
12 your funds. In fact, the IRS never told anybody to segregate  
13 their funds, the only person that ever did that was me.

14 Q. This puts anybody on notice who reads it that there's  
15 criminal penalties related to payroll taxes.

16 MR. SANDS: Objection. Misstates the document.

17 THE COURT: It's not a question, Mr. Gold.

18 MR. GOLD: I'll move on, Your Honor.

19 Q. Now, on exhibit 17, do you have it before you, and 19.

20 A. And 19.

21 Q. 17 and 19.

22 A. I do.

23 Q. You said that prior to entering into the agreement  
24 with the Sunshine companies that you had sought out legal  
25 counsel and had gotten memos from the Berman firm and from



1 the Fink and Kostelanetz firm. Is that what you said on  
2 direct examination?

3 A. No, I don't think so. I stay think what I said on  
4 direct examination is that prior to entering the Sunshine  
5 deal I had a phone conference with the Kostelanetz and Fink  
6 arranged by Presidion and that I consulted with my in-house,  
7 quote, in-house people like Larry Haber and did a quick brief  
8 look at what the law was, and I talked with Mr. Berman,  
9 talked with Mr. Holtz because I was committed to making no  
10 major transaction without discussing it with them. But I  
11 didn't need a brief, I wasn't required to get a brief by the  
12 contract and certainly didn't think I needed a brief for  
13 myself. I was pretty comfortable as long as I didn't operate  
14 the business that I wouldn't be liable for any unpaid payroll  
15 taxes.

16 Q. So you dispute the fact that this morning on direct  
17 examination you said before entering into the final agreement  
18 that you consulted with the firms and they drafted these  
19 memos?

20 A. I don't think I said that. I mean I would have to go  
21 back and listen, but if I did, I mean that's not the case.

22 Q. Well, you would agree that these documents were  
23 drafted at least on their face four months after you had  
24 already purchased?

25 A. The Sunshine one was done at the request of Presidion

1 to turn over to their auditor, that's true, the April 14  
2 Berman Kean one. I have nothing to do with the Kostelanetz  
3 and Fink except that one phone call. I had one phone call  
4 with them that was a conference call set up by Presidion, and  
5 I never met them, I never talked to them, they never sent me  
6 anything, and I'm sure they think they don't represent me.

7 Q. Weren't you suggesting this morning that one of the  
8 things you relied upon, as a matter of fact, your opinion was  
9 confirmed was based upon this memo that's not even completed  
10 or signed?

11 A. It was based upon their phone call where they told me  
12 it was a great idea to go ahead and do it. And then if it  
13 were over in 15 minutes and they'd like to take the rest of  
14 the hour so they could bill out the full hour. That's what  
15 it was based on.

16 Q. Now, you never told the Fink or Kostelanetz firm that  
17 you weren't going to be paying the payroll taxes, that you  
18 were going to be diverting them?

19 A. No, I didn't tell the Fink and Kostelanetz firm  
20 anything like that. That wasn't what I was asked to tell  
21 them.

22 Q. Now, in number 17, the only issue this deals with is  
23 responsibility for the Sunshine taxes.

24 A. Correct.

25 Q. Nothing to do about PBS taxes?

1 A. Absolutely not.

2 Q. And there's nothing in there addressing the fact that  
3 the PBS taxes weren't being paid?

4 A. No. In fact, I think they were being paid at this  
5 time.

6 Q. Or that they weren't going to be paid?

7 A. No, I don't think it was even contemplated that they  
8 would be used to buy businesses and do the reorganization at  
9 this time. I don't think anybody knew that they were in  
10 trouble again at this time.

11 Q. You never asked for a legal opinion on whether if you  
12 took the payroll taxes and diverted them to the reserve  
13 account, whether that would be a crime? You never sought a  
14 legal opinion about that, did you?

15 A. No.

16 Q. So both of these memos deal with the same thing,  
17 strictly with the Sunshine companies and the liability,  
18 correct?

19 A. Correct.

20 Q. Now, you mentioned this morning the PBS plan, and you  
21 talked about during the second half of 2006.

22 A. PBS plan started, was developed in 2005 and continued  
23 through 2006.

24 Q. Well, this morning you didn't say anything about 2005  
25 relating to PBS, did you?

1 A. Mr. Gold, you're asking me to remember something I  
2 said this morning which is very specific. I don't know.  
3 What are you referring to? I'll be glad to answer it.

4 Q. You seemed to be pretty sure this morning about what  
5 you said.

6 A. I still am pretty sure of myself. I just don't know  
7 the specifics. The PBS plan began in 2005 when I came up  
8 with the idea to not make the payroll tax payments and pay  
9 everything else. And that plan continued from that point  
10 forward with an abbreviated period in early 2006 when AEM  
11 paid the taxes for all the companies.

12 MR. GOLD: Your Honor, does the court want me to  
13 stop for break or should I just keep going?

14 THE COURT: Do you want to take a break now?

15 MR. GOLD: No. I'm fine to go now, but I thought  
16 I saw you checking your watch.

17 THE COURT: I don't even have a watch.

18 MR. GOLD: I can keep going.

19 THE COURT: I had planned on breaking at 3:30.

20 MR. GOLD: I'll keep going.

21 THE COURT: Are you comfortable?

22 THE DEFENDANT: I am, sir, yes.

23 THE COURT: We'll press on for a few more  
24 minutes.

25 Q. So it was your idea and yours alone to not pay the

1 payroll taxes?

2 A. No. It was my idea and mine with four or five senior  
3 professionals and a hundred others.

4 Q. They told you that you didn't have to pay the taxes?

5 A. Yes. And that it wasn't illegal to do so. And they  
6 told other people that.

7 Q. You're the one who directed the folks not to pay the  
8 taxes. Nobody else directed that though.

9 A. Okay. This is part of our prior set of events. I  
10 wanted to be the only one directing it, but I was precluded  
11 from doing that because I was told I couldn't be a  
12 controlling person because of my past felony. They wanted to  
13 bunch all these companies together, all the regulated  
14 companies, including the PEOs.

15 Q. You're not answering my question. My question is  
16 you're the only one who directed these people not to pay the  
17 taxes?

18 A. No. I'm one of the people that directed them not to  
19 pay the taxes. I'm one of them.

20 Q. Who else directed them not to pay the taxes?

21 A. Oh, I mean, you know, the presidents of the companies  
22 directed the other CPAs not to pay them, Vanderburg and  
23 Stanley.

24 Q. So you're now saying that you weren't the one who was  
25 responsible for directing almost every single non-payment?

1 A. No. What I'm saying is I wasn't the only one in those  
2 decisions to not pay them. I was probably in 80 percent of  
3 the transactions, I would think, 80 percent.

4 Q. Can you show me any documentation for the other 20  
5 percent that anybody else directed the non-payment of the  
6 taxes?

7 A. I mean I could just show you they didn't pay them  
8 without consulting me. That's about the only thing I can do.

9 Q. My question is there is not a piece of paper that  
10 shows that anybody else is directing the payments not to be  
11 made, is there?

12 A. Well, I don't know. I'd have to go back and look. I  
13 know before I was involved with Presidion there's plenty  
14 where they were directing payments and I wasn't there. After  
15 that period of time I'd have to go back and see if there's  
16 anything that affirmatively does it. I'm sure there is, I  
17 just have to go find it.

18 Q. And you're saying that Mr. Holtz told you that it was  
19 okay not to pay the payroll taxes and it wasn't a crime?

20 A. Well, he didn't even get to it wasn't a crime. He  
21 said it was okay.

22 Q. There was nothing illegal about it?

23 A. Nothing illegal about it.

24 Q. Illegal would mean that it was a crime, correct?

25 A. Illegal is criminal. He was concerned, he did become

1 concerned, especially in '06, that there might be some  
2 responsible person liability and I can tell you a lot of  
3 people became concerned that somebody was going to be  
4 personally liable for these unpaid taxes and they didn't want  
5 to be that person. And they started taking all kinds of  
6 steps to gyrate that around, but I was okay with it because I  
7 moved all that liability into companies which were in my  
8 direct chain of control. The reporting was done that way.  
9 Understand, didn't collect the money, but I reported it. And  
10 I was willing to take the chance that I may have  
11 responsibility for it because I had been told it wasn't  
12 illegal, I just had a civil liability, and I really believed  
13 that by this time I'd have a couple of billion dollars and I  
14 would have paid it off.

15 Q. Do you have any piece of paper that says that it was  
16 not illegal?

17 A. Yeah. I have Jim Baiers' notes that Edie Curry told  
18 him.

19 Q. Do you have any documentation from Edie Curry?

20 A. No, I don't think so.

21 Q. Do you have any documentation from Laurie Holtz?

22 A. No. I have Holtz discussing it without mentioning it  
23 being either way.

24 Q. Do you have any documentation from Mr. Berman saying  
25 it was not illegal to take the payroll taxes?

1 A. Just his memos.

2 Q. Do any one of the memos that you have seen said it's  
3 okay to take the payroll taxes and it's not illegal?

4 A. No. But they didn't say it was illegal.

5 Q. Those memos didn't address anything other than the  
6 Sunshine taxes, did it?

7 A. No. The second one addressed the PBS taxes. The  
8 February 2006 memo. It's not in the evidence yet.

9 Q. Now, earlier today you said that you needed Holtz to  
10 be the guy who told people what to do?

11 A. Yes.

12 Q. Because he was straightforward and you weren't the  
13 kind of guy who could just tell people what to do?

14 A. Be blunt.

15 Q. In fact, in the videotape that we saw yesterday,  
16 didn't you direct everybody what to do? Didn't you say that  
17 you're directing them specifically? You didn't need Holtz  
18 for that, did you?

19 A. Mr. Gold, do you know how many people turned in their  
20 time sheets out of the 300? I don't know, 20. You know how  
21 long that lasted? Two days. That's what I do. It's a shiny  
22 object and it was gone. You know what happened? Jim  
23 Vanderburg and everybody fired me up because Edie had played  
24 some silly game over the weekend and I went off, that's what  
25 happens when you're manic. Let me tell you, only reason I



1 went to Dr. Danziger when Butch asked me to, I watched the  
2 videos. I watched the videos and I went back and said I'm a  
3 nut case. I couldn't believe that was me. I'm not like  
4 that. I'm the guy that sees the homeless guy on the street  
5 and goes out of his way to give him money.

6 Q. You decided to take a look at the videos and go to Dr.  
7 Danziger after you knew you were under criminal investigation  
8 and now you're going to check on the bipolar issue?

9 A. No. I knew I was bipolar beforehand, I just didn't  
10 believe I needed medication.

11 Q. Now, you said earlier that Edie Curry was a UCC  
12 expert?

13 A. She claims to be an Article 9 UCC expert.

14 Q. And that she was one of those people who told you?

15 A. We had a great in-depth discussion that properly  
16 perfected security interest prime unsecured obligations.

17 Q. Wait. Let's run that by again. I didn't, what did  
18 that have to do with the payment of payroll taxes?

19 A. They're an unsecured obligation, so that money, once  
20 it comes in and segregated, belongs to the secured creditor,  
21 not to the government. And that was the way it was  
22 discussed.

23 Q. Now, you just said the silly thing that Edie Curry did  
24 over the weekend. In fact, see if I'm correct in what that  
25 was about. You had decided to put Cadent into bankruptcy,

1 had you not?

2 A. Actually Hans Beyer had, yes.

3 Q. But that was part of the plan is you were going to put  
4 Cadent into bankruptcy?

5 A. Yes.

6 Q. And at the time there were some complaints from the  
7 folks at Cadent that the phone system wasn't working?

8 A. Correct.

9 Q. And part of that issue was that it was an insurance  
10 company and an insurance company had to have phones up and  
11 running?

12 A. You know more about that than I do. Once Hans took  
13 over and Brian Fisher and Bob Konicki and Bob Curry, they  
14 didn't need any extra me meddling in there if that's what the  
15 issue was with the phone system. I just thought they were  
16 trying to move the phone box over the weekend and they  
17 weren't supposed to and they called me and there was no  
18 reason to call me because at that time I was far enough  
19 removed to be involved in whether they're moving a phone box  
20 or not.

21 Q. So basically she wanted to get the phone system up and  
22 running, didn't she?

23 A. Yes, I guess so.

24 Q. And that didn't fit in with the plans to put Cadent  
25 into bankruptcy, that's what angered you, wasn't it? You

1 didn't want to do anything that would make Cadent more  
2 viable?

3 A. No, absolutely not. Cadent needed to be viable to  
4 survive a bankruptcy. I've been in lots of bankruptcies and  
5 the only way to get through it was a hundred percent plan.

6 Q. So it's your testimony that all this happened because  
7 you were angry over somebody moving a phone box?

8 A. No. I was angry over the fact that they weren't  
9 following the chain of command, they were bringing me into  
10 it.

11 Q. They needed your permission to move a phone box?

12 A. They didn't, but when they got in their own fight they  
13 got me involved. Listen, listen. Here's what happens. When  
14 people at Mirabilis got in disputes, they tried to circumvent  
15 their own decision process by coming and getting me to do  
16 some kind of blessing or saying over it, and I did it often.  
17 That's what this was about. This weekend I finally said I've  
18 had enough. What are you all being paid for if you're coming  
19 to me about this argument? And that's what incited that  
20 phone message. And again, it lasted two days, and a month  
21 and a half later I was out of the building, gone, hidden far  
22 away in Suntrust surrounded by people to keep Mirabilis away  
23 from me because they kept coming and asking for money and I  
24 was beginning to get worried whether the taxes would ever get  
25 repaid.

1 Q. You basically booted Edie Curry from your group as a  
2 result of that weekend?

3 A. No.

4 Q. She stopped working for you, didn't she?

5 A. No, she didn't.

6 Q. You didn't go there a month or two later and talk to  
7 her and ask her to come back because Mr. Holtz wanted her to  
8 come back?

9 A. No. I went to Edie at the request of her husband  
10 because her husband said he had a long-standing relationship  
11 and Edie was upset and she thought that my, the way I called  
12 Edie out on the phone was too embarrassing for her. Edie had  
13 been in the hospital. She was sick. That's the only delay  
14 that was taken. I went there, I talked to Edie and Edie  
15 stayed on. Mr. Holtz liked her. But she didn't stay on  
16 because of me. Her own tape recordings say she stayed on  
17 because of Mr. Holtz.

18 MR. GOLD: Your Honor, this is probably a good  
19 time to break. I'm going to get into the last area.

20 THE COURT: Okay. Come back in 15 minutes and  
21 we'll go to 4:15, 4:30 and break.

22 (BRIEF RECESS.)

23 BY MR. GOLD:

24 Q. Mr. Amodeo, I want to turn your attention to the  
25 substantial assistance issue, and as you've already

1 recognized from the discussion about the contingency  
2 agreement, your recollection is not necessarily accurate  
3 about what took place in our discussions, is that correct?

4 A. That's correct.

5 Q. Now, the binders of which you spoke which you put  
6 together, clearly you did it. You're the one that selected  
7 those documents?

8 A. Yes.

9 Q. Now, the documents that you gave us were primarily to  
10 focus on other people?

11 A. I thought I gave you all the documents, but the ones I  
12 organized were focused on other people. I thought that was  
13 what the purpose was. If I was going to enter a plea, it  
14 didn't matter what else was done.

15 Q. Well, there were documents that you didn't give us or  
16 select for us that set forth your own criminal involvement  
17 necessarily?

18 A. No, but if I have, I mean I didn't know, I thought if  
19 I was entering a plea it didn't matter. I did, however, turn  
20 over all the ones that showed the daily distribution of money  
21 and that I was in that chain of communication.

22 Q. Now, you said that the United States asked you to  
23 produce the binders. In fact, aren't you the one who  
24 suggested the binders?

25 A. I think what actually happened, and again, Andy Denda

1 may be the more correct person to be speaking with, was that  
2 the documents were coming in too large a volume and they were  
3 in boxes so it would be hard to sort through and it would be  
4 better to organize them. That's what I got from Andy or  
5 that's what Shane Williams got from Andy.

6 Q. Let me talk about your recollection. Didn't you  
7 suggest that you could put them in binders for us and we  
8 responded that that might be helpful but that it was up to  
9 you?

10 A. Well, I think I did suggest I could put them in  
11 binders and I don't remember the rest of the conversation. I  
12 mean I don't think there was any more, yes, I'd be able to  
13 put them in binders and you said it would be helpful. And,  
14 no, you didn't make me do it.

15 Q. Now, you weren't always truthful in all of your  
16 meetings with the agents during your cooperation, were you?

17 A. You assert that now and I talked to the agents a  
18 little bit about it, but I think a lot of more of that is  
19 nuances that we've been having problems with. Now, my  
20 semantics and your semantics are one thing, and --

21 Q. Well, let me see if I can take you through a few  
22 things.

23 A. Give me the specifics.

24 Q. Initially you said that the agreements between AEM and  
25 Presidion Solutions to have AEM manage the book of business

1 was legitimate?

2 A. Yes.

3 Q. In fact, sometime thereafter you admitted that that  
4 was a lie, that that was false?

5 A. Okay, Mr. Gold. That's the game that was played. The  
6 game that was played with me. I can tell you without any  
7 question that those contracts were once and for all  
8 legitimate. Nobody created those contracts to obtain the  
9 purpose that are now playing. Mike Stanley believed those  
10 contracts to be real. I know as a consequence after the fact  
11 that they had another effect. And maybe if it had all been  
12 analyzed at once, those contracts wouldn't have been entered,  
13 but the first management contract between AEM and Presidion  
14 was a solution to a problem. They couldn't transfer the book  
15 of business on August 1. It was great. Then it  
16 opportunistically, quote, opportunistically became a device  
17 whereby PBS and Frank Amodeo would obtain liability for the  
18 for the taxes and not the officers. So it's both legitimate  
19 originally and not legitimate later. That's the issue.

20 Q. Well, didn't you admit that it was a shell game to  
21 make it look like AEM had their own book of business?

22 A. No. Mr. Gold, I've always contended that AEM was the  
23 true owner of the book of business in 2006. It was a shell  
24 game to protect individuals from liability under 6672.

25 That's what it was.

1 Q. Now, at the initial meetings though you didn't tell us  
2 that later on it became not legitimate, did you?

3 A. No.

4 Q. So you weren't truthful on that occasion?

5 A. You know, this is -- no, listen, Mr. Gold, it's not  
6 the case and you know it not to be the case. Mr. Pannoff  
7 spent a great deal of time explaining to me what the  
8 consequences of my acts were. When I first walked into your  
9 office I did the same thing that I did here yesterday. I  
10 have no interest but coming up and telling me story,  
11 unabridged, unencumbered, I had no hesitation. I wasn't  
12 afraid then, I'm not afraid now, and I haven't been afraid  
13 this entire process. The truth is the truth. What I do know  
14 is some of the things that I thought in 2005 are no longer  
15 true. I know they're not true. Not because they weren't  
16 true in 2005 or they weren't true in 2007 because I'm a bit  
17 smarter than I used to be, a bit wiser, and I'm a lot more  
18 rational now that I've had treatment and I've had the advice  
19 of Mr. Pannoff and Mr. Slaughter for a long time saying,  
20 Frank, don't you see how this looks? I didn't see how it  
21 looked. I'm a doggone manic. I get blinders on. I believe  
22 those contracts literally and I always have. And until I got  
23 educated, as much by Mr. Pannoff as anybody else, I simply  
24 didn't understand the way everybody else was looking at them,  
25 that the consequence was different than the words. But



1 that's ex post.

2 Q. Can we agree that in that initial meeting you didn't  
3 tell us the whole truth about that issue?

4 A. I don't know what you mean by the whole truth. No. I  
5 told you everything I believed at the time. That's why I  
6 want the polygraphs because they tell the same thing, all the  
7 truth, every time, no attempt to deceive, period.

8 Q. But yet you're the same guy who historically has  
9 always lied when it suited your benefit?

10 A. You know, I've told lies in my life, Mr. Gold, I  
11 really regret that actually.

12 Q. Now, didn't you say that the agreement between  
13 Mirabilis Ventures and Presidion Solutions to have Mirabilis  
14 Ventures indemnify Presidion Solutions for its liabilities  
15 including the payroll taxes was legitimate?

16 A. Right.

17 Q. And then later you admitted that that agreement was  
18 justified -- was created strictly to justify the theft of the  
19 payroll taxes?

20 A. Okay. Here's what I actually said, that originally it  
21 was legitimate and it was created to justify the transfer of  
22 monies from Presidion to Mirabilis. That's true. You say it  
23 was created to do the stolen payroll taxes, but from my  
24 perspective originally, there had to be a justification for  
25 moving the money. I couldn't just give it to them. There

1 had to be a reason for it to move over. That's what that  
2 contract was for. I now know that it was done because it had  
3 to protect people from the liability that they knew that  
4 these were stolen payroll taxes. But I didn't know that when  
5 I first talked to you. And I didn't believe it. And some  
6 portion of me still finds it incredible, I can't believe some  
7 of these people didn't actually believe that contract to be  
8 legitimate when they drafted, prepared it and signed it  
9 because I don't think all of these people were in on this  
10 game just to siphon off taxes.

11 Q. Let me go back to my question. My question was didn't  
12 you later tell the agents that it was done in an attempt to  
13 justify the theft of the payroll taxes?

14 A. My belief had changed, yes.

15 Q. Now, you said that initially the purpose of the  
16 reserve account was to segregate the money meant for your  
17 control?

18 A. That's correct.

19 Q. And you also said that the purpose of the funds in the  
20 reserve account was not to pay the payroll taxes, but to pay  
21 for insurance programs, consulting fees and extraordinary  
22 expenses?

23 A. That's still true.

24 Q. In fact, 64 million dollars went through the reserve  
25 account?

1 A. Yes.

2 Q. Only a million of it went for insurance?

3 A. Directly. Indirectly, more, but, yes.

4 Q. You used the rest of the money to grow your business  
5 and purchase other businesses?

6 A. Correct.

7 Q. Now, didn't there come a time where you told the  
8 agents that your earlier story was false?

9 A. No. My earlier story is still true today. What I  
10 can, let me tell you, this is the, this again where it comes  
11 to the issues that I was concerned with with the vagary of  
12 the plea and the vagary of the facts that it's still the fact  
13 that the reserve account was set up for this purpose and I  
14 managed it. In fact, if I would have been told that that was  
15 payroll tax money and had not been told by Mr. Berman that  
16 having a company insulating me from the PEO would have  
17 protected me, I wouldn't have touched it. Not because I  
18 thought it was illegal, because I wouldn't have had the civil  
19 liability that would have attached of taking 64 million  
20 dollars in payroll taxes. I was, and that's what the  
21 difference is. But, no, I didn't -- I told the agents, now I  
22 understand. When you just do net balancing account, you see  
23 64 million dollars go into this and get spent on other stuff,  
24 it's stolen money. In fact, my belief hasn't changed there  
25 at all, but my understanding of how other people perceive it

1 is changed considerably.

2 Q. So you don't think that you stole the money?

3 A. No, I do think I stole the money, but not using the  
4 reserve account purpose. The stolen money comes from the  
5 fact that the PEO didn't pay it over and used it for other  
6 purposes and it doesn't matter why. And that was where I was  
7 wrong. It's wrong. When Mr. Slaughter told me, I was wrong.

8 Q. Now, originally you told the agents that the payroll  
9 taxes for PBS weren't being submitted to the IRS, didn't you?

10 A. The payroll taxes for?

11 Q. For PBS. You told us that. Didn't you?

12 A. That the PBS taxes weren't being submitted?

13 Q. Right. To the IRS.

14 A. They weren't.

15 Q. You told us that, right?

16 A. Yes.

17 Q. You never initially said that you were the one  
18 directing the non-payment of the taxes? It wasn't until  
19 later that you told us that.

20 A. I thought that was what we discussed the first day. I  
21 must be completely wrong about that from -- when Mr.  
22 Slaughter and Mr. Pannoff took me over to your office it was  
23 so that I could say that I had come up with this plan to not  
24 pay payroll taxes.

25 Q. The very first day that you met with the government

1 you said that you'd provide a financial statement, didn't  
2 you?

3 A. Yes.

4 Q. You've never done it, have you?

5 A. No, probably not.

6 Q. Now, on June 5 of '07, Mr. Smith, Mr. McCabe and  
7 another IRS agent met with you and Mr. Slaughter at your  
8 office located in the Suntrust building, do you recall that?

9 A. I do.

10 Q. And when you went up to the 28th floor where your  
11 offices were, I believe Mr. McCabe asked you if the audio and  
12 video recorders were turned off?

13 A. Yes.

14 Q. And I believe Mr. Slaughter also asked you the same  
15 question.

16 A. Correct.

17 Q. And you said that they were?

18 A. Yes.

19 Q. In fact, it was videoed, wasn't it, both audio and  
20 video?

21 A. Nope, it was not. I have them sitting over there on  
22 the desk. Nothing in my office was anything, that's the one  
23 that had been turned off. There's none of it. What I didn't  
24 know at the time was the cameras in the hallways were still  
25 going, no audio, just video, that's all that was there. And

1 I didn't know it. But in my office where every bit of  
2 conversation took place, including all of the hundreds of  
3 documents and the note sticky pads, there was nothing.  
4 You'll see there are no recordings.

5 Q. But the video recorders that you said were off  
6 weren't?

7 A. I didn't know the video recorders in the hallway were  
8 still active, Mr. Gold.

9 THE COURT: Does the government believe that they  
10 were on in the office?

11 MR. GOLD: No. I'm sorry. I may have misphrased  
12 it.

13 Q. Now, you also spoke of being directed by me to wind  
14 down the business. That's your recollection?

15 A. That's my recollection.

16 Q. In fact, didn't you say that you intended to wind down  
17 the business and the United States says we can't advise you  
18 on that, you need to talk to your lawyers? But if you need  
19 to wind down the business, do it?

20 A. Yes, I did say -- I'll tell you, that is a pretty  
21 accurate statement of what took place that day in your  
22 office.

23 Q. We didn't direct you to close down the business as you  
24 said on direct examination?

25 A. Okay. No. Maybe direct is not the right word.

1 Q. No, no, I'm talking about direct examination.

2 A. I understand that. I'm sorry. I meant maybe you  
3 didn't direct me to close down the business, maybe you  
4 allowed me to close down the business.

5 Q. Now, it turns out that, I think we went through this  
6 with Mr. Slaughter a little bit, you were paying lawyers on  
7 an hourly rate?

8 A. Yes.

9 Q. You gave us this chart earlier with all the payments  
10 that various people got.

11 A. Yeah.

12 Q. You left some people off of there, didn't you, like  
13 some of the lawyers who worked for you?

14 A. Oh, I have a much bigger chart than Mr. Sands and Mr.  
15 Slaughter suggested I not put into the record today just  
16 because it's voluminous.

17 Q. All right. Let's talk about who else got money.  
18 There were some people on your staff? Mr. Bates and Mr.  
19 Moqua?

20 A. Correct.

21 Q. Mr. Moqua was sitting in the back of the courtroom  
22 sitting in the blue shirt?

23 A. Yes.

24 Q. How much did he and Mr. Bates receive on an hourly  
25 basis from you?

1 A. I think they were, they're being paid about \$125 an  
2 hour.

3 Q. My question is how much in total have you paid them to  
4 date, hundreds of thousands of dollars?

5 A. I would say probably \$600,000.

6 Q. Now, let's talk about the five million dollars from  
7 the workers' comp insurance for a second.

8 A. Okay.

9 Q. You didn't tell Mr. Slaughter that you received it,  
10 did you?

11 A. No.

12 Q. You didn't tell Mr. Pannoff?

13 A. I told them I settled Sunz but I didn't tell them  
14 anything else.

15 Q. You didn't tell the government?

16 A. No.

17 Q. As a matter of fact, when you got that check, you  
18 deposited it into a bank account, right?

19 A. Correct.

20 Q. That was a bank account that Mr. Slaughter didn't know  
21 about, wasn't it?

22 A. I don't think Mr. Slaughter would have had any reason  
23 to know about it.

24 Q. And you certainly didn't tell the United States about  
25 this bank account, did you?



1 A. No. But let me tell you what I was told, that the  
2 United States was monitoring my bank accounts.

3 Q. We didn't tell you that, did we?

4 A. No. But Jim Sadrianna did and said that you told them  
5 after your interview, and you had monitored the prior  
6 accounts, the ones that got closed, the Florida Capital  
7 accounts.

8 Q. Well, you knew that grand jury subpoenas were issued  
9 to your banks for the previous accounts?

10 A. No, these weren't even grand jury subpoenas, this was  
11 the Florida Capital account, the one that was done in  
12 between. And I sent over financial statements at your  
13 request for AQMI and Titanium and Wellington.

14 Q. Now, I notice that your testimony was different than  
15 your sentencing memo this morning. In the sentencing memo  
16 you said that the United States had allowed you to take a  
17 salary of \$10,000 a month. Isn't that your sentencing memo?

18 A. I don't know that the United States allowed me to.  
19 That's what I was paid. I was paid about \$360,000 in total  
20 compensation.

21 Q. That's money that you took for yourself?

22 A. For me.

23 Q. The United States never authorized that payment, did  
24 they?

25 A. No.

1 Q. And you never told Mr. Slaughter that you were taking  
2 that money?

3 A. No. I think I told Mr. Slaughter and Mr. Pannoff that  
4 I was compensating myself for living expenses and for out of  
5 pocket expenses and I got an e-mail, I got a fax from Mr.  
6 Pannoff that said that's appropriate.

7 Q. Do you recall being asked by the agents during one of  
8 the meetings how you were living since you were no longer  
9 working?

10 A. No.

11 Q. Okay. So you don't remember them telling you or  
12 asking you that question and you saying I've got other  
13 unrelated business and other unrelated monies that I'm living  
14 off of?

15 A. At a very late period of time, yes. And I made some  
16 money off a couple of other clients. Not a lot. I haven't  
17 had a lot of expense because there's no rent at the condo and  
18 I'm staying in, so I'm not spending anything.

19 Q. So the point is without telling the United States, in  
20 effect, without authorization you took another \$160,000?

21 A. I want to be more than clear on that, Mr. Gold. I  
22 liquidated the assets underneath my security agreements and  
23 spent that money as I felt appropriate for a two and a half  
24 year period of time and, yes, I would receive that  
25 compensation. However, I created ten million dollars, at

1 least seven of which the government's going to get that it  
2 would never have seen. New money, not old money, not tax  
3 money, new profits, gains that the government is getting to  
4 be applied to the taxes.

5 Q. Excuse me one second, Your Honor.

6 Now, with that \$360,000, you haven't paid your  
7 property taxes on any of your properties since '06, have you?

8 A. No.

9 Q. Now, you said that you were directed not to file any  
10 bankruptcies.

11 A. No. I wasn't directed nor do you have the authority  
12 to do that. I agreed with you. You wouldn't appoint a  
13 receiver, I wouldn't file a bankruptcy.

14 Q. So --

15 A. That was a handshake. And you looked across the table  
16 at me and you said, Mr. Amodeo, you understand -- Mr.  
17 Slaughter was oblivious to this conversation and the agents  
18 were gone -- you and I are going to be accountable for what  
19 happens. That's what you said to me with him sitting there  
20 playing with his phone and them having left.

21 Q. So now it's Mr. Slaughter's fault that he wasn't  
22 paying attention?

23 A. No, no. You and I absolutely a hundred percent know  
24 the fact is I agreed not to file bankruptcy of Mirabilis in  
25 May of '07 and you agreed not to put in a receiver. And

1 then, I admit, what you said was very accurate at the very  
2 beginning, you didn't want to know about it because you  
3 couldn't give me legal advice, I would be allowed to go close  
4 those businesses and that's what I did. Now, I didn't think  
5 I was going to come back and ask you anything, I was just  
6 going to go do it. Now, that may be crazy me acting again,  
7 but I did it and I think I did pretty good job getting the  
8 government maybe 30 million dollars by the time you finish  
9 your collections and seven million to date.

10 Q. You never told anybody before you did it, you  
11 certainly didn't tell Mr. Slaughter beforehand that you filed  
12 bankruptcy?

13 A. No, I did.

14 Q. And you told the United States that you were filing  
15 bankruptcy before?

16 A. Yes. In fact, Ms. Green went and told you that she  
17 was filing bankruptcy. She sent you a letter saying that she  
18 was going to file absolutely without any holdback. The last  
19 call I got was from Jody James an hour or two before the  
20 bankruptcy was filed. I called Mr. Slaughter and he said I  
21 don't know what to do. And I called Jody and said I don't  
22 know what to do either. If you want to let Mr. Meckler file  
23 in bankruptcy, I think it's a wise move because you and your  
24 family don't need to be involved in this any more. You need  
25 to go on with your life. And we filed the bankruptcy to stop

1 the foreclosure of real estate which belongs to the  
2 government.

3 Q. So it's your testimony that before the bankruptcy was  
4 filed Mr. Slaughter knew about it?

5 A. Yes.

6 Q. You don't recall, after him finding out about the  
7 bankruptcy, him calling you or specifically talking to you  
8 saying what did you do?

9 A. No. And he did that when, when the second bankruptcy  
10 happened, he called me right away, and my response was nobody  
11 filed another bankruptcy. I had no clue that anybody else  
12 filed. But the Mirabilis was filed on the eve, we had no  
13 choice. And Miss Green had already told your office about  
14 it. I mean she sent correspondence to you, to me so I could  
15 read them.

16 Q. And you know what the response was, that the United  
17 States didn't want the bankruptcy's filed?

18 A. I know that now. She didn't send me your response.  
19 She just sent me a copy of the letter she sent to you and she  
20 had a meeting with you.

21 Q. So it's clear, you had a meeting with Miss Green and  
22 you decided on that strategy?

23 A. Yes. Let me make this clear. I talked on the phone,  
24 I didn't meet with her. She was trying to keep some distance  
25 from me because she didn't want to make Mirabilis, she didn't

1 want to make it look like she was doing something to protect  
2 me. She wanted to make it abundantly clear that this was  
3 nothing more than go get money, pay it over to the IRS, and  
4 if Amodeo got an incidental benefit by reducing his sentence,  
5 that would be okay.

6 Q. In fact, wasn't the reason for the bankruptcy or one  
7 of the discussions that you had is this was for the benefit  
8 of the United States -- well, benefit of Frank Amodeo so if  
9 there was a sentencing that down the road you'd be able to  
10 say we've got this money?

11 A. Absolutely.

12 Q. That was the real purpose of the bankruptcy?

13 A. No. I mean that, yes. The purpose of the bankruptcy  
14 was to get the money so it would help me get it collected,  
15 but the bankruptcy was filed to prevent the foreclosure. Had  
16 there been no foreclosure, there would have been no  
17 bankruptcy.

18 Q. It's clear that you discussed this with Mrs. Green?

19 A. I did.

20 Q. Did you ever discuss it with Mr. Shukar?

21 A. No.

22 Q. Did you discuss it with Mr. Stollenwork?

23 A. Briefly. Just to tell him to listen to what Miss  
24 Green said. What the firm said. They went and had a meeting  
25 over there.

1 Q. You didn't make it clear that one of the reasons for  
2 the bankruptcy was so that you would get the benefit --

3 A. Absolutely. Jody and Jay and Shane, they all knew  
4 that it would benefit me if we collected money. No question  
5 about it. But I didn't discuss it with anybody at Elizabeth  
6 Green's firm.

7 Q. Other than her?

8 A. Other than her.

9 Q. Now, you've been following the bankruptcy proceedings,  
10 haven't you?

11 A. Oh, yes.

12 Q. And you know that as a result of your filing the  
13 bankruptcy the United States has spent hundreds of hours  
14 dealing with that bankruptcy?

15 A. Yes.

16 Q. Now, you're talking about this foreclosure. You know  
17 as a matter of law that property subject to forfeiture can't  
18 be foreclosed upon?

19 A. No, I didn't.

20 Q. And Liz Green didn't tell you that?

21 A. No, she didn't. Nor did Brian Phillips who is an  
22 expert as far as I knew and we were talking about the Atlanta  
23 property at the time as well. That's why we paid like 17 or  
24 20,000 dollars in taxes to keep the Degba property in Alabama  
25 from being foreclosed because I didn't know you could forfeit

1 it.

2 Q. Now, you were asked at one point by the agents about a  
3 Lear jet that you had?

4 A. Yes.

5 Q. And they wanted you to agree to forfeit it?

6 A. Yes.

7 Q. And initially you told them you had already sold it,  
8 the money was already gone?

9 A. Not the money was gone, that it had already been sold,  
10 yes.

11 Q. Okay. In fact, it hadn't been sold at that point?

12 A. The contract had been signed. Miss Jayman handled  
13 that. The contracts were signed with Ravi, he signed several  
14 pieces, he bought the limousine and a few other stuff. The  
15 contract didn't go through because he never came up with the  
16 money.

17 Q. And when it didn't come through, you didn't tell the  
18 agents, did you?

19 A. They had seized it.

20 Q. You said the deal hadn't gone through.

21 A. When the deal was being negotiated was when the  
22 seizure took place, they actually pulled it off the runway  
23 because the pilot who was showing it for sale called and said  
24 that.

25 Q. Even though you told them it had already been sold.



1 You didn't say that it was in negotiations, you said it had  
2 been sold.

3 A. The contract had been signed, but there was no money.

4 MR. GOLD: Your Honor, can I have just one  
5 second?

6 I have no further questions, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. SANDS:

9 Q. Mr. Amodio, during cross examination you were asked  
10 and this was early on about a UHY letter from May 18; do you  
11 recall that?

12 A. I do.

13 Q. Will you pull that out again?

14 A. I will.

15 Q. Now, do you recall that that was the letter that said  
16 that you, as of that date, never had any stock in Mirabilis?

17 A. That is correct.

18 Q. Do you want to explain what you meant by that?

19 A. That I had not received any shares of stock in  
20 Mirabilis or any equity instruments whatsoever, and it was  
21 done because they were looking for a relationship between  
22 Mirabilis and Presidion, and when we asked them what they  
23 meant, they said are you on the stock transfer sheet of  
24 Mirabilis Ventures. And I said it's a bearer stock company.  
25 And they go do you have possession of the shares because if

1 you don't have the shares, you're not an owner. I said nope,  
2 I'm not an owner.

3 Q. At that point in time did you have a right to purchase  
4 stock or was there an agreement whereby you could purchase  
5 stock?

6 A. Yes. On two occasions the shareholders and the board  
7 of directors had agreed to sell me stock if I complied with  
8 certain requirements.

9 Q. But as of that date, did you have stock certificates  
10 that were issued in your name?

11 A. No. Nor have I ever.

12 Q. On cross examination the government asked you about  
13 Dr. Pollack staying with you for the entire duration  
14 basically of Mirabilis, correct?

15 A. Correct.

16 Q. Why was it, do you understand why it was that Dr.  
17 Pollack stayed with you?

18 A. He was extremely well paid.

19 Q. And what was he paid?

20 A. 300,000 dollars a year plus bonus, ten to 20 million  
21 dollars if the sale went off at the right price.

22 Q. I want to ask you to take a look at another thing that  
23 the government had you examine, the consultant agreement from  
24 2004 relating to the work that you were doing with regard to  
25 the Sunshine companies.

1 A. Exhibit 2.

2 Q. The government asked you about what the payment plan  
3 was under the consultant agreement.

4 A. Yes.

5 Q. I'd just like you to clarify, what was your  
6 understanding, what is the payment plan under the consultant  
7 agreement?

8 A. The payment plan under the consultant agreement is the  
9 payment of \$150,000 as a non-refundable base fee, and then a  
10 percentage of the success fee equal to 25 percent of any tax  
11 savings and a calculation and how that shows up based upon  
12 the 13 million dollar starting point. The payments will be  
13 made 75,000 dollars per month to secure the success fee and  
14 if Presidion doesn't have the money, they will retain it, and  
15 there will be a minimum success fee of \$750,000 regardless of  
16 performance.

17 Q. So pursuant to that agreement it was your  
18 understanding that you were ultimately going to be entitled  
19 to get 25 percent of any tax savings?

20 MR. GOLD: Object, Your Honor. Leading.

21 THE COURT: Sustained.

22 Q. How did that agreement figure in then to what you  
23 believed you were entitled to receive in December of 2004?

24 A. It was the shorthand method of calculation between  
25 Craig and I. You know, I get at least this much money,

1 effective the moment I took the Sunshine companies away from  
2 him. And he knew he'd owe me more.

3 Q. And were you actually ultimately then paid more?

4 A. Yes, we were paid more.

5 Q. What's the total amount that you were actually paid  
6 for completion of the Sunshine companies plan?

7 A. And the reduction in insurance, 13 million dollars.

8 Q. So that would have been an amount over and above the  
9 8.9 million?

10 A. That's correct.

11 Q. For a total of 13 million?

12 A. Yes.

13 THE COURT: How was that 13 million paid again?

14 THE DEFENDANT: It was, they paid some money  
15 through, that's the money Mr. Gold was talking about out of  
16 the reserve account. After the 8.9 million Presidion paid  
17 periodic payments of different amounts of money. And then  
18 through 2005 and the beginning of 2006 it paid another 3 or 4  
19 million dollars, just different times they'd pay lump sums.  
20 I'd call up and say look, we need money, and they would pay  
21 on the receivable.

22 Q. Mr. Gold also asked you about any monies that the IRS  
23 actually ultimately received as part of your negotiations  
24 regarding the Sunshine companies' debt. What if anything  
25 happened with regard to the disposition of a 12 million

1 dollar note?

2 A. We took the note which was a big --

3 MR. GOLD: Object, Your Honor. This is beyond  
4 the scope of cross and I don't think it was raised on direct.

5 MR. SANDS: It was specifically talked about on  
6 direct being the 1.245 million dollars.

7 THE COURT: How about on cross?

8 MR. SANDS: I'm sorry. On cross it was actually  
9 talked about, not on direct, the 1.245 million dollars.

10 THE DEFENDANT: It's when I said how much money  
11 1.245 was part of the six million dollars that had been paid.  
12 The note that created the 1.245 million dollars is -- this is  
13 what happened, UHY calls up and says --

14 THE COURT: I've got a good idea, Mr. Amodeo.  
15 Why don't I rule on the objection?

16 THE DEFENDANT: Okay.

17 THE COURT: I appreciate your helping me with it.  
18 Objection's overruled. You may proceed. Ask a question.

19 BY MR. SANDS:

20 Q. You mentioned on cross examination about a 1.245  
21 million dollar payment that was made to the IRS. What was  
22 that derived from?

23 A. UHY called in May and said that they had discovered  
24 that there's a 12 million dollar insurance deposit with FCIC  
25 insurance that hadn't been accounted for in the transfer of

1 assets between Sunshine and Paradigm on December 31 and that  
2 a note had to be created then between Paradigm and Sunshine  
3 creating an asset. Sunshine now had 12 and a half million  
4 dollars on deposit with FCIC, which FCIC had encumbered with  
5 their worker comp claims. So they didn't have to give it to  
6 us. They were holding it up.

7 I took the note -- first of all, I agreed to do  
8 the note and I agreed to make it retroactive to December 31,  
9 but only if they put right up in the note itself it's a nunc  
10 pro tunc note backward to that date, and I took it and sent  
11 it to Miss Berkowitz at the IRS and said this is your note,  
12 the monies from this belong to the government, I've just come  
13 across them, I want you to get it. She told me she didn't  
14 want the note -- she didn't tell me, she told Dan Myers, I  
15 don't want the note, I want some money from it, see if you  
16 can sell it from somebody. Eventually we made an insider  
17 transaction, that is with Mirabilis because nobody else  
18 wanted to deal with Presidion, and she said, okay, send me  
19 the payments directly to my office. And I sent her all the  
20 documents, got her approval, she faxed them back and she got  
21 the 1.245 or IRS got the 1.245 million dollars from the  
22 asset. They could have kept the note and got the 12.

23 Q. I'd like to, during cross examination you were asked  
24 about and talked about a second Wildermuth memo from 2006, do  
25 you recall that?

1 A. Yes, I do.

2 Q. I'd like to show you what's been marked for  
3 identification purposes as defendant's exhibit 28. May I  
4 approach, Your Honor?

5 THE COURT: Yes, sir.

6 Q. Is that the memo that you were speaking of?

7 A. Yes.

8 Q. What is the date of that memo?

9 A. February 1, 2006.

10 Q. Who was the author of that memo?

11 A. Elena Wildermuth.

12 Q. And what's your understanding of the purpose of that  
13 memo?

14 A. This memo was prepared as part of what was planned as  
15 the final negotiations with the IRS on the Sunshine  
16 liabilities and the then existing PBS liabilities.

17 Q. What if any relationship was there between the  
18 preparation of this memorandum and the meetings that were  
19 being held with the IRS in January of 2006?

20 A. This memorandum was prepared so that Hans Beyer, who  
21 had just done a complete review of all of the Presidion  
22 transactions, including checking to see if there was any  
23 racketeering activity, he wanted to consult with -- Hans is  
24 the bankruptcy expert. He wanted to consult with the tax  
25 expert, Elena, and this memo was prepared as part of that

1 process, of getting Hans and Dan Myers and Sharmila ready to  
2 go negotiate the final deal with the IRS.

3 Q. And when was that negotiation held?

4 A. January 20 or something like that.

5 Q. And what if anything was discussed at that meeting  
6 with the IRS about PBS's tax liability?

7 A. The only thing I can tell from looking at the document  
8 subsequent to then is requests were made of the IRS for  
9 transcripts on all of the proceeding accounts including PBS  
10 and I presume, because I wasn't there, that they had told her  
11 that we would be telling her the full set of liability of PBS  
12 in the next week or two. And that's what we did.

13 Q. And what, in fact, did the tax returns that were  
14 subsequently filed for PBS for the second half of 2005  
15 reflect in terms of liabilities?

16 A. They reflected 71 million dollars in unpaid taxes for  
17 the third and fourth quarter of 2006.

18 Q. Is there any advice to you in the Wildermuth  
19 memorandum, the one that you have before you, indicating that  
20 the non-payment of payroll taxes is a crime?

21 A. No. And that's not even not having read it from  
22 before that my having now sat down very assiduously and gone  
23 through this contract and this memo in the last month.

24 Q. What is articulated as being a crime in that memo?

25 A. The failure to honor an IRS directive to segregate



1 your funds.

2 Q. Had you ever done that?

3 A. No. Every IRS directive was honored.

4 Q. How long at this point in time when the memo was  
5 written had the PBS plan been going on?

6 A. Seven months.

7 Q. And how much in taxes was due and owing that hadn't  
8 been paid on the PBS plan?

9 A. 71 million dollars. I mean I'm pulling that from  
10 memory, Kent. It's 71 million, plus or minus. 71 million  
11 was in my letter to Miss Berkowitz of February 8, so I'm  
12 assuming that was a pretty accurate figure.

13 Q. And how many attorneys and accountants would you  
14 estimate that you actually discussed the PBS plan with?

15 A. Fifty.

16 Q. With regard to that, how many accountants and  
17 attorneys did you discuss the fact that payroll taxes would  
18 not be paid on an immediate basis to the IRS as part of the  
19 PBS plan?

20 A. More than 50. It was displayed on the wall in my  
21 office.

22 Q. Stepping forward, in cross examination you were asked  
23 questions about what it is that you were doing to close down  
24 the business. What if any W-2s needed to be issued to  
25 employees in order to be able to close down the business?

1 A. 44,000.

2 Q. And what if any involvement did you have in doing that  
3 during 2007 as part of your directive or as part of your  
4 cooperation in closing down the business?

5 A. Me and, if you refer to me as me and my staff, we  
6 handled every communication with all of the employees and  
7 communications with all the state and federal agencies that  
8 needed information, and it was a tremendous amount of work in  
9 2007, especially since the computer system either through  
10 negligence or sabotage had been interfered with and  
11 information and the data was bad, like two W-2s were issued  
12 for the same guy, that kind of thing. But, you know, we  
13 powered through it over 2007. It took five or six months,  
14 and then Louis has spent another year continuing to get the  
15 reporting right at all the state levels.

16 Q. Finally, you were asked on cross examination about  
17 your reasoning in filing the bankruptcy. At that point in  
18 time what was your thinking about what would have happened if  
19 you hadn't filed the bankruptcy?

20 A. Well, I thought I would have got blamed for letting  
21 the assets waste, that is number one. More importantly is  
22 the three officers, I mean and they're young, I mean they're  
23 30 year olds with families, they had been warned by counsel  
24 that it might be a breach of their fiduciary duty to allow an  
25 asset to waste. And so now they were faced with a

1           tremendously difficult spot of not spending money to prevent  
2           the foreclosure because they might get hit with a money  
3           laundering charge or letting the asset go and then being hit  
4           with we waste a fiduciary. So I had to find a way to get  
5           them out of the spot that they were in of being there, and  
6           the easiest way to do that, and I think the right thing, is  
7           you go to the court and you say we can't handle it any more,  
8           please, Judge, you take care of us.

9           Q.           What if any belief did you have at that time about  
10           whether this was a good thing or a bad thing for the federal  
11           government?

12           A.           Oh, I thought it was a good thing. It was going to  
13           save these real estate assets for them.

14                       MR. SANDS: May I have a moment, Your Honor?

15                       THE COURT: Yes, sir.

16                       MR. SANDS: Nothing further.

17                       MR. GOLD: Your Honor, could I ask just a few  
18           follow-up questions and I'll keep it very brief.

19                       THE COURT: Okay.

20                                       REXCROSS EXAMINATION

21           BY MR. GOLD:

22           Q.           A few minutes ago you said that you didn't have any  
23           stock issued to you, correct?

24           A.           Correct.

25           Q.           On the tape we heard yesterday, didn't you say that I

1 as the owner of the black stock make all the decisions?

2 A. I on behalf of the black shareholders make all the  
3 decisions. You know what, Mr. Gold, the black shareholders  
4 didn't exist because I hadn't been able to meet the  
5 conditions. You know, that's the kind of stuff that I do  
6 when I'm not in my mind.

7 Q. The 1.2 million that you sent to the IRS?

8 A. Yes.

9 Q. That was money stolen from the payroll taxes, wasn't  
10 it?

11 A. I don't believe so. I believe that was money from the  
12 original Sunshine fees. I think that exhausted Mirabilis's  
13 actual assets.

14 Q. And number 28, that document that you referred to,  
15 there's nothing in there about PBS, is there?

16 A. It's all PBS.

17 Q. In that memo it talks about PBS?

18 A. No, it doesn't talk about PBS, but it's all about PBS.

19 Q. There's nothing in there that indicates that it  
20 relates to PBS?

21 A. No.

22 Q. Now, just one last issue and that is you said that by  
23 January of '06 the 941 payroll tax returns had been filed  
24 showing PBS owed 71 million?

25 A. No. By January of '06 Dan Myers had gone to the IRS

1 and asked if they would give him a transcript on every return  
2 that hadn't been filed, and every return that had been filed,  
3 and when he came back from that meeting on January 23 he got  
4 a list from Miss Berkowitz and immediately caused Craig  
5 Vanderburg to file the third quarter tax return and Melanie  
6 Levine to finish preparing the fourth quarter return. But I  
7 know it was done right away and the reason I know it was done  
8 right away because it was April 10 that the IRS was actually  
9 able to assess the third quarter liability in full as filed  
10 on the return.

11 Q. Actually, didn't they not receive those 941s until  
12 March 3 of '06?

13 A. March 3 of '06. I don't know. I know they assessed  
14 it on April 10.

15 Q. And so if the IRS records suggest that it wasn't  
16 assessed on April 10, your memory would be wrong?

17 A. No. The IRS records are what I read it from a couple  
18 of days ago, but let me tell you the IRS records also do not  
19 show me meeting with Miss Berkowitz. I just talked to Mr.  
20 Morris about that a week ago.

21 MR. GOLD: Your Honor, I have no further  
22 questions.

23 THE COURT: You may step down, sir.

24 MR. SANDS: Your Honor, could I just move for the  
25 admission of the Wildermuth memo which is marked as defense

1 exhibit 28 into evidence?

2 MR. GOLD: I don't have an objection.

3 THE COURT: 28 is received in evidence.

4 MR. GOLD: Your Honor, should I go ahead and move  
5 in my exhibits now or do you want me to wait until  
6 effectively our case?

7 THE COURT: Go ahead and do it now, if you would,  
8 Mr. Gold.

9 MR. GOLD: Exhibit number 2 was the deposit  
10 confirmation request.

11 Number 5 was the Supreme Court Georgia opinion.

12 Number 6 was the letter to Michael Hirsch from  
13 Mr. Amodeo saying that he didn't own stock and he hadn't been  
14 an officer director.

15 Number 7 was the e-mail from April 1 of '05 that  
16 talks about the criminal penalties. I may have mismarked  
17 them. The financial statement I guess was actually, the  
18 financial statement was 7.

19 The board of directors meetings from February 15  
20 was 8.

21 And the e-mail should have been number 9.

22 THE COURT: 2, 5 through 8 are received for the  
23 government.

24 MR. SLAUGHTER: Scheduling, Your Honor. I still  
25 would like to try to put in for the court's purview the

1 polygraph.

2 THE COURT: Let me figure out what else I've got  
3 here.

4 MR. SLAUGHTER: I just wanted to tell you one  
5 thing that in the plea agreement on page 19 the government,  
6 in their agreement with Mr. Amodio, the defendant further  
7 agrees to be polygraphed on the issue of assets if deemed to  
8 be necessary by the United States. So obviously they think  
9 that polygraphs under Daubert have some validity and my point  
10 being that these just go to the questions of what he thought  
11 he was doing and who he talked to and what he --

12 THE COURT: You could take that argument a long  
13 way, couldn't you, Mr. Slaughter?

14 MR. SLAUGHTER: Yes, sir.

15 THE COURT: They ask for them on their plea  
16 agreement so they waive any Daubert objections.

17 MR. SLAUGHTER: Signed by Mr. Gold and -- well, I  
18 guess it's Mr. Gold. It's on just about every plea  
19 agreement. And I just want to know whether I should bring my  
20 expert here because I think he could convince you under  
21 Daubert that they're legitimate and we're not in front of a  
22 jury. I don't think that prejudice outweighs the probative  
23 value. I think it's very probative.

24 THE COURT: Okay. Let me see what else I have  
25 and I'll get back with you on that.

1 MR. SLAUGHTER: Tomorrow.

2 THE COURT: If you wait just a few minutes I'll  
3 let you know whether tomorrow's a good day or not.

4 What else do you want to present, Mr. Sands, Mr.  
5 Slaughter?

6 MR. SANDS: Your Honor, we had a stipulation, I  
7 think an oral stipulation with the government about the, that  
8 the statements made by Mr. Amodeo's wife in the sentencing  
9 memorandum are the actual statements she would make in court,  
10 but I think that's been superseded by the other stipulation  
11 that as a general matter -- well, I guess maybe not.

12 MR. GOLD: I think that was in the pages 1  
13 through 90.

14 MR. SANDS: Right.

15 MR. GOLD: And we've already agreed.

16 MR. SANDS: Just to be specific, you had  
17 indicated that you accepted pages 1 through 90 as being Mr.  
18 Amodeo's honest recollection.

19 MR. GOLD: Or what his wife would say.

20 THE COURT: The stipulation is that the  
21 statements attributed to the defendant's wife included in  
22 pages 1 through 90 of the sentencing memorandum of the  
23 defendant are received in evidence. I accept those as  
24 statements she would make were she here testifying, is that  
25 right?



1 MR. GOLD: That's correct, Your Honor.

2 MR. SANDS: That would obviate the need for her  
3 testimony.

4 May I have a moment, Your Honor?

5 Other than the polygraph issue, Your Honor --  
6 excuse me just one moment.

7 Other than the polygraph expert, Your Honor, that  
8 would conclude the defense portion of the evidence.

9 THE COURT: Okay. Does the government have any  
10 evidence?

11 MR. GOLD: I think we're going to have one  
12 witness, Mr. Smith.

13 THE COURT: So you're not going to have any of  
14 these people who Mr. Amodeo says told him it was okay to take  
15 the payroll?

16 MR. GOLD: I think I'll be able to bring out that  
17 testimony through Mr. Smith.

18 THE COURT: Okay. Mr. Amodeo, you may step down,  
19 sir.

20 THE DEFENDANT: Thank you, sir.

21 THE COURT: Well, my suggestion is that first  
22 thing tomorrow I hear your argument or read any authority you  
23 have on this polygraph issue. As I said, it really is a new  
24 issue for me to the extent that there's an objection and we  
25 all know that without a stipulation it's not to be received

1 in evidence in a guilt phase, but with regard to sentencing,  
2 Mr. Slaughter contends that the standard is different, and I  
3 am unfamiliar with the law on that point.

4 MR. SLAUGHTER: Well, Your Honor, I think the  
5 case that we used in the Debets case was the government used  
6 a polygraph to revoke a probation violation, and I'm having  
7 them try to find that case.

8 THE COURT: I thought it was agreed. I thought  
9 the polygraph came in without objection.

10 MR. SLAUGHTER: It did. But I used that case to  
11 show to the Assistant U.S. Attorney that they, that it had  
12 been used by the government to violate a probation violation.

13 THE COURT: Well, I was trying to save your  
14 expert unnecessary travel time, but I think probably it's  
15 better to have him here and we'll just argue it first thing  
16 tomorrow morning. I can't tell you whether he's going to be  
17 able to testify or not and I'll hear you then. And since  
18 we're going to do that tomorrow morning, I'll start a little  
19 bit later if you'd like, we'll start at 9:30.

20 Have a nice evening.

21 (HEARING RECESSED.)

22  
23 I certify that the foregoing is a correct  
24 transcript from the record of proceedings in the  
25 above-entitled matter.

s/ Anthony Rolland  
ANTHONY ROLLAND