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10 REID NEUREITER, Attorneys at Law, 1120 Lincoln Street,
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PROCEEDINGS

(In open court at 9:00 a.m.)

THE COURT: Be seated, please. Good morning.

Ready for the jury.

MR. MACKEY: Yes.

THE COURT: Okay.

(Jury in at 9:00 a.m.)

THE COURT: Members of the jury, good morning.

JURY: Good morning, sir.

we were

with his

THE COURT: You will recall when we recessed
hearing testimony from Mr. Donahue, and we'll continue
testimony this morning.

(Timothy Donahue was recalled to the stand.)

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stand,

1 THE COURT: Mr. Donahue, if you'll resume the
2 please, under the oath that you took with us yesterday
3 afternoon.

4 THE WITNESS: Okay.

5 THE COURT: Mr. Mackey, you may continue.

6 MR. MACKEY: Thank you, your Honor.

7 DIRECT EXAMINATION CONTINUED

8 BY MR. MACKEY:

9 Q. Good morning, Mr. Donahue.

10 A. Good morning.

11 Q. Yesterday you said you had seen Tim McVeigh at the
Donahue

12 Ranch on two occasions, do you recall that?

13 A. Yes.

14 Q. When we broke yesterday, we were talking about that
first

15 occasion, do you recall that?

16 A. Yes.

17 Q. The episode at Clover Cliff.

18 A. Yes.

19 Q. Let's start from that point, Mr. Donahue. On that
occasion

20 when Mr. McVeigh was looking for Mr. Nichols at Clover
Cliff,

21 did Mr. Nichols introduce you to Tim McVeigh?

22 A. No.

23 Q. Who was driving the vehicle that came out looking
for

24 Mr. Nichols?

25 A. Tim McVeigh was.

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Timothy Donahue - Direct

1 Q. What kind of vehicle was he driving?
2 A. It was a little, silver, small car.
3 Q. Mr. Donahue, take a look in your exhibit folder.
It should
4 be to your left there. There are two photographs
marked 271
5 and 272.
6 A. Okay.
7 Q. And do you recognize the vehicle depicted in each
of those
8 two photographs?
9 A. Yeah, it looks like the same-style car.
10 Q. Is that the same-style car that you saw Mr. McVeigh
in at
11 Clover Cliff --
12 A. Yes.
13 Q. -- as you described it?
14 MR. MACKEY: Your Honor, we'd move to admit
those two
15 photographs, 271 and 272.
16 MR. TIGAR: No objection.
17 THE COURT: They are received.
18 MR. MACKEY: May I show them?
19 THE COURT: Yes.
20 BY MR. MACKEY:
21 Q. Mr. Donahue, this is the silverish vehicle that you
were
22 describing to the jury that you had seen at Clover
Cliff; is

23 that correct?

24 A. Yes.

25 Q. Let me show you now 272. Is that an enlargement of
that

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Timothy Donahue - Direct

1 same photograph?

2 A. Yes.

3 Q. And with that enlargement, can you see the license
plate

4 number that's shown in that same vehicle?

5 A. Yes.

6 Q. What is that, please?

7 A. GRY034.

8 Q. And is the license tag blue in color?

9 A. Yes.

10 MR. MACKEY: Your Honor, pursuant to Rule 903,
we'd

11 move to admit Government 223, certified registration of
that

12 license to Timothy James McVeigh.

13 MR. TIGAR: We don't have any objection to
that.

14 THE COURT: All right. 223 received.

15 BY MR. MACKEY:

16 Q. Mr. Donahue, prior to the episode at Clover Cliff,

had you

17 seen that vehicle on any other occasion at the Donahue
Ranch?

18 A. Not that I remember.

19 Q. To the best of your knowledge, Mr. Donahue, did you
learn

20 from Mr. Nichols where it was that he -- excuse me,
that

21 Mr. McVeigh and his wife were going on that day?

22 A. Yes. I heard they was going to Wichita.

23 Q. Do you know why they were going to Wichita?

24 A. No.

25 Q. Mr. Donahue, did you see Marife Nicole ever again
after

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Timothy Donahue - Direct

1 that day at Clover Cliff?

2 A. No.

3 Q. Let's turn our attention now to the second time you
recall

4 seeing Tim McVeigh. Do you remember what day that was?

5 A. September 30 of '94.

6 Q. What day of the week was that?

7 A. That was a Friday.

8 Q. On that day, Mr. Donahue, do you recall whether you
9 expected Terry Nichols to work the entire workweek?

10 A. I was planning on it, yes.

11 Q. And did you know whether he planned to work the
following

12 day; that is, October 1, 1994?

13 A. No, I believe that was discussed earlier that he
was going

14 to take that Saturday off. His last day would be
Friday.

15 Q. And with that knowledge, did you make any
adjustment to his

16 last paycheck?

17 A. Yes.

18 Q. And how did you do that?

19 A. Just deducted one day's pay from it.

20 Q. Before Friday, September 30, when did you expect

21 Mr. Nichols to vacate the house he was in?

22 A. Repeat that, please, I didn't

23 Q. Prior to September 30, or as of that day, when did
you

24 expect Mr. Nichols to move out of his house?

25 A. Well, sometime that weekend.

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Timothy Donahue - Direct

1 Q. Had you hired a replacement for him at that time?

2 A. I believe so, yes.

3 Q. And had plans been made for that person to move
into the

4 house upon Mr. Nichols' departure?

5 A. Yes.

6 Q. When was that to take place?

7 A. Sometime in the period. I don't know if it was
that

8 weekend or -- for sure the following week.

9 Q. On Thursday, September 29, did you come to know
about a

10 moving sale at the Nichols home?

11 A. Yes.

12 Q. How did you learn that?

13 A. Seen it in the local paper.

14 Q. What did you do after seeing the ad?

15 A. My wife called up, interested in the waterbed that
was

16 advertised in there.

17 Q. And the next morning, on Friday, did you talk
personally to

18 Mr. Nichols about that waterbed?

19 A. Yes.

20 Q. And what was that conversation?

21 A. I just asked him if I could come over that night
and look

22 at it, I was interested in buying it.

23 Q. On Friday morning, September 30, did you expect
Terry

24 Nichols to work the entire day?

25 A. Yes.

Timothy Donahue – Direct

1 Q. And did that change?

2 A. Yes.

3 Q. And how so?

4 A. Well, he asked to have off early. He needed to
take the
5 afternoon off to do some other business, I guess.

6 Q. And what was your reaction?

7 A. Well, I wasn't too happy about it, but I agreed to
it.

8 Q. Did Mr. Nichols specify why it was he was taking
off early
9 Friday, September 30?

10 A. No.

11 Q. Did Mr. Nichols in fact leave early that day?

12 A. Yes.

13 Q. Do you recall approximately what time?

14 A. It was shortly after dinner. After noon.

15 Q. Mr. Donahue, later that same day, did you have
occasion to
16 go to Terry Nichols' house?

17 A. Yes.

18 Q. And what time did you arrive there?

19 A. Oh, it was around 7 in the evening.

you 20 Q. Could you describe to the jury what happened when
21 arrived at the Nichols ranch house?
out at 22 A. Well, I pulled up there, and Terry and McVeigh were
or 23 the back of Terry's pickup, working on it or loading it
out of my 24 doing something back there. And I pulled up and got
then Terry 25 vehicle and started walking to the front door. And

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Timothy Donahue - Direct

door. 1 came up and met me on the front door, by the front
2 Q. And did the two of you talk?
-- I 3 A. We talked for just a little while. And we went in
house and 4 just asked to see the waterbed, and we went into the
and then 5 I went in the first bedroom and looked at the waterbed
the deal 6 come back out on the front porch and just negotiated
for 7 for the waterbed, and I paid him, wrote him out a check
8 that and give him his final paycheck, just told him I
9 appreciated working with him and asked him to make sure
that he 10 left the house in good order, and then left.

you
11 Q. Was Mr. McVeigh ever in the house at the same time
12 were --
13 A. No.
14 Q. -- that evening?
15 Did you see him when you arrived?
16 A. Yes.
17 Q. And was he still there when you left?
18 A. Yes.
that
19 Q. About how long were you at the Nichols ranch house
20 evening?
21 A. Oh, I'm sure 15, 20 minutes.
the bed
22 Q. Were you in a vantage point to see what was inside
23 of the pickup truck that you described?
24 A. No. No.
25 Q. Mr. Donahue, take a look at Government Exhibit 52.

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Timothy Donahue - Direct

1 A. 52?
2 Q. Yes. It should be a photograph.
3 A. Okay.
4 Q. Find it?
5 A. Yeah.

the jury 6 Q. First of all, let me ask you, can you describe to
evening 7 what Mr. McVeigh appeared, his physical appearance that
8 that you saw him at the Nichols home?

scraggly 9 A. Well, he had unshaven appearance and kind of a
slender 10 beard and mid-ear-length hair, in that range. Tall,
11 man.

appearance 12 Q. Do you recall why it is that you remember his
13 that evening?

14 A. Why I remember? Well, I seen him.

and the 15 Q. But in particular, his -- the growth of his beard
16 clothing that he was wearing.

I was 17 A. Well, he looked a little bit, a little bit shabby.

twice what 18 assuming this was the guy that was going to pay him

look 19 I was, and it kind of surprised me he wasn't -- didn't
20 like he had that much money.

depicts 21 Q. Can you tell the jury whether Exhibit 52 accurately
22 Mr. McVeigh as you recall seeing him on the evening of
23 September 30.

24 A. Yes.

25 MR. MACKEY: Your Honor, we'd move to admit

Exhibit

7171

Timothy Donahue – Direct

1 52.

2 MR. TIGAR: No objection, your Honor.

3 THE COURT: 52 is received.

4 BY MR. MACKEY:

5 Q. In this photograph, Mr. Donahue, does Mr. McVeigh
have a
6 growth of beard?

7 A. Yes.

8 Q. The house that is depicted in the background, do
you
9 recognize what that house is?

10 A. That's the house we rent for our hired help.

11 Q. Is that Mr. Nichols' house?

12 A. Yes.

13 Q. On that visit to the Nichols home and on that
occasion
14 where you encountered Mr. McVeigh, did Terry Nichols
introduce
15 you to him?

16 A. No.

17 Q. In the time that Mr. Nichols was working for you
and living
18 in your home, had you seen any other non-family visitor
at the

19 Nichols ranch?

20 A. No.

21 Q. And other than Mr. McVeigh's car and Mr. Nichols'
pickup,

22 had you seen any other vehicle at the Nichols
residence?

23 A. No.

24 Q. Could you describe what kind of vehicle Mr. Nichols
had

25 while he was in your employ?

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Timothy Donahue - Direct

I 1 A. It was a blue GMC pickup, diesel pickup. Mid 80's,

2 guess, somewhere in that neighborhood.

3 Q. And on Friday, September 30, 1994, had that vehicle
changed

4 in appearance in any manner?

5 A. It had a topper on it that evening.

6 Q. Prior to that day, had you ever seen the pickup
with a

7 topper?

8 A. No.

9 Q. What color was the topper?

10 A. Light-colored, white I'd say.

11 Q. Would you take a look, please, at Government
Exhibit 51.

12 A. Okay.

13 Q. And what is that, please.

14 A. That's his pickup.

15 MR. MACKEY: Your Honor, we'd move to admit
Government

16 Exhibit 51.

17 MR. TIGAR: No objection, your Honor.

18 THE COURT: Received, 51.

19 BY MR. MACKEY:

20 Q. On that Friday -- excuse me. Let's describe the
21 photograph.

22 A. It's Terry's pickup with a topper on it like I seen
it that
23 evening.

24 Q. Thanks. On that Friday evening, Mr. Donahue, did
you have
25 a conversation with Mr. Nichols about when it was that
he would

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Timothy Donahue - Direct

1 be out of the house, when you expected him to in fact
be out of

2 the house?

3 A. Well, I just -- I guess I assumed it was going to
be

4 shortly. He kind of asked that Friday -- the way I
understood,

he
5 he wanted off kind of early just to make preparation so
6 could get out of the house for me quicker. That was my
7 assumption.

Terry
8 Q. And was that the last conversation you had with
9 Nichols?

10 A. Yes.

11 Q. Was it a pleasant farewell?

12 A. Yes.

with any
13 Q. As far as you're concerned, did the two of you end

14 harsh feelings or hard feelings?

15 A. Not at all.

if you
16 Q. When Mr. Nichols left your employ, did he leave a
17 forwarding address, some way for you get a hold of him

18 needed to?

19 A. No.

did you
20 Q. And based on conversations with Mr. Nichols, where
21 understand he was going to, once he left?

22 A. He told me he was going to Arizona.

house,
23 Q. Let me ask you a few more questions about the ranch

24 if I can, Mr. Donahue. Was it provided furnished?

25 A. No.

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Timothy Donahue - Direct

1 Q. And when Mr. Nichols moved in in March of 1994, to
your

2 knowledge, did he have any furnishings?

3 A. Just a few small items, like a TV, I think, a VCR,
that's

4 about all I remember.

5 Q. And with your help, did he acquire some furnishings
in the

6 central Kansas area?

7 A. Yeah, I explained where he could get a washer and
dryer, I

8 remember, kind of helped him out there.

9 Q. Was there an occasion when you actually helped him
move

10 furniture into the home?

11 A. Yes, a couple times.

12 Q. Describe that.

13 A. One time it was a sofa. I helped him carry it in.
Another

14 time a refrigerator, I helped him with that, a little.

I

15 believe I helped him move the washer, his clothes
washer

16 downstairs.

17 Q. On Friday, September 30, when you were in the house
looking

18 at the waterbed, did you see what other furnishings

were in the

19 home at that time?

20 A. There was a dining room set in there. There was a
sofa, I

21 believe a chair. A refrigerator was still there.
That's all I

22 remember.

23 Q. And later, a few days later, were you back in the
house

24 after Mr. Nichols had departed?

25 A. Yes.

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Timothy Donahue - Direct

1 Q. What was in the house at that time?

2 A. Just the waterbed.

3 Q. Take a look, please, at two exhibits marked 1767,
Photos 1

4 and 2.

5 A. I don't believe I got the one. Are they both in
here?

6 Okay.

7 Q. You see those?

8 A. Yes.

9 Q. In looking at Exhibit 1767-1, does that show the
sofa that

10 you helped Mr. Nichols move into --

11 A. Yes.

12 Q. -- the residence?

13 A. Uh-huh.

14 Q. And how about Photograph No. 2, do you recognize
any of the

15 furnishings shown in that photograph?

16 A. That looks like the dining room set that was in
there that

17 Friday evening.

18 Q. If you could retrieve, Mr. Donahue, Exhibits 49 and
50 from

19 that same packet: It should be two checks.

20 A. Okay.

21 Q. And for the record, can you identify each of those
two

22 exhibits by number?

23 A. 49 is the check I wrote him for the waterbed. 50
is the --

24 his final paycheck I give him that Friday evening.

25 Q. And are both those checks dated September 30, 1994?

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Timothy Donahue - Direct

1 A. Yes.

2 MR. MACKEY: Your Honor, we'd move to admit
Government

3 Exhibits 49 and 50.

4 MR. TIGAR: No objection, your Honor.

5 THE COURT: They are received.

6 BY MR. MACKEY:

7 Q. Mr. Donahue, in the course of time that Terry
Nichols

8 worked for you, did you ever see him in a full beard?

9 A. No.

10 Q. Do you recall an occasion where Mr. Nichols showed
you a

11 driver's license that had been issued from the state of
12 Michigan?

13 A. Yeah. He had --

14 Q. When did that happen?

15 A. Excuse me?

16 Q. When?

17 A. He asked -- that was kind of early on. He asked to
take

18 off and go to town in Marion and get a driver's
license, a

19 Kansas driver's license, and he showed me his Michigan
license

20 at that time.

21 Q. Did you see his photograph on the Michigan's
driver's

22 license?

23 A. Yes.

24 Q. And describe the facial hair.

25 A. He had a pretty full beard, yes.

Timothy Donahue – Direct

Sunday,
with
were

1 Q. Let's return our attention, now, Mr. Donahue, to
2 October 2, the weekend following your last encounter
3 Mr. Nichols. Tell the jury where you were and what you
4 doing.

to be
day,
when I was
checking some
then I seen

5 A. Well, I went by several times. I was expecting him
6 out of the house and drove by a couple times during the
7 just wanting to check things over. And that evening
8 coming around, I kind of went around the section,
9 other things and was going to come by the house and
10 a blue pickup headed south.

Sunday,
11 Q. And approximately what time of the evening on
12 October 2, did you see that?

13 A. It would be around 7:00.

14 Q. And what distance were you from the vehicle?

15 A. Oh, a quarter of a mile, probably.

who was
16 Q. I take it, then, there was no way for you to see
17 driving the vehicle or was inside?

18 A. No.

19 Q. What direction was the pickup truck headed?

20 A. It was headed south.

21 Q. And which direction were you headed again?

22 A. I was headed east.

pickup
23 Q. Was that the last time that you saw Terry Nichols'

24 truck?

25 A. Yes.

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Timothy Donahue - Direct

hear the
1 MR. TIGAR: Objection, your Honor. I didn't

2 witness say he recognized Terry Nichols' pickup truck.

3 THE COURT: Objection sustained; rephrase the
4 question.

5 MR. MACKEY: I will.

6 BY MR. MACKEY:

south on
7 Q. Did you recognize the vehicle that you saw headed

8 the country road?

9 A. Yes.

Nichols
10 Q. Was that the same country road in front of the

11 residence?

12 A. Yes.

13 Q. Mr. Donahue, the last time that you ever saw Tim
McVeigh --

14 was that on September 30 in the company of Terry
Nichols?

15 A. Yes.

16 Q. And the last time that you ever saw Terry Nichols
in

17 person, was that in the company of Tim McVeigh on
September 30?

18 A. Yes.

19 MR. MACKEY: I have nothing else, your Honor.

20 THE COURT: Mr. Tigar.

21 CROSS-EXAMINATION

22 BY MR. TIGAR:

23 Q. Good morning, Mr. Donahue.

24 A. Good morning.

25 Q. I wanted to make sure about that. On the 2d there,
when

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Timothy Donahue - Cross

1 you saw the pickup, the blue pickup truck?

2 A. Yes.

3 Q. Did you recognize that as Terry's?

4 A. Yes.

5 Q. Okay. And it had a white topper on it?

6 A. Yes.

I 7 Q. Okay. I don't know that we've ever met personally.
8 don't think we have.
9 A. Not to my knowledge.
You've -- 10 Q. But you sure have answered a lot of questions.
is that 11 the people working with our team have been to see you;
12 right?
13 A. Oh, yes.
14 Q. And you've helped us out by showing us things and
15 answering; right?
16 A. Yes, sir.
come, 17 Q. And then when the people from the Government have
18 you've answered their questions, too; right?
19 A. Yes, sir.
20 Q. Because you feel like that's the right thing to do?
21 A. Yes.
the 22 Q. Well, let me start by asking you, if I could, about
23 29th of September. That would be the Thursday.
24 A. Okay.
was like 25 Q. Now, on the 29th, do you remember what the workday

1 then?

2 A. That Thursday?

3 Q. Yes, sir.

4 A. That's the day before Mr. Nichols' last day? No, I
really

5 can't.

6 Q. Okay. Well, on a typical September time, what
would the

7 workday be?

8 A. Well, typically we would start at 7:30 and usually
be done

9 by 7.

10 Q. 7 in the evening?

11 A. Yes.

12 Q. And to your memory, did Mr. Nichols show up for
work that

13 day and work a full day?

14 A. Yes.

15 Q. Because you'd sure remember if he didn't; right?

16 A. I would say so, yes.

17 Q. Okay. You -- then on the 30th of September, did
you see

18 Mr. Nichols' pickup in the morning, his truck, his GMC
truck?

19 A. Yes.

20 Q. And when you saw it in the morning, did it have a
white

21 topper on it?

22 A. No.

23 Q. All right. Now, when you came around to the house
in the

24 evening, it was about 7, 7:30?

25 A. Yeah, 7, somewhere in that neighborhood.

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Timothy Donahue - Cross

1 Q. 7:00, and that's still daylight savings time?

2 A. Yes.

3 Q. So it's still light?

4 A. Yes.

5 Q. Was the topper installed on the pickup truck when
you first

6 got there?

7 A. It was setting (sic) on there, yes.

8 Q. It was setting on there.

9 A. Yes.

10 Q. Now, was there an extension cord and a drill out?

11 A. Not to my knowledge.

12 Q. Did you see somebody working on the pickup truck,
trying to

13 put the topper on, that's what I'm asking?

14 A. I seen both of them -- when I drove up, both of
them was

15 behind the pickup. I guess I assumed they was putting
it on

16 because I hadn't seen it on there before.

17 Q. I see.

18 A. I can't say that they was putting it on, but they
was
19 working behind the pickup.

20 Q. Working behind the pickup.

21 A. Yes.

22 Q. And that's what you -- from what you saw there, you
assumed
23 that's what they were doing?

24 A. That's right.

25 Q. Now, let's go back to the time when you first met
Terry

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Timothy Donahue - Cross

1 Nichols. You put an ad in a number of local papers;
right?

2 A. Yes.

3 Q. Including the Herington paper, I believe?

4 A. I believe so, yes.

5 Q. And then in the Marion County paper?

6 A. Yes.

7 Q. And you interviewed Mr. Nichols, as you described?

8 A. Yes.

9 Q. Now, work -- your hired hands, they work pretty
hard;

10 right?
11 A. Try to, yes.
12 Q. I understand. And you work right alongside of them
most of
13 the time; correct?
14 A. To a certain extent, yes.
15 Q. And what's the usual amount of months that a hired
hand
16 will work for you? I mean is there any usual amount of
months,
17 or do they kind of come and go?
18 A. Some do. I had one work for me for seven years.
And one
19 for about a week and a half.
20 Q. Pretty well everything in between. Everything in
between;
21 right?
22 A. Yes.
23 Q. So there is no average or normal, it just depends
on the
24 person; right?
25 A. That's correct.

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Timothy Donahue – Cross

1 Q. Now, when you worked there with starting in March,
you
2 hadn't started the planting, yet; right?

3 A. No.

4 Q. What kind of work was Mr. Nichols doing when you
first got

5 together?

6 A. Was feeding livestock, running a feed wagon. We
was

7 calving out cows at that time.

8 Q. Now, are you -- do you try to -- so your -- most of
your

9 cows calve in the spring; right?

10 A. Most of them, yes.

11 Q. And that's the way you plan it?

12 A. Yes.

13 Q. Now, you run, you said, a thousand cow/calf pairs?

14 A. Yes.

15 Q. And in terms of you have grass pasture for them;
right?

16 A. Yes.

17 Q. And there's some kind of grass you have that fits
-- works

18 in your area, right, that's recommended?

19 A. Yes, sir.

20 Q. And it's different parts of the country, I guess?

21 A. Yes.

22 Q. And then when your thousand cow/calf pairs -- you
also said

23 you had a feed corn operation? You have feed corn?

24 A. We background our calves, our weaning calves. Grow
them --

25 we wean them off the cow and then we grow them up to
800 pounds

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Timothy Donahue - Cross

fattened 1 and then take them a commercial feedlot where they're
2 out.

gone? 3 Q. I see. So once they get to be 800 pounds, they're

4 A. They're gone.

5 Q. What is your planting time, then, in Kansas?

6 A. Oh, planting time?

7 Q. Yes.

of 8 A. When we plant corn, it's usually first couple weeks
9 April. Then we go into our sorghum, which is usually
the last 10 couple weeks of March -- May.

and I 11 Q. You were shown some pictures and maps of the area,
12 wanted to ask something about that, if I could. First
we have 13 this map of central Kansas, which has been admitted as
14 Government's Exhibit 94 -- excuse me, it's Government
Exhibit

15 47. And you describe Marion, Kansas, being right here
where my 16 finger is pointing; correct, sir?

17 A. Yes.

18 Q. Now, living in central Kansas -- do you have a VCR?

19 A. Yes.

Junction

20 Q. Okay. And are there places closer to you than

21 City where a person can rent a videotape?

22 A. Yes.

Marion?

23 Q. Okay. And, for instance, can you rent them in

24 A. Yes.

25 Q. And you can rent them in Herington?

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Timothy Donahue - Cross

I'm

1 A. Oh, I'm sure. I don't have personal knowledge, but

2 sure you can, yes.

Government

3 Q. Now, I wanted to put up what's been received as

4 46A. Now, this is a map of the Marion area; correct?

5 A. Yes.

6 Q. And it's divided off into sections?

7 A. Yes.

8 Q. Now, you said you farmed 15,000 acres, correct?

9 A. Yes.

10 Q. You and your dad and your brother?

11 A. That's correct.

12 Q. And you started out with 160?

13 A. Yes.

14 Q. Now, my arithmetic's not very good. That's 20--some
15 sections; right?

16 A. I suppose.

17 Q. Something like that. Now, would you please point
out to me

18 which -- by number, if you could -- can you see the
numbers on

19 this map?

20 A. Yes.

21 Q. Which section is the map -- is the farm we're
talking

22 about, Clover Cliff, what section numbers would that
be?

23 A. It's in Chase County.

24 Q. Chase County?

25 A. It's not on this map.

7186

Timothy Donahue - Cross

1 Q. Oh, it's not on this map?

2 A. This is a Marion County map.

3 Q. It would be the next county over?

4 A. Yes.

5 Q. Well, I wanted to ask you, then, about this picture

of

Exhibit 6 this -- of Timothy McVeigh, which has been Government

7 52. I turned it off. There it is. Now, when you saw
him for

8 the first time, that was in August. Was that in August
of

9 1994?

10 A. That is kind of hard to pinpoint. It was towards
the very

11 end, I know that. Last 60 to 30 days.

12 Q. Okay. And when you first saw him, did he have that
beard?

13 A. Not that I remember, no.

14 Q. Okay. But then when you saw him again towards the
end of

15 September, he was growing this beard out; is that
right?

16 A. Yes.

17 Q. Now, during the time that you knew Mr. Nichols, he
never

18 had a beard, did he?

19 A. No.

20 Q. And was Mr. Nichols always pretty clean and well-
presented?

21 A. Yes.

22 Q. That is, he would shave every morning and clean
himself up?

23 A. Yes.

24 Q. Okay. Now, that first time that you saw Mr.
McVeigh, he

25 was driving that little car that you recognized; right?

7187

Timothy Donahue – Cross

1 A. Yes.

2 Q. And you didn't have any trouble remembering what
car it was

3 from having seen it, did you?

4 A. The first time --

5 Q. Yes --

6 A. I believe was the first time I seen.

7 Q. Right, I understand. In fact, was that the first
and last

8 time you saw this car?

9 A. No.

10 Q. Oh, it wasn't. Did you see it again in the end of
11 September?

12 A. Yes.

13 Q. From those two sightings, you don't have any
trouble

14 remembering that's the car you saw; right?

15 A. No.

16 Q. And in fact, from Terry's pickup truck, the GMC
pickup, a

17 lot of people in farm country drive pickups?

18 A. Right.

GMC 19 Q. And you don't have any trouble remembering what a
20 pickup looks like, do you?
21 A. No.
these 22 Q. And similarly about trailers, you were asked about
23 farm trailers?
24 A. Yes.
25 Q. Now, is that your dad's business?

7188

Timothy Donahue - Cross

1 A. Yes.
others; 2 Q. And you make those 4-by-8 utility trailers, among
3 is that correct?
4 A. That's correct.
trailer 5 Q. Now, what is the advantage of the 4-by-8 utility
6 over, say, a pickup-bed trailer?
nicer to 7 A. Well, it would be a little bit lighter, a little
8 pull. I guess that would be the biggest advantage.
have that 9 Q. And your trailers, these Donahue trailers, they
10 very distinctive look, don't they?
11 A. Oh, I suppose, yeah.
12 Q. Well, I mean does your dad try to give them -- I

mean

13 they've got the two ends that come off at an angle
there where

14 the lights are mounted and it says "Donahue" in big
letters;

15 right?

16 A. Yeah.

17 Q. Do you sell a lot of those around the central
Kansas area?

18 A. No. We discontinued building them, oh, in '93 or
'94,

19 something like that.

20 Q. Had you sold a lot of them up to then?

21 A. Not really. It wasn't a very good mover.

22 Q. All right. So went on to something else; right?

23 A. Yes.

24 Q. Do you see them, do you see those trailers driving
around?

25 A. There's one in Marion, a brown one. That's about
the only

7189

Timothy Donahue – Cross

1 one that I know of that anybody else has got one.

2 Q. Do most people out in farm country prefer to make
trailers

3 out of pickup beds?

4 A. Oh, that's not really that common anymore. We've
kind of

5 progressed beyond that stage, I guess.

6 Q. Well, do you remember that the FBI came out to your
farm

7 and asked you if you'd ever seen a red trailer made
from a Ford

8 pickup bed?

9 A. Yes.

10 Q. When was that they came out and asked you about
that, if

11 you remember?

12 A. Oh, it was probably in May of '95. I believe.

13 Q. Okay. And did they ask you to be on -- did they
ask you if

14 you'd seen some around the area?

15 A. Yes.

16 Q. Did you remember having seen any?

17 A. No.

18 Q. Now, if -- but you sure -- if you were driving down
the

19 road or if you -- and you saw a trailer made out of a
big, old

20 Ford pickup bed, you'd know the difference between that
and a

21 Donahue trailer, wouldn't you?

22 A. I would.

23 Q. Ford pickup trailer rides higher than your Donahue
utility

24 trailer, doesn't it?

25 A. Yes.

7190

Timothy Donahue - Cross

says 1 Q. And it has that old Ford tailgate on the back that

2 "Ford," doesn't it?

3 A. Yes.

4 Q. That's one difference.

5 A. Yes.

work 6 Q. Well, let me ask you, then, sir, about the sort of

can you 7 that you asked Mr. Nichols to do on the farm. What --

March, 8 just describe generally what it was that he did on that

9 April, on through September?

feeding 10 A. Well, at the beginning there, like I say, it was

me 11 cattle, tending to cattle, running feed wagon. Helping

part of 12 calve out cows, ear-tagging calves. Then the first

13 May --

calve out 14 Q. May I interrupt you. When you say helping you

15 cows, do your cows have trouble birthing?

sure the 16 A. At times. At times. You have to check them, make

17 calf's nursed.

18 Q. That they get up and start feeding and so they
start out

19 right?

20 A. Yeah.

21 Q. Did Mr. Nichols know how to do all of this?

22 A. No, he was pretty green about that.

23 Q. Pretty green about the calving thing?

24 A. Yes.

25 Q. I guess his farm in Michigan, had that been a
cattle

7191

Timothy Donahue – Cross

1 operation?

2 A. No.

3 Q. So was he a willing worker?

4 A. Yes.

5 Q. All right. So continue on. You got the calving
season

6 done. And then what did the work look like then?

7 A. Well, after we get the cows to grass in early May,
then

8 it's strictly a farming operation, running tractor,
preparing

9 ground, putting up hay.

10 Q. Was he good at that?

11 A. Yes.

things? 12 Q. Did you ever have him working on equipment, fixing

13 A. Oh, yes.

14 Q. Was he good at that?

15 A. Yes.

16 Q. What, balers, tractors?

17 A. Planters, yes.

was 7:30 18 Q. So on. And during that time you said the workday

19 in the morning to about 7 at night?

know, we'd 20 A. Oh, that varied quite a bit. If it rained, you

some nights 21 take some time off. Some nights it would be later,

22 it would be earlier. There's no set time on a farm.

23 Q. You said at one time you had him over for dinner?

24 A. Yes.

family 25 Q. Is that your custom, to ask your hired man and his

7192

Timothy Donahue – Cross

1 over for dinner?

felt like 2 A. Not very often, no. He was by himself, and just

3 needed to get him acquainted with us.

4 Q. Did Mrs. Nichols come?

5 A. Yes.

6 Q. All right. And did there --

7 A. No, she didn't come to dinner, if that's --

8 Q. Okay.

9 A. It was just Terry by himself.

10 Q. Okay. Now, Mrs. Nichols lived in that farmhouse
with the

11 baby, Nicole; is that right?

12 A. Yeah, they come after maybe a month, after Terry
had been

13 there.

14 Q. Okay. And did you happen to observe whether Mrs.
Nichols

15 had a driver's license or whether she ever drove?

16 A. Not to my knowledge.

17 Q. Okay. So you never saw her drive a car?

18 A. No.

19 Q. Okay. And when they came out to see you in August
to the

20 field there -- or whenever it was -- and I'm not trying
to

21 say -- but whenever that time was that you first saw
that man

22 McVeigh in that little Spectrum car, what were they
looking

23 for?

24 A. Baby seat, as I remember.

25 Q. Why did they -- and where was the baby seat?

Timothy Donahue – Cross

- 1 A. It was in Terry's pickup.
- 2 Q. Oh, I see. They was -- they wanted to go somewhere
in the
- 3 Spectrum, and they needed the baby seat for the baby?
- 4 A. That's the way I remember it, yes.
- 5 Q. Now, did you take them over to where Terry was
working?
- 6 A. Escorted them over there, yes.
- 7 Q. All right. And did you see them take the baby seat
out and
- 8 put it in the car?
- 9 A. No.
- 10 Q. Did you ever have any conversations with Mrs.
Nichols about
- 11 things?
- 12 A. No.
- 13 Q. You know that she's not -- she was not born in the
United
- 14 States?
- 15 A. Yes.
- 16 Q. Where did you understand that she was born and
raised?
- 17 A. In the Philippines.
- 18 Q. In the Philippines.
- 19 Now, on these mornings when you would work,
where did

20 Terry show up for work?
21 A. At the ranch house. Ranch yard.
22 Q. So he'd come to the ranch yard with his pickup?
23 A. Yes.
24 Q. Then he'd get in your pickup?
25 A. Most of the time, yes.

7194

Timothy Donahue – Cross

going to 1 Q. And drive over to wherever it was that you were
2 work for the day?
3 A. Yes.
4 Q. Now, on those mornings, did you have conversations?
5 A. Oh, yes.
6 Q. And what did you talk about?
7 A. Oh, a lot of different things. You name it.
8 Q. Okay. Well, let me try. Farming.
9 A. Yes.
10 Q. And did he have some ideas about farming you
thought were
11 unusual?
12 A. Yes.
13 Q. He did. Did he tell you about his brother James's
ideas
14 about farming?

15 A. Yes.

16 Q. Did he recommend that you use lime instead of
commercial

17 fertilizer?

18 A. Well, he recommended a high-calcium lime.

19 Q. Pardon?

20 A. A high-calcium lime, yes.

21 Q. Now, what did you understand him to be recommending
there,

22 instead of commercial fertilizer?

23 A. Well, it wasn't as -- as I remember, it wasn't
instead of

24 commercial fertilizer. Lime is put on the fields to
enhance

25 what fertilizer does for you, and he was specifically

7195

Timothy Donahue - Cross

1 recommending a high-calcium lime rather than just your
average

2 lime.

3 Q. Uh-huh.

4 A. And that would, oh, improve your ground till-
ability and

5 things like that.

6 Q. Improve your what, I'm sorry?

7 A. Well, the way your ground works.

8 Q. Your till-ability?

9 A. Yes.

10 Q. That is to say, to make the ground easier to work?

11 A. Yes.

12 Q. So when you go out in the spring to disk it or
whatever you

13 did, that would be easier to work on?

14 A. More mellow, yes.

15 Q. Okay. And did he have any ideas about pesticides?

16 A. Yes.

17 Q. Did you regard those as unusual?

18 A. Yes.

19 Q. What did he -- what attitudes did he have about
pesticides?

20 A. I believe that was granular sugar you should
sprinkle on

21 your field.

22 Q. Okay. And did he say where he got this idea?

23 A. As I remember, him and his brother James was using
them

24 practices in Michigan.

25 Q. Okay. And did he say why he didn't want you to use
-- why

7196

Timothy Donahue - Cross

1 he didn't think you should use these chemical
pesticides?

2 A. Well, I don't know that he ever said we shouldn't
use them.

3 He said they didn't use them and didn't --

4 Q. So was he trying to convert you to anything, or
were you

5 just talking?

6 A. No, he didn't really try and convert me to it, no.

7 Q. Okay. And do you remember having a talk with him
about

8 health insurance?

9 A. Yes.

10 Q. And in fact, I guess you did not -- you gave him
extra

11 money instead of buying health insurance; right?

12 A. Yes.

13 Q. And what was your understanding as to the reason
for that?

14 A. He just didn't want to spend the money on the
health

15 insurance. He said he watched what he ate and was
particular

16 about that.

17 Q. And to your knowledge, did he watch what he ate?

18 A. As far as I know.

19 Q. You didn't notice one way or another; right?

20 A. No.

21 Q. Do you remember talking about preventative medicine
with

22 him?

23 A. Preventative medicine?

word? 24 Q. Preventative medicine, yeah, did he ever use that

25 A. Not that I recall.

7197

Timothy Donahue – Cross

the 1 Q. Now, in the morning when you were driving or during

2 day, was there a fellow on the radio there named Burns?

3 A. Oh, yes.

the 4 Q. Well, tell us who this fellow Burns is who was on

5 radio.

remember that 6 A. He was just a radio talk-show host. I don't

7 much about him. I don't believe he's on there no more.

on that 8 Q. Okay. Now, did you all talk about things that were

9 Burns show?

often 10 A. Oh, there was one occasion I do remember. Not very

11 on that. I don't remember the Burns show that well.

about the 12 Q. Okay. Well, what do you remember about talking

13 Burns show?

tried 14 A. There was something about a police that had kind of

playing 15 to apprehend some kids for . . . or young adults for
they 16 with -- maybe it was a paint ball gun in a park, and
something 17 had -- I don't know, I guess took the gun away or
I don't 18 like that, as I recall. That's been a long time ago.
19 remember that much about that.
about a 20 Q. Okay. Now, is it fair to say that you all did talk
21 lot of political things?
22 A. Oh, yes.
23 Q. Now, are you much involved in politics?
24 A. Oh, I try to stay current on it.
25 Q. Did y'all, for instance, did you talk about NAFTA?

7198

Timothy Donahue - Cross

1 A. Yes.
2 Q. Did you disagree about NAFTA?
3 A. Yes.
4 Q. That's the North American Free Trade Agreement?
5 A. Yes.
a good 6 Q. And would it be fair to say that you thought it was
7 idea and he thought it was a bad idea?
8 A. Yes.

these 9 Q. Okay. Did y'all ever get angry with each other in
10 political discussions?
11 A. No.
12 Q. These were just -- was this -- I'm not trying to
13 characterize it. Is it sort of like what you'd hear at
the 14 local coffee shop?
15 A. Most of it, yes.
16 Q. Okay. And did you talk about Waco?
17 A. One occasion I remember, yes.
18 Q. Okay. And Mr. Nichols thought the government had
done 19 wrong there; right?
20 A. Yes.
21 Q. Now, you mentioned that he -- yeah, he quoted -- or
22 mentioned Thomas Jefferson one time?
23 A. Yes.
24 Q. I want to be clear about that. Did you -- did you
ever 25 hear Mr. Nichols say that he was going to go commit
violence

7199

Timothy Donahue - Cross

1 against anybody?
2 A. No.

3 Q. Okay. And in fact, sir, your -- I mean your
relationship
4 with . . . your hired hands is when you (sic) left at
the end
5 of his time, you know, when Mr. Nichols left you, if he
had
6 come back the next day and you hired another fellow
after
7 him -- excuse me, these questions are not very clear,
but I'm
8 going to clean this up now.

9 This fellow Mr. Wichman was his successor;
right?

10 A. Yes.

11 Q. Now, if Mr. Wichman had called you on the 1st of
October
12 and said, Mr. Donahue, I can't come, my wife is
pregnant and
13 we've just decided we can't do it, and if Mr. Nichols
had
14 showed up and said, Look, you know, I'd like to work
for you
15 some more, would you have taken him back?

16 A. Yes.

17 Q. And you would have taken him back because why?

18 A. He done a good job for me and I would have needed
help.

19 Q. I understand.

20 MR. TIGAR: Make I have just a moment, your
Honor?

21 THE COURT: Yes.

again, 22 MR. TIGAR: Mr. Donahue, thank you very much,

23 for coming here and answering all our questions.

24 THE WITNESS: Okay.

25 THE COURT: Mr. Mackey, do you have any
follow-up?

7200

Timothy Donahue - Cross

1 MR. MACKEY: Please.

2 THE COURT: All right.

3 REDIRECT EXAMINATION

4 BY MR. MACKEY:

46A 5 Q. Mr. Donahue, let me show you Government's Exhibit

6 again.

7 A. Okay.

Nichols 8 Q. And in September of 1994, do you know where Terry

9 spent time working for you as depicted on this exhibit?

Want me to 10 A. Oh, yeah. We got a bit of broke ground. Okay.

11 circle it?

12 Q. Yeah, just circle that and then circle Mr. Nichols'
13 residence.

14 All right. And what kind of work would he --
did he

15 do in September, 1994, in that tract of land that
you've just

16 marked on 46A?

17 A. We've got about a section of broke ground there,
farm

18 ground, and we spend a lot of time over there.

19 Q. And was that work that Mr. Nichols often did by
himself?

20 A. Yes.

21 Q. The occasions that he'd go to that area and farm
that area

22 without you present?

23 A. Oh, yes.

24 Q. Mr. Donahue, do you recall the total number of
times that

25 you saw Tim McVeigh's car at Terry Nichols' house?

7201

Timothy Donahue – Redirect

1 A. There was more than the one occasion. I can't
recall how

2 many times, but I'd seen it sitting there several
times.

3 Q. Let me show you Government Exhibit 2074. Mr. Tigar
asked

4 you some questions about the Donahue trailers.

5 A. Okay.

6 Q. And on this utility trailer, the words "Donahue"
are in

7 white, are they not?

8 A. Uh-huh, yes.

9 Q. And they're a block style?

10 A. Yes.

11 Q. And how does the tailgate work on that utility
trailer?

12 A. Just unlatches and folds down.

13 Q. Much like a tailgate on a pickup truck?

14 A. Yes.

15 Q. Take a look at Exhibit 2072. Let me draw your
attention to

16 the wheels that are on that trailer. Was that unique
to that

17 size utility trailer?

18 A. No, not at the -- not at the end of when they built
them.

19 They started putting them on at the end.

20 Q. Prior to the production of this trailer, had they
used a

21 more common or simpler wheel for the tires?

22 A. Yeah, then they used just a black wheel with a
hubcap on

23 it.

24 Q. Mr. Donahue, let me just finish with asking you a
final

25 question about the one conversation Mr. Tigar asked you
about.

Timothy Donahue – Redirect

where
1 You told the jury yesterday you recalled an occasion

2 Mr. Nichols told you --

3 MR. TIGAR: Object to that, your Honor.

4 THE COURT: What is your objection?

Honor,
5 MR. TIGAR: I object to the question, your

6 because I know what it's going to be, and it's not the
7 conversation I asked him about.

8 THE COURT: Well, I haven't heard the question
yet.

9 MR. TIGAR: All right.

10 THE COURT: Ask the question.

11 BY MR. MACKEY:

you've
12 Q. You recall Mr. Tigar asking you about conversations

13 heard around the coffee shop?

14 A. Yes.

heard
15 Q. On any occasion at the coffee shop, have you ever

16 anyone say that they felt like the government should be
17 overthrown?

18 MR. TIGAR: I object to that.

19 THE COURT: Overruled.

20 THE WITNESS: No, I haven't.

21 BY MR. MACKEY:

22 Q. Do you have any doubt that Mr. Nichols made that
statement

23 to you?

24 A. No, I do not.

25 MR. MACKEY: Thank you.

7203

Timothy Donahue – Redirect

1 THE COURT: Anything else of this witness?

2 RE-CROSS-EXAMINATION

3 BY MR. TIGAR:

4 Q. Hi, Mr. Donahue. Again, I'm sorry, I get to ask
some more

5 after he does. I put up 46A again. And this is -- I
know you

6 helped us out by circling the fields. But I want for
the

7 record to get the section number on here where Mr.
Nichols was

8 working on the field that you circled there. Could you
help me

9 there.

10 A. It's parts of Section 21 and parts of Section 28.

11 Q. Okay. I see, 21 and 28, all right. So that we'd
be able

12 to find that.

13 Now, when you would have him go over and look
at that

14 field -- or work in that field, would you give him a

certain

15 job to do?

16 A. Yes.

see if

17 Q. And then would you be able to check up afterwards,

18 he did the work?

19 A. Yes.

20 Q. And to your knowledge, he wasn't a slacker, was he?

21 A. No, I don't believe so.

to do

22 Q. Okay. That is to say, if you gave him a day's work

23 over there, he'd go over and do it?

24 A. Yes.

these three

25 Q. Now, sir, I wonder if the clerk could hand you

7204

Timothy Donahue – Recross

bed-type

1 exhibits, and I want to ask you if those are pickup-

in farm

2 trailers that you see in farm country -- like you see

3 country?

4 A. Yeah, you can see them in farm country.

type bed

5 Q. Okay. And those -- do those look like Ford pickup-

6 trailers?

7 A. Yes.

8 MR. MACKEY: Your Honor, could we make a
record as to

9 what exhibit numbers?

10 MR. TIGAR: I'm sorry. As soon as he's
identified, if

11 I could have them back, your Honor. Here someone's
giving me a

12 copy.

13 BY MR. TIGAR:

14 Q. Would you tell us the exhibit number of the first
one,

15 please.

16 A. D946.

17 MR. TIGAR: Okay. We offer D946, your Honor,
for

18 illustrative purposes.

19 MR. MACKEY: No objection.

20 THE COURT: All right. D946. Do you have
copies of

21 these, Mr. Mackey?

22 MR. MACKEY: I think I do, Judge, I'm sure.

23 BY MR. TIGAR:

24 Q. And what's the next exhibit?

25 A. F18.

1 MR. TIGAR: We offer F18 for illustrative
purposes.

2 MR. MACKEY: No objection.

3 THE COURT: Received.

4 BY MR. TIGAR:

5 Q. And what's the next one, sir?

6 A. D955.

7 MR. TIGAR: D955, we offer that for
illustrative
8 purposes.

9 MR. MACKEY: No objection.

10 THE COURT: Received.

11 MR. TIGAR: May I have those back.

12 BY MR. TIGAR:

13 Q. I just want to put these up. There you go. That
you can

14 see the number is D946, and you can see the Ford
lettering on

15 the back of that; right?

16 A. Yes.

17 Q. But it's painted over?

18 A. Yes.

19 Q. And here's F18. And there that's that white Ford
20 lettering; right?

21 A. Yes.

22 Q. And that sure looks like the back of an old Ford,
doesn't

23 it?

24 A. Yes.

with 25 Q. Here is D955. Again, another Ford with slightly --

7206

Timothy Donahue - Recross

1 that same Ford -- excuse me, with that same Ford-type
2 lettering; right?

3 A. Yes.

overthrow 4 Q. Well, Government counsel asked you about this

5 conversation.

6 A. Yes.

understand that 7 Q. Did -- so I'll ask you about it. Did you

from that 8 Mr. Nichols wanted to commit violence against anybody

9 conversation?

commit 10 A. I didn't hear him specifically say he was going to

11 violence.

done; 12 Q. He was angry about something the government had

13 right?

too much 14 A. He was angry about the government being too big,

15 power.

16 Q. Right. And now that's certainly -- a lot of folks

in farm

17 country think the government is too big and have too
much

18 power; right?

19 MR. MACKEY: Objection.

20 THE COURT: Overruled.

21 THE WITNESS: Yes.

22 BY MR. TIGAR:

23 Q. In fact, people talk about such things as the farm
policy

24 and taxes and all those sorts of things; right?

25 A. Yes.

7207

Timothy Donahue – Recross

1 Q. All right. So -- now, this remark you say you
heard, was

2 that one of these conversations you're having in the
pickup in

3 the morning?

4 A. I believe so, yes.

5 Q. Okay. And you didn't say, Get out of my pickup,
you

6 revolutionary, did you?

7 A. No.

8 Q. You didn't say, I think you're a crazy man, did
you?

9 A. No.

full day 10 Q. And whenever this conversation was, you worked a
11 right alongside Mr. Nichols; right?
12 A. We worked a full day, yes.
right? 13 Q. Yes, sir. And didn't interrupt your workday;
14 A. No.
off to 15 Q. And the next day, you got in the pickup and drove
16 work and worked again; right?
17 A. Yes.
18 Q. And he talked about something else; correct?
19 A. Yes.
that he 20 Q. And just repeat, you never heard Mr. Nichols say
21 intended to commit violence against anybody, did you?
22 A. No.
23 MR. TIGAR: Thank you very much, sir.
24 THE COURT: May the witness now be excused?
25 MR. MACKEY: Yes, your Honor.

7208

1 MR. TIGAR: Yes, your Honor.
excused. 2 THE COURT: You may step down. You're
3 THE WITNESS: Thank you.

4 THE COURT: Next witness.

would call
5 MR. MACKEY: Your Honor, the United States
6 Robert Nattier.

7 THE COURT: All right. Mr. Nattier.

right
8 THE COURTROOM DEPUTY: Would you raise your
9 hand, please.

10 (Robert Nattier affirmed.)

please.
11 THE COURTROOM DEPUTY: Would you have a seat,

and
12 Would you state your full name for the record
13 spell your last name.

R.
14 THE WITNESS: Robert D. Nattier, N-A-T-T-I-E-

15 THE COURTROOM DEPUTY: Thank you.

16 DIRECT EXAMINATION

17 BY MR. MEARNS:

18 Q. Good morning, Mr. Nattier.

19 A. Good morning.

20 Q. Where do you live, sir?

21 A. In Moundridge, Kansas.

22 Q. And where in Kansas is Moundridge?

23 A. It's central Kansas, just north of Wichita.

24 Q. How long have you lived in central Kansas?

25 A. All my life.

Robert Nattier – Direct

1 Q. Tell us briefly about your education.

at

2 A. I graduated from high school and attended one year

3 Kansas State University.

State?

4 Q. And when was that, when did you attend Kansas

5 A. It would have been in 1961, I believe.

6 Q. And where do you work now?

op.

7 A. I'm president and general manager of Mid-Kansas Co-

if we

8 MR. TIGAR: Excuse me, your Honor. I wonder

having

9 could ask Mr. Nattier speak up just a little bit. I'm

10 trouble hearing some of his words.

11 THE WITNESS: I'll speak up.

it

12 THE COURT: Speak up a little and sort of aim

13 towards the microphone.

14 THE WITNESS: All right.

15 BY MR. MEARNS:

do you

16 Q. Why don't we do that question one more time. Where

17 work, sir?

president

18 A. I work for Mid-Kansas Co-op in Moundridge. I'm

19 and general manager.

20 Q. What is the Mid-Kansas Co-op?

21 A. We're a large farm-supply co-op, handle grain and
fresh farm supplies to agricultural producers.

23 Q. How long have you worked for the Mid-Kansas Co-op?

24 A. 20 years.

25 Q. How long have you been president and general
manager?

7210

Robert Nattier - Direct

1 A. 20 years.

2 Q. Tell us a little bit more about what kind of
products the Mid-Kansas Co-op sells.

3
4 A. Well, besides handling the grain that our producers
bring in to us, we also supply them back with petroleum
products, feed, fertilizer, herbicides, miscellaneous farm
supplies.

7 Q. Does the Mid-Kansas Co-op provide any services to
its customers?

9 A. Yes, we do.

10 Q. What kind of services do you provide?

11 A. We of course grind and process feed for them. We

also

12 custom-apply fertilizer and herbicides.

13 Q. I think you said also a moment ago that you handled
grain.

14 A. Yes, I did.

15 Q. Could you tell us a little bit about that.

16 A. The producers bring the grain in to us and store it
in our
17 facilities, and then they can sell it anytime they want
to, and

18 then we reimburse them for the grain.

19 Q. You mentioned that you sell fertilizer.

20 A. Yes.

21 Q. What kind of fertilizers does the Mid-Kansas Co-op
sell?

22 A. We handle dry products, liquid, and anhydrous
ammonia.

23 Q. Do you also -- does the Mid-Kansas Co-op also
actually sell

24 services that relate to fertilizer application?

25 A. Yes.

7211

Robert Nattier - Direct

1 Q. Tell us about that.

2 A. We custom-apply fertilizer in bulk, either in dry
or

3 liquids on producers' fields for them.

4 Q. What kind of dry fertilizers do you apply?

5 A. Either 18-46-0, which is phosphate, nitrogen, or
potash.

6 Q. Those numbers you just said, 18-46-0, what do you
mean?

7 A. Okay. 18 stands for the nitrogen content, 46
stands for
8 phosphate content, and the zero stands for potash
content.

9 Q. You also said that you apply custom -- custom-apply
liquid
10 fertilizers?

11 A. That's true.

12 Q. What kind of liquid fertilizers do you apply?

13 A. UAM. It's a 20 percent nitrogen and also 10-34-0.

14 Q. What are your specific duties and responsibilities
at the
15 co-op?

16 A. Primarily work with the board of directors,
financial
17 planning, budget; those sort of things.

18 Q. You mentioned that the name of the organization is
the
19 Mid-Kansas Co-op. Is it in fact a cooperative?

20 A. Yes, it is.

21 Q. So that there are actual members of the co-op?

22 A. Yes.

23 Q. How does someone become a member of the co-op?

24 A. They fill out an application and buy one \$50 share.

25 Q. Does the Mid-Kansas Co-op sell products and
services only

7212

Robert Nattier - Direct

1 to people who are -- or organization who are members of
the
2 co-op?

3 A. No.

4 Q. How many people or organizations are members of the
5 Mid-Kansas Co-op?

6 A. We have about 3,000 members.

7 Q. And about how many customers do you have on an
annual
8 basis?

9 A. Around 9 to 10,000.

10 Q. Generally speaking, what type of customers do you
have?

11 A. The majority are agricultural producers.

12 Q. What are the remainder? You said the majority are
13 agricultural producers, and that leaves something left
over.

14 A. That the remainder would be urban, urban customers.

15 Q. What kind of products do urban customers come to
the co-op
16 to buy?

17 A. Lawn and garden primarily, probably filters and
oil.

18 Q. How many employees do you have at the co-op?

19 A. We have about a hundred full-time.

20 Q. Does the Mid-Kansas Co-op have one branch, or more
than one

21 branch?

22 A. We have more than one branch.

23 Q. About how many do you have at the present time?

24 A. We have 21.

25 Q. And how many did you have in 1994?

7213

Robert Nattier - Direct

1 A. We had 19.

2 Q. And where were those branches located in 1994?

3 A. All through central Kansas, from probably Highway
70 on the

4 north to Highway 50 on the south.

5 Q. What I'd like to do now is show you what's been
introduced

6 in evidence as Government Exhibit 2045, if I may.

7 You have an electronic pen up there. And if
you could

8 for us, indicate where Moundridge is, where it would be
on that

9 map. It's not actually located, but could you just put
a

10 circle approximately where Moundridge would be.

11 A. About right there.

12 Q. Okay. So about how far north of Wichita would that
be?

13 A. About 40 miles.

14 Q. And could you just tell us generally using the
light pen

15 where the branches of the co-op were located in 1994.

16 A. Just kind of circle them.

17 Q. So it's roughly along that highway stretching from
Wichita

18 to Salina?

19 A. Yes.

20 Q. Where does the mid co-op -- Mid-Kansas Co-op rank
in terms

21 of size in the state of Kansas?

22 A. The largest.

23 Q. Are the branches that you've indicated, the 19
branches in

24 1994 -- are they located in cities, or in rural areas?

25 A. Both.

7214

Robert Nattier - Direct

1 Q. Does the location of the co-op, whether it's in a
city or a

2 rural area, affect what types of products are sold in a
3 particular branch?

4 A. Yes, it does, somewhat.

5 Q. Tell us about that.

6 A. In urban markets, we would have more lawn-and-
garden-type

7 products, more products that maybe people in town would
use.

8 Q. In 1994, did the co-op follow a particular
procedure at all

9 its locations to document the sales of products and
services?

10 A. Yes, we do.

11 Q. And what was that procedure?

12 A. We used a three-part sales ticket on every
transaction.

13 Q. And is every transaction, then, documented on one
of those

14 three-part tickets?

15 A. Yes, it is.

16 Q. What happens to the different copies, the three
parts of

17 that sales ticket?

18 A. The white copy or top copy goes into main office
for

19 accounting purposes.

20 Q. That's the main office in Moundridge where you
work?

21 A. That's correct.

22 The yellow copy then, or the next copy down,
is

23 retained by the location. And the pink copy on the
back is

24 handed to the customer.

25 Q. And you used that form in 1994?

7215

Robert Nattier - Direct

1 A. That's correct.

1994? 2 Q. How long had you been using that same form prior to

3 A. In the 20 years I've been there.

4 Q. Are you still using that same form today?

5 A. That's correct.

of the 6 Q. Is the same practice or procedure followed at all

7 Mid-Kansas branches?

8 A. Yes, it is.

your -- the 9 Q. What I'd like you to do is if you could look in

10 folder there and find Government Exhibit 72.

11 Do you recognize that?

12 A. Yes, I do.

13 Q. What is that?

14 A. That's a copy -- or one of our sales tickets.

15 Q. And is that a blank sales ticket?

16 A. Yes, that would be a blank sales ticket.

offer 17 MR. MEARNS: Your Honor, at this time we'd

18 Government Exhibit 72.

19 MR. WOODS: No objection.

20 THE COURT: Received, 72.

21 MR. MEARNS: Could I have it displayed? Thank
you.

22 BY MR. MEARNS:

23 Q. If you could click your pen and clear the -- there
you go.

24 Could you tell us what kind of information is
actually

25 printed on the form at the top there.

7216

Robert Nattier - Direct

1 A. The actual printed information is, of course, the
locations

2 that we have, the name of the company on top, the
locations we

3 have, and then spaces for the account number, the date,
the

4 year, the name and address, and then what kind of a
transaction

5 it was; was it cash, charge, and then who it was sold
by. And

6 then the main body is the quantity and description of
the

7 product sold.

8 Q. When you say name and address, that is the name and
address

9 of the customer who is making the purchase?

10 A. That is correct.

number 11 Q. And what is the reason that you have the account

12 listed on the form?

13 A. That's so when it comes into the main office, we know

14 whether it was a customer that has a charge account with us.

15 Q. Why do you need to know that information at the main

16 office?

17 A. If it was sold at the location, if it doesn't have an

18 account number, it has to be a cash sale, no charges on that

19 number.

20 Q. Do you also -- is anything done on an annual basis with

21 respect to purchases made by people who are a members of the

22 co-op?

23 A. Yes, that information is collected and patronage is paid on

24 the basis of the business that's done with the company.

25 Q. So there's some kind of a rebate to members for their

7217

Robert Nattier - Direct

1 patronage?

2 A. Yes.

3 Q. If you would, hold up the form so the jury can see.

4 They're simply seeing just the cover. If you
could

5 actually take it out of the sleeve there.

6 And if you could just show the three different
parts

7 of the form.

8 A. There's the white copy with the carbon in between
and the

9 yellow copy with another carbon and the pink copy in
the back.

10 Q. Looking again at the receipt that's displayed on
the

11 computer, is there any number or code on that form that

12 indicates which branch was involved in the transaction?

13 A. Yes. There's a number in the lower right-hand
corner.

14 Q. And if you could circle that for us.

15 Okay. And I think you just covered over the
first

16 character there. Could you click it and try that again
so we

17 can see.

18 Okay. What does that first character, the
letter M,

19 mean?

20 A. That is the location.

21 Q. And what location is indicated by M?

22 A. M stands for McPherson.

23 Q. Is there a different letter for each of the
branches?

24 A. Yes.

25 Q. You told us that the white copy goes to the
Moundridge, to

7218

Robert Nattier - Direct

1 the main office, and that the yellow copy is retained
at the 2 branch.

3 A. That's right.

4 Q. What is the purpose of retaining the yellow copy at
the 5 branch?

6 A. Just have a record there if somebody comes in and
wants to 7 know about a particular purchase or something.

8 Q. And that becomes a permanent record, then, of the
co-op?

9 A. Yes.

10 Q. Is the procedure or the policy with respect to
filling out

11 these receipts -- is that a strict policy?

12 A. Yes, it is.

13 Q. Have you ever experienced any problem with
employees not

14 filling out receipts for each and every transaction?

15 A. No.

16 Q. Do some co-op customers receive special tax
treatment for

17 their purchases?

18 A. Yes, they do.

19 Q. Tell us about that, please.

20 A. If they're an agricultural producer, they fill out
a tax

21 exemption, Kansas state tax exemption form, that then
allows

22 them to buy their products tax-free.

23 Q. What kind of products would be exempt from tax
under Kansas

24 state law?

25 A. Products used in the course of their agricultural

7219

Robert Nattier - Direct

1 production.

2 Q. Would that be -- would that include fertilizer?

3 A. Yes, it would.

4 Q. What I'd like to do now is show you Government
Exhibit 71.

5 I think you may be able to see it on the
screen if

6 it's easier for you, Mr. Nattier.

7 Do you recognize that?

8 A. Yes, I do.

9 Q. What is that?

10 A. That's an agricultural exemption certificate.

11 Q. Is that the kind of certificate that was used by
the co-op

12 in 1994?

13 A. Yes, it is.

14 MR. MEARNS: Your Honor, we would offer
Government

15 Exhibit 71.

16 MR. WOODS: No objection.

17 THE COURT: 71 is received.

18 BY MR. MEARNS:

19 Q. Mr. Nattier, if you would explain to us what kind
of

20 information would be put on that form in connection
with a

21 transaction that would be exempt from sales tax.

22 A. Okay. They would indicate to us -- and that's
using No.

23 3 -- they're a farmer/rancher, and then they would also
date

24 it, sign it, and give us their address on that.

25 Q. And when you say they would date and sign it, who
is the

7220

Robert Nattier - Direct

1 "they" you're referring to?

2 A. The customer.

3 Q. And in order for a transaction to be exempt from
sales tax,

4 does the customer have to sign this exemption
certificate?

5 A. Yes, they do.

6 Q. What happens to such a form when it's completed in
7 connection with a transaction?

8 A. It's sent in to the main office to go on file.

9 Q. And are they maintained, then, in Moundridge?

10 A. Yes, they are.

11 Q. When a customer completes an exemption certificate
like
12 this, is there any indication on the actual sales
ticket that
13 we looked at just a moment ago to show that the
transaction was
14 exempt from sales tax?

15 A. Yes. If it was a qualified purchase, there would
be no
16 sales tax.

17 Q. What do you mean by "qualified purchase"?

18 A. If it was qualified as a production input that was
sales-
19 tax-free.

20 Q. What kind of payment does the co-op accept for
purchase of
21 goods or services?

22 A. Accept cash, charge, both in-house charge and

credit card.

23 Q. Do you also accept checks?

24 A. Yes, we do.

25 Q. What I'd like to do now is direct your attention to
the

7221

Robert Nattier - Direct

1 fall of 1994. Did the Mid-Kansas Co-op sell ammonium
nitrate
2 fertilizer?

3 A. Yes, we did.

4 Q. And did they sell it at that time at the branch in
5 McPherson, Kansas?

6 A. Yes, we did.

7 Q. What company manufactured the ammonium nitrate
fertilizer
8 that the co-op sold in 1994?

9 A. ICI.

10 Q. What I'd like to do now is show you Government
Exhibit 70.

11 And do you recognize that?

12 A. Yes.

13 Q. What is that?

14 A. That would be similar to the bag of products that
we were

15 selling.

16 Q. Is that a photograph of a bag of ammonium nitrate
that was
17 sold by the co-op in 1994?

18 A. Yes, it is.

19 MR. MEARNS: Your Honor, we would offer
Government

20 Exhibit No. 70.

21 MR. WOODS: No objection.

22 THE COURT: 70 is received.

23 BY MR. MEARNS:

24 Q. Was this the only kind of ammonium nitrate
fertilizer sold

25 by the Mid-Kansas Co-op in 1994?

7222

Robert Nattier - Direct

1 A. Yes.

2 Q. Would you explain -- we see in the middle of the
photograph

3 that it says, "ammonium nitrate fertilizer, 34-0-0."
Could you

4 tell us what those numbers mean, then?

5 A. 34 stands for the amount of nitrogen, pounds of
nitrogen, a

6 hundred pounds, and of course the zero, zero would be
no

7 phosphate, no potash.

8 Q. And was this low-density ammonium nitrate that was
sold by

9 the co-op?

10 A. Yes, it was.

11 Q. Was that the only kind of ammonium nitrate sold by
your

12 co-op in 1994?

13 A. Yes.

14 Q. What I'd like you to do now is look into your
folder for

15 Government's Exhibit 73 and 75.

16 Do you have both of those in front of you now?

17 A. Yes, I do.

18 Q. Do you recognize those exhibits?

19 A. Yes, I do.

20 Q. What are they?

21 A. They would be the yellow copy of one of our sales
tickets.

22 Q. Okay. Are they sales receipts for two different
23 transactions?

24 A. Yes.

25 Q. Okay. Were those the yellow copies that were
maintained at

7223

Robert Nattier - Direct

1 the branch?

2 A. Yes.

the fall 3 Q. And those were for transactions that took place in
4 of 1994?

5 A. That's correct.

Government 6 MR. MEARNS: Your Honor, we would offer
7 Exhibits 73 and 75.

8 MR. WOODS: No objection.

9 THE COURT: They're received.

10 BY MR. MEARNS:

just walk 11 Q. I'd like to begin with Exhibit 73. And could you
12 through the information -- not the printed information
but the 13 information that is handwritten on there.

14 A. Okay. Patron account number is 10, which would
15 indicate
of '94. 16 that it was not a charge account. The date was on 9-30
17 It was a
the 18 It was sold to Mike Havens. The initial would indicate

19 employee that made the sale would be Jerri Showalter.
20 charge ticket. It was forty 50-pound bags of 34-0-0 or
21 ammonium nitrate at \$5.40 per bag for a total of \$216.
There 22 was \$12.74 sales tax charged. The total ticket was
\$228.74.

co-op 21 Q. You indicated that the 10 indicated it was a non
22 member?

23 A. Yes.

24 Q. Does the 10 signify anything else besides that it
was a --

25 the purchaser was not a member of the co-op?

7224

Robert Nattier - Direct

1 A. Just that it was a cash -- cash transaction.

2 Q. Could you tell us what, then, the numbers 40/50
mean about

3 halfway down on the left?

4 A. That indicates forty 50-pound bags.

5 Q. So those are -- that's 40 bags similar to the
photograph we

6 saw a moment ago?

7 A. Yes.

8 Q. What is the price per 50-pound bag as reflected on
the

9 receipt?

10 A. \$5.40.

11 Q. And the receipt indicates that sales tax was
charged to

12 this transaction?

13 A. That's correct.

14 Q. If I may, if we could turn to Government Exhibit
75, then.

15 And beginning with the information again
that's

16 handwritten, what does the 10 indicate on this receipt?
17 A. Again, it indicates it was a nonmember. Cash
transaction.
18 Q. And the date is what there?
19 A. 10-18 of '94. Again, it was told to a Mike Havens.
20 Q. And on the next handwritten line, what do the
initials
21 indicate?
22 A. It indicates the employee that made the sale would
be Rick
23 Schlender. It was a cash ticket again. Again, it was
for
24 forty 50-pound bags of 34-0-0, \$5.40 per bag. Total of
\$216,
25 sales tax charge is \$12.74 for a total of \$228.74.

7225

Robert Nattier - Direct

1 Q. So this is essentially the same quantity of
ammonium
2 nitrate, 2,000 pounds?
3 A. That's right.
4 Q. Are you familiar with the names of many of the co-
op's
5 largest customers?
6 A. Yes, I am.
7 Q. And are you also familiar with the businesses that
those

8 customers are engaged in?

9 A. In general, yes.

10 Q. Do you know who Mike Havens is?

11 A. No, I do not.

12 Q. Do you know what business he may be engaged in or
what use

13 he may make of ammonium nitrate fertilizer?

14 A. No, I do not.

15 Q. What I'd like to do now is show you Government
Exhibit 77A.

16 Do you recognize this exhibit, sir?

17 A. Yes, I do.

18 Q. What do you recognize it to be?

19 A. It's a list of some of our customers.

20 MR. MEARNS: Your Honor, at this time I'd
offer

21 Exhibit 77A for demonstrative purposes.

22 MR. WOODS: Can we ask who prepared the list?

23 BY MR. MEARNS:

24 Q. Mr. Nattier, did you assist in the preparation of
this

25 list?

7226

Robert Nattier – Direct

1 A. Yes, I did.

2 Q. Who else assisted you?

3 A. I believe it was Lou Michalko.

4 Q. An FBI agent, Lou Michalko?

5 THE COURT: Well, what is it? You haven't
explained
6 what it is.

7 BY MR. MEARNS:

8 Q. What is this list? What was the purpose of the
preparation
9 of this chart?

10 A. It is a list of customers that have purchased
34-0-0
11 ammonium nitrate fertilizer.

12 Q. In any particular quantities?

13 A. Yes, in large quantities.

14 Q. And was it during a particular period of time?

15 A. Yes, I think it was. I'm sure it was. I don't
remember
16 the exact dates.

17 Q. Would it have been roughly in 1994 and 1995?

18 A. Yes.

19 MR. WOODS: Your Honor, as I understand, Agent
20 Michalko compiled this list, but it's of no consequence

-- or

21 we don't object to it. But he didn't compile it.

22 THE COURT: Well, are you --

23 MR. WOODS: No objection.

24 THE COURT: 77A is received.

25 BY MR. MEARNS:

7227

Robert Nattier – Direct

1 Q. Are you familiar with the first organization that's
listed

2 on that chart?

3 A. Yes, I am.

4 Q. Could you tell us what the name of that is and what
5 business that organization is engaged?

6 A. It's Harvey County Experimental Farm, it's a --

7 MR. MEARNS: Excuse me just a sec, Mr.
Nattier.

8 Can we possibly display that?

9 THE WITNESS: It's Harvey County Experimental
Farm.

10 That's an experimental farm in Kansas State University.

11 BY MR. MEARNS:

12 Q. And the next?

13 A. Unified District 313. It's a local school
district.

14 Q. And the next entry you've told us about a moment
ago.

15 If you could move to the fourth one.

16 A. NCRA Refinery. They're a pipeline company that has
a

17 pumping station in our area.

18 Showalter Villa: That's a retirement home in

Hesston,

19 a nearby town.

20 The McPherson Country Club is a golf course.

21 The Memorial Home is again a retirement home

in

22 Moundridge.

23 And James Wiens is an agricultural producer in

our

24 area.

25 Q. Thank you. Based on your 20 years' experience with
the

7228

Robert Nattier – Direct

1 co-op, what would be the best way to determine the
total amount

2 of ammonium nitrate sales from your co-op in a
particular

3 period of time?

4 A. By reviewing sales transactions or sales tickets.

5 Q. And that would be the most accurate way to do that?

6 A. Yes, it would.

7 Q. And why would it be the most accurate way of doing
that?

8 A. Because every transaction has a ticket made on it.

9 Q. In 1994 and 1995, did the Mid-Kansas Co-op sell
ammonium

10 nitrate fertilizer at all of its branches?

11 A. No, we did not.

12 Q. Prior to coming to court, did you prepare a list of
the
13 Mid-Kansas Co-op branches that sold ammonium nitrate in
1994
14 and 1995?

15 A. Yes, I did.

16 Q. Let me show you Government Exhibit 77B. Do you
recognize
17 that?

18 A. Yes, I do.

19 Q. What is that?

20 A. That would be the list of our locations that did
sell
21 ammonium nitrate.

22 MR. MEARNS: Your Honor, we would offer
Government
23 Exhibit 77B.

24 MR. WOODS: Again, he's testifying he compiled
the
25 list. It's my understanding that the agent compiled
the list.

7229

Robert Nattier - Direct

1 And so we're clear on that.

2 THE COURT: Well, his testimony is, though,
that, as I
3 understand it, these are the branches.

4 THE WITNESS: Yes.

5 MR. WOODS: We have no objection to the list.

6 THE COURT: All right. 77B is received.

7 BY MR. MEARNS:

8 Q. How many different branches of the Mid-Kansas Co-op
as

9 indicated on that chart sold ammonium nitrate
fertilizer in

10 1994 and 1995?

11 A. I believe it's ten, isn't it?

12 Q. Was ammonium nitrate fertilizer sold by the Mid-
Kansas

13 Co-op at any branch other than the ten that are listed
there?

14 A. No.

15 MR. MEARNS: I have no further questions, your
Honor.

16 THE COURT: All right, Mr. Woods.

17 MR. WOODS: Yes, your Honor, thank you.

18 CROSS-EXAMINATION

19 BY MR. WOODS:

20 Q. Good morning, sir.

21 A. Good morning.

22 Q. My name is Ron Woods. I'm one of the lawyers that
was

23 appointed to help Terry Nichols. You and I have never
met; is

24 that correct?

25 A. That's correct.

7230

Robert Nattier - Cross

1 Q. In fact, we tried to interview you, but you
wouldn't allow

2 it; is that correct?

3 A. Not that I remember.

4 Q. You remember the investigators coming by and asking
to talk

5 to you in November, '95?

6 A. No, I do not.

7 Q. Who is John Walsh?

8 A. John Walsh?

9 Q. Yes, sir.

10 A. I do not know him.

11 Q. Is that a lawyer that represents you?

12 A. Yes.

13 Q. Don't remember your own lawyer's name?

14 A. I had forgotten. You reminded me.

15 Q. Do you know how many -- when you advised the
prosecutor

16 that the way to determine the number of ammonium
nitrate sales

17 was to go back and look at all of the sales tickets --
was that

18 your testimony?

19 A. Yes.
20 Q. That was done, wasn't it, for the period of January
1, '94,
21 through April 19, '95?
22 A. Yes, it was.
23 Q. And do you recall how many sales tickets were found
for all
24 of the ten branches that sell ammonium nitrate, sales
tickets
25 for ammonium nitrate?

7231

Robert Nattier - Cross

1 A. You mean the exact number?
2 Q. Yes, sir.
3 A. No, I do not know.
4 Q. Didn't you work with Michalko on that?
5 A. Yes, we supplied him with the tickets.
6 Q. You don't remember the number?
7 A. No, I don't.
8 Q. Okay. Do you remember how many sales were made at
the
9 McPherson branch during that period?
10 A. Actual ticket transactions?
11 Q. Yes, sir.
12 A. No, I do not.
13 Q. Do you remember how many transactions occurred

within that

14 period that were cash transactions?

15 A. No, I do not.

16 Q. You compiled those numbers, didn't you?

17 A. I supplied the tickets, and I did not actually do
it,

18 myself.

19 Q. But the two of you have gone over and over it,
haven't you?

20 A. No, we have not.

21 Q. Okay. Do you know the percentage of cash
transactions that

22 occur in McPherson branch on a yearly basis? You sell
by

23 account, as you pointed out in this chart here, you
sell by

24 account and you also sell by cash. Do you know the
percentage

25 of cash transactions?

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Robert Nattier – Cross

1 A. I could render a guess. I do not know exactly.

2 Q. As the president and general manager, is that
something

3 that you look into, to see how your sales are going,
what

4 percentage are cash and what percentage are done by
accounts?

5 A. Not on a regular basis, no.

6 Q. Well, what is your estimate, then?

7 A. I would estimate probably be in the range of 10 to

8 15 percent.

9 Q. Would it surprise you to learn that 38 percent of
your

10 ammonium nitrate sales during that period were for cash
--

11 A. No, it would not.

12 Q. -- at the McPherson branch?

13 A. Not on ammonium nitrate, no.

14 Q. Pardon me?

15 A. It would not on ammonium nitrate.

16 Q. And there are a lot of cash transactions to
purchase

17 ammonium nitrate at your various branches, aren't
there?

18 A. Yes, there would be more.

19 Q. And very few of the cash transactions take time to
fill out

20 the tax exemption form, do they?

21 A. That's correct.

22 Q. What is the tax, what percentage is it?

23 A. Varies by the community, but it's roughly around 6
percent.

24 Q. And on the sales transaction that you offered into
25 evidence, the sale was for 200-and-some-odd dollars and
the tax

Robert Nattier - Cross

1 was like \$12?

2 A. Yeah, \$12.74.

3 Q. A 6 percent average?

4 A. Roughly, yeah.

5 Q. That photograph that showed the ammonium nitrate,
is there

6 any indication on that bag whether or not it's low-
density or

7 high-density?

8 A. Not that I'm aware of.

9 Q. But you told the prosecutor that you sell low-
density. How

10 do you determine by looking at the bag?

11 A. By looking at the shipping order that we received.

12 Q. How does the customer determine when he comes in
and looks

13 at the bag whether it's high-density or low-density?

14 A. He would not know.

15 Q. What's the difference for farm-use fertilizer
that's

16 low-density and fertilizer that's high-density?

17 A. To be honest with you, I really don't know. We
order

18 fertilizer.

19 Q. And you only get one kind?

getting 20 A. We order fertilizer. We're not aware of what we're
order 21 in, whether it's low-density or high-density. But we
22 fertilizer.
23 Q. Did you ever sell high-density?
24 A. I couldn't answer you.
September 25 Q. Do you know how many transactions occurred on
30

7234

Robert Nattier - Cross

1 there at the McPherson branch?
2 A. Not exactly.
3 Q. Haven't you looked that up before and testified
about that?
4 A. Yes, I think I did. I don't remember the exact
number. I
5 think it was somewhere around 70 or something like
that.
6 Q. Does 106 refresh your memory?
7 A. Okay.
8 Q. And those are -- each transaction, each customer
that comes
9 in, if he purchases something, there is a sales ticket
that is
10 produced for that; is that correct?
11 A. That's correct.
12 Q. And that's the way you keep count of your

inventory, the

13 amount of money taken in, and the white copy goes to
your

14 headquarters; is that correct?

15 A. That's correct.

16 Q. And you've provided those and you've gone over them
with

17 the Government a number of times, haven't you?

18 A. I provided them.

19 Q. Now, do you know how many transactions occurred on
October

20 the 18th at the McPherson branch?

21 A. I do not remember for sure. It was somewhere or
less, I

22 think, 70 or something like that.

23 Q. Does 76 refresh your memory?

24 A. That's sounds right.

25 Q. Now, have you made any examination to determine
what the

7235

Robert Nattier - Cross

1 average number of customers is on a daily basis at your
2 McPherson branch?

3 A. No, we've not.

4 Q. That's a pretty busy facility, isn't it?

5 A. Yes, it is.

6 Q. Is it your largest?
7 A. Not in total volume, but in probably customer,
amount of
8 customers, it would be.
9 Q. And why is that?
10 A. Because it's located in a urban area.
11 Q. It's in the city?
12 A. That's correct.
13 Q. You sell a lot of things to just walk-in customers?
14 A. That's correct.
15 Q. You sell a lot of it by cash, don't you?
16 A. Yes.
17 Q. A co-op is not a private venture like a country
club; any
18 customer can walk in and buy things, can't they?
19 A. That's correct.
20 Q. And a cash transaction doesn't stand out, does it?
21 A. No, it does not.
22 Q. You want cash transactions, don't you?
23 A. Sure.
24 Q. Sometimes have difficulty collecting on those
accounts,
25 don't you?

1 A. Occasionally.

2 Q. In fact there's some accounts that you have told
the people

3 they've got to pay cash on, you've canceled their
accounts,

4 haven't you?

5 A. That is correct.

6 Q. When you pulled those tickets for all of the
transactions

7 for '94 and part of '95, do you remember how many total
8 transactions you had?

9 A. During that frame, that time frame?

10 Q. Yes, sir.

11 A. I do not remember exactly. It would have probably
be --

12 based on ticket volume, it would have been somewhere
around

13 \$250,000. Guesstimating.

14 Q. Do you know how many transactions occurred at
McPherson,

15 from October 18 of 1994 -- that's the date of the last
Mike

16 Havens purchase -- do you know how many transactions
occurred

17 from that date up until April the 30th of '95?

18 A. No, I do not.

19 Q. Is that approximately a six-and-a-half-month
period?

20 A. Yes, it is.

21 Q. Do you know what the average number of customers

per month

22 in that facility is?

23 A. I could guesstimate, again.

24 Q. Okay.

25 A. Probably be somewhere in the neighborhood of
probably

7237

Robert Nattier – Cross

1 3,000, I suppose, in a month. Roughly.

20,000
2 Q. So we've got six-and-a-half months. That's 18,

3 transactions that occurred over that period of time?

4 A. That could be in the range.

the FBI
5 Q. And do you recall that April the 30th was the day

asking
6 descended on your branch there in McPherson to start

7 questions, April the 30th of '95?

8 A. I think that's correct, yes.

store
9 Q. And you'd had approximately 20,000 customers in the

10 since that date?

11 A. That would be right.

12 MR. WOODS: Okay. Thank you, sir.

13 THE COURT: Any other questions?

14 MR. MEARNS: Very briefly.

REDIRECT EXAMINATION

15

16 BY MR. MEARNS:

17 Q. Mr. Nattier, in response to a question from Mr.
Woods, I

18 think you indicated it would not surprise you to learn
that

19 many of the transactions or purchases of ammonium
nitrate were

20 in cash.

21 A. That's correct.

22 Q. Why would that not surprise you?

23 A. Because that was -- the ammonium nitrate was
primarily used

24 for yard fertilizers, so it would be urban customers
would be

25 paying cash.

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Robert Nattier - Redirect

1 Q. And what kind of quantities were most people
purchasing

2 ammonium nitrate?

3 A. Three and four bags.

4 Q. Mr. Woods also asked you about whether or not
looking at

5 the bag you could tell whether or not it was high-
density vs.

6 low-density ammonium nitrate. Do you recall that?

7 A. Yes, I do.

8 Q. I'd like you to look at Government Exhibit 70
again. And
9 could you tell us, there's a -- just below where it
says Texas
10 Powder Company. Could you read to us what that says?
11 A. You mean the --
12 MR. WOODS: I object. It doesn't say Texas
Powder
13 Company. I believe it says Atlas Powder Company. If
he'd look
14 at one of the bags.
15 MR. MEARNS: I apologize, your Honor.
16 THE COURT: All right.
17 BY MR. MEARNS:
18 Q. Could you -- could you read what's below where it
says
19 Powder Company, that next -- what's indicated next on
the bag.
20 A. You mean the Texas 75248?
21 Q. And just below that.
22 A. It says "explosives."
23 Q. And on the lower left there's a yellow diamond.
24 A. Yes.
25 Q. What does that symbol indicate?

1 A. I believe it's oxidizer.

2 MR. MEARNS: No further questions.

3 THE COURT: Do you have anything on that --

4 MR. WOODS: Yes, just one question.

5 THE COURT: All right.

6 RECROSS-EXAMINATION

7 BY MR. WOODS:

8 Q. Does the word "oxidizer" or that symbol of oxidizer
-- does

9 that tell you that it's low-density or high-density?

10 A. Not to me, no it doesn't.

11 MR. WOODS: All right. Thanks.

12 MR. MEARNS: The witness may be excused, your
Honor.

13 THE COURT: Agreed to be excused?

14 MR. WOODS: That's fine, your Honor.

15 THE COURT: All right. Mr. Nattier, you may
step

16 down. You're now excused.

17 We'll take our recess at this point, members
of the

18 jury, for our usual 20-minute break during which, of
course,

19 the usual cautions are applicable and I must repeat
them of

20 remembering to avoid discussion of the case with your
fellow

21 jurors and all others and avoid anything outside of our

22 evidence and maintain open minds.

23 You're excused now, 20 minutes.

24 (Jury out at 10:25 a.m.)

25 THE COURT: Exhibit 47 was displayed to the
jury, but

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1 our records keeper said it hasn't been admitted, so we
ought to

2 admit in.

3 MR. MACKEY: It's Exhibit 2045. Its another
central

4 Kansas map.

5 THE COURT: It's the same exhibit. Well,
let's just

6 stipulate that 47 is the same as 2045 and we don't have
to

7 receive it twice.

8 MR. TIGAR: Yes, your Honor.

9 THE COURT: All right. 20 minutes.

10 (Recess at 10:28 a.m.)

11 (Reconvened at 10:50 a.m.)

12 THE COURT: Be seated, please.

13 (Jury in at 10:50 a.m.)

14 THE COURT: Okay. Next, please.

15 MR. MACKEY: Your Honor, our next witness is
FBI Agent

16 Louis Michalko. Mr. Mearns will question.

17 THE COURTROOM DEPUTY: Would you raise your
right
18 hand.

19 (Louis Michalko affirmed.)

20 THE COURTROOM DEPUTY: Would you have a seat,
please.

21 Would you state your full name for the record
and
22 spell your last name.

23 THE WITNESS: Louis Charles Michalko, M-I-C-H-
A-L-K-O.

24 THE COURTROOM DEPUTY: Thank you.

25 DIRECT EXAMINATION

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Louis Michalko - Direct

1 BY MR. MEARNS:

2 Q. How are you employed?

3 A. I'm a special agent with the FBI.

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

5 A. About 13 1/2 years.

6 Q. What are your duties and responsibilities?

7 A. Generally my duties are to conduct criminal
investigations

8 and gather evidence in cases where there might have
been a

9 violation of federal law.

10 Q. Where are you assigned?
11 A. The Oklahoma City office.
12 Q. How long have you been assigned in Oklahoma City?
13 A. In two different assignments, a total of about 10
years.
14 Q. Where did you go to college?
15 A. LeMoyne College in Syracuse, New York.
16 Q. What was your degree?
17 A. Bachelor of science degree in accounting.
18 Q. Did you participate in the investigation of the
bombing of
19 the Murrah Building in Oklahoma City?
20 A. Yes, I did.
21 Q. Did you have an assignment that related to an
analysis of
22 receipts from the Mid-Kansas Co-op?
23 A. Yes, I did.
24 Q. Describe that assignment.
25 A. I was asked to review the business records of the

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Louis Michalko - Direct

1 Mid-Kansas Co-op so we could determine either how
commonplace
2 or how unusual two purchases of ammonium nitrate by a
Mike
3 Havens were from that co-op.

4 Q. Where were the purchases by Mike Havens? At which
5 Mid-Kansas Co-op branch?
6 A. The McPherson branch.

7 Q. Did your analysis only include ammonium nitrate
sales at
8 that branch?
9 A. No, it did not.

10 Q. Why not?
11 A. I felt it would be best to review the records of
the
12 business from all their branches that sold ammonium
nitrate so
13 I could determine the true nature of their sales of
that
14 product just in case the sales from the McPherson
branch didn't
15 fairly represent what type of sales were made by the
whole
16 company.

17 Q. Did you limit your analysis to any particular
period of
18 time?
19 A. Yes. January 1, 1994, through the date of the
bombing,
20 April 19, 1995.

21 Q. What was the first thing you did in connection with
this
22 assignment?
23 A. After reviewing our files and what we knew at that
time

24 from records of Mid-Kansas Co-op, I made arrangements
to
25 actually go to their corporate headquarters in
Moundridge,

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Louis Michalko - Direct

1 Kansas, and I went there.

2 Q. What did you do in Moundridge?

3 A. After introducing myself to the general manager and
4 explaining why I was there, he put me in touch with the
5 accounting manager, and they gathered the records that
I wanted
6 to see.

7 Q. What records were gathered for you?

8 A. I had asked them to identify for me all the
branches of
9 their company that sold ammonium nitrate, which they
did.

10 Q. Let me interrupt you. Let me show you what's been
11 introduced in evidence as Government's Exhibit 77B. Is
that
12 the list of Mid-Kansas Co-op branches -- the receipts
that you
13 received?

14 A. Yes, it is.

15 Q. What did you do next?

16 A. Next, I asked them to provide me with all the sales

those 17 receipts from these 10 branches so that I could look at
18 receipts and locate all the transactions involving
ammonium 19 nitrate.
20 Q. Did you get those receipts?
21 A. Yes.
22 Q. What did you do?
23 A. I sat down and I looked at each receipt. When I
came 24 across one for ammonium nitrate, I removed it from the
box,
25 made a Xerox copy, put the copy in its place; and at
the end of

7244

Louis Michalko - Direct

1 the process, I wrote a receipt to the company for those
tickets
2 which I was taking.
3 Q. How many receipts did you review to extract the
ones that
4 had ammonium nitrate sales?
5 A. Approximately 132,000 receipts.
6 Q. What did you do with the receipts that you removed
or the
7 original receipts that you extracted from that 132,000?
8 A. I brought those receipts back to Denver with me,
entered

9 them into evidence in our file, and then I recorded
information

10 from each receipt into a computer database so I could
analyze

11 the records.

12 Q. I'm sorry. What kind of information did you record
and

13 enter into the computer?

14 A. I recorded the receipt number on each receipt; and
as part

15 of the receipt number, there is a letter designation
which

16 indicates or is an indicator of where a transaction
took place,

17 which branch.

18 I recorded the amount of ammonium nitrate that
was

19 involved in the transaction; the name of the customer,
if there

20 was a name on the receipt; the date of the transaction;
the

21 method of payment; whether the ammonium nitrate was
purchased

22 with cash or on account, charged on an account.

23 I recorded the dollar amount of the
transaction and

24 also whether a tax exemption was sought during the
course of

25 the transaction.

Louis Michalko - Direct

1 Q. Of the approximately 132,000 that you reviewed, how
many
2 receipts did you bring back to Denver and enter this
3 information in the computer?

4 A. The ones I brought back to Denver I believe were
about 229.

5 And the total that I located -- there is also some
records from

6 the McPherson branch in Denver. The total number of
receipts

7 reflecting ammonium nitrate sales was 520.

8 Q. Did you prepare any summary charts that reflect the
9 information that you analyzed on that 520 receipts?

10 A. Yes, I did.

11 Q. If you would look into your folder and locate
Government's

12 Exhibits 77, 78, 79 and 80.

13 A. I have.

14 Q. Do you recognize those exhibits?

15 A. Yes.

16 Q. What are they?

17 A. These are summary charts that I prepared to
summarize the

18 information I found on these sales tickets.

19 Q. And is the information that's reflected on those
summary

20 charts only information that you derived from the Mid-

Kansas

21 Co-op receipts?

22 A. Yes.

23 MR. MEARNS: Your Honor, we would offer 77,
78, 79 and

24 80.

25 MR. WOODS: No objection.

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Louis Michalko - Direct

1 THE COURT: Received.

2 BY MR. MEARNS:

3 Q. If we could begin first with Exhibit 80. Would you
4 describe for us what information is reflected on that
chart?

5 A. Government's Exhibit 80 is a chart that lists the
largest
6 individual single transaction purchases of ammonium
nitrate at
7 the McPherson branch of the Mid-Kansas Co-op during the
period
8 of time that I reviewed.

9 Q. And who are the -- or who or what are the five
largest
10 individual purchases of ammonium nitrate during that
period
11 from the McPherson branch?

12 A. There were two purchases by a Mike Havens. One on

13 September 30, 1994, 2,000 pounds.

14 One on October 18, 1994, another 2,000-pound
15 transaction.

16 There was a purchase on November 18, 1994, by
the
17 McPherson Country Club for 2,000 pounds.

18 A purchase on the date of the bombing, April
19, 1995,
19 by a company called NCRA Pipeline for 1,250 pounds.

20 And another purchase by that same company on
21 October 11, 1994, for 1,200 pounds.

22 Q. And there is a column on your chart for payment
method.

23 Would you explain to us what information is reflected
in that
24 column?

25 A. That column just reflects how the individual
purchases were

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Louis Michalko - Direct

1 made. The Mike Havens purchases were made with cash,
and the

2 other three purchases were made on the accounts of
those

3 customers.

4 Q. By "accounts," that is the account at the Mid-
Kansas Co-op?

5 A. Yes.

6 Q. Turning then to Exhibit 79, please. Would you tell
us what
7 information is reflected on that chart.
8 A. This chart again lists the largest individual
single
9 transaction purchases of ammonium nitrate, but this
chart
10 reflects those sales at any branch of the Mid-Kansas
Co-op.
11 And it lists every single sale a thousand pounds or
more for
12 the period of time that I reviewed.
13 Q. And where did the two Mike Havens transactions rank
in
14 terms of this chart?
15 A. On the chart they're listed second and third.
There was
16 only one single purchase of ammonium nitrate that was
larger
17 than the Havens purchases.
18 Q. And how many individual purchases of 2,000 pounds
or more?
19 A. There were eight.
20 Q. And of the total number of individual purchases
that's
21 reflected there, how many were made -- how many were
purchased
22 with cash, as opposed to account?
23 A. Only the Mike Havens purchases were done with cash.
24 Q. Turning now, if you would, to Government's Exhibit
78.

chart. 25 Would you tell us what information is reflected on this

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Louis Michalko - Direct

branch 1 A. This chart reflects information from the McPherson
purchased 2 only, and it shows total amounts of ammonium nitrate
much 3 by customers at that branch ranked in the order of how
4 they purchased during this period of time.

customer 5 Q. And who was the largest single -- largest single
6 in the aggregate?

7 A. Mike Havens.

8 Q. And how many purchases are reflected there?

9 A. Two purchases.

chart. 10 Q. And there is a payment method column again on this

11 What does that column reflect?

with cash. 12 A. It reflects that Mike Havens made his purchases

that 13 Q. How about the other two entities that are listed on
14 chart?

their 15 A. NCRA Pipeline and McPherson Country Club again made
16 purchases on their accounts.

17 Q. Turning finally, then, to Exhibit 77, what is the
18 information that's reflected on this chart?

19 A. This chart shows the largest overall customers of
ammonium
20 nitrate for the period of time for all the branches of
21 Mid-Kansas Co-op.

22 Q. By "overall," what do you mean again?

23 A. Total amount purchased in the aggregate during the
period
24 of time, adding up all their single purchases together.

25 Q. Where does the two Mike Havens purchases rank?

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Louis Michalko - Direct

1 A. Third overall for the whole company.

2 Q. And as reflected on that chart, were any of the
purchases
3 made by the other entities that are listed there,
people or
4 entities listed there, made with cash?

5 A. Only the Mike Havens purchases were made with cash.

6 MR. MEARNS: I have no further questions.

7 THE COURT: Mr. Woods?

8 MR. WOODS: Thank you, your Honor.

9 CROSS-EXAMINATION

10 BY MR. WOODS:

11 Q. Good morning, sir.

12 A. Good morning.

13 Q. My name is Ron Woods. I'm one of the lawyers that
was
14 appointed to help Terry Nichols. You and I have never
met. Is
15 that correct?

16 A. That's correct.

17 Q. When did you do this study that you just talked
about?

18 A. I began the study in May of 1996. That's when I
actually

19 went to Moundridge, Kansas, and continued working with
the

20 McPherson records in Denver and finished the study in
June of

21 '96.

22 Q. Okay. And did you write a 302 up concerning this
analysis?

23 A. I wrote up a 302 concerning -- concerning the
project and

24 my review of the records, yes.

25 Q. Would you tell the jury what a 302 is in FBI
parlance.

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Louis Michalko - Cross

1 A. A 302 is a report that we create when we conduct
some

2 investigation. If we interview a person about any type

of

3 matter and they give us information, we record it on a
form

4 that's -- it's called a 302, but it's like a sheet of
paper;

5 and we just type up what the person told us, or if we
conduct

6 some other investigation and we need to record it for
the file,

7 we'll record it on that type of form.

8 Q. And is it accurate to say that you try to capture
all the

9 information you can and be as accurate as you can on
the 302 so

10 it can be of investigative use?

11 A. Yes.

12 Q. And it's shared with other FBI agents during the
course of

13 the investigation?

14 A. Yes.

15 Q. And then it's shared with the prosecutors at trial?

16 A. Yes.

17 Q. Okay. Now, do you recall the number of receipts
that you

18 reviewed when you went to that branch there at
Moundridge? I

19 believe you testified that they'd already pulled all
the

20 McPherson receipts and brought them to Denver, so the
ones you

21 were looking at were the other branches that sold

ammonium

22 nitrate; is that correct?

23 A. Yes.

24 Q. Okay. So is the figure 102,407 -- was that the
number of

25 total receipts you reviewed?

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Louis Michalko - Cross

1 A. That would be the total number of receipts that I
reviewed

2 in Kansas, and that does not include the McPherson
receipts.

3 Q. Right. Okay. And out of that, you found 229
ammonium

4 nitrate receipts?

5 A. I believe that's correct, yes.

6 Q. Okay. And then when you got back to Denver, you
looked at

7 the receipts that they had already pulled, the FBI had
already

8 pulled concerning McPherson; is that correct?

9 A. We had all the receipts from McPherson. There
hadn't been

10 any pulled out of there; but I reviewed those in
Denver, yes.

11 Q. Well, I'm sure I'm using the wrong term. The FBI
already

12 had the receipts. How did you get them in Denver, the

13 McPherson receipts?

and 14 A. I assume somebody asked the company to provide them

15 they did. I did not personally obtain those receipts.

16 Q. They were here and you started going through them?

17 A. Yes.

that 18 Q. Okay. Now, do you remember how many total receipts

19 you had to review that came out of McPherson?

20 A. It was roughly 30,000.

found 21 Q. And do you remember how many out of that that you

22 were ammonium nitrate receipts?

the ones 23 A. It was in excess of 200. It would be the 520 less

24 that I located in Kansas.

found 278? 25 Q. Well, do you recall testifying before that you

7252

Louis Michalko - Cross

1 A. For the McPherson branch?

2 Q. Yes, sir.

3 A. Yes.

4 Q. Well, that doesn't add up to 520.

5 A. The 278?

out of the 6 Q. Yes, sir. You testified in the other trial that

7 McPherson tickets, you found 278 ammonium nitrate.

8 A. Yes.

9 Q. Okay. And you had 229 to start with.

10 A. Right.

11 Q. And what's that total?

12 A. 229 and 278? I'd be afraid to add that up without
my
13 calculator.

14 Q. You an accountant?

15 A. I think I can explain what the discrepancy is that
16 you're --

17 Q. Sure.

18 A. -- that you're asking about.

19 The 229 that I located in Moundridge, Kansas,
all

20 belonged to those other branches other than McPherson.
There

21 had been prior reviews of these receipts in Kansas
before I got

22 there, and some of the tickets from those branches had
been

23 removed before I got there. And they were also in
evidence in

24 Denver. So there was a small number of tickets in
Denver that

25 were not McPherson tickets.

Louis Michalko – Cross

1 Q. Well, you made copies of all of them and gave them
to us,

2 didn't you, as part of the Government's discovery?

3 A. Yes.

4 Q. Well, what is the total, then, that you gave to us?

5 A. I believe it was 520.

6 Q. Are you sure?

7 A. I'm fairly sure.

8 Q. Now, you went to school in Syracuse. Is that
correct?

9 A. Yes, sir.

10 Q. Did you go to Syracuse University?

11 A. No, LeMoyne College.

12 Q. What is that?

13 A. It's a four-year college in Syracuse.

14 Q. Okay.

15 A. Jesuit school.

16 Q. And you've been in the FBI how long?

17 A. Approximately 13 1/2 years.

18 Q. Okay. Now, into that database when you were
pulling the

19 information off of the tickets, you also put down the
customer

20 names, didn't you?

21 A. Yes, sir.

22 Q. And did you notice that there were several

customers with

23 the last name of Unruh, U-N-R-U-H?

24 A. That name sounds familiar, yes.

Virgil

25 Q. You had a Lawrence Unruh and a Max Unruh and a

7254

Louis Michalko - Cross

1 Unruh, a Vance Unruh, Sherwin Unruh and Laverne Unruh?

remember

2 A. I don't recall the first names specifically, but I

3 the last name Unruh, yes.

there,

4 Q. And you said that before you did that analysis over

5 you reviewed the FBI files to determine what?

been

6 A. Well, to determine, for example, which tickets had

7 previously identified, which tickets we had in our file

8 somewhere, other places in evidence.

FBI had

9 Q. And in reviewing that file, did you notice that the

in

10 searched for red pickup trailers, cutoff-bed trailers

11 connection with those purchases?

12 A. Not in connection with my review of this, no.

you were

13 Q. Have you -- well, what did you review, then, when

14 reviewing the FBI file concerning the McPherson
transaction and

15 the two sales to Mike Havens?
16 A. I was looking to locate evidence we had received
from the
17 Mid-Kansas Co-op, which receipts had been previously
18 identified, which ones we already had in evidence,
because I
19 wanted to make sure to include them in my list of
tickets, and
20 I wanted to make sure I saw at least all those tickets
while I
21 was in Moundridge. I didn't want to miss any.
22 Q. And did you review the 302's of the interview of
the
23 personnel there at the McPherson branch: Showalter;
Schlender;
24 and the president, Mr. Nattier?
25 A. I don't believe -- I may have reviewed Mr.
Nattier's 302.

7255

Louis Michalko - Cross

1 There might have been mention of some tickets in there;
but I
2 didn't review the 302's of Mr. Schlender or Mr.
Showalter to
3 identify those tickets.
4 Q. The people who actually identified the tickets --
and
5 didn't they find the tickets in the yellow copies there
at the

6 branch?

7 A. I don't know.

8 Q. You didn't review that before you went over there?

9 A. I don't recall reviewing their 302's, no.

10 Q. Okay. Now, you listed in your database every
ticket from

11 January 1, '94, to April 19, '95, every ammonium
nitrate

12 ticket.

13 A. Yes.

14 Q. Is that correct?

15 A. Yes.

16 Q. Okay. What percentage of those were cash
transactions?

17 A. I did not calculate that percentage.

18 Q. Would it surprise you to know that 144 of those
were cash

19 transactions?

20 A. It would not surprise me if that was true, because
over

21 75 percent of the transactions were for one or two
bags; and I

22 believe a large number of those were in cash.

23 Q. In fact, this 105 or 73 percent were at the Mid-
Kansas,

24 weren't they, cash transactions?

25 A. I don't know. I didn't calculate the percentage of
cash

Louis Michalko - Cross

1 transactions.

2 Q. You weren't interested in that?

3 A. It's something that could be calculated from the
data on

4 those sheets.

5 Q. When you counted up all the receipts, did you count
the

6 number -- the number of transactions -- let me rephrase
that.

7 Was it your understanding that every single
customer

8 transaction, if the person buys something, a sales
ticket is

9 created?

10 A. Yes.

11 Q. And that was through the white copies that you
looked at in

12 Moundridge and then in Denver; is that correct?

13 A. Yes.

14 Q. And did you calculate the number of sales
transactions that

15 occurred from October 18, '94, the last Havens
transaction,

16 until April 30 of '95? Well, you only went to April
19. Let's

17 limit it from October 18, '94, to April 19, '95. Did
you

18 calculate how many transactions there were?
19 A. I didn't actually do a count of those transactions,
but in
20 the database I sorted them by the different methods of
21 information that I took; so there is a printout there
of all
22 the transactions in date order, and that could be
easily
23 calculated.
24 Q. Can you give us an estimation how many sales
transactions
25 occurred during that time?

7257

Louis Michalko - Cross

1 A. Not without referring to those charts, no.
2 Q. Would an average of 30,000 a month be out of your
range?
3 A. 30,000 transactions?
4 Q. I'm sorry. 3,000 a month. 3,000 transactions a
month. Is
5 that what your figures showed, the number of
transactions that
6 occurred at the McPherson branch per month?
7 A. Are you talking about ammonium nitrate
transactions?
8 Q. I'm sorry. Sales transactions, where a customer
comes in
9 and buys something?

10 A. All transactions.

11 Q. Interaction with a clerk.

12 A. I didn't calculate that.

13 Q. Okay. Well, you looked at all the tickets; right?

14 A. Yes.

15 Q. 132,000?

16 A. Yes.

17 Q. Divided by -- did you ever break it down into
categories as

18 to the McPherson branch? Do you know how many tickets
you

19 looked at for the McPherson branch?

20 A. Yes. McPherson had more tickets than any other
branch, and

21 I think they had more than half of all the ammonium
nitrate

22 transactions.

23 Q. How many tickets did they have total, just sales

24 transactions?

25 A. Roughly 30,000 for that period of time.

7258

Louis Michalko - Cross

1 Q. And that's each individual customer transaction.
Is that

2 correct?

3 A. Yes.

4 Q. Now, can you give us the amount of time it is from
5 October 18, '94, to April 19, '95? How many months is
that?

6 A. About six months.

7 Q. And you don't -- you didn't calculate how many
customers
8 they had per month?

9 A. Well, if you want to divide out the 30,000 by the
15 1/2
10 months, I guess you'd get a pretty good estimate of how
many
11 per month; but I don't know if they're evenly spread
throughout
12 that period or not.

13 Q. Okay. How many transactions occurred on the day of
the
14 purchase, September 30 of '94? How many customers
actually
15 bought something in there that day?

16 A. I do not know that.

17 Q. Do you know how many transactions occurred there at
the
18 McPherson on October 18, the second Havens transaction?

19 A. No, I don't. The purpose of my review was to
identify the
20 ammonium nitrate transactions.

21 MR. WOODS: Thank you, your Honor.

22 THE WITNESS: You're welcome.

23 MR. MEARNS: No questions, your Honor.

24 THE COURT: All right. The witness excused

then?

25 MR. WOODS: Yes, your Honor.

7259

1 THE COURT: You may step down. You're
excused.

2 MR. MACKEY: Thank you, your Honor. We call
FBI

3 analyst Joanne Thomas. Mr. Orenstein will question.

4 THE COURTROOM DEPUTY: Raise your right hand,
please.

5 (Joanne Thomas affirmed.)

6 THE COURTROOM DEPUTY: Would you have a seat,
please.

7 Would you state your full name for the record
and

8 spell your last name.

9 THE WITNESS: Joanne L. Thomas, T-H-O-M-A-S.

10 THE COURTROOM DEPUTY: Thank you.

11 DIRECT EXAMINATION

12 BY MR. ORENSTEIN:

13 Q. Good morning, Ms. Thomas.

14 A. Good morning.

15 Q. Ms. Thomas, who do you work for?

16 A. The FBI.

17 Q. Where within the FBI do you work?

18 A. The Omaha division, Omaha, Nebraska.
19 Q. When did you start working for the FBI?
20 A. In 1984.
21 Q. So you've been there for about 13 years?
22 A. Yes.
23 Q. What is your educational background?
24 A. I have a B.A. degree in business management from
the
25 Bellevue University, Bellevue, Nebraska.

7260

Joanne Thomas - Direct

1 Q. And what are your current duties with the FBI?
2 A. I'm a financial analyst.
3 Q. Can you explain to the jury what a financial
analyst does
4 for the FBI?
5 A. I work on a white-collar crime squad, and mostly I
deal
6 with money matters, tracing the money, any paper trail
that
7 could be left by a subject.
8 Q. Now, is the job of a financial analyst different
from the
9 job of a special agent?
10 A. Yes.
11 Q. As a financial analyst, have you been trained or is
it your

12 duty to enforce federal criminal law?

13 A. No.

14 Q. Is it part of your work to support others who are
special
15 agents in their enforcement?

16 A. That's correct.

17 Q. So I take it you haven't had the opportunities that
special
18 agents have had to participate in investigations and
testify in
19 court. Is that correct?

20 A. That's correct.

21 Q. Now, in addition to your work as a financial
analyst, have
22 you had any other duties with the FBI over the years?

23 A. Yes. I'm also -- was also at one time the backup
photo.

24 Q. The backup photo?

25 A. Backup photographer for the division.

7261

Joanne Thomas - Direct

1 Q. And can you explain how that came about?

2 A. When I came on board with the FBI, I had previous
training
3 in photography; and at that time they needed a backup
4 photographer, and I did do that. And I did take the

FBI

5 training at Quantico for their photographers. The
senior
6 photographer of our division died of cancer and was not
7 replaced right away, so I was the main photographer at
that
8 time.

9 Q. When you refer to "that time," where you referring
to the
10 time during which the Oklahoma City bombing was being
11 investigated?

12 A. That is correct.

13 Q. Did you participate for a period of time in that
14 investigation?

15 A. Yes, I did.

16 Q. Let me direct your attention to April of 1995. Did
you go
17 to Herington, Kansas, during that month?

18 A. Yes, I did.

19 Q. And did you with others from the FBI execute a
search
20 warrant at the home of Mr. Nichols in Herington,
Kansas?

21 A. Yes.

22 Q. What was the date of that search?

23 A. April 22, 1995, into the morning of April 23, 1995.

24 Q. Now, when you arrived, there was there somebody
else who
25 was taking pictures?

Joanne Thomas - Direct

1 A. Yes.

2 Q. So what did you do as far as executing that search
warrant?

3 A. I just became a member of the search team.

4 Q. I'd like to show you on the screen in front of you,
if I

5 may, what's been marked for identification as
Government's

6 Exhibit 1769, Photo No. 6. Do you see that?

7 A. Yes, I do.

8 Q. Do you recognize what's in that photograph?

9 A. Yes, I do.

10 Q. What is it, please.

11 A. It's the kitchen sink in the home of Terry Nichols
in

12 Herington, Kansas.

13 Q. And does it accurately portray that part of Mr.
Nichols'

14 home as you saw it on April 22, 1995?

15 A. Yes, it does.

16 MR. ORENSTEIN: Your Honor, the Government
offers

17 Exhibit 1769, No. 6.

18 MR. TIGAR: May I inquire of Counsel, your
Honor?

19 THE COURT: You may, yes.

20 MR. TIGAR: Thank you, your Honor. No
objection.

21 THE COURT: All right. 1769, No. 6, did you
say?

22 MR. ORENSTEIN: Yes, sir.

23 THE COURT: Received, may be shown.

24 BY MR. ORENSTEIN:

25 Q. Ms. Thomas, did you search the area that is shown
in that

7263

Joanne Thomas – Direct

1 photograph during your participation in the search
warrant?

2 A. Yes, I did.

3 Q. And let me direct your attention to the drawer in
the upper

4 right-hand side of that photo. Do you see that?

5 A. Yes.

6 Q. Did you search in that drawer?

7 A. Yes, I did.

8 Q. You, yourself?

9 A. Yes.

10 Q. What did you see when you first opened that drawer?

11 A. In the front portion of the drawer were tea towels;
and

12 then as I pulled the drawer out, the back of the

drawer, I

13 found some what looked like coins, some in stacks and
some in a

14 plastic bag.

15 Q. And what did you do with those coins?

16 A. I removed them.

17 Q. Where did you take them?

18 A. Well, I turned around and asked an agent that was
close by

19 if I should seize these, and they said yes.

20 Q. Now, when you found these coins, were they all
together, or

21 were they -- were any of them wrapped separately?

22 A. Yes, they were.

23 Q. Do you recall finding within that collection of
coins some

24 that were wrapped in some pink paper?

25 A. Yes, I do.

7264

Joanne Thomas - Direct

1 Q. And could you describe what you saw with respect to
that?

2 A. It was a small square, I would say probably -- I
can't --

3 don't know the measurements of it, but it was wrapped
around

4 two coins when we were listing them on the evidence
bag.

5 Q. You mentioned an evidence bag. Could you describe
what you

6 did with the evidence bag?

7 A. I took it into the living room where the special
agent who

8 was doing the evidence log was sitting, and I sat down
with

9 him; and we went through all the coins, listing them as
10 carefully as we could, not really knowing what they
were for

11 sure, so we could be explicit on the evidence bag.

12 Q. Now, if you could reach into the folder that you've
got

13 there and find Exhibits 62, 62A, and 1875.

14 A. You said 62, 62A and --

15 Q. And 1875. Do you have all of those?

16 A. Yes, I do.

17 Q. Let's start with Government's Exhibit 62A. Do you
18 recognize that exhibit?

19 A. Yes, I do.

20 Q. What is that?

21 A. It's a receipt from the Mid-Kansas Cooperative
Association.

22 Q. Is that 62 or 62A?

23 A. That is 62.

24 Q. Okay. Let's start with 62A for a moment.

25 A. Okay.

Joanne Thomas - Direct

1 Q. What is 62A?

2 A. It's the plastic bag that relisted the coins and
the
3 contents of that drawer that I seized.

4 Q. And are 62 and 1875 part of what you put into that
bag that
5 day?

6 A. Yes.

7 MR. ORENSTEIN: Government offers 62A.

8 MR. TIGAR: I'm sorry, your Honor.

9 No objection.

10 THE COURT: 62A is received.

11 BY MR. ORENSTEIN:

12 Q. Now, you said that you described what you had found
on that
13 bag.

14 A. Yes.

15 Q. Item No. 2 on that bag: Can you tell the jury what
you
16 wrote there?

17 A. "Two Elizabeth \$50 gold coins" and "receipt."

18 Q. And does it describe the other items that you've
got in
19 front of you now?

20 A. Yes, it does.

just
Can you
seized on

21 Q. Let me ask you to turn to Exhibit 62. Could you
22 remind the jury -- you did say what that was before.
23 just say that again?
24 A. It's a Mid-Kansas Cooperative Association receipt.
25 Q. And do you recognize that as something that you

7266

Joanne Thomas - Direct

1 April 22, 1995?
2 A. Yes, I do.
3 Q. Is that the pink wrapper that you described before?
4 A. Right. Particularly because the print of the two
coins are
5 embedded on the receipt.
6 Q. That's one of the ways in which you recognize it?
7 A. That's correct.
8 Q. And does it appear to be in the same condition now
as it
9 was when you first found it?
10 A. Well, other than the fingerprint evidence -- I mean
powder
11 and stuff over it, yes.
12 MR. ORENSTEIN: Your Honor, the Government
offers
13 Exhibit 62.

14 MR. TIGAR: No objection, your Honor.

15 THE COURT: 62 is received.

16 MR. ORENSTEIN: May I display it, your Honor?

17 THE COURT: Yes.

18 BY MR. ORENSTEIN:

19 Q. Ms. Thomas, I'd like to direct your attention to
various
20 parts of this exhibit. First, if I could ask you to
look at
21 the top of it, where it has the name and date of the
22 transaction. Do you see that?

23 A. Yes.

24 Q. Could you read to the jury what it says there?

25 A. "On account number," it looks like it says "10."
The date

7267

Joanne Thomas - Direct

1 is 9-30 of '94. That would be September 30 of '94.
The name

2 is Mike Haven -- Havens, I believe, H-A-V-E-N-S.

3 Q. And now directing your attention to the next
portion of the

4 exhibit. First of all, does this indicate whether it
was a

5 cash transaction or some other type?

6 A. Yes, it indicates it was a cash transaction.

7 Q. And in the line below that, what does it read in
terms of
8 the description of the transaction?
9 A. It says, "40/50, 34-0-0." And under "price" it
says,
10 "5.40." And the amount it says, "216." "216."
11 Q. Now, finally you mentioned some indentations. Do
you see
12 those on that exhibit?
13 A. Yes, I do.
14 Q. Could you point out where they are on the exhibit?
15 A. Right here.
16 Q. If you're using the pen, you have to reach under
the glass.
17 A. I have to reach under the glass. Okay.
18 They're right here and right here.
19 Q. Those are the indentations from the coins around
which this
20 was wrapped when you found it?
21 A. Folded around it, yes.
22 Q. If you could just click on that pen to clear it.
23 Let me now direct your attention to
Government's
24 Exhibit 1875. Do you recognize that exhibit?
25 A. Yes, I do.

1 Q. What is 1875?

inside 2 A. It's the Elizabeth \$50 gold coins that was wrapped

3 the receipt.

obtained 4 Q. And are they in the same condition now as when you

5 them on April 22?

6 A. No, they're not.

7 Q. In what way are they different?

with some 8 A. Well, they've been put into some -- been wrapped

were 9 kind of adhesive or tape; and when I found them, they

10 wrapped inside the receipt. And there is a number on

the back 11 of them that wasn't there before, either.

12 Q. The number on that: Can you read that out? I'm

sorry. 13 Without reading it out, does that correspond to the

entry on 14 your log, on your exhibit log?

15 A. Yes.

in the 16 Q. Other than the wrapping, are the coins themselves

17 same condition as when you found them?

18 A. Yes.

1875, your 19 MR. ORENSTEIN: Government offers Exhibit

20 Honor.

21 MR. TIGAR: No objection, your Honor.

22 THE COURT: Received, 1875.

23 BY MR. ORENSTEIN:

24 Q. Now, let me ask you to reach into your folder and
pull out
25 Exhibit 250, Government's Exhibit 250. And also 250B,
if you

7269

Joanne Thomas - Direct

1 would.

2 A. Okay.

3 MR. ORENSTEIN: If I may have a moment to
confer with
4 counsel.

5 THE COURT: Yes.

6 MR. TIGAR: Thank you, your Honor.

7 BY MR. ORENSTEIN:

8 Q. Can you tell the jury what Exhibits 250 and 250B
are.

9 A. 250 is a notebook that's called, "Fat Little
Wireless
10 Neatbook."

11 Q. And 250B?

12 A. 250B is the packaging that I put it in when I
recovered it
13 from the closet in the living room.

14 Q. Now, this is from a separate area of the house that

you

15 searched the same day?

16 A. Yes.

17 Q. When you searched the closet in the living room
area, did

18 you obtain a number of items and put them in one bag?

19 A. Yes, I did.

20 Q. As is 250B that bag?

21 A. That's right.

22 Q. Before coming to court, did you examine all of the
contents

23 of that bag and determine that they were the items that
you had

24 put into that bag during the search?

25 A. Yes, I did.

7270

Joanne Thomas – Direct

1 Q. Is there a Q number on the back?

2 A. The Q number is 156.

3 Q. And did all of the items that you had put into the
bag have

4 a 156Q number with another sub number?

5 A. Yes.

6 Q. What is the Q number on Government's Exhibit 250?

7 A. It's Q156-45.

8 Q. That's the 45th item that was put in that bag?

9 A. Yes.

Exhibit

10 MR. ORENSTEIN: First the Government offers

11 250B.

12 MR. TIGAR: No objection, your Honor.

13 THE COURT: Received, 250B.

14 BY MR. ORENSTEIN:

same

15 Q. And with respect to 250, the book: Is that in the

16 condition now as when you first found it?

dust all

17 A. No. It also has tabs put in it and fingerprinting

18 over it.

and the

19 Q. With the exception of the fingerprinting processing

22, 1995?

20 tabs, is it the same book that you recovered on April

21 A. Yes, it is.

Honor.

22 MR. ORENSTEIN: Government offers 250, your

23 MR. TIGAR: May I just inquire briefly?

24 THE COURT: Yes, you may.

25 VOIR DIRE EXAMINATION

7271

Joanne Thomas - Voir Dire

1 BY MR. TIGAR:

2 Q. Good morning.

3 A. Good morning.

4 Q. My name is Michael Tigar. I'm one of the lawyers
appointed
5 to help out Terry Nichols.

6 Do you know who put the tabs on there?

7 A. No, I have no knowledge.

8 Q. And when you say there is tabs, I can't see. Are
they
9 those little -- oh, they're like those little sticky
flags that
10 you can buy at the store?

11 A. They just look like blue tabs to me.

12 Q. But they're plastic; right?

13 A. Yes.

14 MR. TIGAR: Your Honor, we have no objection.
We
15 would ask that the tabs be removed before the exhibit
is
16 received in evidence because that changes what the book
is and
17 could draw attention to particular parts. I don't want
to make
18 a speaking objection, but that's our request.

19 MR. MACKEY: Your Honor, I'd ask permission to
confer
20 with counsel. There is a matter down the road that
will come
21 up --

22 THE COURT: All right. You may confer with

counsel.

23
Government

MR. TIGAR: Your Honor, it is agreed --

24
particular

counsel explained to me why they want that for a

25
to the

purpose. It is agreed that before this would be shown

7272

1
acceptable to

jury that the tabs would be removed, and that is

2 us.

3 MR. MACKEY: Used by another witness.

4 THE COURT: So the tabs may be used by another

5 witness.

6 MR. TIGAR: Yes, your Honor. That's right.

7
Thank

With that understanding, we have no objection.

8 you, your Honor.

9
received with

THE COURT: All right. Exhibit 250 is

10 the understanding that has just been mentioned.

11 MR. ORENSTEIN: And with that, your Honor, the

12 Government has no further questions on direct.

13 THE COURT: All right. Mr. Tigar, do you have

14 questions?

15 MR. TIGAR: Yes.

16

CROSS-EXAMINATION

17 BY MR. TIGAR:

18 Q. Good morning, again.

19 A. Good morning.

20 Q. What time did you arrive at Mr. Nichols' house on
that day?

21 A. Approximately around 7:00 in the evening.

22 Q. And again, what day of the week was that?

23 A. It was April 22.

24 Q. That was a Saturday. Would that refresh your
recollection?

25 A. If you say so.

7273

Joanne Thomas - Cross

1 Q. All right. Well, we know that the bombing took
place on
2 the 19th; correct? And that was a Wednesday, I
believe.

3 A. Right.

4 Q. So 20, 21 -- that would be Saturday?

5 A. Right.

6 Q. And about how long did you stay?

7 A. We were there till about, I would say 4:00 in the
morning

8 the next morning on the 23d.

9 Q. And how many agents were there in the party that

went there

10 at 7:00 in the evening?

11 A. I would not know that number.

12 Q. Was it more than three or four?

13 A. Yes.

14 Q. Okay. And in addition to agents, they had experts
such as

15 yourself who had other assignments -- who were not
agents but

16 who had special responsibilities; is that right?

17 A. I would only know those that I had contact with. I
didn't

18 know everyone there.

19 Q. Okay. All right. And during that time, what did
you have

20 responsibility for searching?

21 A. We went into the home, assigned numbers to the
rooms, and

22 we were assigned to a room to search; and when we
finished the

23 search in that part, we were to see if we could assist
in other

24 parts of the house.

25 Q. Now, the house of which we're speaking is at 109
South 2nd

7274

Joanne Thomas - Cross

1 Street in Herington, Kansas; correct?

2 A. Correct.

3 Q. And that's a small, frame house; is that right?

4 A. Yes.

5 Q. And there is a driveway along the side?

6 A. Yes.

7 Q. Remember that? And then out detached from it is a
-- looks
shed.

8 kind of like a garage but could be a garage or storage
shed.

9 Is that right?

10 A. Yes.

11 Q. Did you go in that day, the garage part?

12 A. Yes, I was in it, but I didn't search there.

13 Q. Didn't search there.

14 Now, what rooms did you search?

15 A. The rooms that I retrieved evidence from was the
living

16 room and the kitchen.

17 Q. And the kitchen just looked like anybody else's
kitchen;

18 right? Normal Midwest-home kitchen?

19 A. Yes.

20 Q. Now, in the living room there, did you see any
books?

21 A. I don't recall them.

22 Q. Okay. I understand you wouldn't recall specific
ones, but

23 did you see books that were there?

24 A. Yes.

books
25 Q. Okay. And do you recall any of the titles of the

7275

Joanne Thomas - Cross

1 that you saw?

pamphlets or --
2 A. When you say "books," are you talking about

a book
3 Q. I'm talking about books. For example, did you see

4 called -- on the Lamaze method of childbirth?

5 A. No.

6 Q. Did you see a book on soil treatment?

7 A. No.

farming?
8 Q. Did you see a book by a veterinarian on modern

9 A. No.

10 Q. Did you see a book by Pat Robertson?

11 A. Not to my knowledge.

on? You
12 Q. Okay. Specifically one with a dust jacket, and so

13 don't remember seeing that?

14 A. No, I don't.

just
15 Q. So I could go down a whole list of books, but you

16 don't remember seeing any books in particular?

17 A. That's correct.

18 Q. Okay. And -- all right. Well, let's take -- go
into the

19 kitchen there.

20 You said you opened up a kitchen drawer and
you saw

21 some tea towels?

22 A. That's right.

23 Q. And behind the tea towels were some plastic
envelopes;

24 correct?

25 A. Yes.

7276

Joanne Thomas - Cross

1 Q. And you -- there was a big, plastic envelope and a
smaller

2 one inside; is that right?

3 A. Yes.

4 Q. Now, about -- and there were coins in there.
Correct?

5 A. Yes.

6 Q. About how many coins were there?

7 A. I wouldn't be able to give you an accurate number
unless I

8 were to refer to the exhibit.

9 Q. Okay. Well -- this is not a memory contest. I'm
just

10 trying to find out what was in there.

11 A. There were numerous coins.

12 Q. Many coins?

13 A. Uh-huh.

14 Q. Were these coins like 25-cent pieces and 50-cent
pieces --

15 I mean things you would spend -- or were they more like
what

16 you would call coin-collector coins?

17 A. I would call them coin-collector's coins.

18 Q. Okay. And in this -- this again is April 22;
right?

19 A. Right.

20 Q. So from -- and what was the date on that piece of
paper,

21 that receipt thing you saw?

22 A. It was in September of '94.

23 Q. September, '94. So September, October, November,
December,

24 January, February, March, April -- that's almost seven
months.

25 Right?

7277

Joanne Thomas - Cross

1 A. Right.

2 Q. Okay. Now, when you saw it, saw that piece of
paper, that

3 pink piece of paper, could you see any writing on it?

4 A. No, I couldn't.

5 Q. And why couldn't you see any writing on it?

6 A. Because it was folded around the coins and the back
side

7 was up.

8 Q. Oh. In other words, if -- just so that I can be
clear, if

9 I take this yellow piece of legal paper I'm holding up
and I

10 make some -- just scribbles on it, like that, and if I
take

11 this Magic Marker to represent a roll of something and
I rolled

12 it up and fold the edges with my writing inside, is
that sort

13 of like what you were seeing?

14 A. Yes.

15 Q. Okay. So that a person looking at this wouldn't be
able to

16 see what writing is on it; correct?

17 A. Correct.

18 Q. Okay. Now, you said that the copy you looked at
today was

19 different from the condition it was in when you found
it

20 because it had been subject to fingerprint processing;
is that

21 right?

22 A. The one I have is not a copy, but yes.

23 Q. I'm sorry. The one you have today. I wasn't
implying it

24 is a copy in the sense something is copied. What
you've got up

25 there -- that's what you found; right?

7278

Joanne Thomas - Cross

1 A. That's right.

2 Q. Now, when you found it, were you wearing gloves?

3 A. Yes, I was.

4 Q. Why were you wearing gloves?

5 A. So we wouldn't leave any fingerprints on any of the
6 evidence we collected.

7 Q. Exactly. And in your experience -- have you been
to crime
8 scenes before where you had to wear gloves?

9 A. Yes.

10 Q. Now, were you wearing cotton gloves or latex
gloves?

11 A. Latex gloves.

12 Q. And these latex gloves were issued to you by the
Bureau?

13 A. That's correct.

14 Q. Were they part of a crime-scene kit, did you see,
or were

15 they just in a box there? How did you get those?

16 A. When we came as the ERT team, we had them with us.

17 Q. And these ERT gloves: Are they the same kind of
latex
18 gloves that a person could buy at a medical supply
store?
19 A. I don't know that for sure.
20 Q. Okay. Did they have talcum on them, or did they
seem to
21 have talcum on them, or not, or do you remember?
22 A. Yes, they did inside.
23 Q. Oh, inside, so you could slip your hand in more
easily.
24 They didn't have any talcum or any covering on the
outside.
25 Right?

7279

Joanne Thomas – Cross

1 A. Not that I was aware of.
2 Q. And your understanding is that the reason that you
would
3 wear gloves at the crime scene is that paper can take
4 fingerprints; right?
5 A. Right.
6 Q. When did you first learn that paper could take a
7 fingerprint?
8 A. Would be a long time ago, sir.
9 Q. All right. Well --

10 A. Before I even was an employee of the Bureau.

11 Q. Oh, before you were employed at the Bureau.

12 A. Yes.

13 Q. I see. So that in other words -- it's just very
well

14 known, then, you would say, that if you touch a piece
of paper,

15 you're going to very likely get a fingerprint on it.
Is that

16 right?

17 A. Yes.

18 Q. And is your understanding that is because we all
carry

19 around with us, unless we've just now washed our hands
and

20 dried them off real thoroughly -- there is bound to be
some

21 little sweat or secretions on there that's going to
transfer

22 the ridges of our finger to what we touch? Is that
right?

23 MR. ORENSTEIN: Objection, your Honor.

24 THE COURT: Sustained.

25 MR. TIGAR: Oh.

7280

Joanne Thomas - Cross

1 BY MR. TIGAR:

2 Q. Well, how does it happen?

3 MR. ORENSTEIN: Objection, your Honor.

4 THE COURT: Sustained. The subject matter.

5 MR. TIGAR: I'm sorry, your Honor. I didn't
6 understand. I didn't understand.

7 BY MR. TIGAR:

8 Q. So you took -- you took this piece of paper out,
correct,
9 with your gloves?

10 A. Yes.

11 Q. And you -- and I just want to make sure: When you
got the
12 piece of paper, then you went in to the agent who was
in
13 charge; correct?

14 A. Not the agent that was in charge. I went to the
living
15 room table where the agents that was preparing the
evidence log
16 was taking all the evidence.

17 Q. And went -- did you then see to it that the piece
of paper
18 was handled in such a way that nobody else's
fingerprints other

19 than the -- than the fingerprints that might then have
been on
20 it would be -- would get onto it?

21 A. That's right.

22 Q. Okay. And, of course, at that time, you couldn't
know

right? 23 whether or not anybody's fingerprints were on it;

24 A. No.

marks that 25 Q. The fingerprint processing is what develops the

7281

Joanne Thomas - Cross

1 are on there, that have been on there since you got it;

2 correct?

3 A. And the fingerprint dust, yes.

found 4 Q. Yes. Okay. Now, in addition to that, you said you

Correct? 5 something called a "Fat Little Wireless Neatbook."

6 A. Right.

it? 7 Q. And did you read through that at the time you found

8 A. Yes. Yes, I did.

before you. 9 Q. Would you take your copy, then, the one that's

10 Do you have it in front of you?

11 A. Yes.

12 Q. Could you open it up to the first page, please.

Punay? 13 Do you see a listing, a name at the top, Angelita

14 A. Yes.

15 Q. See that?

16 No, I did it wrong.
17 Now, you can see the handwriting for that
name;
18 correct?
19 A. Yes.
20 Q. Now, did -- after you looked at that -- did you --
did you
21 look at that at the time you seized it?
22 A. Yes.
23 Q. Okay. And then are there a number of pages that
contain
24 addresses and names in a similar handwriting to that?
25 A. Well, it appears to, yes.

7282

Joanne Thomas - Cross

1 Q. Now, would you leaf through the book, please, until
you
2 find a page that starts "Call on stone house." That's
going to
3 be more than halfway through. It will be towards the
back.
4 Do you have that?
5 A. Well, no, I can't locate it right at the moment.
6 MR. TIGAR: May I go up and assist the
witness, your
7 Honor?
8 THE COURT: Yes.

9 MR. TIGAR: Thank you.

10 THE WITNESS: I think it may be forward a
little more.

11 There is two tabs here and one up there.

12 MR. TIGAR: There we are.

13 Thank you, your Honor.

14 Thank you, ma'am.

15 BY MR. TIGAR:

16 Q. I'm going to put up that page. Zoom out. Now --
now,

17 that -- if we could just read together, it says, "Call
on stone

18 house. Get info." Correct?

19 A. Yes.

20 Q. And then it says, "Get M0 for INS"?

21 A. Yes.

22 Q. "Get M0 Marife"?

23 A. Yes.

24 Q. "Mail premium to INS." Right?

25 A. Yes.

7283

Joanne Thomas - Cross

1 Q. "Mail change of beneficiary." I can't read what
that says.

2 A. "& add."

3 Q. "& add." Oh, okay. And then, "Rent PO box," and

that's an

4 "at" sign, "@ Manhattan"?

5 A. Yes.

6 Q. "Mail letter W/MO to Marife"?

7 A. Yes.

8 Q. Is that correct?

9 A. Yes.

10 Q. "Letter to Lana" -- and I can't read what it says
there.

11 A. It looks like "PENC/" --

12 Q. And then "LIFE"?

13 A. Yes. Could possibly be. Yes.

14 Q. Okay. And then "Marife's ADD"?

15 A. Yes.

16 Q. Okay. And then it says, "CK on" -- and I can't
read the

17 next word. Can you on your original?

18 A. "Airline."

19 Q. "Airline"?

20 What is that next thing?

21 A. I think it's "PA & NW."

22 Q. "Miles"?

23 A. "Miles."

24 Q. And then there is something about "Mike D"
something?

25 A. Yes.

Joanne Thomas - Cross

1 Q. Crossed out. And then "stock cert." Right?

2 A. Yes.

original

3 Q. And as you say, other than the fact that that

that is

4 document was then treated with some fingerprint stuff,

tabs, of

5 in the condition in which you found it, except for the

6 course.

7 A. Yes.

further

8 MR. TIGAR: Thank you very much. I have no

9 questions.

10 THE COURT: Mr. Orenstein.

exhibit

11 MR. ORENSTEIN: Your Honor, may I retrieve the

12 and I'll -- excuse me -- use the ELMO?

13 THE COURT: Yes.

14 THE WITNESS: Which one?

15 MR. ORENSTEIN: 250, please.

16 Thank you.

17 THE WITNESS: Uh-huh.

I

18 THE COURT: It may not be clear in the record.

19 think it was Exhibit 250 that was being shown.

much. 20 MR. TIGAR: Yes, your Honor. Thank you very

21 THE COURT: All right.

22 MR. TIGAR: It was.

23 REDIRECT EXAMINATION

24 BY MR. ORENSTEIN:

can 25 Q. Ms. Thomas, I'd like to direct your attention, if I

7285

Joanne Thomas - Redirect

at; 1 have the ELMO. This is the page you were just looking

2 correct?

3 A. Yes.

one -- 4 Q. Starts, "Call on stone house." And if we can go

pages, 5 several pages in front of that, there are several blank

writing on 6 and then the previous page before that that has the

7 it; and then I'll pull back this tab for the moment.

I'm 8 MR. ORENSTEIN: Your Honor, for the record,

9 referring to a page that bears a tab marked Q156-45Y.

10 BY MR. ORENSTEIN:

11 Q. Do you see what's written there?

12 A. Yes, I do.

13 Q. Could you read that into the record?

14 A. The name "Joe Kyle," K-Y-L-E, "No. 40."

17/94 + 15 Looks like "CANN/" either a G or A "RO/KAN, 10
16 12 17/94."

same 17 And on another line is "37." Directly on the
18 line, it says, "Ted Parker," P-A-R-K-E-R, "11.7.9.4 +
19 01.31.95."

20 And below there is written "ditto."

Ted 21 Q. Did you see this page with the names Joe Kyle and
22 Parker when you recovered this item on April 22?

23 A. Yes.

entered 24 MR. ORENSTEIN: Your Honor, the parties have
25 into a stipulation about handwriting on this documents.

7286

Joanne Thomas - Redirect

deal with 1 THE COURT: Isn't another witness going to
2 this document?

3 MR. ORENSTEIN: Excuse me?

deal with 4 THE COURT: Isn't another witness going to
5 this document? I thought this witness is just here for
6 production of it from the search.

7 MR. ORENSTEIN: That's correct, your Honor.

8 THE COURT: Well, let's wait for the other
witness.

9 MR. ORENSTEIN: Very well.

10 BY MR. ORENSTEIN:

11 Q. One other matter, Ms. Thomas: You were asked about
whether
12 you could see the writing on Exhibit 62 when you found
it.

13 A. Right.

14 Q. If someone wanted to look at the coins within that
item,
15 you'd have to unwrap it; correct?

16 A. That's correct.

17 Q. And at that point you could see what was written on
it?

18 A. Yes.

19 MR. ORENSTEIN: Thank you. Nothing further,
your

20 Honor.

21 RECROSS-EXAMINATION

22 BY MR. TIGAR:

23 Q. When you unwrapped the coins -- you did unwrap it
--
24 right -- at the scene?

25 A. Yes.

Joanne Thomas – Recross

1 Q. And you wore gloves; right?

2 A. Yes.

wouldn't
3 Q. And again, that was so when you unwrapped it, you
4 leave a fingerprint; correct?

5 A. Yes.

6 MR. TIGAR: Thank you. Nothing further.

excused?
7 THE COURT: All right. Is this witness

your
8 MR. ORENSTEIN: We'll be recalling her later,

9 Honor.

10 THE COURT: You will. All right.

11 You may step down.

12 Next witness.

call
13 MR. MACKEY: Thank you, your Honor. We'll

14 Mr. Harry Bhakta. Mr. Pat Ryan will question.

please.
15 THE COURTROOM DEPUTY: Raise your right hand,

16 (Harry Bhakta affirmed.)

please.
17 THE COURTROOM DEPUTY: Would you have a seat,

and
18 Would you state your full name for the record

19 spell your last name.

name is
20 THE WITNESS: Last name is B-H-A-K-T-A. First

21 H-A-R-R-Y.

22 THE COURTROOM DEPUTY: Thank you.

23 THE COURT: Mr. Ryan.

24 MR. RYAN: Thank you, your Honor.

25 DIRECT EXAMINATION

7288

Harry Bhakta - Direct

1 BY MR. RYAN:

2 Q. Excuse me. Mr. Bhakta, we met a couple nights ago,
didn't
3 we?

4 A. Yeah.

5 Q. Do you recall that?

6 A. Yeah.

7 Q. I introduced myself as Pat Ryan, the United States
Attorney
8 in Oklahoma City. Do you remember that?

9 A. Yeah.

10 Q. First time we met; is that right?

11 A. Yeah.

12 Q. And where do you live?

13 A. Salina, Kansas.

14 Q. Salina, Kansas?

15 A. Uh-huh.

16 Q. And how long have you lived there?

17 A. Since '86.

18 Q. Where were you born, sir?

19 A. India.

20 Q. And when did you come from India to the United States?

21 A. Around 1980.

22 Q. Are you married?

23 A. Yeah.

24 Q. Do you have children?

25 A. Yeah.

7289

Harry Bhakta - Direct

1988 and 1 Q. Now, between 1988 and 1985, what were you doing --

2 1995.

3 A. I had a motel.

4 Q. What was the name of your motel?

5 A. Starlite Motel.

6 Q. Starlite?

7 A. Uh-huh.

8 Q. And where was it located?

9 A. It was on 211 East Pacific in Salina.

show you 10 Q. In Salina, Kansas. All right. Now, I'm going to

known as 11 an exhibit that's already been introduced here. It's
12 Exhibit 2045 and ask you to look at it. And point out
Salina, 13 Kansas, if you would, for the jury.

14 Do you have a pen there that -- there you go.

15 A. Right there.

16 Q. All right. Now, where is your motel? Is it inside
the 17 city limits?

18 A. Yeah.

19 Q. All right. And how far is your motel, the
Starlight, from

20 McPherson, Kansas? About how far?

21 A. 30, 35 mile (sic).

22 Q. Now, do you and your wife operate the motel?

23 A. Yeah.

24 Q. And what kind of work do you and your wife do
there?

25 A. We do everything.

7290

Harry Bhakta - Direct

1 Q. And by "everything," what do you mean?

2 A. Like front desk, clean the room, and maintenance.

3 Q. Do you have any other employees?

4 A. No.

5 Q. So your wife or you is always at the front desk?

6 A. Yeah.

7 Q. What is the procedure when someone comes in to
check in at

8 the motel?

9 A. To give the card and fill out the registration
card.

10 Q. That is a card you provide them?

11 A. Yeah.

12 Q. Did the FBI, after the Oklahoma City bombing, come
by your

13 motel and pick up your registration cards?

14 A. Yeah, they did.

15 Q. Let me show you what has been marked as Exhibit No.
83 for

16 identification. Can you -- would you -- there is a
little

17 button on the side of that pen. If you strike that, it
will

18 erase the marking. There you go.

19 Now, can you identify this Exhibit No. 83?

20 A. Yeah.

21 Q. What is it?

22 A. It is a motel card.

23 Q. Is it a card from the Starlite Motel?

24 A. Yeah.

25 Q. Is it a business record of yours?

Harry Bhakta - Direct

1 A. Yeah.

2 Q. And do you keep this in the ordinary course of your
3 business?

4 A. Yeah.

5 Q. And is this one of the records that the FBI picked
up after
6 the Oklahoma City bombing?

7 A. Yeah.

8 MR. RYAN: Your Honor, we would move to admit
Exhibit
9 No. 83.

10 MR. WOODS: No objection, your Honor.

11 THE COURT: 83 is received.

12 BY MR. RYAN:

13 Q. Now, you see some smudging on this card?

14 A. Uh-huh.

15 Q. Do you see that?

16 A. Yeah.

17 Q. Was that on the card at the time that the FBI came
and
18 picked it up?

19 A. No. It is not.

20 Q. If you would, sir, starting with the word "name,"
would you
21 read what is stated there?

- 22 A. Terry Havens, H-A-V-E-N-S.
23 Q. H-A-V-E-N-S?
24 A. Uh-huh.
25 Q. And "street," what does it say?

7292

Harry Bhakta - Direct

- 1 A. Route 2, Box 28.
2 Q. And under -- gives the name of a city. Is that
correct?
3 A. Hillsboro, Kansas.
4 Q. And car license? What does it say there?
5 A. WY1640.
6 Q. And what is the state?
7 A. Michigan, pickup.
8 Q. It's a pickup truck?
9 A. Pickup.
10 Q. And how many people checked in according to this
card?
11 A. One.
12 Q. Now, were you present when this person checked into
the
13 Starlite Motel?
14 A. Excuse me?
15 Q. Were you present --
16 A. No.

Starlite 17 Q. -- at the desk when this person checked in at the
18 Motel?
19 A. No.
20 Q. You don't have a recollection of that?
21 A. No.
22 Q. Do you know who this person was?
23 A. No.
24 Q. Is it the practice of your motel to check
identification of
25 people when they come in?

7293

Harry Bhakta - Direct

1 A. Usually, we don't require it.
2 Q. I'm sorry?
3 A. Usually, we don't ask for ID.
4 Q. Is it your practice to go check the actual license
plate on
5 a vehicle when someone comes in the motel?
6 A. No.
7 Q. Did -- what is the date that Mr. Havens checked
into the
8 Starlite, according to Exhibit No. 83?
9 A. 10-16-94.
10 Q. And when did this person check out, according to
the

11 registration card?

12 A. Morning -- next morning.

13 Q. 10-17?

14 A. 17.

15 Q. And what's the rate for the motel that night?

16 A. \$20 plus tax. 22.38 all together.

17 MR. RYAN: Your Honor, we would ask to publish
the
83. stipulation concerning the handwriting on Exhibit No.

19 MR. WOODS: Yes, your Honor. Defense agrees
that's
20 Mr. Nichols' handwriting.

21 THE COURT: All right. It's agreed that it's
the
22 handwriting of Terry Nichols. Thank you.

23 MR. RYAN: That's all I have, your Honor.

24 THE COURT: Any questions?

25 MR. WOODS: No, your Honor.

7294

1 THE COURT: Excusing the witness?

2 MR. RYAN: Yes, your Honor.

3 THE COURT: You may step down. You're now
excused.

4 We'll take the noon recess at this point,

members of

5 the jury, to 1:30. During this time, again, of course,
it's my
6 duty to remind you of your duty to keep open minds,
avoiding
7 discussion of the case or anything about it and
continue to
8 avoid anything outside of our evidence in the case.

9 With respect to scheduling, I know some of you
are
10 wondering because there is a national holiday on
Tuesday,
11 Veterans Day, whether we're going to recognize that
holiday.

12 And we are. That is a day of significance; and of
course, the
13 Court appreciates the significance of the day and the
purpose
14 of the national holiday, so we will not be working that
day,
15 Tuesday.

16 I hope it's Tuesday. Isn't it? Yeah.

17 Also, I'd like -- because we have a short day
18 tomorrow -- we're going to hold to that, too -- I'd
like to
19 start at 8:45, unless we have a blizzard overnight or
something

20 like that. So I'll just advise you of our scheduling.

21 So you're excused now till 1:30.

22 (Jury out at 11:59 a.m.)

23 THE COURT: I am thinking about going to 8:45

in the

24 morning as a starting time. It seems to me that unless
we have

25 inclement weather we have the jury here by then,
Counsel are

7295

1 normally here by then, and, you know, I'd rather --
it's

2 probably easier to do it at 8:45 than to cut the noon
hour.

3 So let's plan on 8:45 starting times,
beginning

4 tomorrow.

5 Court is in recess. 1:30.

6 (Recess at 12:00 p.m.)

7 * * * * *

8

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7296

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7297

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	3	49-50	7176	7176		
	4	51	7172	7172		
	5	52	7170	7171		
	6	62A	7265	7265		
	7	62	7266	7266		
	8	70	7221	7221		
	9	71	7219	7219		
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	25					

1

DEFENDANT'S EXHIBITS

Withdrawn

2

Exhibit

Offered

Received

Refused

Reserved

3

955

7205

4

D946

7204

7204

5

D955

7205

6

F18

7205

7205

7

* * * * *

8

REPORTERS' CERTIFICATE

transcript from

9

We certify that the foregoing is a correct

Dated

10

the record of proceedings in the above-entitled matter.

11

at Denver, Colorado, this 6th day of November, 1997.

12

13

14

Paul Zuckerman

15

16

Kara Spitler

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