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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Criminal Action No. 96-CR-68

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TERRY LYNN NICHOLS,

Defendant.

ff

9

REPORTER'S TRANSCRIPT  
(Trial to Jury: Volume 65)

10

11

ff

MATSCH,  
  
November,  
  
Denver,

12 Proceedings before the HONORABLE RICHARD P.  
13 Judge, United States District Court for the District of  
14 Colorado, commencing at 9:00 a.m., on the 6th day of  
15 1997, in Courtroom C-204, United States Courthouse,  
16 Colorado.

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23  
24  
Transcription  
Street,  
629-9285

Proceeding Recorded by Mechanical Stenography,  
Produced via Computer by Paul Zuckerman, 1929 Stout  
P.O. Box 3563, Denver, Colorado, 80294, (303)

7162

1 APPEARANCES  
2 PATRICK RYAN, United States Attorney for the  
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3 District of Oklahoma, 210 West Park Avenue, Suite 400,  
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4 City, Oklahoma, 73102, appearing for the plaintiff.  
5 LARRY MACKEY, BETH WILKINSON, GEOFFREY MEARNES,  
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U.S.  
7 Attorney General, 1961 Stout Street, Suite 1200,  
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9 MICHAEL TIGAR, RONALD WOODS, ADAM THURSCHELL,  
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10 REID NEUREITER, Attorneys at Law, 1120 Lincoln Street,  
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11 1308, Denver, Colorado, 80203, appearing for Defendant  
Nichols.

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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.

7164

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

7165

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

7166

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

7169

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.

7170

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?

7172

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

7173

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.

7174

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.

7175

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

to be 5 A. Well, I went by several times. I was expecting him  
day, 6 out of the house and drove by a couple times during the  
when I was 7 just wanting to check things over. And that evening  
checking some 8 coming around, I kind of went around the section,  
then I seen 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.

7178

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

7179

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

7180

Timothy Donahue - Cross

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.

7181

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

7182

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.

7183

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

7184

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?

7185

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

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

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

9 1994?

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

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

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

13 A. Not that I remember, no.

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

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

16 A. Yes.

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

18 had a beard, did he?

19 A. No.

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

21 A. Yes.

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

23 A. Yes.

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

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.

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

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

3 Mid-Kansas Co-op sells.

4 A. Well, besides handling the grain that our producers  
bring

5 in to us, we also supply them back with petroleum  
products,

6 feed, fertilizer, herbicides, miscellaneous farm  
supplies.

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

8 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 that it was not a charge account. The date was on 9-30  
of '94. 16 It was sold to Mike Havens. The initial would indicate  
the

17 employee that made the sale would be Jerri Showalter.  
18 charge ticket. It was forty 50-pound bags of 34-0-0 or  
19 ammonium nitrate at \$5.40 per bag for a total of \$216.  
There

20 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?

7232

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.

7238

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

7240

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

7241

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

7242

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,

7243

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

7244

Louis Michalko - Direct

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

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.

7246

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.

7250

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?

7251

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?  
14 A. I assume somebody asked the company to provide them  
and  
15 they did. I did not personally obtain those receipts.  
16 Q. They were here and you started going through them?  
17 A. Yes.  
18 Q. Okay. Now, do you remember how many total receipts  
that  
19 you had to review that came out of McPherson?  
20 A. It was roughly 30,000.  
21 Q. And do you remember how many out of that that you  
found  
22 were ammonium nitrate receipts?  
23 A. It was in excess of 200. It would be the 520 less  
the ones  
24 that I located in Kansas.  
25 Q. Well, do you recall testifying before that you  
found 278?

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?  
6 Q. Yes, sir. You testified in the other trial that  
out of the

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

Is that  
1 Q. And that's each individual customer transaction.  
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.

what you 5 Q. You mentioned an evidence bag. Could you describe

6 did with the evidence bag?

agent who 7 A. I took it into the living room where the special

with 8 was doing the evidence log was sitting, and I sat down

were for 9 him; and we went through all the coins, listing them as  
10 carefully as we could, not really knowing what they

11 sure, so we could be explicit on the evidence bag.

got 12 Q. Now, if you could reach into the folder that you've

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?

Association. 21 A. It's a receipt from the Mid-Kansas Cooperative

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:

15 Q. And with respect to 250, the book: Is that in the  
same

16 condition now as when you first found it?

17 A. No. It also has tabs put in it and fingerprinting  
dust all

18 over it.

19 Q. With the exception of the fingerprinting processing  
and the

20 tabs, is it the same book that you recovered on April  
22, 1995?

21 A. Yes, it is.

22 MR. ORENSTEIN: Government offers 250, your  
Honor.

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."

15 Looks like "CANN/" either a G or A "RO/KAN, 10  
17/94 +  
16 12 17/94."

17 And on another line is "37." Directly on the  
same  
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."

21 Q. Did you see this page with the names Joe Kyle and  
Ted  
22 Parker when you recovered this item on April 22?

23 A. Yes.

24 MR. ORENSTEIN: Your Honor, the parties have  
entered  
25 into a stipulation about handwriting on this documents.

7286

Joanne Thomas - Redirect

1 THE COURT: Isn't another witness going to  
deal with  
2 this document?

3 MR. ORENSTEIN: Excuse me?

4 THE COURT: Isn't another witness going to  
deal with  
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 RE-CROSS-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.

up after 5 Q. And is this one of the records that the FBI picked  
6 the Oklahoma City bombing?

7 A. Yeah.

Exhibit 8 MR. RYAN: Your Honor, we would move to admit  
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.

and 17 Q. Was that on the card at the time that the FBI came  
18 picked it up?

19 A. No. It is not.

would you 20 Q. If you would, sir, starting with the word "name,"  
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

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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.)

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Withdrawn	2	Exhibit	Offered	Received	Refused	Reserved
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	21	1769-6	7262	7262		
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DEFENDANT'S EXHIBITS

Withdrawn

2

Exhibit

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Reserved

3

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D946

7204

7204

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D955

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F18

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REPORTERS' CERTIFICATE

transcript from

9

We certify that the foregoing is a correct

Dated

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the record of proceedings in the above-entitled matter.

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at Denver, Colorado, this 6th day of November, 1997.

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Paul Zuckerman

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Kara Spitler

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