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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)

7300

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3 District of Oklahoma, Assistant U.S. Attorney for the
Western
4 District of Oklahoma, 210 West Park Avenue, Suite 400,
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5 City, Oklahoma, 73102, appearing for the plaintiff.
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8 to the U.S. Attorney General, 1961 Stout Street, Suite
1200,
9 Denver, Colorado, 80294, appearing for the plaintiff.
10 MICHAEL TIGAR and RONALD WOODS, Attorneys at
Law, 1120
11 Lincoln Street, Suite 1308, Denver, Colorado, 80203,
appearing

12 for Defendant Nichols.

13 * * * * *

14 PROCEEDINGS

15 (Reconvened at 1:30 p.m.)

16 THE COURT: Be seated, please.

17 (Jury in at 1:30 p.m.)

18 THE COURT: All right. Next, please.

19 MR. MACKEY: Your Honor, the United States
would call

20 Tejal Bhakta, and Mr. Mearns will question her.

21 THE COURT: All right.

22 THE COURTROOM DEPUTY: Would you raise your
right

23 hand, please.

24 (Tejal Bhakta affirmed.)

25 THE COURTROOM DEPUTY: Have a seat, please.

7301

1 Would you state your full name.

2 THE WITNESS: Bhakta Tejal.

3 THE COURTROOM DEPUTY: Spell your last name,
please.

4 THE WITNESS: B-H-A-K-T-A.

5 THE COURTROOM DEPUTY: Thank you.

6 DIRECT EXAMINATION

7 BY MR. MEARNS:

8 Q. Good afternoon, Miss Bhakta.

9 A. Good afternoon.

10 Q. I'm going to ask you to keep your voice up so we
can all
11 hear you.

12 A. Okay.

13 Q. How old are you, ma'am?

14 A. 24.

15 Q. And where were you born?

16 A. India.

17 Q. And when did you come to live in the United States?

18 A. '86.

19 Q. 1986?

20 A. Uh-huh.

21 Q. Where do you live right now?

22 A. Corpus Christi, Texas.

23 Q. How long have you lived in Corpus Christi?

24 A. Two months.

25 Q. What do you do for work in Corpus Christi?

7302

Tejal Bhakta - Direct

1 A. I work at the Comfort Inn, managing the motel.

2 Q. Who owns that Comfort Inn in Corpus Christi where
you work?

3 A. My husband and me.

4 Q. What do you do there now?

5 A. Management.

6 Q. Where were you working in 1994?

7 A. Tucumcari, New Mexico.

8 Q. And what were you doing in Tucumcari?

9 A. Motel business, managing.

10 Q. What was the name of the motel that you managed?

11 A. Buckaroo Motel.

12 Q. When you worked there in 1994, were you familiar
with how

13 guests registered at that motel?

14 A. Yes.

15 Q. Could you describe that process for us?

16 A. The guests come in, and I -- walk in and I say,
"Hi, how
smoking

17 are you?" to the guest. And guest told me if they want

18 or non. And I give the card and guest fill out name
and

19 address, and I fill out the rest of the thing.

20 Q. And after the guest and you filled out that card,
was that

21 registration card then kept as a business record by the

motel?

22 A. Yes.

23 Q. What I'd like you to do, if you would look in that
folder

Exhibit 24 that is sitting in front of you and look for Government
25 86.

7303

Tejal Bhakta - Direct

1 Do you have that in front of you?

2 A. Yes.

3 Q. Do you recognize that document?

4 A. Yes.

5 Q. And what is it?

6 A. It's a registration card from the Buckaroo Motel.

7 Q. And how do you recognize that as a registration
card from

8 the Buckaroo Motel?

9 A. My handwriting and my initial.

10 Q. And was that registration card kept in the normal
course of

11 business by the Buckaroo Motel?

12 A. Yes.

Exhibit 13 MR. MEARNS: Your Honor, we'd offer Government

14 86.

15 MR. WOODS: No objection.

16 THE COURT: 86 received.

17 MR. MEARNS: Your Honor, may I publish it to
the jury?

18 THE COURT: Yes.

19 BY MR. MEARNS:

20 Q. Now, if you would, Miss Bhakta, tell us what the
21 information that we see on that guest registration
card.

22 A. The day, the name of the customer, the address.

23 Q. Okay. Could you tell me -- I'm sorry, let me ask
you
24 questions as you go. What is the name that the
customer gave
25 you?

7304

Tejal Bhakta - Direct

1 A. Joe Havens.

2 Q. Could you spell that last name?

3 A. H-A-V-E-N-S.

4 Q. And then who wrote that information there, the name
and the
5 street number and the city?

6 A. The customer.

7 Q. And then if you would go down to the bottom of the
8 registration record, below where it says, "Please pay
in
9 advance." What information did the customer write
there?

10 A. Make of car, license number, and the state.

11 Q. And who wrote the other information there?

12 A. I did.

13 Q. And can you tell us in the lower left-hand corner
what the
14 date is.

15 A. 10-25-94.

16 Q. That's October 25, 1994?

17 A. Uh-huh.

18 Q. Do you remember -- and who -- I'm sorry, whose
initial is
19 that over in the right-hand corner?

20 A. Yes.

21 Q. And that T is for Tejal?

22 A. Yes.

23 Q. Do you remember this individual, Joe Havens?

24 A. No.

25 MR. MEARNS: Your Honor, at this time we'd
like the

7305

Tejal Bhakta - Direct

1 Court to publish the stipulation that the handwriting
in the
2 name and address section was written by Mr. Terry
Nichols.

3 MR. WOODS: Yes, your Honor, that's our
stipulation,
4 that it's Mr. Nichols' handwriting.

5 THE COURT: All right. It is agreed, then,
what's
6 written beside name, street number, city, state, and
ZIP code
7 is his handwriting.

8 BY MR. MEARNS:

9 Q. Are you able to read the address and -- the street
address?

10 A. R2, Box 28 . . . I cannot read the city.

11 Q. And can you tell the initials next to the state?

12 A. Kansas.

13 Q. Now, if you would, if you would look in your folder
again

14 for Government Exhibit 226.

15 Do you have that in front of you?

16 A. Yes.

17 Q. And do you recognize that document?

18 A. Yes.

19 Q. How do you recognize that document?

20 A. This is a card from the Buckaroo Motel, and the
handwriting

21 is my brother.

22 Q. What is your brother's name?

23 A. Rakesh.

24 Q. Could you spell that?

25 A. R-A-K-E-S-H.

Tejal Bhakta - Direct

1 Q. And do you recognize that as a business record that
was
2 kept by the Buckaroo Motel?

3 A. Yes.

4 MR. MEARNS: Your Honor, we would offer
Government
5 Exhibit 226.

6 MR. WOODS: No objection.

7 THE COURT: Received, 226.

8 BY MR. MEARNS:

9 Q. Miss Bhakta, could you tell us which information
was
10 written by the guest.

11 A. The name, street number, city, and the state and
ZIP code.

12 Q. And what information was written by your brother?

13 A. Date, room number, rate, tax, amount, and the
initial.

14 Q. And could you read for us the name of the guest?

15 A. Tim McVeigh.

16 Q. And is that spelled M-C-V-E-I-G-H?

17 A. Uh-huh.

18 MR. MEARNS: No further questions, your Honor.

19 THE COURT: Mr. Woods, do you have any
questions?

20 MR. WOODS: Yes, your Honor, just a couple.

21 THE COURT: All right.

22 CROSS-EXAMINATION

23 BY MR. WOODS:

24 Q. Good afternoon.

25 A. Good afternoon.

7307

Tejal Bhakta - Cross

court to
motel is

1 Q. My name is Ron Woods. I've been appointed by the
2 help Terry Nichols. Can you tell the jury where your
3 located or was located then at that time in Tucumcari?
4 A. It's located on -- the New Mexico?
5 Q. Yes.
6 A. 1315 West Tucumcari Boulevard.
7 Q. Now, is that on the main thoroughfare?
8 A. Main --
9 Q. That goes through town?
10 A. Yes.
11 Q. And what main highway goes through there?
12 A. 40.
13 Q. Okay. That's Interstate 40?
14 A. Uh-huh.
15 Q. Okay. Now, this card that was in front of you

dated

16 December 13, are you able to tell what year that was?

17 A. '94.

18 Q. Okay. And then the other one that was dated
October 25 in

19 the name Joe Havens, are you able to tell what year
that was?

20 A. '94.

21 Q. So it's two months apart?

22 A. Yes.

23 MR. WOODS: Okay. Thank you very much.

24 MR. MEARNS: Your Honor, I just omitted one
thing. I

25 failed to mention that there was a stipulation with
respect to

7308

Tejal Bhakta – Cross

1 226 that the handwriting for the guest is Timothy
McVeigh.

2 MR. WOODS: Yes, your Honor, we would
stipulate that's

3 Mr. McVeigh's handwriting.

4 THE COURT: All right. Again, it's
stipulated,

5 meaning that it's agreed to.

6 MR. MEARNS: The witness may be excused.

7 THE COURT: Are you excusing this witness, I
take it?

8 MR. WOODS: Yes, your Honor.

excused.

9 THE COURT: You may step down. You're

10 Next witness, please.

Helen

11 MR. MACKEY: Thank you, your Honor. Miss

12 Mitchell. Mr. Ryan will question.

13 THE COURT: Okay.

please.

14 THE COURTROOM DEPUTY: Raise your right hand,

15 (Helen Mitchell affirmed.)

please.

16 THE COURTROOM DEPUTY: Would you have a seat,

and

17 Would you state your full name for the record

18 spell your last name.

L-L.

19 THE WITNESS: Helen May Mitchell, M-I-T-C-H-E-

20 THE COURTROOM DEPUTY: Thank you.

21 THE COURT: Mr. Ryan.

22 MR. RYAN: Thank you, your Honor.

23 DIRECT EXAMINATION

24 BY MR. RYAN:

25 Q. Good afternoon.

7309

Helen Mitchell - Direct

1 A. Good afternoon.

2 Q. How are you?

3 A. Just fine.

4 Q. You injured your foot since you've been here in
Denver this
5 week?

6 A. That's . . . morning before last.

7 THE COURT: In this building?

8 THE WITNESS: What did you say?

9 THE COURT: In this building?

10 THE WITNESS: No. Hotel.

11 MR. RYAN: Insurance company's already been
notified,
12 your Honor.

13 THE COURT: Thank you.

14 BY MR. RYAN:

15 Q. Mrs. Mitchell, where do you live?

16 A. Herington, Kansas.

17 Q. And are you married.

18 A. Yes. No, I'm a widow now.

19 Q. How long were you married?

20 A. I was married for about 42 years.

21 Q. Do you have children?

22 A. Yes.

23 Q. How many children?

24 A. Five children.

25 Q. Grandchildren?

Helen Mitchell - Direct

1 A. Seven grandchildren.

2 Q. I'm not supposed to ask this. How old are you?

3 A. 70.

4 Q. And what do you do for a living?

5 A. I'm a bookkeeper at the lumberyard.

6 Q. And would you tell us about that employment.

7 A. Well, the lumberyard belongs to my brother and his family.

8 It's a corporation, and I'm just the bookkeeper.

9 Q. Do you have any duties as the bookkeeper beyond that of the

10 lumberyard?

11 A. Well, I've been doing most of the recording of the mini

12 storage that my brother and his son own. It's separate from

13 the lumberyard.

14 Q. What are your duties in connection with the storage units?

15 A. Making out the contracts and receiving the money.

16 Q. What do you call that storage unit?

17 A. Herington Mini Storage.

18 Q. How long have you lived in the state of Kansas?

19 A. I lived in the state of Kansas? All my life. 70 years.

20 Q. Okay. Let me show you something that's already in
21 evidence. It's Exhibit 2045. And if you would -- you
have a
22 little marker there on the desk. If you would take
that and
23 press it against the screen below your desk there.
24 A. Underneath.
25 Q. And circle Herington for us.

7311

Helen Mitchell - Direct

1 A. Right -- oh, wait a minute. That won't go where
it's
2 supposed to.
3 Why don't that go where it's supposed to go?
4 Q. I think we've got the idea. That's all right.
5 A. I hit it that time.
6 Q. Okay. Thank you. And just by point of reference,
do you
7 see the name of Geary Lake there on the map?
8 A. Yes, I do.
9 Q. About how far is it from Herington to Geary Lake?
10 A. It's about 18, 20 miles, I think.
11 Q. What is the population of Herington?
12 A. Around 2600.
13 Q. And how long have you lived in Herington?

14 A. Since 1941. 46 years.
15 Q. Decided to settle down there?
16 A. I think so.
17 Q. I take it you're familiar with the town?
18 A. Yes, I am.
19 Q. Are you familiar with Tim's Amoco gas station?
20 A. Yes.
21 Q. You know where it is in Herington?
22 A. Yes.
23 Q. How about the Pizza Hut near Highway 77?
24 A. Yes.
25 Q. The Herington Industrial Park, are you familiar
with that?

7312

Helen Mitchell - Direct

1 A. Yes.
2 Q. And is one of the businesses of your brother there
at the
3 Herington Industrial Park?
4 A. Yes, that's where the mini storage is.
5 Q. And about how far is that from town, from the
center of
6 Herington?
7 A. From the center of Herington, probably about a mile
and a
8 half, maybe a mile and three-quarters.

9 Q. And are you familiar with 102 (sic) 2nd Street?

10 A. I know where it is, yes.

11 Q. Let me show you a map of Herington that has not
been

12 admitted into evidence, and it is Exhibit No. 97. You
see it

13 there on your screen?

14 A. Yes.

15 Q. Have you looked at this map prior to coming here to
court

16 today?

17 A. Yes.

18 Q. And it is -- is it an accurate map of Herington?

19 A. Yes, it is.

20 Q. And of the -- and of the four places designated on
the map?

21 A. Yes.

22 MR. RYAN: Your Honor, we would offer Exhibit
No. 97.

23 MR. WOODS: No objection.

24 THE COURT: 97 is received.

25 BY MR. RYAN:

7313

Helen Mitchell - Direct

1 Q. Now, if you would, Mrs. Mitchell, would you put a
circle --

2 there's a pretty good arrow there -- put a circle
around the

3 Terry Nichols residence at 1092nd Street.

4 A. Be about right in here. Where I ended it.

5 Q. And about how far is -- was Mr. Nichols' home from
the

6 Tim's Amoco gas station, about how many blocks?

7 A. About eight blocks.

8 Q. Six blocks to the west and two blocks north?

9 A. Right.

10 Q. All right. Now, if we could turn your attention
over there

11 to the storage sheds that you act as bookkeeper for.
About how

12 far are those storage sheds from the Pizza Hut there on
the

13 other side of the highway?

14 A. About a third of a mile.

15 Q. Now, let me show you what has been marked as
Exhibit No.

16 1951. It's not been admitted into evidence. And do
you

17 recognize that exhibit?

18 A. Yes, I do.

19 Q. And what is that?

20 A. That's Tim's Amoco station.

21 Q. Is that an accurate depiction of that Tim's Amoco?

22 A. Yes, it is.

23 MR. RYAN: Your Honor, we would offer Exhibit

1951.

24 MR. WOODS: No objection.

25 THE COURT: 1951 received.

7314

Helen Mitchell – Direct

1 BY MR. RYAN:

2 Q. Now, Mrs. Mitchell, are you familiar with the fact
that

3 there is a pay telephone there at Tim's Amoco?

4 A. Yes.

5 Q. And would you circle that pay telephone for us,
please.

6 Thank you. Now, let me show you another
exhibit that

7 has not been admitted into evidence, Exhibit No. 92.
Can you

8 see that pretty well?

9 A. Yes.

10 Q. What are we looking at here in Exhibit 92?

11 A. It's the industrial park.

12 Q. And do you recognize that as a true and accurate
photograph

13 of the aerial (sic) park taken from above?

14 A. Yes.

15 Q. Excuse me, the industrial park.

16 A. Yes.

92. 17 MR. RYAN: Your Honor, we would offer Exhibit

18 MR. WOODS: No objection.

19 THE COURT: Received, 92.

20 BY MR. RYAN:

21 Q. Mrs. Mitchell, you indicated that you perform some
22 bookkeeping business and signed leases for these
storage sheds.

23 Could you circle for the jury the location of the
storage sheds

24 in this photograph.

25 And you also indicated a moment earlier in
your

7315

Helen Mitchell - Direct

1 testimony that the Pizza Hut was about a third of a
mile from

2 the industrial park.

3 A. Right.

4 Q. Could you circle -- is the Pizza Hut shown here on
the map?

5 A. Yes, it is.

6 Q. Okay. Could you circle that for us.

7 Now, is there a pay telephone there at the
Pizza Hut?

8 A. Yes, there is.

9 MR. RYAN: Okay. Now -- that's all I need
that

10 exhibit for. Thank you.

11 BY MR. RYAN:

12 Q. Now, let's talk a little more specifically about
your

13 duties regarding the storage sheds. Tell us what your

14 responsibility is in terms of leasing those storage
sheds.

15 A. Well, they start out by asking them their name and
their

16 address; and usually we may only have one or two
available.

17 And if we do happen to have two available, ask how
large they

18 need, which unit they would need. And then just get

19 information as to their address and telephone number
and tell

20 them how much it is.

21 Q. And where do you office?

22 A. In the same as the lumberyard.

23 Q. In town?

24 A. Yes.

25 Q. So people, if they want to rent a shed there at the
storage

7316

Helen Mitchell - Direct

1 shed location, they have to come to the lumberyard?

2 A. Yes.

the
3 Q. Now, if you would, tell the jury a little bit about
4 storage sheds: How many different units are there at
5 Herington?
and we
6 A. Not too sure exact number, but it's in the 20's,
7 have different sizes.
8 Q. What are some of the different sizes you have?
9 A. The small -- we have four of them that are 7 1/2-
by-10 and
10 8-foot high. And then we have 10-by-10 and 10-by-20's,
and I
11 think there's even a 15-by-30.
12 Q. Do you have a formal standard lease agreement --
13 A. Yes, we do.
14 Q. -- that people sign?
15 A. Yes.
City,
16 Q. Let me ask you if after the bombing in Oklahoma
17 whether the FBI came by and picked up a number of the
leases
18 that you had copies of at your place of business?
19 A. They picked up one, yes.
20 Q. And do you recall that lease they picked up?
21 A. Yes.
not in
22 Q. Let me ask you to look at Exhibit No. 88, which is
23 evidence. And ask you if you can identify that lease.

24 A. Yes, that is the lease that I filled out for a
Shawn Rivers
25 on September the 22d, 1984 (sic).

7317

Helen Mitchell - Direct

No. 88. 1 MR. RYAN: Your Honor, we would offer Exhibit

2 MR. WOODS: No objection.

3 THE COURT: Received, 88.

4 BY MR. RYAN:

5 Q. My colleague tells me that you may have said the
lease was

6 in '84.

7 A. It's '94. I'm sorry, it is '94.

8 Q. Thank you.

9 A. I'm behind a few years. Sorry.

10 Q. That's all right. Now, let me see if I can get
this a

11 little closer. Nope.

12 MR. RYAN: Oh -- had it been admitted before I
show

13 her?

14 THE COURT: 88 has.

15 MR. RYAN: Make we have it on the screen,
please.

16 Here we go.

17 BY MR. RYAN:

this 18 Q. Now, Mrs. Mitchell, would you tell us the date of

19 lease?

20 A. September 22, 1994.

this 21 Q. And who did the person leasing the -- entering into

22 lease tell you they were?

23 A. What they wanted?

24 Q. No; who did they say they were?

25 A. Oh, Shawn Rivers.

7318

Helen Mitchell - Direct

1 Q. And is this your handwriting, or is the customer's?

2 A. No, this is mine.

you on 3 Q. What address did the customer, Shawn Rivers, give

4 September 22?

5 A. Route 3, Box 83, Marion, Kansas.

6 Q. And does it give a ZIP code there?

7 A. Oh. 66861.

Rivers? 8 Q. Now, which storage shed did you lease to Mr.

9 A. No. 2.

10 Q. And what was the monthly cost of --

11 A. \$20 a month.

12 Q. Excuse me?
13 A. \$20 a month.
14 Q. Now, do you know how many months Mr. Rivers leased
this
15 shed for?
16 A. At the time, he leased it for four months.
17 Q. So that would be from September 22 until when?
18 A. January 22.
19 Q. Now, let's look at the second page of this exhibit,
down at
20 the signature block. Do you see that?
21 A. Yes.
22 Q. And do you recognize this as being the bottom half
of the
23 second page?
24 A. Yes.
25 Q. Now, whose signature is that on the left?

7319

Helen Mitchell - Direct

1 A. That is mine on the left.
2 Q. And the signature on the right?
3 A. Is of Shawn Rivers.
4 Q. And did you watch Mr. Rivers sign the lease?
5 A. Yes, I did.
6 MR. RYAN: Your Honor, we would ask that the
Court

7 advise the jury of the stipulation with respect to the
8 signature of Mr. Rivers here on Exhibit 88.

9 MR. WOODS: Yes, your Honor, we stipulate
that's
10 Mr. McVeigh's signature.

11 THE COURT: All right.

12 Again, we accept these agreements without the
need for
13 other proof, so it's stipulated that's Mr. McVeigh who
wrote
14 that.

15 MR. RYAN: Thank you, your Honor.

16 BY MR. RYAN:

17 Q. Now, did Mr. McVeigh pay in cash?

18 A. Yes, he did.

19 Q. And how much cash did he give you at that time?

20 A. \$80.

21 Q. Now, the following month, in October, did this same
man
22 come in again?

23 A. Yes.

24 Q. And what was the purpose of his second visit?

25 A. He wanted to renew it for another four months.

1 Q. And how did that strike you?

2 A. A little unusual because --

3 Q. Why is that?

4 A. Normally they'll wait four months before they'll
pay
5 another four months. It was not that four months was
unusual;
6 it was just coming a month later.

7 Q. And how many months, again, did he renew it for?

8 A. For another four months.

9 Q. And did he pay in cash?

10 A. Yes, he did.

11 Q. And how much cash did he give you?

12 A. Another \$80.

13 Q. So now the lease is extended on Shed No. 2 through
what
14 date?

15 A. May 22, 1995.

16 Q. Now, did you generate any paperwork with respect to
this
17 renewal of the lease?

18 A. Yes, I did.

19 Q. Let me show you Exhibit No. 91. And can you
identify this
20 exhibit?

21 A. That's the receipt that I gave him at the time he
came in
22 to pay the other \$80.

No. 91. 23 MR. RYAN: Your Honor, we would offer Exhibit
24 MR. WOODS: No objection.
25 THE COURT: 91 received.

7321

Helen Mitchell - Direct

1 BY MR. RYAN:
2 Q. Now, again, for the benefit of the jury who is just
now
3 seeing the exhibit, tell us what this is.
4 A. This is a receipt that I gave to Shawn Rivers on
January --
5 on October 22, which extended it to May 22, 1995.
6 Q. Now, let me show you another exhibit that has not
been
7 introduced. This is Exhibit No. 90. Can you identify
that?
8 A. That's the recording that my brother made at the
time, the
9 first \$80, and then the second \$80.
10 Q. This is a business record you keep there in the
ordinary
11 course of your business?
12 A. That was his record, yes.
13 MR. RYAN: Your Honor, we would offer Exhibit
No. 90.
14 MR. WOODS: No objection.
15 THE COURT: 90 received.

16 BY MR. RYAN:

17 Q. And again, explain for us, Mrs. Mitchell, what this
exhibit
18 portrays.

19 A. Well, the top part showing the contract was dated
20 September 22, 1994, paying for four months, till
January 22;

21 and then on the bottom, extending from January 22 to
May 22,
22 the other \$80.

23 Q. Now, this record simply reflects the times and
dates of
24 payments --

25 A. Yes.

7322

Helen Mitchell - Direct

1 Q. -- on this lease by Mr. Rivers?

2 A. Yes.

3 Q. Now, let me show you a picture which we have marked
as
4 Exhibit No. 93. Can you identify that for us?

5 A. Yes, I can. It's an aerial view of the mini
storage from
6 the west.

7 Q. And is it an accurate depiction of the mini
storage?

8 A. Yes, it is.

93. 9 MR. RYAN: Your Honor, we would offer Exhibit

10 MR. WOODS: No objection.

11 THE COURT: 93 received.

12 BY MR. RYAN:

13 Q. Now, Mrs. Mitchell, can you identify where Shed No.
2 is on

14 this photograph?

15 A. Well, it's on the back side. You can't see the
door from

16 this view.

17 Q. Could you put an arrow showing us approximately
where it

18 would be?

19 A. Right in there.

20 Q. Maybe we have a better photograph I can show you
here in a

21 second.

22 Let me ask you to look at Exhibit No. 94. Do
you see

23 that?

24 A. Yes.

25 Q. What is that?

7323

Helen Mitchell - Direct

1 A. That's the east side of the mini storage showing
the four

2 small units.

94.

3 MR. RYAN: Your Honor, we would offer Exhibit

4 MR. WOODS: No objection.

5 THE COURT: Received.

6 BY MR. RYAN:

for us

7 Q. Now, Mrs. Mitchell, if you would, can you identify

8 where Shed No. 2 is located in this photograph.

9 A. Right -- oh, I'm sorry.

10 Q. It's the second door there from the left?

11 A. Yes.

12 Q. And how -- what is the size of this shed?

13 A. It's 7 1/2-by-10-by-8.

14 Q. It's 7 1/2 feet --

15 A. Wide.

16 Q. -- wide.

17 A. 10 foot deep.

18 Q. 10 foot deep, and how high --

19 A. 8 foot high.

is

20 Q. 8 foot tall. And let me -- finally my last exhibit

that for

21 Exhibit No. 96, and let me ask you if you can identify

22 us.

23 A. That's the empty No. 2 unit.

24 MR. RYAN: Your Honor, we move to offer

Exhibit No.

25 96.

7324

Helen Mitchell - Direct

1 MR. WOODS: No objection.

2 THE COURT: Received, 96.

3 BY MR. RYAN:

4 Q. And again, if you would, Mrs. Mitchell, tell the
jury what

5 they're looking at.

6 A. The open door to No. 2.

7 Q. At this time it's empty?

8 A. Yes.

9 Q. This is after the Oklahoma City bombing occurs --

10 A. Yes.

11 Q. -- is when this photograph was taken?

12 A. Yes, sir.

13 MR. RYAN: No further questions, your Honor.

14 MR. WOODS: Can we leave that picture up,
please?

15 MR. RYAN: Sure.

16 MR. WOODS: Thanks.

17 Mr. Ryan, do you want to take your machine.

18 MR. RYAN: You want that?

19 MR. WOODS: No, just that picture.

20

CROSS-EXAMINATION

21 BY MR. WOODS:

22 Q. Hi, Mrs. Mitchell. My name is Ron Woods. I'm one
of the
23 lawyers that's been appointed to help Terry Nichols. I
want to
24 thank you, you and your brother, Mr. Mueller, for
answering our
25 questions when we went out to talk to y'all about this
unit.

7325

Helen Mitchell - Cross

1 This unit that was rented by a Shawn Rivers
that's

2 pictured now, 7 1/2 feet wide; is that correct?

3 A. Yes, I'm quite sure that's what it is.

4 Q. And you've advised us that that door is only 3 feet
wide;

5 is that correct?

6 A. I don't know. I never measured it.

7 Q. Okay. You recall telling our investigator that the
door

8 was 3 feet wide?

9 A. I may have.

10 Q. Okay. Okay. Do you know of any physical way that
a

11 4-foot-by-4-foot cube could fit into that door?

12 A. I wouldn't think so.

13 Q. Okay. Now, on that date, September 22 of '94, was
a

14 Thursday. Were you present that following week, which
would be

15 like the 29th and 30th? You office there in the lumber
16 company; is that correct?

17 A. Yes.

18 Q. And the storage units are away from there?

19 A. Yes.

20 Q. Did you happen to go by those storage units on the
weekend?

21 A. No.

22 Q. That following weekend?

23 A. No.

24 Q. Didn't see anybody moving some household furniture
in

25 there?

7326

Helen Mitchell - Cross

1 A. No.

2 Q. Did you ever look inside that unit while it was
rented?

3 A. I never have, no.

4 Q. Okay. Can you tell the jury what that floor is,
what type

5 of material?

6 A. It's a concrete floor.

7 Q. Okay. And those walls, front, back, and side, what
kind of
8 material is that?

9 A. That's wafer board.

10 Q. And what do you mean by wafer board since you're in
the
11 lumberyard business?

12 A. It's the larger chips of wood glued together,
instead of
13 plywood, it's small chips.

14 Q. It's not real smooth, I take it, like laminated, I
take it?

15 A. Not real smooth, no. But it can be varnished.

16 MR. WOODS: Okay. Thank you so much, Mrs.
Mitchell,
17 we appreciate it.

18 THE COURT: Anything else, Mr. Ryan?

19 MR. RYAN: One question, your Honor.

20 THE COURT: All right.

21 REDIRECT EXAMINATION

22 BY MR. RYAN:

23 Q. Mrs. Mitchell, that doorway there to Shed No. 2 is
wide

24 enough for somebody to walk through --

25 A. Oh, yes.

Helen Mitchell - Redirect

1 Q. -- with sacks of feed or fertilizer?

2 A. Definitely.

3 MR. RYAN: Thank you.

4 She may be excused, your Honor.

5 THE COURT: May she be excused?

6 MR. WOODS: May be excused.

7 THE COURT: You may step down; you're excused.

8 Next witness.

9 MR. MACKEY: Thank you, your Honor, we'll call
Sharri
10 Furman, and Mr. Mearns will question her.

11 THE COURTROOM DEPUTY: Raise your right hand,
please.

12 (Sharri Furman affirmed.)

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

14 Would you state your full name for the record
and
15 spell your last name.

16 THE WITNESS: Sharri Deanne Furman, F-U-R-M-A-
N.

17 THE COURTROOM DEPUTY: Thank you.

18 DIRECT EXAMINATION

19 BY MR. MEARNS:

20 Q. Good afternoon, Miss Furman.

21 A. Good afternoon.

- 22 Q. Where do you live?
23 A. I reside in Brush, Colorado.
24 Q. And how long have you lived in Colorado?
25 A. Since the end of February.

7328

Sharri Furman – Direct

- 1 Q. Where did you live before February 1997?
2 A. At Council Grove, Kansas.
3 Q. How long did you live in Kansas before moving to
Colorado?
4 A. I was born and raised there.
5 Q. Are you married?
6 A. Yes.
7 Q. Do you have any children?
8 A. Three.
9 Q. Where do you work right now?
10 A. I work as a manager in a variety store there in
Brush.
11 Q. How long have you worked at that store?
12 A. Since the end of February.
13 Q. What's the name of the store where you work?
14 A. Duckwall's.
15 Q. Did you work for Duckwall's before you moved to
Colorado?
16 A. Yes, for a short period of time.

17 Q. When did you first start working for Duckwall's?

18 A. It was the end of September, '96.

19 Q. And was that in Kansas?

20 A. Yes.

21 Q. Was that in Council Grove, Kansas?

22 A. Yes.

23 Q. What did you do before working for Duckwall's?

24 A. I worked for Vernon Hager, doing bookkeeping and

25 maintaining records and stuff for him.

7329

Sharri Furman – Direct

1 Q. And where was that?

2 A. It was in Council Grove.

3 Q. At that time did Mr. Hager own and operate any
businesses?

4 A. Yes. He had convenience store, Conoco deli shop,
and he

5 also owned Boots U-Store-It.

6 Q. Where does the name Boots come from?

7 A. It was a nickname given to him a long time ago.

8 Q. And you indicated that the gas station was a Conoco
gas

9 station?

10 A. Yes.

11 Q. Where was the deli shop located in relation to the

gas

12 station?

13 A. The deli shop was the gas station. And it was
located on

14 Main Street.

15 Q. Where did you work, actually, physically?

16 A. He had an office in his home, in the basement, and
that's

17 where I worked.

18 Q. And where was Mr. Hager's home in relation to these
two

19 businesses?

20 A. It was in residential district, and it was 314
Washington

21 in Council Grove.

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

23 evidence as Government Exhibit 2045. And do you
recognize that

24 as a map of central Kansas?

25 A. Yes.

7330

Sharri Furman – Direct

1 Q. Could you circle on that map where Council Grove
is.

2 And back in 1994 and 1995, that's where you
lived and

3 worked?

4 A. Yes.

5 Q. When did you first start working for Mr. Hager?

6 A. '89. 1989.

7 Q. And you worked for Mr. Hager from then, 1989, up
until
8 1996?

9 A. Yes.

10 Q. And tell us a little bit more about what you
actually did
11 for Mr. Hager.

12 A. I did bookkeeping. I maintained the records and
stuff for
13 the storage units. I did billing and stuff for the
deli shop.

14 I did billing and stuff for the storage, too. I did
banking,

15 if Mr. Hager was out of town. Answered phones. Just
general
16 office work.

17 Q. With respect to the storage facilities, did you
also lease

18 storage facilities, meet with customers to lease
storage
19 facilities?

20 A. Yes.

21 Q. What I'd like to do is there's a folder in front of
you.

22 If you'd look for Government Exhibits 100, 101, 102,
103, 104,

23 and 105.

24 Do you have those in front of you?

25 A. Uh-huh.

7331

Sharri Furman - Direct

1 Q. Have you seen those photographs before coming to
court?

2 A. Yes.

3 Q. What are they, generally speaking?

4 A. Some of them are shots of the storage unit, and
there is

5 two aerials of Council Grove.

6 Q. Do those fairly and accurately depict the storage
facility

7 both from the air and the ground in 1994 and 1995?

8 A. Yes.

9 MR. MEARNS: Your Honor, we'd offered 100
through 105.

10 MR. WOODS: No objection.

11 THE COURT: They're received.

12 BY MR. MEARNS:

13 Q. Miss Furman, I'd like to begin first with 101.

14 A. Okay.

15 Q. And describe for us, then, if you would; as you
describe

16 it, there's an electronic pen there.

17 A. Uh-huh.

18 Q. Do you see the storage facilities --

19 A. Yes, I do.

20 Q. -- Boots U-Store-It? Could you put a circle around
the
21 storage facility.

22 And what is the road running just to the right
of the
23 storage facility?

24 A. That's 177, Highway 177.

25 Q. And you go up in the picture, which direction is
that?

7332

Sharri Furman - Direct

1 A. South.

2 Q. So we're facing south?

3 A. Uh-huh.

4 Q. What is then up at the top of the picture, the far
south
5 part of the picture?

6 A. That's Highway 56 runs up through here, and that's
the
7 downtown.

8 Q. Could you put a circle around downtown Council
Grove.

9 And that's the intersection of what two
highways
10 again?

11 A. U.S. 56 and 177.

12 Q. What's located to the north of the storage
facility; that

13 is, if we could look farther to the bottom of that
picture?

14 A. It's out of town. You head towards Manhattan. You
head

15 towards farms, nothing.

16 Q. Now, if we could show you Government Exhibit 100.
If you

17 would clear the pen, if you click it. There you go.

18 Do you see the storage facility there?

19 A. Yes.

20 Q. Could you put a circle around there for us.

21 And where's the town of Council Grove in this
picture?

22 A. It's down here.

23 Q. So essentially we're looking north now in another
aerial

24 photograph?

25 A. Correct.

7333

Sharri Furman – Direct

1 Q. Now, if you were heading from the storage facility
there

2 north of Council Grove back south towards Council
Grove, where

3 would you find the first public pay telephone?

4 A. It's at the Coastal Mart which is right here.

5 Q. Right there at the intersection of those two
highways?

6 A. Right, uh-huh.

7 Q. If you'd look in the folder for Government Exhibit
106.

8 A. Okay.

9 Q. Do you have that?

10 A. Uh-huh.

11 Q. Did you recognize that photograph?

12 A. Yes.

13 Q. What is that?

14 A. That is the Coastal Mart in Council Grove.

15 Q. Does that fairly and accurately show the Coastal
Mart in
16 1994 and 1995?

17 A. Yes.

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

19 Exhibit 105 and 106.

20 MR. WOODS: No objection.

21 THE COURT: Received.

22 BY MR. MEARNS:

23 Q. A moment ago you told us about the pay phone at the
Coastal

24 Mart. Do you see it in the photograph?

25 A. Yes.

7334

Sharri Furman - Direct

1 Q. Could you put a circle with your pen around the pay
phone

2 that you were just describing.

3 Thank you, Miss Furman.

4 Now, if we could turn back to Exhibit 102,
102.

5 Describe for the jury what is depicted in that
photograph.

6 A. Okay. That's a picture of the storage units as
we're

7 looking at them from the highway.

8 Q. So we're looking east across the highway towards
them?

9 A. Yes.

10 Q. How many storage units are there in Boots U-Store-
It?

11 A. 47.

12 Q. And what are the range of sizes?

13 A. All the way from a 10-by-5 to a 10-by-26 -- 24.
10-by-24.

14 Q. Where is Mr. Hager's Conoco station and the deli
shop in

15 relation to this storage facility?

16 A. It's south into town, and when you get to the
intersection,

17 you take a left.

18 Q. You said there are 47 units in the storage
facility?
19 A. Yes.
20 Q. How many different units or buildings are those 47
units?
21 A. Two. I mean three.
22 Q. Now, if we can look at Exhibit 103, please. Tell
us what
23 we see in that picture.
24 A. Okay. Now we're standing back on the hill behind
the
25 storage units and looking across towards the highway.

7335

Sharri Furman - Direct

1 Q. And can you show us with your light pen the -- the
three
2 buildings, excuse me, that you mentioned.
3 A. Actually, there's four.
4 Q. Okay.
5 A. Sorry. Here's one. Here's two. Three, four.
6 Q. And you said -- is the photograph that we're seeing
now
7 taken on top of a hill?
8 A. Yes.
9 Q. How steep is that hill in relation to where the
storage
10 facilities are?

walk up. 11 A. It's -- you'd have to climb it. You couldn't just

12 It's pretty steep.

13 Q. And the road we see in the background just behind
the

14 storage facility, that's Highway 177?

15 A. Uh-huh.

16 Q. Now, what kind of storage facility business is it;
that is,

17 what kind of customers rent storage units?

18 A. We had all sorts of customers. We had just the
average

19 citizen. We had some businessmen that would rent every
once in

20 a while. Just depending. Whoever needed it.

21 Q. What were your responsibilities with respect to the
storage

22 facility business?

23 A. I had it all set up on a computer system. Each
unit had

24 its own file. If the unit was rented, I had the names
and the

25 date that they rented it and that kind of stuff all in
the

7336

Sharri Furman - Direct

1 computer file. I would go out and always try to meet
my

want to 2 customer. We had a contract or a lease -- whatever you
just 3 call it -- that I filled out. Took rental payments,
4 whatever needed to be done.

contracts 5 Q. Did you accept rental payments for the actual
6 that you signed with the renters?

7 A. Yes.

collect rental 8 Q. Was it also part of your responsibilities to
you 9 payments for the other storage units, not the ones that
10 personally rented?

11 A. Oh, yeah.

that you 12 Q. What did you do with those, the rental payments
13 would collect?

facility, 14 A. I usually -- if I collected them out here at the

had a 15 I usually always just took them back to the office. We
there was 16 little place that we kept money there, you know. If
around. 17 quite a bit, I would bank it. If Mr. Hager wasn't

18 Q. By "bank," meaning you'd deposit the money?

19 A. Deposit, uh-huh.

rental 20 Q. Did you maintain a computer file for each of the
21 units?

22 A. Yes, I had one for each unit.
23 Q. And what kind of information did you keep in that
computer
24 file?
25 A. Well, whatever I had: Name, address, sometimes a
phone

7337

Sharri Furman - Direct

1 number. That would be about -- how much each unit was,
you
2 know, as far as per-month rental.

3 Q. What the rental fee was?

4 A. Was, uh-huh.

5 Q. Did you keep track of when the rental payments came
in?

6 A. Not exact dates, always, but pretty close.

7 Q. And did you -- how did you organize the computer
files?

8 A. Each unit had its own -- I had file numbered 1
through 47.

9 And so if -- whoever was in that unit at the time,
their name

10 was on there. When they left, their name came out and
somebody

11 else would go in, so . . .

12 Q. Were rental agreements signed between Boots U-
Store-It and

13 a customer for each rental?

14 A. No.

signed? 15 Q. Under what circumstances were agreements not

16 A. If it wasn't handled by me, there was a good
possibility.

17 Boots didn't always go out and have a contract signed
or

18 anything. I usually always tried to, though.

19 Q. Did you always personally -- that is, in person --
receive

20 the monthly rental payments from the customers?

21 A. No.

22 Q. How else would you or Boots U-Store-It receive
rental

23 payments?

24 A. Of course by mail. Some of our customers were out
of town.

25 Also he allowed his customers to pay at the Conoco deli
shop.

7338

Sharri Furman - Direct

1 Q. When a payment was -- when a rental payment was
made at the

2 Conoco gas station, at the deli shop, was any paperwork
3 created?

4 A. Yes, the Conoco had credit card slips that whoever
was

5 working at the time would fill out, usually with name

and a

6 unit number and the amount that they received.

7 Q. What happened to that record, that document at that
point?

8 A. At the end of the day, when all the Conoco business
was

9 sent to the house or to the office, it would come with
that, to

10 the house.

11 Q. Back to you, then, in the office?

12 A. Uh-huh.

13 Q. What did you do with those documents?

14 A. We usually had them stashed somewhere around the
office.

15 We weren't real organized.

16 Q. Okay. But you kept all of those records?

17 A. Most all of them. Not always.

18 Q. In 1994, were rental payments due on any particular
day of

19 the month?

20 A. If you rented the unit on a certain day, that's
when it was

21 due. So if you went and rented a unit on like the
10th, when

22 we initially got the payment on the 10th, then you
would be due

23 again the 10th of the following month.

24 Q. So there was no one set date for all customers?

25 A. Not in '94, no.

7339

Sharri Furman - Direct

1 Q. So I take it, then, that you were receiving rental
payments

2 for the different units on all different days of the
month?

3 A. Yes.

4 Q. Was it possible for a customer to pay monthly
rental for

5 several months in advance?

6 A. Sure.

7 Q. You said that if Mr. Hager sometimes rented the
unit, that

8 there was no contract; is that right?

9 A. Yes.

10 Q. Tell us how those rentals would take place, then.

11 A. Almost everyone called us at the house because -- I
mean we

12 weren't in a prominent place. So if someone called
over the

13 phone, Mr. Hager always knew what unit was available.
So he

14 would just usually ask the person what size they
wanted, and he

15 could tell them if we had one or not. And he'd send
them out

16 there, let them know how much it was. And then they
could pay

17 at the deli shop, and he would never have them sign a

contract

18 or anything.

19 Q. If there was no rental agreement, did you still
maintain a

20 computer file?

21 A. Yes. He usually always got a name, an address for
me to

22 put in the file.

23 Q. He would give you that information?

24 A. Uh-huh.

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

7340

Sharri Furman - Direct

1 October 1994. Based upon your review of the records
from Boots

2 U-Store-It, did someone beginning renting a unit in
October of

3 1994?

4 A. Yes.

5 Q. What was the customer's name?

6 A. Joe Kyle.

7 Q. And what shed or unit number did Joe Kyle rent?

8 A. He rented No. 40.

9 Q. And did you open and prepare a computer file for
that

10 rental?

11 A. Yes.

12 Q. Tell us what you did.

13 A. I got the name from -- it was either on my desk or
14 whatever, and I put -- I opened up Unit No. 40, my card
file,
15 and put in the name. And I believe I had an address
and stuff
16 for him, also.

17 Q. Was there a rental agreement signed for that
rental?

18 A. No.

19 Q. What was the amount of the monthly rent for that
unit?

20 A. That unit was \$30 a month.

21 Q. And what happened to the initial rental payment?

22 A. It was deposited in the bank.

23 Q. Before coming to court, have you been able to
determine the
24 rental history for Unit 40 to this Joe Kyle?

25 A. Yes.

7341

Sharri Furman - Direct

1 Q. How did you do that?

2 A. I just went through our records that we had as far
as
3 deposits and the receipts and stuff that we had and
determined

4 how many months it was.

5 Q. What I'd like you to do is to look into the folder
that you

6 have for Government's Exhibits 107, 107A, 108, 109,
111, 111A,

7 and 112.

8 A. Okay.

9 Q. Got them all.

10 Do you recognize those documents?

11 A. Yes.

12 Q. Have you reviewed them prior to coming to court?

13 A. Yes.

14 Q. What do you recognize them to be?

15 A. Some of them are deposit tickets for the bank, and
others

16 are receipts that we received from over at the Conoco
station

17 where payments were made.

18 Q. And are those all business records that relate to
the

19 rental by Joe Kyle of Unit No. 40?

20 A. Yes.

21 MR. MEARNS: Your Honor, we would offer 107,
107A,

22 108, 109, 109A, 111, 111A, and 112.

23 MR. WOODS: No objection.

24 THE COURT: They are received.

25 BY MR. MEARNS:

7342

Sharri Furman - Direct

legible 1 Q. And just so the record is clear, 107A is a more
2 copy of 107.

3 A. Just a moment.

along. 4 Q. I'm sorry, I should have done that as we went

5 A. Yes.

6 Q. And 111A is also then a more legible copy of 111?

7 A. Yes.

114. 8 Q. If you would now look at -- for Government Exhibit

9 A. Okay.

10 Q. And do you recognize that?

11 A. Yes.

12 Q. What is that?

It's a 13 A. This is a record that came off of our computer.

14 printout of one of our screens that we had.

Joe 15 Q. And is that a printout of the rental record for the

16 Kyle rental of Unit 40?

17 A. Yes, it is.

Government 18 MR. MEARNS: Your Honor, we would offer

19 Exhibit 114.

20 MR. WOODS: No objection.

21 THE COURT: 114's received.

22 BY MR. MEARNS:

23 Q. Miss Furman, if we could begin with 107. Why don't
we
24 publish 107A, since that's the more legible copy. And
tell the
25 jury what this is, please.

7343

Sharri Furman - Direct

1 A. This is one of the receipts that we got from the
Conoco
2 station when a payment was made over there.

3 Q. Okay. Beginning with the handwritten information
there at
4 the top, what does that say there?

5 A. It says, "Joe Kyle, Unit 40." We have the date,
which
6 is --

7 Q. What is the date that's handwritten there?

8 A. 10-17-94.

9 Q. And what is the information over on the lower
right-hand
10 side?

11 A. That's the amount that they received, \$30.

12 Q. Was it common practice for the employees at the

Conoco gas

13 station to have the person making the payment sign the
receipt

14 acknowledging the payment of the rent?

15 A. Some did, some didn't.

16 Q. In this case, was it signed?

17 A. Yes, it was.

18 Q. And referring then to the lower left-hand corner,
is that

19 where the individual signed it?

20 A. Yes.

21 MR. MEARNS: Your Honor, at this time I'd like
the

22 Court to publish a stipulation that the handwriting in
the

23 lower left-hand corner where it says "customer
signature" was

24 written by Mr. Terry Nichols.

25 MR. WOODS: Yes, your Honor. That's our
stipulation.

7344

Sharri Furman - Direct

1 THE COURT: All right. And so we accept that
2 agreement as the true fact.

3 MR. MEARNS: Thank you.

4 BY MR. MEARNS:

5 Q. Miss Furman, now turn to 108.

6 A. Okay.

7 Q. And tell the jury what that is.

8 A. This is a deposit slip that we used for the storage
units.

9 Q. And you have the original there.

10 A. Uh-huh.

11 Q. If you could turn it over to the back side, I
believe.

12 A. Okay.

13 Q. And what does it reveal there on line 6?

14 A. Line 6, "J. Kyle." Unit No. was 40, \$30. The "C"
15 represents that it was cash.

16 Q. Okay. And that's the deposit slip for the previous
rental

17 payment we looked at just a moment ago, 107?

18 A. Yes.

19 MR. MEARNS: If we could publish 111A, please.

20 BY MR. MEARNS:

21 Q. And what is that?

22 A. That's another ticket that was come from the deli
shop, the

23 Conoco station.

24 Q. And again, at the upper left-hand corner it
indicates that

25 it was the Joe Kyle rental, Unit 40?

1 A. Uh-huh.

2 Q. And what is the date of the payment on that?

3 A. February 9, 1995.

4 Q. And the lower left-hand portion of the document,
there is a

5 signature for Joe Kyle; correct?

6 A. Uh-huh.

7 Q. Is that the signature of the customer?

8 A. Yes.

9 MR. MEARNS: Your Honor, again, there's a
stipulation

10 with respect to the handwriting of the customer's
signature;

11 that it's written by Mr. Terry Nichols.

12 MR. WOODS: Yes, your Honor. That's our
agreement.

13 THE COURT: So that the words "Joe Kyle" there
were

14 written by Mr. Nichols.

15 BY MR. MEARNS:

16 Q. Finally with respect to this, if we could turn to
114. And

17 if you could explain to the Court and the jury what --

18 A. This is our computer printout. This is the file
that I

19 kept in '94 of each unit. I had one on each unit, and
this one

20 was No. 40.

entry 21 Q. And in the lower right-hand corner, there is an
right? 22 there. I think it says "LST," last payment. Is that
23 A. Uh-huh.
24 Q. And what's the date that's written there?
25 A. 3-15-95.

7346

Sharri Furman - Direct

way 1 Q. At some point in 1995, was there a change in the
2 that -- when rental payments became due?
3 A. Yes, we did. We got a new computer system. And we
did 4 some prorating on some of the customers, depending on
what time 5 of the year -- time of year; excuse me -- time of the
month 6 that they had rented on. And we tried to do everything
from 7 the 1st to the 10th, so we had some fluctuation there
at the 8 first of the year.
9 Q. And at that point, did there become a date within
each 10 month when all rental payments were due for all
customers? 11 A. Yes.

12 Q. What date did that become?
13 A. The 1st.
14 Q. What does this reflect? What does this information
reflect
15 in terms of the date being March 15, '95? How long was
this
16 Unit 40 paid through for Joe Kyle? That is, when did
the
17 rental expire?
18 A. The 1st of April.
19 Q. Now, I would like to turn your attention to
November 7,
20 1994.
21 A. Uh-huh.
22 Q. Did you personally receive a phone call about
another
23 possible rental on that day, November 7?
24 A. Yes, I did.
25 Q. Where were you when you got the call?

7347

Sharri Furman - Direct

1 A. I was in the office.
2 Q. Where was your office located?
3 A. It was at 314 North Washington.
4 Q. Was the caller a man, or a woman?
5 A. A man.

6 Q. Did he identify himself?

7 A. I believe that he did, but I don't remember.

8 Q. What did this man say?

9 A. He was interested in a storage unit.

10 Q. What did you say?

11 A. I told him that we had some available, you know,
and I

12 don't remember my exact conversation; but we set up a
time, and

13 I met him at the units.

14 Q. When was the time that you arranged in relation to
the time

15 that you received the call?

16 A. I went out as soon as I got my contract and hung up
the

17 phone and could get out there.

18 Q. Was there any reason that you went out right away?

19 A. The customer was from out of town, and he was just
going to

20 be there for a while, so . . .

21 Q. And did you in fact go out there that same day?

22 A. Yes.

23 Q. Tell us what happened when you arrived.

24 A. Somebody was already waiting on me; I assumed, you
know,

25 that's who I spoke with. I pulled up to where he was
parked,

Sharri Furman - Direct

1 and we started filling out a contract.

2 Q. Did you speak to him before you started filling out
the

3 contract?

4 A. I'm sure I did.

5 Q. Okay. And did he identify himself at that point?

6 A. I'm not sure at that particular point -- I'm sure
he did

7 say he was who called me.

8 Q. During the telephone conversations, did you give
this man

9 directions to the storage facilities?

10 A. No. He knew where they were at.

11 Q. Describe the man you met that day.

12 A. He was about 5' 9", probably 6-foot. He had brown
hair,

13 but not real dark, wore glasses.

14 Q. If that man were in the courtroom today, would you
be able

15 to identify him?

16 A. I think so.

17 Q. Could you take a look around the courtroom and see
if you

18 can tell us the man you saw that day.

19 A. Yes.

20 Q. Do you see the man?

21 A. Yes.

22 Q. Could you point out where he's seated and what he's
23 wearing?

24 A. He's setting (sic) over here at the table. He's
got on a
25 blue jacket with a blue, looks like, shirt and a white
T-shirt.

7349

Sharri Furman - Direct

1 MR. WOODS: Your Honor, we stipulate the
2 identification. It's never been contested.

3 THE COURT: All right. Thank you.

4 BY MR. MEARNS:

5 Q. When you arrived at the storage facilities, did you
have a
6 conversation with Mr. Nichols?

7 A. I'm sure I did.

8 Q. Did he tell you what kind of storage unit he was
looking
9 for?

10 A. I don't remember if we discussed size or anything,
really.

11 We pretty much had some picked out, so I would say we
knew what
12 we were looking for.

13 Q. And did you identify any units that were available?

14 A. Yeah.

15 Q. How many available units did you identify?
16 A. I believe we had two on that end at the time.
17 Q. When you say "on that end," what are you referring
to?
18 A. Well, when I got there, he was clear to the back
side of
19 the units, which was where the units were.
20 Q. Well, let's look at Government Exhibit 105, which
is in
21 evidence. I think it will come up on the screen in one
moment.
22 What do we see in that picture?
23 A. This is the east end of one of the buildings.
24 Q. What's behind us to the right?
25 A. That's the propane company.

7350

Sharri Furman - Direct

1 Q. Okay. Well, but directly behind this area of the
storage
2 facility.
3 A. That's more storage. And that big hill that we
talked
4 about earlier.
5 Q. So this is the back side of the facility?
6 A. Right.
7 Q. And when you arrived, Mr. Nichols was already in
this area

8 of the storage facility?

9 A. Uh-huh.

10 Q. Did Mr. Nichols inspect the unit that day?

11 A. Yes. I believe we looked at both 36 and 37.

12 Q. And did you prepare a rental agreement that day?

13 A. Yes.

14 Q. Tell us about that procedure.

15 A. It's just a contract that states the speculations
or

16 restrictions of the units and stuff; and at the top
there's a

17 place to put the name and address, phone number,
different

18 information like that. And we filled the top of it
out.

19 Q. If you would look in your file there for Government
Exhibit

20 113.

21 A. Okay.

22 Q. Do you recognize that?

23 A. Yes.

24 Q. And what is that?

25 A. This is the contract that we did.

7351

Sharri Furman - Direct

1 Q. And was that record created and then maintained by

Boots

2 U-Store-It?

3 A. Most of the time.

4 Q. But was this particular --

5 A. This one was, yes.

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

7 Exhibit 113.

8 MR. WOODS: No objection.

9 THE COURT: 113 received.

10 BY MR. MEARNS:

11 Q. Can you tell what information is there, is
reflected at the

12 top? The handwritten information, please.

13 A. Okay. I wrote in the unit number, which was 37;
who it was

14 to, Ted Parker; an address, 3616 North Van Dyke,
Decker,

15 Michigan, and the ZIP code. Then there's a phone
number, and I

16 also wrote in the date that we did the lease and the
possible

17 termination.

18 Q. Where did you get the name "Ted Parker" and the
address

19 that's written there?

20 A. From the man that I rented it to.

21 Q. From Mr. Nichols gave you that --

22 A. Yes.

23 Q. And the monthly rental was \$30 there?

24 A. Yes.

25 Q. And that's the date, November 7, 1994?

7352

Sharri Furman - Direct

1 A. Uh-huh.

2 Q. Did you ask Mr. Nichols to sign the agreement?

3 A. Yes.

4 Q. And did he?

5 A. Yes.

6 Q. Did he use the same pen that you had used to fill
out this
7 information?

8 A. Yes.

9 Q. And if we could focus, then, down at the bottom of
the
10 agreement. Is that the signature in the lower right-
hand

11 corner?

12 A. Yes.

13 MR. MEARNS: Your Honor, there's a stipulation
that
14 the handwriting, signature in the lower left-hand side,
is the
15 signature of Mr. Terry Nichols.

16 MR. WOODS: Yes. That is our stipulation.

that 17 THE COURT: All right. Once again, we accept
18 agreement.
19 BY MR. MEARNS:
20 Q. Did Mr. Nichols give you any money that day?
21 A. Yes, he did.
22 Q. How much money did he give you?
23 A. \$90.
24 Q. What did you do with that money?
25 A. I took it back to the office.

7353

Sharri Furman - Direct

1 Q. So with the \$30 -- How long --
2 A. That would be three months.
3 Q. If you would look at Exhibit 110.
4 A. Okay.
5 Q. And what is that?
6 A. This is a deposit ticket.
then 7 Q. And was that a deposit ticket that was created and
8 kept in the normal course of business?
9 A. Yes, it is.
10 MR. MEARNS: Your Honor, we would offer 110.
11 MR. WOODS: No objection.

12 THE COURT: Received, 110.

13 BY MR. MEARNS:

14 Q. And if we could flip over -- well, I'm sorry. If
we could

15 go on the front side. What is the date of this deposit
ticket?

16 A. This one is 2-3-95.

17 Q. Okay, now if we could flip over to the back. So
that's

18 February 3, 1995?

19 A. Right.

20 Q. Is there a deposit reflected there for an
additional

21 payment by Ted Parker for Unit 37?

22 A. Yes.

23 Q. What line is that?

24 A. 6.

25 Q. And that is an additional three months' rent?

7354

Sharri Furman - Direct

1 A. Uh-huh.

2 Q. So if that additional rent came in in the early
part of

3 February, how long would that extend the rental of Unit
37?

4 A. To the first part of May.

5 Q. I want to direct your attention back to your

initial

6 meeting with Mr. Nichols on November 7. Did you see
what kind 7 of vehicle he was driving?

8 A. Yes, I did.

9 Q. Could you describe that for us?

10 A. It was a blue pickup, and it had a white camper
shell or 11 topper on the back of it.

12 Q. I'd like to have you look at what is in evidence as
13 Government Exhibit 51.

14 Is that the pickup Mr. Nichols was driving
that day?

15 A. Looks like it, yes.

16 Q. How long were you with Mr. Nichols on November 7,
1994?

17 A. Maybe 15 minutes.

18 Q. During the 15 minutes or so that you were with him,
did he

19 ever tell you that he'd rented another unit at your
facility 20 under the name of Joe Kyle?

21 A. No.

22 Q. Did he ever tell you that his true name was Terry
Nichols?

23 A. No.

24 MR. MEARNS: No further questions.

25 THE COURT: Mr. Woods.

Sharri Furman - Direct

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

2 CROSS-EXAMINATION

3 BY MR. WOODS:

4 Q. Good afternoon, Miss Furman. My name is Ron Woods.
I've
5 been appointed to help Terry Nichols in this case.

6 I want to thank you for talking with our
investigators
7 when they went over there to Council Groves and Boots
Hager
8 about the rental and you provided copies of the records
for us.

9 I had just a couple of questions on these
records that
10 we've just gone over. On the first unit, which was No.
40 in
11 the name of Joe Kyle --

12 A. Uh-huh.

13 Q. -- you mentioned that there was a time when you
switched
14 over on the computer records and credit was given to
the
15 rentals because you were trying to line up all the
dates for
16 the 1st of the month; is that correct?

17 A. Yes.

18 Q. Did you send out any notice of that to the renters;

that

19 that's what you had done, is credited the time?

20 A. For some of them, yes, we did. It kind of depended
on what

21 time of the month that they had rented the unit.

22 Q. Okay. Now, you're aware that Mr. Nichols moved out
of the

23 units there in March '95, when he bought his house in
24 Herington?

25 A. I am not real sure when they moved out, no.

7356

Sharri Furman - Cross

1 Q. Okay. Did y'all go by and check the units, see
when

2 they're vacant so that you could rent them?

3 A. Mr. Hager usually always knew, yes.

4 Q. Okay. Okay. So the record that you showed as to
March 15,

5 '95, a payment of \$30: Did you actually have a record
that

6 reflects you received \$30 on March 15, '95?

7 A. I'm not real sure.

8 Q. This is for Unit 40 in the name of Ted Kyle -- Joe
Kyle?

9 A. I'm not real sure if we have one that was dated in
March or

10 not. The records weren't always keepen (sic).

11 Q. Right. And you've been very kind in pointing out
that this
12 was sort of a haphazard thing and it wasn't -- I mean
it's not
13 the biggest business venture --

14 A. Right.

15 Q. -- that you need to keep exact records for.

16 A. Right.

17 Q. But was Boots Hager aware that Mr. Nichols was
moving out
18 in mid March, '95?

19 MR. MEARNS: Objection.

20 THE COURT: Sustained.

21 BY MR. WOODS:

22 Q. If you know.

23 MR. MEARNS: Objection.

24 THE COURT: Well, I don't know how she could
know what
25 another person was aware of.

7357

Sharri Furman - Cross

1 MR. WOODS: Okay.

2 BY MR. WOODS:

3 Q. Did Mr. Hager ever tell you that Unit 40 was now
available
4 for rental in mid March of '95?

it. 5 A. I'm assuming, that, yes, he did, because we cleared

what do 6 Q. So the fact that -- when you say you cleared it,

7 you mean by that? Could you explain it?

8 A. We showed that the unit was empty.

was 9 Q. Okay. And did anybody ever go by and inspect what

10 inside the units?

11 A. No, we did not.

units 12 Q. Did Mr. Nichols tell you what he was putting in the

13 when he rented them?

14 A. No, he did not.

locker 15 Q. As to the size of No. 40, can you tell us what size

16 that was?

17 A. Yes. That was a 10-by-5.

18 Q. And what is the floor material made of?

19 A. They are cement.

20 Q. And the walls?

21 A. They're just metal buildings.

metal or 22 Q. And is there 2-by-4 there on the floor that the

23 the tin is fastened to?

24 A. I'm sorry. I do not know that.

it? 25 Q. Okay. What about Unit No. 37: What's the size of

Sharri Furman – Cross

1 A. It's also a 10-by-5.

2 Q. And these are metal doors that slide up like that?

3 A. Yes, they were.

4 Q. And you saw -- when did you leave Council Grove?

5 A. I moved to Colorado the end of February of '97.

6 Q. Okay. You saw those units shortly after May '95
when the

7 FBI came to inspect them?

8 A. Yes.

9 Q. You see all that black fingerprint powder all over
the

10 walls and doors?

11 A. Yes.

12 Q. That stayed there quite a while, didn't it?

13 A. I can't tell you.

14 Q. It was over there several months later, wasn't it?

15 A. Yes.

16 Q. When we came over?

17 Now, both units had cement floors, to your
knowledge;

18 is that correct?

19 A. Yes, they did.

20 Q. And the walls were metal?

21 A. Yes.

22 Q. Is that sort of a sheet metal, like a tin almost?

23 A. Yeah. It's the ripple kind.

24 Q. Right. Okay. And then it had wooden frames inside
to

25 hold --

7359

Sharri Furman – Cross

1 A. There again, I'm not sure.

2 MR. WOODS: Okay. Okay. Thank you so much.
We

3 appreciate it.

4 THE COURT: Anything else of this witness?

5 MR. MEARNS: No, your Honor. She may be
excused.

6 MR. WOODS: She may be excused, your Honor.

7 THE COURT: You may step down. You're
excused.

8 Next.

9 MR. MACKEY: We call at this time Mr.
Frederick

10 Schlender.

11 THE COURT: Thank you.

12 THE COURTROOM DEPUTY: Raise your right hand,
please.

13 (Frederick Schlender affirmed.)

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

15 THE WITNESS: Okay.

16 THE COURTROOM DEPUTY: Would you state your
full name
17 for the record and spell your last name.

18 THE WITNESS: It's Frederick Allen Schlender,
Jr. The
19 last name is S-C-H-L-E-N-D-E-R.

20 THE COURTROOM DEPUTY: Thank you.

21 DIRECT EXAMINATION

22 BY MR. MEARNS:

23 Q. Good afternoon, Mr. Schlender.

24 A. Good afternoon.

25 Q. Where do you live?

7360

Frederick Schlender - Direct

1 A. I live in Burden, Kansas.

2 Q. Where is Burden, Kansas?

3 A. Burden, Kansas, is halfway between Hutchinson and
Newton,
4 Kansas, just northwest of Wichita.

5 Q. How long have you lived in that area of Kansas?

6 A. I've lived there all my life, except for the four
years of
7 college that I attended.

8 Q. Where did you go to college?

9 A. I attended college at McPherson, Kansas. McPherson
10 College.
11 Q. Did you graduate from McPherson College?
12 A. Yes, I did.
13 Q. When did you graduate?
14 A. I graduated in 1980.
15 Q. And are you married, sir?
16 A. Yes, I am.
17 Q. Do you have any children?
18 A. I do have.
19 Q. How many children do you have?
20 A. I have one daughter.
21 Q. How old is your girl?
22 A. My daughter is nine years old.
23 Q. Where do you work?
24 A. Right now, I'm self-employed on our family farm.
25 Q. How long have you been working on your family farm?

7361

Frederick Schlender – Direct

1 A. It's been since the first of August of this year.
2 Q. The first of August of 1997?
3 A. 1997; correct.
4 Q. Where is your farm located?
5 A. The farm is located at Burden, Kansas.

6 Q. Where did you work before August of 1997?

7 A. I worked for Mid-Kansas Co-op in McPherson, Kansas.

8 Q. When did you start working for the Mid-Kansas Co-op?

9 A. Started working there in May of 1979.

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

11 A. Mid-Kansas Co-op is a cooperative that is farmer-owned that

12 handles ag products for producers and also consumers' products

13 for consumers within the communities we service.

14 Q. And what was your position at the co-op when you resigned

15 in August of '97?

16 A. I was the location manager there.

17 Q. For what location?

18 A. At McPherson.

19 Q. I'd like you to take a look at what's been introduced into

20 evidence as Government Exhibit 2045.

21 And could you show us on that map approximately where

22 Burden, Kansas, is, where you live and now farm.

23 A. Burden, Kansas, is right there.

24 Q. Okay. Just a little northwest of Wichita?

25 A. That's correct.

Frederick Schlender - Direct

1 Q. How far north and west of Wichita is it?

2 A. It's approximately 40 miles.

3 Q. And you worked in McPherson?

4 A. That is correct.

5 Q. Could you put a circle around McPherson there on
the map.

6 A. That thing doesn't line up on the -- there it is.

7 Q. About there. Thank you.

8 Q. When you were working at the Mid-Kansas Co-op,
how

9 many branches of co-op were there?

10 A. When I was working there, I believe there's 19
branches of

11 our co-op.

12 Q. And they're all located there, roughly speaking, in
central

13 Kansas?

14 A. That's correct.

15 Q. What were your duties and responsibilities when you
were

16 the location manager or branch manager?

17 A. I was in charge of the operations of the McPherson
location

18 there, involved all the elevators and the service
station and

19 the ag products.

20 Q. When you say "ag products," what do you mean?

21 A. Ag products would be fertilizer, chemicals that are
22 involved in the production.

23 Q. What other kind of products did you sell to
customers?

24 A. Also had consumer products there: lawn, garden
products;

25 had feed; TBA products, which is tires, batteries,
accessories,

7363

Frederick Schlender – Direct

1 oils, things of that nature.

2 Q. Did you provide services to your customers?

3 A. Yes, we did.

4 Q. What kind of customers came into the McPherson
branch of

5 the Mid-Kansas Co-op?

6 A. We had a mixed type of customers. We had quite a
bit of

7 consumer traffic out of our community plus the farmer
traffic

8 that came into our store.

9 Q. What's the difference between consumer traffic and
your

10 farmer customer?

11 A. Farm customers are the larger-volume customers that
come

12 and buy fertilizer and chemicals and oil products or
fuels and

13 things of that nature. And consumers are those who
come in for
14 the dog foods, lawn-and-garden fertilizer, lawn-and-
garden
15 chemicals.
16 Q. What were your -- what kinds of things did you do
on a
17 day-to-day basis?
18 A. Day-to-day basis, as I said before, I oversaw the
19 operations of our McPherson location. And then also I
dealt
20 with the public quite often there in the store.
21 Q. You would actually deal with customers and do
transactions?
22 A. That is correct.
23 Q. Did you also have any role in custom fertilizer
24 applications?
25 A. I did. I did a lot of the sign-up work. That's
what I

7364

Frederick Schlender - Direct

1 started at when I started in '79 with Mid-Kansas Co-op,
was the
2 custom applicator, and I still stayed with that a
little bit.
3 Q. When you say "a little bit," what do you mean?
4 A. Oh, I would run in the evenings and sometimes days
when I

5 had the employees gone.

6 Q. What were the hours that the co-op was open for
business in
7 1994?

8 A. Co-op business hours were 7:30 in the morning to
5:30 in
9 the evening. And that was Monday through Friday. And
then on
10 Saturday, 7:30 till noon.

11 Q. And what were your hours?

12 A. Most of the time, I would be there between 5 and 6
in the
13 morning and go till 7:30, 8:00 at night.

14 Q. How many employees, besides you, were working in
the
15 McPherson branch in the fall of 1994?

16 A. At the McPherson west location there, in my office,
there
17 was four employees there.

18 Q. And who were those four employees?

19 A. Okay. Besides myself, it was Jerry Showalter,
Donna
20 Schaefer and Tony Hazelton.

21 Q. So there were four including yourself?

22 A. Right. Excuse me.

23 Q. There were times during the day, in the fall of
1994 --

24 were there times during the day when the -- when your
branch

25 was more busy than other times?

7365

Frederick Schlender - Direct

1 A. There's times usually first in the morning and
toward the
2 latter part of the day when we ran into the consumer
market,
3 when they got off work and people would stop off at our
store
4 there.

5 Q. Describe, if you would, the physical layout of the
6 McPherson branch.

7 A. The physical layout of our store, where we had our
display
8 area, is the north building that faced the roadway; and
that
9 had display area where we had feed and lawn-and-garden
products
10 and dog food and things of that nature. And also had
office
11 area.

12 In the back of that, we had a bay area,
service work
13 on cars and trucks and that.

14 Directly south of that building, the other
building
15 that faced the road, was our warehouse, which also had
bulk
16 fertilizer storage in back of it.

17 Beyond that, we had liquid-fertilizer storage
to the
18 northwest of our main building and also ammonia storage
behind
19 our warehouse and fertilizer storage.

20 Q. If you would take a look in the folder that sits in
front
21 of you for Government's Exhibits 64, 65, 66, 67, and
68.

22 Do you have those in front of you?

23 A. Okay. All five of them; right.

24 Q. Have you had an opportunity to look at those
photographs
25 before coming to court today?

7366

Frederick Schlender – Direct

1 A. Yes, I have.

2 Q. Are those accurate pictures of how the McPherson
branch
3 looked in the fall of 1994?

4 A. Yes, it was. Yes, they are, I should say.

5 MR. MEARNS: Your Honor, we'd offer Exhibits
64
6 through 68, inclusive.

7 MR. WOODS: No objection.

8 THE COURT: They are received.

9 MR. MEARNS: Your Honor, and with the Court's

10 permission, I'd like to publish first Exhibit 64.

11 THE COURT: All right.

12 BY MR. MEARNS:

13 Q. And using your light pen there, if you could tell
us what

14 we see. If you could click there once so you clear it.

15 A. Okay.

16 Q. Describe, then, quickly the buildings that you see
there.

17 A. Buildings as I described earlier -- the one I'm
putting the

18 X on is the -- our display area, office area, our bay
area for

19 car service.

20 Directly to the south of -- or to the left of
that is

21 the warehouse area where we stored products on pallets,
mainly

22 softener salt and fertilizer products such as that.

23 Q. What are the large tanks that we see directly
behind that?

24 A. These that I've put an X on back here are ammonia
storage

25 tanks that we filled the smaller tanks which I'm going
to X

7367

Frederick Schlender - Direct

1 right now, in the two areas.

that 2 Q. And is that a liquid, or a gas that's contained in

3 tank?

it's a 4 A. Under pressure, that is a liquid. When released,

5 gas.

6 Q. And what do you do with that for your customers?

for a 7 A. That is a product that they inject into the ground

8 nitrogen source.

9 Q. It's a fertilizer?

10 A. It's a fertilizer; correct.

11 Q. Now, if you would turn to 65.

12 And if you'd clear the pen there.

13 What do we see in that picture?

the 14 A. That is our display area and office area and where

15 service bay is in the back of that.

front? 16 Q. And is that the customer parking there directly in

17 A. That is correct.

on a 18 Q. Is that the main building that customers come into

19 regular basis?

20 A. That is the first building that they would come to;
21 correct.

the left 22 Q. Let's turn to 66, please. What do we see there on

23 side?

24 A. On the left side of the open doorway is the
warehouse area

25 where we stored pallets.

7368

Frederick Schlender - Direct

1 Q. That's the larger building that we saw on the left
side of

2 the aerial photograph?

3 A. Right.

4 Q. And that's the customer building on the right?

5 A. On the right.

6 Q. And now 67, please. What is that?

7 A. That is inside the warehouse area where -- the
storage

8 area.

9 Q. And finally, 68. What is that?

10 A. That is the -- our display area. The view we have
there is

11 looking out from the office area, looking to the front
of the

12 building.

13 Q. And is that the counter where transactions are
conducted?

14 A. That is the counter where transactions are
conducted;

15 correct.

16 Q. And the angle of this photograph is from where the
17 employees would be standing looking out to where the
customers
18 would be standing. Is that correct?

19 A. That's correct.

20 Q. Thank you. I want to direct your attention now to
a
21 specific transaction in the fall of 1994. Were you
working at
22 the co-op then?

23 A. In the fall of 1994; correct.

24 Q. Do you recall ever selling 2,000 pounds of ammonium
nitrate
25 fertilizer to a man who identified himself as Mike
Havens?

7369

Frederick Schlender - Direct

1 A. Yes, I do.

2 Q. What do you recall about how that transaction
started?

3 A. Individual came into our office area and display
area there

4 and came across; and I was behind the counter, as
viewed this

5 Exhibit No. 68, and greeted him there. And asked how I
6 could -- what I could do for him.

7 He asked for a ton of ammonium nitrate.

8 Q. What did you say in response?

9 A. At that time I grabbed a ticket to proceed with the
10 transaction and started talking with the individual,
asked him
11 what he was using the product for.

12 Q. And did he respond at all?

13 A. Yes. He responded by -- said he was planting
wheat.

14 Q. Did he say what he was going to do with the
ammonium
15 nitrate in connection with planting wheat?

16 A. He was using it to fertilize the wheat when he was
planting
17 the wheat.

18 Q. Did he describe how he was going to use the
fertilizer when
19 he planted the wheat?

20 A. He was going to put it on with a drill when he was
planting
21 the wheat. A mechanism on the drill.

22 Q. Explain how that would work.

23 A. There was a -- as I described, in the back on the
drill
24 itself, there's a compartment where the fertilizer goes
in, and
25 there are types of settings there so you adjust the
setting to

7370

Frederick Schlender - Direct

seed. 1 fertilizer going on and distribute it as you plant the

2 Q. So the primary purpose of the drill is to cut a
hole in the

3 ground and plant the seed?

4 A. That's correct.

5 Q. And at the same time you can also apply fertilizer?

6 A. That's correct.

7 Q. What did you say to the customer when he indicated
that's

8 what he intended to use the fertilizer for?

9 A. I talked a little with him about an alternative
source that

10 would have been cheaper source for him, called urea
source, and

11 that would have been in bulk; and he said he couldn't
handle a

12 bulk product, he needed to be in bag.

13 Q. What do you mean -- what's the difference between
bulk and

14 in the bag?

15 A. Bulk would have to have been hauled in some type of
16 container that would control the -- you know, from
blowing out

17 or falling out on the road, of that nature.

18 Q. Did this man say where he was planting the wheat?

19 A. He said he was planting it in the Durham area.

20 Q. Where is Durham in relation to McPherson?

21 A. Durham is northeast of McPherson. It's

approximately

22 25 miles.

23 Q. What did you say to -- back to the customer when he
told

24 you that he needed it in the bags, as opposed to in
bulk?

25 A. At that time proceeded to write the transaction,
write the

7371

Frederick Schlender - Direct

1 ticket, put down the forty 50-pound bags of ammonium
nitrate.

2 Q. When you say "a ticket," what are you referring to?

3 A. That's the counter ticket that we use on all
transactions

4 that we do at our counter area there that's displayed
in the

5 No. 68 there.

6 Q. Let me show you what's in evidence as Government's
Exhibit

7 72.

8 Is that a blank ticket or receipt of the type
that you

9 were just referring to?

10 A. That's correct.

11 Q. Tell us, then, what happened in connection with
this

12 transaction.

forty 13 A. As I said, we -- I proceeded to write down the
that 14 50-pound bags of the ammonium nitrate fertilizer and at
a 15 time with the person asking about -- saying that he was
16 farmer, proceeded to ask him his name because of future
he became 17 purposes for the cooperative being a farmer-owned, if
eligible for 18 a patron -- or a stockholder later on, he would be
19 the dividend from this purchase there.

Co-op? 20 Q. Are there members or stockholders in the Mid-Kansas

owners 21 A. Yes, there are. We had approximately 2,000 member
22 of our cooperative.

the 23 Q. Let me show you what has been marked in evidence as
24 Government Exhibit 75. I believe you have the copy in
25 folder there.

7372

Frederick Schlender - Direct

1 A. Okay.

2 Q. What is that?

we have 3 A. That is the yellow copy of the counter ticket that
location 4 viewed earlier. That is the copy that is kept at our

5 for our records.

6 Q. And is that the actual yellow copy of the receipt
that you
7 prepared that day with this customer?

8 A. Yes, it is.

9 Q. Do you recognize the handwriting on the document?

10 A. Yes, I do.

11 Q. Whose handwriting is that?

12 A. That is mine.

13 Q. And could you describe for us the information
that's

14 reflected on that receipt, the handwritten information
that's
15 reflected on the receipt?

16 A. Okay. At the top of the patron account number is a
10.

17 That's asking the patron if he was a member of our
cooperative,

18 and he said he wasn't. I proceeded to put a 10 there.

19 Q. And that 10 signifies the customer is not a member?

20 A. Not a member.

21 Q. What is the date, then, that is reflected to the
right?

22 A. The date is 10-18-94.

23 Q. That's October --

24 A. October 18, 94; correct.

25 Q. The next entry?

Frederick Schlender - Direct

- 1 A. The next entry is the name, Mike Havens.
- 2 Q. And where did you get the information to put there?
- 3 A. I asked the individual for his name.
- 4 Q. And what did he say?
- 5 A. He told me "Mike Havens."
- 6 Q. What's the next information that's reflected there?
- 7 A. The "sold by" is initials, RS, which would be my
initials.
- 8 Q. Okay. Continue there to the right.
- 9 A. To the right of that is the type of transaction,
which is
- 10 circled "cash."
- 11 Q. And did the customer indicate that was the way he
was going
- 12 to pay for the trans -- the purchase?
- 13 A. That's correct.
- 14 Q. And continuing down below that, then?
- 15 A. Then I put down the "40," and there's a slash in
between
- 16 the 50-pound, which indicates 50-pound bags of 34-0-0,
which is
- 17 the ammonium nitrate fertilizer.
- 18 Q. And what's, then, indicated to the right there?
- 19 A. That's price column, is 5.40. And then extended
out from

20 the 40 tons -- 40 is \$216, for a total.

21 Q. How long had you worked at this branch of the co-
op?

22 A. At this time, that would have been approximately 16
years.

23 Q. By that time, did you come to know some of your
regular

24 customers?

25 A. Knew the regular customers well, yes.

7374

Frederick Schlender - Direct

1 Q. Did you recognize this man who identified himself
as Mike

2 Havens?

3 A. No, I did not.

4 Q. In the fall of 1994, did you have other customers
that

5 purchased ammonium nitrate fertilizer like this?

6 A. Yes, we did. Primarily in the lawn-and-garden
area, for

7 fertility purposes there.

8 Q. I'm sorry. For?

9 A. For fertility purposes for the lawn and garden.

10 Q. For fertilizing grass?

11 A. Fertilizing grass, mainly.

12 Q. Was there ever a time that it was common to use
ammonium

Havens 13 nitrate, prills, to fertilize wheat like this man Mike

14 was?

15 A. Yes, there was.

16 Q. When was that?

17 A. The most recent time would have been in the 70's.

18 Q. If we could look back at that receipt for a moment.

19 The receipt reflects down there in the lower
20 right-hand corner that you charged sales tax; is that
correct?

21 A. That is correct.

22 Q. Did you have a conversation with this man about
sales tax

23 that day?

24 A. Yes, I did. Farmer input, which he designated that
he was

25 using that, to plant wheat, are not sales taxed. If he
wanted

7375

Frederick Schlender - Direct

1 to sign an exemption, he did not have to pay sales tax.

2 Q. Did you explain that to the customer that day?

3 A. Yes, I did.

4 Q. Did he respond in any way?

5 A. He responded by saying that he would rather pay the
sales

6 tax.

7 Q. You have, I assume in other transactions, filled
out those
8 tax-exemption certificates?
9 A. Yes, I have.
10 Q. How long does it take to fill out one of those tax-
11 exemption certificates?
12 A. A matter of seconds, 30 seconds.
13 Q. Does a customer need to sign the tax-exemption
certificate?
14 A. Yes, he does.
15 Q. When you sell a product, do you require the
customer to
16 sign your receipt or your ticket?
17 A. Not with a cash transaction.
18 Q. Who loaded the fertilizer for this customer on
October 18,
19 1994?
20 A. I loaded the fertilizer for this customer.
21 Q. How was it packaged?
22 A. It was packaged -- the forty 50-pound bags are
packaged on
23 a 4-by-4 wooden pallet, and it has a shrink-wrap around
it to
24 contain the bags together.
25 Q. And where did your co-op store it that day on
October 18?

Frederick Schlender - Direct

office 1 A. That was stored in the warehouse south of the main
2 area.

3 Q. After you completed this -- the receipt for the
4 transaction, what did you do with the copies of the
receipt?

5 A. The copies of the receipt, the original white copy,
which
6 is the top copy, and the yellow copy stay there at the
office.

7 The pink copy or the third copy is given to the
customer.

8 Q. Did you do that that day?

9 A. I did.

10 Q. What happened next?

11 A. I did then ask the -- excuse me -- the individual
to back
12 over to our warehouse area so we could proceed in
loading the
13 pallet.

14 Q. When you asked the customer to do that, did he ask
you
15 where he was supposed to go?

16 A. No, he did not. He pretty well indicated he knew
where
17 that was.

18 Q. Let me show you again Government Exhibit 64.

19 Can you show us on that photograph with your
light pen

20 where you directed the customer to go.

21 A. Directed him to back over in front of the
warehouse, which

22 is right here.

23 Q. And at that time, the pallet of fertilizer was
contained in

24 that warehouse?

25 A. That's correct.

7377

Frederick Schlender - Direct

1 Q. What happened next?

2 A. After I proceeded to ask him to do that, I went to
the back

3 of our tire-service area, car-service area, to get a
forklift

4 to load the pallet of ammonium nitrate.

5 Q. What did you do?

6 A. I then drove it over to the warehouse, where I
proceeded to

7 get the pallet and brought it out to load.

8 Q. And did you load the fertilizer that day?

9 A. Yes, I did.

10 Q. Now, while you were inside the customer area, did
you have

11 an opportunity to look at this person?

12 A. Yes, I did.

13 Q. About how long were you with this man inside that
building?

14 A. 5 minutes, approximately that long.

15 Q. How was the lighting inside the building that day?

16 A. The lighting in our building is a fluorescent
lighting

17 inside the building.

18 Q. Would you describe it well lit, poorly lit?

19 A. Well lit.

20 Q. And how long did you have an opportunity to look at
this

21 man when you were outside, when you were loading the

22 fertilizer?

23 A. Loading, it would have taken about 2 minutes to do
that.

24 Q. Did you have an opportunity to look at him then?

25 A. Yes, I did.

7378

Frederick Schlender - Direct

1 Q. What time of day was this transaction?

2 A. This transaction happened in the 12 to 1:30 range,
middle

3 of the day.

4 Q. And what was the lighting outside like?

5 A. Sunlight that day.

6 Q. Describe the man who identified himself as Mike
Havens.

7 approximately

A. The individual was a white male, I would say

8 slight build.

35, 40 years of age, around 5' 8" to 6-foot tall,

9 I'd say 165 to 175 pounds.

10 Q. Do you recall the color of his hair?

11 A. Hair color would have been a light brown, short
hair but

12 not a crew cut, but light brown in color.

13 Q. Did this customer have any facial hair, beard,
mustache?

14 A. No, he did not.

15 Q. How was -- how was the customer dressed?

16 A. Customer was dressed in normal dress for coming
into our

17 store; would have had jeans, shirt. I believe that day
he had

18 a coat on.

19 Q. And did he speak with any accent?

20 A. No accent.

21 Q. Was the customer talkative?

22 A. Not real talkative, but he did answer questions
when I

23 directed them to him.

24 Q. On October 18, '94, did you have an opportunity to
see what

25 kind of vehicle this customer was driving?

Frederick Schlender - Direct

1 A. Yes, I did.

2 Q. What kind of vehicle was it?

3 A. It was a dark-colored pickup with a light-colored
topper.

4 Q. What do you mean by a topper?

5 A. Topper is a cab-height extended -- that goes across
the top
6 of the bed clear to the end of the truck.

7 Q. Do you recall approximately how old the pickup
truck was?

8 A. I believe it was in the late 70's time frame.

9 Q. Were there any windows in the light-colored topper?

10 A. Yes, there were, I believe, there was windows in
the
11 topper.

12 Q. Were they clear?

13 A. They were clear enough to see through, but they had
some
14 type of sun retardant on them.

15 Q. On October 18, '94, did you load the pallet, the 1
ton of
16 ammonium nitrate, into the bed of the pickup truck?

17 A. No, I did not.

18 Q. Where did you load the fertilizer?

19 A. Loaded it into a trailer that the pickup was
pulling.

20 Q. What color was the trailer?

21 A. Trailer was red.
22 Q. Do you recall anything else about the trailer?
23 A. It was a pickup-style trailer, as described a
pickup-bed
between
the bed
24 trailer as a pickup where you cut the -- behind the cab
25 the bed, they cut that off and then attach a hitch so

7380

Frederick Schlender - Direct

1 of the truck can be used for hauling purposes.
2 Q. Do you recall any other features about the trailer?
3 A. I believe there was a -- it was -- I would say a
1960's
type
4 Ford-type trailer, pickup trailer. And it had white-
5 lettering on the end gate.
6 Q. What was the condition of the trailer?
7 A. The trailer was in good condition.
8 Q. When you loaded the fertilizer, where was the
customer?
9 A. The customer was standing to my left, or on the
driver's
10 side of the trailer.
11 Q. Was he assisting you in any way?
12 A. When I was loading it, he was just watching.
13 Q. Did he let down the end gate for you?

14 A. He did let the end gate down for me; correct.

15 Q. And that's when you loaded the pallet of fertilizer
onto

16 the trailer?

17 A. That's correct.

18 Q. Was the trailer capable of holding that 1 ton of
19 fertilizer?

20 A. Yes, it was. Very comfortably.

21 Q. What was the condition of the trailer?

22 A. Trailer was in real good condition. There was no
rust that

23 I can remember. And nothing cut off on the back side.

24 Q. Was there any -- was there anyone else present
while you

25 were loading the fertilizer besides the customer?

7381

Frederick Schlender - Direct

1 A. At the time I loaded the pallet of ammonium
nitrate, a

2 passenger exited the truck and watched the loading
proceedings.

3 Q. Can you describe for us the passenger?

4 A. I briefly saw the passenger out of the corner of my
eye.

5 He was in the 6-foot range. Had brownish-colored hair,
was a

6 white male.

7 Q. Did you see about how tall he was?

8 A. In the 6-foot range, sir.

9 Q. One other question before we move on to another
topic. Do

10 you recall what the wheels looked like on the trailer?

11 A. The trailer -- the wheels were on the outside of
the bed

12 with some type of a fender covering the wheels.

13 Q. Had you ever seen this customer, this man who
identified

14 himself as Mike Havens, had you ever seen him prior to

15 October 18, 1994?

16 A. I had seen him at one occasion before that.

17 Q. When?

18 A. That would have been the September 30 of 1994.

19 Q. And where?

20 A. That was at the same location as I was loading the
pallet

21 on the October 18 transaction.

22 Q. And did this man purchase anything else on -- or
anything

23 on September 30?

24 A. At that time he purchased a ton of ammonium
nitrate. On

25 September 30.

Frederick Schlender - Direct

1 Q. And what was your role in that transaction?

I

2 A. At that time I loaded the pallet, much the same as

3 described on the October 18.

4 Q. Who handled the transaction?

5 A. That September 30, Jerry Showalter handled the
transaction.

been

6 Q. At this time, I'd like you to take a look at what's

please.

7 introduced in evidence as Government Exhibit 73,

8 A. That's 64.

9 Q. Do you have 73 in front of you?

you

10 There we got it. Thank you. I'm sorry. Do

11 recognize that exhibit?

12 A. Yes, I do.

13 Q. What is that?

14 A. That is a ticket from our location which is the

15 September 30 transaction.

just

16 Q. That's the receipt for the loading that you were

17 talking about a moment ago?

18 A. That's correct.

on

19 Q. What did Havens -- what did Mike Havens look like

20 September 30?

21 A. Same as I described on the October 18.

22 Q. Did he have any facial hair at all?

23 A. None that I recall.

24 Q. What kind of conversation, if any, did you have
with this
25 customer on September 30?

7383

Frederick Schlender - Direct

1 A. That September 30, I asked him to let the end gate
down so
2 I could go ahead and load the ammonium nitrate on the
trailer.

3 Q. And what did he say?

4 A. He proceeded to do that at that time.

5 Q. What kind of a vehicle was he driving?

6 A. The vehicle and trailer were the same as the
October 18.

7 Q. What time of the day was this transaction on
September 30?

8 A. That was in the 4 to 4:30 range.

9 Q. Are you certain that the man you dealt with on
September 30

10 was the same man that you dealt with on October 18?

11 A. Yes, I am.

12 Q. Taking a look, then, if you would, at Exhibit 62,
which is

13 in evidence as Government Exhibit 62, what is that in
14 comparison to the exhibit we just looked at, 73?

ticket 15 A. That is the pink copy or customer copy of the same

16 we looked at just preceding that.

17 Q. How do you recognize it to be the customer copy of
the

18 identical receipt?

19 A. The color pink and also the same ticket number is
in the

20 right bottom corner.

21 Q. On September 30, when you were loading the
fertilizer, was

22 anyone with this customer?

23 A. I don't believe there was.

24 Q. You didn't see anybody?

25 A. I didn't see anybody.

7384

Frederick Schlender - Direct

1 Q. Finally, I would like to show you what's in
evidence as

2 Government Exhibit 318. Do you recognize the
individual

3 depicted in that photograph?

4 A. Yes, I do.

5 Q. Who do you recognize that to be?

6 A. Timothy McVeigh.

7 Q. Was that the customer Mike Havens that you dealt
with on

8 September 30 and October 18?

9 A. No, it's not.

10 Q. Are you certain of that?

11 A. I'm certain of that.

12 MR. MEARNS: No further questions.

13 THE COURT: We'll take the recess before
14 cross-examination.

15 You may step down, Mr. Schlender.

16 THE WITNESS: Okay.

17 THE COURT: Members of the jury, we'll take
our usual

18 20-minute afternoon break during which, of course,
please

19 follow the cautions regularly given to you at all
recesses of

20 keeping open minds, avoiding discussion of any of the
testimony

21 or any of the other things going on in the courtroom or
22 anything about the case.

23 You're excused now, 20 minutes.

24 (Jury out at 3:10 p.m.)

25 THE COURT: We'll recess.

7385

Frederick Schlender - Direct

1 (Recess at 3:10 p.m.)

2 (Reconvened at 3:30 p.m.)

3 THE COURT: Please be seated.

4 (Jury in at 3:31 p.m.)

5 THE COURT: If you'll resume the stand,
please,

6 Mr. Schlender.

7 Mr. Woods.

8 MR. WOODS: Thank you, your Honor.

9 CROSS-EXAMINATION

10 BY MR. WOODS:

11 Q. Good afternoon, Mr. Schlender.

12 A. Hello, there.

13 Q. My name is Ron Woods. I've been appointed to help
Terry

14 Nichols in this case.

15 A. Yes.

16 Q. You and I met in this court back in February --

17 A. That's correct.

18 Q. -- of this year; is that correct? Okay.

19 The FBI came to see you on April 30 of '95 for
the

20 first time, right after the bombing; is that correct?

21 A. That's correct.

22 Q. And you were still manager at McPherson at that
time?

23 A. At that time, I was.

24 Q. In fact, you were manager there up until what,
August this

25 year?

7386

Frederick Schlender - Cross

1 A. August of '97, right.

the

2 Q. And then you went on to your family farm to work on

3 farm?

4 A. That's correct.

you

5 Q. Had you been working on that most of the time while

6 were also full-time there at McPherson?

right.

7 A. I've been a part of the farm throughout that time,

8 Q. What caused you to go full-time on the farm?

I lost

9 A. At the year ago this past August, I -- my wife and

made a

10 our three-and-a-half-year-old son; and at that time, I

spent a

11 decision I needed to put more time in at home, had not

decided at

12 lot of time with him. And so I went a year and then

13 that time that I needed to change.

size?

14 Q. Okay. And has your farm grown, or still the same

15 A. Farm is still the same size, sir.

16 Q. How big an area are you farming?

17 A. Right now, right around 500 acres.
18 Q. What types of crops?
19 A. We raise wheat, milo, soybeans, and alfalfa.
20 Q. Okay. Okay. How long have you had the farm?
21 A. My dad moved to our community there in 1952, and
that's how
22 long we've farmed there.
23 Q. And while you were working there at McPherson, you
went to
24 college and got your degree there at McPherson State
College?
25 A. McPherson College.

7387

Frederick Schlender - Cross

1 Q. And during the summers you worked on the harvest,
the wheat
2 harvest. You would start down in the panhandle of
Texas,
3 Oklahoma, and go up through Wyoming?
4 A. I did.
5 Q. Did that for three years?
6 A. Three years, correct.
7 Q. And there at the co-op -- did you say that you all
were
8 servicing cars? That was part of --
9 A. We do have a service area for service of cars
there;

10 correct.

11 Q. And I assume you serviced a lot of pickups?

12 A. We have some that we service and cars both.

13 Q. Is a pickup pretty much the vehicle of choice
around

14 central Kansas there amongst the farmers?

15 A. With the farmers, yes.

16 Q. Are you driving a pickup?

17 A. Yes, I do.

18 Q. And when the FBI came to see you on April 30, they
asked

19 you about the transaction six-and-a-half months
earlier, back

20 in October of '94. Is that correct?

21 A. That's correct.

22 Q. And I assume you've read those memorandum (sic) of
23 interview before you testified here today?

24 A. Yes, I have.

25 Q. And you read the grand jury testimony?

7388

Frederick Schlender - Cross

1 A. Yes, I have.

2 Q. And did you read your testimony from the hearing
that you

3 had here in February?

4 A. Yes, I have.

5 Q. Okay. Now, when the FBI first talked to you in
April 30 of

6 '95, it had been six-and-a-half months since the
transaction.

7 A. That's correct.

8 Q. Approximately how many customers had been into your
store

9 since that date?

10 A. You're asking a lot there; but the number of days
that we

11 were open, we have approximately 75 customers a day.

12 Q. And is -- do you know how many days that was? Six-
and-

13 a-half months?

14 A. Right. Let's go with that.

15 Q. Be close to, say, 15,000 or more?

16 A. Don't have my calculator, so I'll --

17 Q. Okay. Okay. A lot of people pay cash when they
come in

18 and buy there at the McPherson store?

19 A. There is cash and charge customers; correct.

20 Q. Do you know what percentage of people pay cash?

21 A. Not exactly.

22 Q. It's not unusual for people to pay cash, is it?

23 A. No, it's not.

24 Q. Now, you described the vehicle to the FBI when they
first

25 interviewed you on April 30. Then they came back a
couple of

Frederick Schlender - Cross

1 days later on May 2, '95. Do you recall that?

2 A. That's correct.

3 Q. When you described the vehicle the first time, you
said it

4 was a Dodge; is that correct?

5 A. Said it possibly a Dodge.

6 Q. And you said it was a four-wheel-drive?

7 A. Possibly a four-wheel-drive.

8 Q. And three-quarter-ton?

9 A. Possibly three-quarter-ton.

10 Q. What year Dodge did you estimate it was?

11 A. Late 70's.

12 Q. And you described the individual at the first
meeting,

13 didn't you?

14 A. That's correct.

15 Q. Said he was 6-foot tall?

16 A. Said he was approximately 6-foot tall.

17 Q. Now you're changing that today in front of the jury
to

18 5-foot-8 to 6-foot?

19 A. I'd say approximately 6-foot tall in my mind.

20 Q. 5' 8" to 6-foot?

21 A. Correct.

22 Q. But you only told the FBI 6 feet when they came to
see you

23 the first time; is that correct?

24 A. I said approximately 6-foot.

25 Q. Didn't tell them 5' 8" to 6 feet?

7390

Frederick Schlender - Cross

1 A. No, I did not.

2 Q. What other description did you give of the vehicle
that you

3 recall? You've read those memorandum of interview.

4 A. Yes, I have. It was dark-colored with a light-
colored

5 topper.

6 Q. And what else?

7 A. As we described earlier, late 70's style Dodge

8 three-quarter-ton, four-wheel-drive.

9 Q. And the trailer: What did you describe the trailer
as at

10 that first meeting?

11 A. It was a red pickup-bed-style trailer.

12 Q. Okay. And it was a Ford cutoff trailer?

13 A. Possibly a Ford.

14 Q. And it had white lettering?

15 A. Possibly white lettering on the tailgate.

16 Q. Now, did you describe a license plate to the FBI at
that

17 time?

18 A. I had said I believed it had a Marion County,
Kansas tag.

19 Q. And that was on the pickup, not the trailer?

20 A. On the pickup; correct.

21 Q. Can you recall seeing a license on the trailer?

22 A. No, I did not.

23 Q. Okay. And then on May 2, they came back to ask
other

24 questions about what time you recall the transaction
occurring.

25 Is that correct?

7391

Frederick Schlender – Cross

1 A. That's correct.

2 Q. Okay. And asked you further description of the
individual

3 and the vehicle.

4 A. That's correct.

5 Q. Okay. And what description of the individual did
you give

6 at that time?

7 A. At that time, I had given them the description of
his hair

8 color. I don't believe I went any other details.

9 Q. Still same height, 6-foot?

10 A. I didn't go into that.

11 Q. Did you describe how he was dressed?

12 A. Did not describe that, no.

13 Q. Did you describe the person that was with him?

14 A. Described the person with him a second time, yes.

It was

15 approximately a 6-foot passenger at the second
transaction.

16 Q. Now, after that occasion on May 2, you then went
down to

17 the grand jury in Oklahoma City to testify, didn't you?

18 A. Yes, I did.

19 Q. Okay. And you met with the prosecutors before you
went in

20 to testify?

21 A. Yeah, within a month preceding that.

22 Q. Pardon me?

23 A. The month preceding the grand jury.

24 Q. How many times did you meet with the prosecutors in
the

25 month before July 6, '95, before you testified in front
of the

7392

Frederick Schlender - Cross

1 grand jury?

2 A. One time.

3 Q. What -- how far in advance was that before the
appearance

4 before the grand jury?

5 A. It was in the middle of June, as I recall.

6 Q. Was that in Oklahoma City?

7 A. They -- at our offices there at McPherson.

8 Q. Then when you testified at grand jury, you were
under oath

9 and people were taking down your testimony; is that
true?

10 A. That's true.

11 Q. And you've reviewed that testimony?

12 A. Yes, I have.

13 Q. Now, how did you describe the vehicle in front of
the grand

14 jury?

15 A. Described it as a dark-colored, possibly a dark-
blue Dodge

16 four-wheel-drive, three-quarter-ton pickup.

17 Q. Well, you left out the word "Dodge" when you went
to the

18 grand jury, didn't you?

19 A. Excuse me. I did.

20 Q. Did the prosecutor suggest to you that was a
problem

21 because Mr. Nichols' vehicle was a GMC?

22 A. No, they did not.

only 23 Q. But when you got in front of the grand jury, you
24 described it as a blue vehicle?
25 A. I said dark-colored, I believe.

7393

Frederick Schlender - Cross

plate -- how 1 Q. Okay. And what did you talk about the license
2 did you describe the license plate to the grand jury?
3 A. I described it the same way I described it to you
earlier.

believe 4 Kansas -- Marion County tag, and also told them why I
5 it was that way, from the phone call that I received
from the
6 branch east of us telling of a customer that was
needing a ton
7 of ammonium nitrate.

was 8 Q. And the grand jury asked you if that transaction
9 unusual, didn't they?

10 A. They did.

you? 11 Q. And you told them no, it wasn't unusual, didn't

of 12 A. I told them no, it was not unusual for the practice
13 fertilizing, going with the wheat.

to the 14 Q. And further, the grand jury asked you if you talked

15 person about where he was farming; is that correct?
16 A. I talked to the customer, yes.
17 Q. And you told them you had no conversation relating
to where
18 he was farming?
19 A. I did not recall at that time.
20 Q. Yes. You recalled that later after meeting with
the
21 prosecutors?
22 A. I recalled that later going over the events that
occurred
23 many times, in my own mind.
24 Q. Now, after the grand jury testimony in July, '95,
you
25 started having meetings with this FBI agent, Mr.
Hersley?

7394

Frederick Schlender - Cross

1 A. Yes.
2 Q. And one of the prosecutors who is no longer with
them,
3 Mr. Mendeloff?
4 A. I did.
5 Q. When was the first meeting you had with them?
6 A. That was in September of 1996.
7 Q. And where was that meeting?

8 A. It was held in our law enforcement center across
from our
9 office area.

10 Q. Now, in the original FBI interview, you suggested
to them
11 that if they gave you a lineup of pickup trucks, you
could pick
12 out the pickup truck.

13 A. I wanted to be certain of my choice, sir.

14 Q. And when this agent and the prosecutor met with
you, did
15 they show you a lineup of pickup trucks?

16 A. No, they did not.

17 Q. Did they show you a series of photos of one pickup
truck?

18 A. Yes, they did.

19 Q. And whose pickup truck was that?

20 A. They did not say whose it was.

21 Q. And it was all the same pickup; is that correct?

22 A. Yes, it was.

23 Q. And you made a choice that, yeah, that looks like
the
24 pickup?

25 A. I said I believed that was the pickup.

7395

Frederick Schlender – Cross

1 Q. What were you choosing between, if they were all

the same?

2 A. I was not choosing between anything.

3 Q. The first meeting was September, '96?

4 A. That's correct.

5 Q. And how long did the meeting last?

6 A. Approximately an hour.

7 Q. Okay. And did they go over the description of the
8 individual?

9 A. Went over the description of the individual, yes.

10 Q. Was that when you changed from 6-foot to 5-foot-8
-- to
11 6 feet?

12 A. No. "5-foot-8 to 6-foot" is approximately 6-foot
in my
13 eyes.

14 Q. And you told the FBI 6 feet, though, in April and
May of
15 '95?

16 A. I told them approximately 6-foot.

17 Q. How -- when was the second meeting you had with
this agent
18 and the prosecutor after September, '96?

19 A. It would have been in October of '96.

20 Q. And the first meeting lasted for how long?

21 A. Approximately an hour.

22 Q. And where did you meet?

23 A. I had said we had met at the law enforcement center
across

24 from our office area.

25 Q. And the second meeting, where did that take place?

7396

Frederick Schlender - Cross

1 A. The same place.

2 Q. Did they bring more photos of the same vehicle to
you?

3 A. They did.

4 Q. Were you able to pick out the vehicle at that time?

5 A. First time I looked at the photos, I did not agree
with the

6 view. I couldn't see through the back window looking
in the

7 side view of the pickup, so I told them I wasn't
certain. But

8 they brought other photos at the second time.

9 Q. Now, was this a lineup with different trucks in it,
or was

10 this more photos of Mr. Nichols' truck?

11 A. More photos of the same truck.

12 Q. And did they go over again with you the description
of the

13 individual?

14 A. Didn't talk about the individual, I believe the
second

15 time, sir.

16 Q. What did you talk about?

17 A. We talked -- we met about a half hour and talked
about the
18 views of the pickup, also about a -- some pictures of a
19 trailer.

20 Q. And you testified here today that it's a Ford
pickup
21 cutoff-bed trailer?

22 A. I said it was -- I believed it was, sir.

23 Q. And they were showing you some pictures of Donahue
trailer?

24 A. Yes, they were.

25 Q. The flatbed trailer?

7397

Frederick Schlender - Cross

1 A. They weren't a flatbed. They had sides on them.

2 Q. It's cut. It's low to the ground; right?

3 A. A little bit lower to the ground than a pickup
trailer.

4 Q. When was the next meeting?

5 A. Next meeting was in January of this year.

6 Q. Okay. Where was that meeting?

7 A. That meeting was held at the same location the
preceding

8 two were.

9 Q. What subjects did you discuss then?

10 A. Talked about the same subject we talked about

preceding.

11 Q. Did they show you photos of the pickup?

12 A. Did not show me photos of the pickup at that time.

13 Q. Did they show you photos of the Donahue trailers?

14 A. Did show photos of the Donahue trailers.

15 Q. What else did they discuss?

16 A. At this time, I don't know of any other things we
17 discussed, sir.

bombing,
18 Q. Now, back in April of '96, one year after the

19 Mr. Hersley and several other agents and some of these
20 prosecutors came to your store in a Ryder rental truck,
didn't

21 they, in McPherson?

22 A. They came in a truck, yes.

fertilizer
23 Q. And you gave them a bunch of bags of not 34-0-0

24 but some other 50-pound bags; is that correct?

25 A. That's correct.

7398

Frederick Schlender - Cross

1 Q. What was it that you gave them?

2 A. A product called Triple 13 fertilizer.

3 Q. Did you not have 34-0-0 on hand at that time?

4 A. No, we did not.

5 Q. How many bags did you give them?

6 A. Gave them -- it was a little more than two pallets.

7 Q. In fact, you gave them 90 bags, didn't you?

8 A. Right. Uh-huh.

9 Q. Did they explain to you why they wanted 90 rather
than 80?

10 A. No, they did not.

11 Q. Where did they put the bags?

12 A. Put them in the back of a truck, yes.

13 Q. Did you notice what kind of truck it was?

14 A. I don't recall, sir.

15 Q. Didn't notice the big "Ryder" across the side of
it?

16 A. I don't remember if it was a Ryder truck or not.

17 Q. Do you remember the color of it?

18 A. No, I do not.

19 Q. Were you real busy that day?

20 A. I remember, sir, I brought the product to the back
of our

21 building where our service area is and somebody else
loaded the

22 truck.

23 Q. Well, they came to you to get the product, though,
didn't

24 they?

25 A. They came and asked, yes.

Frederick Schlender - Cross

1 Q. And you -- where did you place the product?

2 A. Put it in the back of our area as I proceeded to
tell you,

3 in our service area.

4 Q. Okay. That's where people load up?

5 A. No. That's just where we were -- were able to load
it

6 easy.

7 Q. Okay. Now, did you go with them when they took the
8 90 pounds -- 90 bags and leave?

9 A. No, I did not go with them.

10 Q. Okay.

11 A. As I described earlier, I wasn't there when it was
loaded.

12 Q. Okay. The sacks that are back there -- you showed
the jury

13 photographs of the area where you keep these sacks when
it's

14 outside the sealed -- sealed pack. Is that correct?
Do you

15 recall those photos?

16 A. Yes. And -- you mean 67.

17 Q. Exhibit No. 67.

18 MR. WOODS: May we have Government's Exhibit
67

19 exhibited?

20 Thanks.

21 Is it on the computer that you can turn --
22 THE COURTROOM DEPUTY: It's in the computer.

67.

23 MR. WOODS: It's in evidence.

24 THE COURT: Yes.

25 MR. WOODS: If not, I can use this exhibit up
here,

7400

Frederick Schlender - Cross

1 your Honor.

2 Here we go.

3 Thank you, sir.

4 BY MR. WOODS:

5 Q. Now, can you describe for the jury what that is,
sir.

6 A. Yes. That's our storage area of the warehouse.

7 Q. And these are pallets of various types of
fertilizer?

8 A. Yes, they are, with the exceptance (sic) of an ice
melt

9 that is in the right hand closet.

10 Q. What's an ice melt?

11 A. It melts -- just as it says, it melts ice.

12 Q. Does that area back there get dusty from all these
bags?

13 A. It does have some dust, yes.

14 Q. How often do you have to sweep out back there?
15 A. The warehouse area, we usually sweep out once a
season,
16 spring and fall.
17 Q. Now, these sacks are not absolutely impermeable,
are they?
18 A. You want to ask that in -- you mean do they get
broken? Is
19 that what you're saying?
20 Q. Do things leak out of them?
21 A. Yes, they do.
22 Q. And you have various kinds of fertilizer lying
around on
23 the floor, I take it, that has to be swept up
occasionally?
24 A. Yes, they do.
25 MR. WOODS: Okay. Thank you. We can turn
that off.

7401

Frederick Schlender - Cross

1 BY MR. WOODS:
2 Q. Now, you met with the FBI in January, '97, with the
3 prosecutor; correct?
4 A. That is correct.
5 Q. Went over your testimony. And then you testified
in
6 February, '97, in this court?

7 A. That's correct.

8 Q. And you've reviewed that testimony?

9 A. Yes, I have.

10 Q. And how many times have you met with them since
that time?

11 Mr. Mearns has started meeting you with since Mr.
Mendeloff is

12 gone.

13 A. Uh-huh.

14 Q. How many times have you met with them since
February, '97?

15 A. Met with them four times.

16 Q. And what did you discuss the first time and when
was the

17 first time?

18 A. First time was in July, this past year.

19 Q. And what did you discuss?

20 A. The -- as we've talked before, the testimony we had
from

21 this hearing back in February.

22 Q. Okay. Now, in your testimony today, you -- to the
jury,

23 you didn't relate that there was a Kansas tag on the
car.

24 A. No, I did not.

25 Q. Are you changing that?

Frederick Schlender – Cross

1 A. No. I will state it as I did in the pretrial
hearing there

2 and as I did in Oklahoma. The reason for the Kansas
tag was

3 the call that we received from our location east of us
saying

4 that a customer was interested in a ton of ammonium
nitrate.

5 Q. And you went on to describe the sticker that you
saw on the

6 Kansas plate to the grand jury?

7 A. Described the sticker that would normally be on a
Kansas

8 tag.

9 Q. Now, did the Government tell you that that was a
problem

10 because Mr. Nichols still had his Michigan tags on his
truck at

11 that time?

12 A. No, they did not.

13 Q. All right. Did the Government tell you that it was
a

14 problem describing him as 6-foot tall because he's not
that

15 tall?

16 A. No, they did not.

17 Q. You have a lot of transactions in that office where
people

18 pay cash for ammonium nitrate, don't they?

19 A. Yes, they do.

20 Q. And people don't take time to fill out the tax
exemption
21 for those cash purchases, do they?
22 A. No, because they're not eligible for tax exemption
for lawn
23 and garden.
24 Q. Okay. And the tax is only 6 percent anyway, isn't
it?
25 A. Yes, it is.

7403

Frederick Schlender - Cross

1 Q. And you're saying it's only for farmers that sign
the tax
2 exemption anyway; is that correct?
3 A. That and resale.
4 Q. Okay. If you swear that you're only holding it for
resale,
5 then you don't pay the ultimate consumer tax; right?
6 A. (Witness nods head.)
7 Q. Okay. But at any rate, most people who go in there
and buy
8 ammonium nitrate fertilizer and pay cash don't sign any
tax
9 exemption?
10 A. No, they don't.
11 Q. Okay. Now, you compiled for the FBI an inventory
of your

12 ammonium nitrate on hand in September and October,
didn't you?

13 A. I did.

14 Q. Do you remember Mr. West, Agent West, William West,
that

15 you worked with on that?

16 A. I remember him.

17 Q. Did you see him here yesterday? Were you here
yesterday?

18 A. I did not see him here yesterday.

19 Q. How long have you been here this week?

20 A. Came in Tuesday.

21 Q. Okay. And you didn't see him in the witness room
or

22 anywhere yesterday?

23 A. No.

24 Q. You know what he looks like; right?

25 A. Yes, I do.

7404

Frederick Schlender - Cross

1 Q. Receding hairline, glasses?

2 A. Uh-huh.

3 Q. Now, you're required -- when you were at McPherson
and when

4 you were at Mid-Kansas Co-op, you're required to have
-- keep

5 an inventory every month of the product on hand, aren't

you?

6 A. Every two months we had an inventory.

7 Q. And had you testified before that it was every
month?

8 A. I do not believe I have.

9 Q. How did you keep that inventory? What type of
inventory

10 sheet did you utilize?

11 A. The -- we took those from the two-month cutoff
inventory

12 sheets that we kept.

13 Q. Okay. And do you recall how much inventory you
started

14 with in September of '94?

15 A. September it was in the range of 2.2-ton, if I
remember

16 right.

17 Q. And do you recall what your October 1 balance was,
or --

18 A. There was not an October 1.

19 Q. Pardon me?

20 A. There was not an October 1.

21 Q. You didn't do an October 1 accounting?

22 A. Every two months.

23 Q. Okay. Do you remember that sheet you did with Mr.
West?

24 Have you reviewed that? That's one of your 302's
showing day

25 by day the inventory on hand?

Frederick Schlender - Cross

1 A. No, I did not do that with him, no.

2 Q. Pardon me?

3 A. I do not do that with Mr. West.

4 Q. Do you remember reviewing it here recently?

5 A. No.

6 MR. WOODS: Your Honor, just for refreshment

--

7 refreshment of memory.

8 THE COURT: You may approach and show him
whatever you

9 want.

10 MR. WOODS: Thank you.

11 BY MR. WOODS:

12 Q. Mr. Schlender, if you would just take a look at
that, read

13 it to yourself, and look at the name at the bottom as
to who

14 wrote it up.

15 A. William West.

16 THE COURT: Well, I think he just wants you to
look at

17 it and then he'll ask you some questions.

18 THE WITNESS: Okay.

19 THE COURT: You've read it now.

20 THE WITNESS: I've looked at it.

21 BY MR. WOODS:

22 Q. Thank you, sir.

23 Does that refresh your memory as to compiling
an
24 inventory on a day-to-day basis through September and
October?

25 A. We had a receipt card. We did not keep track of
the

7406

Frederick Schlender - Cross

1 disbursement.

2 Q. Do you recall at the first of September starting
off with
3 88 bags?

4 A. Yes.

5 Q. And you sold a number of bags down, until October
1, you
6 only had six bags on hand, according to this tally?

7 Did you and Mr. West compile this? Does that
refresh
8 your memory at all?

9 A. No, I did not tally with Mr. West. He did that on
his own.

10 Q. Okay. So this is an FBI-generated document that we
should
11 assume is accurate?

12 MR. MEARNS: Objection.

13 assuming that

THE COURT: Sustained. I mean as to the

14 it's accurate.

15 MR. WOODS: Yes, your Honor.

16 BY MR. WOODS:

17 Q. Did you provide the figures to him to compile this,
sir?

18 A. If I remember right, I think he did that out of our
main

19 office in Moundridge.

20 Q. Okay. But isn't this an interview with you, the
way it's

21 reflected?

22 A. The way it's reflected, he got the information that
he

23 could from me; and then he proceeded to do the ticket

24 documentation from another location.

25 Q. And if you look on the second page, where it says,

7407

Frederick Schlender - Cross

1 "Schlender reviewed the file of original white" --

2 MR. MEARNS: Objection.

3 THE COURT: Just a moment.

4 MR. MEARNS: Objection to reading from the
document,

5 your Honor.

6 MR. WOODS: Let me just refer him to the
paragraph.

7 THE COURT: Yes.

8 BY MR. WOODS:

9 Q. Have you read the last paragraph that's on that
second page

10 right above the chart?

11 A. Yes, I do; but I did not read the -- because I
could not

12 review the white copies. They are not at our location.

13 Q. But Mr. West represents that you did?

14 A. He wrote it that way.

15 Q. As of September 30, '94, on this chart, what did
the

16 records of McPherson reflect that your inventory was in
number

17 of bags?

18 A. At the end of the 30th was eight bags.

19 Q. Okay. And then the first half of October, you sold
a

20 number of bags before you got that shipment of 200 bags
in,

21 didn't you?

22 A. Yes, we did.

23 Q. In fact, it shows that you kept having a negative
balance.

24 You even got up to a negative balance of 31 bags in
October?

25 MR. MEARNS: Objection, your Honor, to what
the report

Frederick Schlender - Cross

1 says, as opposed to the witness' recollection.

2 THE COURT: I think we have to separate out in
your

3 question what he remembers and what this report says.

4 MR. WOODS: Yes, your Honor.

5 BY MR. WOODS:

6 Q. Do you recall sales during the month of October as
7 reflected in this chart?

8 A. The sales in October are reflected on this chart,
yes.

9 May I also add that we do not keep track of
transfers

10 within the company; that the inbound was only that that
was

11 brought in on a truckload.

12 Q. So if you have records reflecting that you have a
negative

13 balance in bags of fertilizer in your co-op, they're
not

14 accurate?

15 A. The only thing we keep track of on that inbound
that I gave

16 Mr. West is the inbound that came in on a semi, not
what was

17 intertransfers within the company. We don't have to
keep track

18 of that.

19 Q. So do you know for sure, then, that your records
are

20 accurate as to the shipment of fertilizer out of there?

21 A. As far as the shipment out is taken from the
counter

22 tickets. Yes, they're accurate.

23 Q. But your inventory records won't reflect it; is
that

24 correct?

25 A. The actual inventory records that we dealt with on
the

7409

Frederick Schlender - Cross

1 September and -- beginning of September and end of
October are

2 accurate.

3 Q. But the records on a day-to-day basis are not?

4 A. No, they aren't.

5 Q. Because you don't keep count of what goes out and
what

6 comes in?

7 A. No, we did not keep track of the disbursement.

8 MR. WOODS: Thank you, your Honor. No further
9 questions.

10 THE COURT: All right. You have some
redirect?

11 MR. MEARNS: Just very briefly, your Honor.
12 May I have just a moment to speak to Mr.
Mackey?

13 THE COURT: Yes.

14 REDIRECT EXAMINATION

15 BY MR. MEARNS:

16 Q. I'd like to go back to some of the questions Mr.
Woods
17 asked you about photographs of pickup trucks that were
shown to
18 you.

19 A. That's correct.

20 Q. Tell us what you said when the first photographs of
the
21 pickup truck -- of a pickup truck were shown to you.

22 A. First time I was shown that, I didn't agree with
the one
23 photograph where I couldn't see through the back. It
looked
24 like it had a real colored-type glass, and I did not
remember
25 that being that way on the vehicle that picked up the
ammonium

7410

Frederick Schlender - Redirect

1 nitrate.

2 Q. What about the photographs of the trailers that
were shown

3 to you?

4 A. Also, they focused in on one trailer. I did not
agree with

5 that when they first showed me the trailers, also.

6 Q. With respect to your meetings with agents and
prosecutors,

7 did anyone from law enforcement, an agent or a
prosecutor, ever

8 tell you that the photograph of the pickup truck that
you were

9 looking at was Mr. Nichols' pickup truck?

10 A. No, they did not.

11 Q. During any of the meetings with agents and
prosecutors, did

12 anyone ever tell you what or suggest to you what you
should

13 say?

14 A. No, they did not.

15 Q. Did anyone ever tell you -- any agent or prosecutor
ever

16 tell you there were any problems with your recollection
or

17 testimony?

18 A. No, they did not.

19 Q. With respect to the tax-exemption certificate that
20 Mr. Woods asked you about --

21 A. That's correct.

22 Q. -- what did the customer, Mr. Havens, say on
October 18

23 that he intended to do with the fertilizer?

planting 24 A. He intended to plant -- apply this when he was
25 wheat.

7411

Frederick Schlender - Redirect

exemption, 1 Q. What is the purpose, or what qualifies for a tax
2 a sales-tax exemption?

qualify 3 A. It has to be an agricultural input, so that would
4 for it.

the tax 5 Q. That is what this customer said would qualify for
6 exemption?

7 A. Yes, it would.

you were 8 Q. Finally with respect to the inventory records that
9 asked about, Mr. Woods asked you about a negative
balance. Do 10 you recall that?

11 A. Yes, he did.

compute what 12 Q. If somebody were to go and compute or try to
13 kind of inventory you had on a daily basis by looking
at the

14 Moundridge records --

15 A. Uh-huh.

16 Q. You understand what I'm asking you?
17 A. Right.
18 Q. If someone were to do that, would that accurately
reflect
19 the daily inventory at your branch, McPherson branch?
20 A. The Moundridge record, if it's the whole company's,
no, it
21 would not reflect our inventory. No.
22 Q. Why not?
23 A. Because they would have all the other sales records
of the
24 other branches of our company.
25 Q. And by simply reviewing your sales receipts, it
wouldn't

7412

Frederick Schlender – Redirect

1 reflect interbranch transfers; that is, transfers of
inventory
2 from one branch to another?
3 A. Interbranch transfers are not documented, no.
4 Q. With respect to your recollection about the pickup
truck
5 and about this customer who identified himself as Mike
Havens,
6 are there certain aspects of those transactions that
you're
7 certain about?
8 A. Yes, I am. I'm certain about the description, as I

said,

9 the individual, being the 5' 8" to 6-foot.

10 Q. And are you certain of whether or not that
individual was

11 Mr. McVeigh, the person depicted in Government's
Exhibit 318?

12 A. It was not Mr. McVeigh.

13 Q. Are you certain about or more certain about aspects
of the

14 pickup truck that you described?

15 A. The most certain I am on the pickup I described was
the

16 dark-colored and the light-colored topper.

17 Q. And what about the trailer?

18 A. The trailer -- the pickup-style trailer and red in
color.

19 Q. What about any other details of the trailer?

20 A. The white lettering on the end gate.

21 MR. MEARNS: No further questions, your Honor.

22 MR. WOODS: Just a couple, your Honor.

23 THE COURT: All right.

24 RE-CROSS-EXAMINATION

25 BY MR. WOODS:

7413

Frederick Schlender - Recross

1 Q. Mr. Schlender, if you would, go back to that
document I

2 handed you that Mr. West prepared. And on page 4, last
3 paragraph, he's reflecting conversation he had with
you.

4 A. Yes.

5 Q. Do you recall that conversation?

6 A. Yes, I did tell him that we do not keep track of
7 intercompany (sic) transfers.

8 Q. And in fact, he was asking you why this big
disparity in
9 the records of what's on hand and what -- physical
counting and
10 what the records show, wasn't he?

11 A. Yes, he was.

12 Q. And you explained that sometimes you have
intertransfers,

13 interoffice transfers?

14 A. Intercompany transfers.

15 Q. But then you told him that you could not
specifically

16 remember any such shipment?

17 A. I had the bill of lading from that shipment of that
200
18 bags.

19 Q. Well, the 200 bags, we understand. We're talking
about the

20 69-bag disparity on the daily inventory.

21 A. No, I could not exactly detail when that date those
bags

22 would have come in on the intercompany transfer.

remember 23 Q. Right. You told him you could not specifically
24 such a shipment?
25 A. No, not specifically, no.

7414

Frederick Schlender – Recross

and to 1 Q. Now, when you described the individual to the FBI
2 the grand jury and to the Court, did you describe the
3 individual who made the purchase as having glasses?

4 A. No, I did not.

5 MR. WOODS: Thank you very much, sir.

6 MR. MEARNS: Two questions, your Honor.

7 THE COURT: All right.

8 REDIRECT EXAMINATION

9 BY MR. MEARNS:

himself 10 Q. Do you recall whether the individual who identified
11 as Mike Havens wore glasses?

12 A. No, I can't recall seeing glasses.

30 and 13 Q. With respect to the two transactions on September
ammonium 14 October 18, are you certain that you loaded 2 tons of
occasions? 15 nitrate, 1 ton of ammonium nitrate on each of those

16 A. Yes, I am.

17 Q. Any doubt about that?

18 A. No doubt about that.

19 THE COURT: Are you excusing the witness?

20 MR. MEARNS: I'm sorry. Yes, your Honor.

21 MR. WOODS: We have agreed to excuse him, your
Honor.

22 THE COURT: All right. You may step down.
You're now

23 excused.

24 Members of the jury, I might mention that this
witness

25 when asked also talked about previous testimony in
February at

7415

1 a hearing. He's referring to a time when there was a
hearing

2 before the Court on motions. There are a number of --
in cases

3 normally -- a number of motions that are heard by the
court

4 before the trial ever begins on various legal matters,
and

5 sometimes witnesses appear there.

6 So, you know, you shouldn't speculate about
what that

7 testimony was beyond -- or the purpose of it beyond
what the

8 witness testified about here. So don't think that
there has
9 been a previous trial or something like that. It
referred to
10 motions on legal issues that the Court resolved.

11 MR. WOODS: Thank you, your Honor.

12 THE COURT: Next witness.

13 MR. MACKEY: We would next call Jerry
Showalter.

14 THE COURTROOM DEPUTY: Raise your right hand,
please.

15 (Jerry Showalter affirmed.)

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

17 Would you state your full name for the record
and

18 spell your last name.

19 THE WITNESS: Jerry Showalter, S-H-O-W-A-L-T-
E-R.

20 THE COURTROOM DEPUTY: Thank you.

21 DIRECT EXAMINATION

22 BY MR. MEARNS:

23 Q. Good afternoon, Mr. Showalter. Where do you live,
sir?

24 A. McPherson, Kansas.

25 Q. How long have you lived in McPherson?

Jerry Showalter – Direct

1 A. 17 1/2 years.

2 Q. How long have you lived in Kansas?

3 A. All my life.

4 Q. Are you married?

5 A. Yes.

6 Q. Do you have any children?

7 A. I have two.

8 Q. Are they boys, or girls?

9 A. Both girls.

10 Q. How old are your girls?

11 A. 22 and 18.

12 Q. What kind of education have you received?

13 A. I've got a bachelor of science degree from Kansas
State

14 University.

15 Q. When did you graduate from Kansas State?

16 A. 1974.

17 Q. And what was your major in college?

18 A. Biology.

19 Q. Where do you work?

20 A. Mid-Kansas Co-op.

21 Q. How long have you worked at the co-op?

22 A. About 18 1/2 years.

23 Q. What is your position there?

24 A. Sales and service.

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

7417

Jerry Showalter - Direct

fertilizer 1 A. It's a farmers' owned organization that supplies
2 and agricultural products to farmers.

3 Q. And are there more than one branch of the co-op?

4 A. Yes.

5 Q. What branch do you work at?

6 A. I work at McPherson.

7 Q. Describe your duties and responsibilities.

door, 8 A. I take care of customers as they come through the

sell 9 writing sales tickets, carrying out feed, fix tires,

10 fertilizer, load fertilizer.

11 Q. And what are your normal working hours?

12 A. I go to work at 7:30 and get off at 5:30.

13 Q. How many days a week?

14 A. Five days and a half day Saturday.

15 Q. What are your hours on Saturday?

16 A. 7:30 to noon.

working at the 17 Q. In the fall of 1994, how many employees were

18 McPherson branch of the co-op?

19 A. There were four.

20 Q. About how many customers, again in the fall of 1994

--

21 about how many customers on a typical day came into the

22 McPherson store?

around

23 A. On a slower day, there would be 75. On a busy day,

24 150.

McPherson

25 Q. And are there periods during the day when the

7418

Jerry Showalter - Direct

1 branch is more busy than other times?

2 A. Yes.

3 Q. When is it more busy?

the last

4 A. Usually the first couple hours of the morning and

5 couple hours of the day.

specific

6 Q. What I want to do is direct your attention to a

working in

7 transaction in the fall of 1994. Okay? Were you

September of

8 the co-op at the McPherson branch of the co-op in

9 1994?

10 A. Yes, I was.

11 Q. Do you recall ever selling 2,000 pounds or 1 ton of

12 ammonium nitrate fertilizer to a man who identified
himself as

13 Mike Havens?

14 A. Yes, I do.

15 Q. What do you recall about that transaction?

16 A. That the man came through and had requested the day
before

17 by phone call that if we had ammonium nitrate in that
quantity;

18 and we told him yes, and he came through the door --

19 Q. Let me interrupt you for just a second. You're
saying that

20 something happened the day before the actual
transaction?

21 A. Yes.

22 Q. What date did the transaction take place?

23 A. The day after we -- what do you mean?

24 Q. What day did you actually sell 2,000 pounds of
ammonium

25 nitrate in September? What was the date?

7419

Jerry Showalter - Direct

1 A. It was at the 30th, I believe.

2 Q. So what happened the day before, September 29?

3 A. We received a phone call from our location in
Galva,

4 Kansas.

5 Q. Who called you?

6 A. Stuart Vogts.

7 Q. Who is Stuart Vogts?

8 A. He's the location manager of the Galva branch.

9 Q. Where is Galva in relation to McPherson?

10 A. Approximately 7 miles east.

11 Q. If I could ask you to look at what is in evidence
as

12 Government's Exhibit 2045.

13 Actually, you can look on your computer
screen,

14 Mr. Showalter. Got it there?

15 A. Got it.

16 Q. Do you see McPherson on the map?

17 A. Yes, I do.

18 Q. Could you circle McPherson for us?

19 A. Let me find out where I'm at.

20 Q. You actually have to reach underneath the screen
with your

21 pen.

22 There you go.

23 A. Right there.

24 Q. Okay. Now, you've put a mark there just to the
east --

25 A. That's actually where Galva is. I'm sorry.

Jerry Showalter - Direct

1 Q. And it's along that highway?

2 A. Yes, it is.

3 Q. That's that highway between Marion and McPherson?

4 A. That's correct.

5 Q. And that's where Mr. Vogts is the branch manager?

6 A. That's correct.

7 Q. What did Mr. Vogts ask you?

8 A. He asked if we had 2-ton or 4,000 pounds of
ammonium
9 nitrate on hand.

10 Q. What did you do in response to that question?

11 A. I told him I would have to check our inventory and
if he'd
12 hold on a minute, I could do that and be right back
with him.

13 Q. What did you do?

14 A. I went out the door and over to the warehouse to
make sure
15 what we had on hand.

16 Q. What did you see when you got inside the warehouse?

17 A. We had a full pallet and a part of a pallet of
ammonium
18 nitrate.

19 Q. How much is a full pallet?

20 A. A full pallet is 40 bags.

21 Q. And that's 2,000 pounds?

22 A. 2,000 pounds.

23 Q. What did you do next?

24 A. I told Mr. Vogts what we had it available and on
hand.

25 Q. Did he say anything in response?

7421

Jerry Showalter - Direct

1 A. He said that there would be a customer over to pick
up

2 1 ton of ammonium nitrate.

3 Q. And did that customer then come in September 29?

4 A. No. He came in the next day.

5 Q. And tell us about that.

6 A. He walked through the door and he informed me that
he had

7 been in Galva the day before and had -- they had made a
phone

8 call and he was there to pick up that ammonium nitrate.

9 Q. What time of the day did this customer come in on
10 September 30?

11 A. 3:30, 4:00, somewhere in there.

12 Q. What happened next?

13 A. I asked him would this be cash or charge, started
making

14 out a ticket, and asked him about whether he wanted to
pay

15 sales tax on it or how he wanted to handle that,

because he was

16 not a regular customer.

17 Q. You recognized -- or you didn't recognize this
person as a

18 regular customer?

19 A. Right.

20 Q. Are many of the customers that come in on a typical
day

21 people that you recognize?

22 A. I recognize most of the people who do come in.

23 Q. About how -- what percentage, if you could give us
a

24 percentage, of the customers that you typically
recognize?

25 A. Probably about 85, 90 percent of them.

7422

Jerry Showalter - Direct

1 Q. What happened next?

2 A. I -- he told me that he did not want to pay -- he
wanted to

3 pay taxes -- the taxes and he would be paying cash for
the

4 purchase.

5 Q. Did you ask him what he intended to do with the
ammonium

6 nitrate fertilizer?

7 A. Yes, I did. I asked him what his intentions were,
and he

8 told me that he was going to use it to plant wheat
through the

9 drill.

10 Q. Could you explain what you understood him to mean?

11 A. I understood him to mean that he was going to put
the

12 fertilizer through a drill directly into the ground
with the

13 seed wheat.

14 Q. Did this man say where he was planning to plant the
wheat

15 and fertilize it?

16 A. He said he had a small farm that he just purchased
in the

17 Flint Hills.

18 Q. Where are the Flint Hills?

19 A. East of Marion.

20 Q. Looking at the map that's on your screen, 2045,
could you

21 put a -- some kind of a mark with your pen where the
Flint

22 Hills area of Kansas is.

23 A. Well, actually, it runs down along this
neighborhood here.

24 Q. So it's essentially a little bit north and east of
Council

25 Grove and a little bit south and west of Council Grove?

Jerry Showalter – Direct

1 A. Right.

2 Q. What did you say when this customer said that
that's what

3 he was going to use the ammonium nitrate for?

4 A. I told him that I wasn't sure that was a good idea
because

5 that type of fertilizer can cause damage to the seed

6 germination in the new crop that is growing if it gets
in

7 contact with it.

8 Q. What kind of damage would the ammonium nitrate
cause to the

9 wheat seeds?

10 A. Probably kill it.

11 Q. What was your major in college?

12 A. Biology.

13 Q. And by the time that this was, September of 1994,
how long

14 had you been working in the farm-supply business?

15 A. Would have been about 16 years.

16 Q. What did this customer say when you warned him
about the

17 danger of using ammonium nitrate that way?

18 A. He said he was aware of the problems that could
result;

19 that his dad had done that before him and he was
comfortable

20 with the idea.

21 Q. During this conversation with this customer, did he
seem to

22 you to be knowledgeable about farming?

23 A. He seemed to know what he was talking about on this
aspect,

24 yes.

25 Q. In the fall of 1994, was it common for farmers to
use

7424

Jerry Showalter - Direct

1 ammonium nitrate to fertilize wheat in the way that
this

2 customer had described?

3 A. No. It was very uncommon.

4 Q. Was it ever -- was there ever a time when it was
common to

5 fertilize wheat seedlings in the way he described?

6 A. It was not common to use that fertilizer the way I
7 described it, but it was a common fertilizer to use on
wheat.

8 Q. When was it common to use ammonium nitrate on
wheat?

9 A. Early to middle 60's.

10 Q. In the fall of 1994, what did farmers commonly use
to

11 fertilize wheat?

12 A. Generally on the way that he was using it, they
used

percent 13 fertilizer 18-46, which is 18 percent nitrogen and 46

14 phosphate.

in fall 15 Q. Did farmers use any other ways to fertilize wheat

16 of '94?

once it had 17 A. They would over top grass -- overlay the ground

broadcast on. 18 been planted with either liquid fertilizer or dry-

kind of 19 Q. Did the McPherson branch of the co-op sell that

20 fertilizers that you've just described?

21 A. Yes, we do.

fertilizers? 22 Q. Was it common for you to sell those kinds of

23 A. Yes, it is.

fertilizers 24 Q. Was there any advantage to using those kind of

25 as opposed to ammonium nitrate to fertilize wheat?

7425

Jerry Showalter - Direct

1 A. It was easier to do and more economical.

of the 2 Q. In the fall of 1994, though, the McPherson branch

3 co-op sold ammonium nitrate on a regular basis?

4 A. Yes, we did.

5 Q. What did most people buy ammonium nitrate for?
6 A. Most of the ammonium nitrate was used as an
economical
7 fast-green lawn fertilizer.
8 Q. Did you complete a receipt for this transaction
that you
9 just described?
10 A. Yes, I did.
11 Q. Let me show you what's already in evidence as
Government's
12 Exhibit 73, please.
13 And if you would click -- actually, Mr.
Showalter --
14 A. Oh, at the -- down there.
15 Q. And you could click your pen, if you would.
16 A. Yes.
17 Q. Is that the receipt that you prepared that day?
18 A. That is the receipt.
19 Q. And do you see your initials on that receipt?
20 A. Yes, I do.
21 Q. Could you circle where your initials are.
22 A. They're right there.
23 Q. Above that, there is a notation, the number 10.
24 A. Yes.
25 Q. What does that notation mean?

Jerry Showalter - Direct

1 A. That's the computer file notation for a cash sale.

2 Q. And does it indicate one way or another whether the
3 customer is a member of the co-op?

4 A. It says he is not.

5 Q. And just below that, it says the name Mike Havens.

6 A. Yes.

7 Q. Who wrote that there?

8 A. I did.

9 Q. Where did you get the name to write there?

10 A. That was the name he gave me.

11 Q. And the date that's reflected in the upper right-
hand
12 corner is September 30, '94?

13 A. Yes.

14 Q. And just below that, there is the item that you
sold that
15 day; correct?

16 A. That's correct.

17 Q. Okay. Could you tell us what that means.

18 A. There are forty 50-pound bags of ammonium nitrate,
34-0-0.

19 Q. And that 34-0-0 is the notation for ammonium
nitrate?

20 A. Right.

21 Q. What is the purchase price as reflected on that
receipt per

22 bag?

23 A. \$5.40 a bag.

24 Q. Down in the lower right-hand corner, there was an
entry

25 there above the total purchase price. Do you see that?

7427

Jerry Showalter - Direct

1 A. Yes.

2 Q. What is that price or charge there?

3 A. That's the sales tax.

4 Q. And you had a conversation with this customer about
the

5 sales tax?

6 A. Yes, I did.

7 Q. What happened next in the transaction after you
completed

8 this receipt?

9 A. I sent him out to the warehouse to have it loaded.

10 Q. Did you load the fertilizer for the customer that
day?

11 A. I do not recall for sure.

12 Q. During your conversation on September 30 with this
13 customer, did you have any further conversation about
his

14 second ton of ammonium nitrate?

15 A. Yes. He had inquired as to when we would be able
to get

16 the second ton in.

17 Q. And what did you say in response?

18 A. I told him we had an order pending and it should be
in
19 within two weeks.

20 Q. And do you recall, reflecting back to the fall of
1994,
21 whether the McPherson branch in fact got further
supplies of
22 ammonium nitrate within that time frame?

23 A. Yes, we did.

24 Q. During this transaction, how long did you have an
25 opportunity to observe this customer who identified
himself as

7428

Jerry Showalter - Direct

1 Mike Havens?

2 A. The total transaction probably took 3 to 5 minutes.

3 Q. Let me show you Government's Exhibit 68, which is
in
4 evidence. Is this the customer area of the co-op?

5 A. Yes, it is.

6 Q. And was this the area in which you had your
conversation
7 with this man on September 30?

8 A. Yes, it is.

9 Q. And what -- describe the lighting that was inside
the store
10 that day.
11 A. Well, right off the back side of this counter,
there is an
12 8-foot, two-tube fluorescent fixture which supplies an
ample
13 amount of light.
14 Q. And did you get a good look at this man's face?
15 A. Yes, I did.
16 Q. Could you describe the man who identified himself
as Mike
17 Havens?
18 A. Yes.
19 Q. Okay. What race or ethnic background?
20 A. He was a Caucasian.
21 Q. And about how old was he?
22 A. Late 30's, early 40's.
23 Q. Do you recall how tall he was?
24 A. He was approximately my height.
25 Q. And how tall is that?

7429

Jerry Showalter - Direct

1 A. 5' 9", 5' 10", somewhere in there.
2 Q. Do you recall his weight or his build?
3 A. He was an average-build person.

4 Q. Do you recall the color of his hair?

5 A. It was a dark color.

6 Q. Do you recall the length of the hair?

7 A. It was relatively short and well-trimmed.

8 Q. When you say "dark," is it brown, black?

9 A. Dark brown or black.

10 Q. Did the man have any facial hair, beard, mustache?

11 A. Not that I recall.

12 Q. Was he, in fact, clean-shaven?

13 A. I believe so.

14 Q. And how was he dressed?

15 A. He was dressed above average for the normal farm
customer

16 that comes in. He was wearing slacks and a sport
shirt.

17 Q. Did he speak with any identifiable accent?

18 A. No.

19 Q. You were first contacted about this transaction
shortly

20 after the explosion in Oklahoma City. Is that correct?

21 A. That's correct.

22 Q. When in relation to the explosion in Oklahoma City
were you

23 first interviewed by the FBI about this transaction?

24 A. Approximately two weeks.

25 Q. And where was that interview conducted?

Jerry Showalter - Direct

1 A. At the co-op.

2 Q. Do you recall what day of the week it was?

3 A. Sunday.

4 Q. When were you notified that the FBI wanted to
interview you

5 about this transaction?

6 A. Approximately 11:00 in the morning.

7 Q. And when were you, in fact, interviewed?

8 A. Around 2.

9 Q. Do you recall what you said to the agents during
that

10 interview?

11 A. Yes, I do.

12 Q. Did you provide all of the details about the
transaction

13 that you've testified to today?

14 A. I did not.

15 Q. Now, finally, I'd like to show you what's been
marked in

16 evidence as Government's Exhibit 318. Do you recognize
that as

17 a photograph of Timothy McVeigh?

18 A. I do.

19 Q. Does this pic -- that is, the picture of Timothy
McVeigh --

20 is this the person who purchased 1 ton of ammonium
nitrate from

21 you on September 30, 1994?

22 A. No, sir, it is not.

23 Q. Do you have any doubt about that?

24 A. I have no doubt at all.

25 MR. MEARNS: No further questions.

7431

Jerry Showalter - Cross

1 THE COURT: Mr. Woods?

2 MR. WOODS: Yes, your Honor. Thank you.

3 CROSS-EXAMINATION

4 BY MR. WOODS:

5 Q. Good afternoon, Mr. Showalter. My name is Ron
Woods. I'm

6 one of the lawyers who has been appointed to represent
Terry

7 Nichols.

8 You and I have never met. Is that correct?

9 A. That's correct.

10 Q. Okay. You told the prosecutor that when the FBI
first came

11 to talk to you -- and they talked to you three times
that

12 week -- that you didn't tell them what you're telling
the jury

13 here today, did you?

14 A. No, I did not.

15 Q. In fact, the FBI came by for the first time on the
27th.

16 Do you know what day that was?

17 A. No, sir, I do not.

18 Q. When you and Ms. Schaefer were in the office --
Tell the

19 jury who Donna Schaefer is.

20 A. She's the secretary/bookkeeper there.

21 Q. Do you remember FBI Agent Rayhart and then an ATF
agent by

22 the name of Ken Coffey coming by? This is when they
were doing

23 their original canvassing of all the dealers. This is
on

24 April 27, which would be a Thursday after the bombing.
Do you

25 remember them coming by and asking you about any large

7432

Jerry Showalter - Cross

1 purchases of ammonium nitrate?

2 A. Yes, sir, I do.

3 Q. And they showed you some drawings of John Doe 1 and
2?

4 A. That's correct.

5 Q. And showed you a photo of people they had arrested,
6 Mr. McVeigh and Mr. Nichols?

7 A. I do not recall the photos.

8 Q. Okay. They showed you some photographs, didn't
they?

9 A. I don't recall seeing any photographs.

10 Q. If their memo reflected that they showed you
photographs

11 and composites, would that be incorrect?

12 A. They showed the composites. They may have shown

13 photographs, but I do not recall it.

14 Q. And you told them at that time -- this is a week
after the

15 bombing -- you had no recollection of any large
purchases there

16 at the co-op other than the NCRA buying ammonium
nitrate. Tell

17 the jury what NCRA is.

18 A. NCRA is National Co-op Refinery Association. It's
an oil

19 refinery in town.

20 Q. And what were they buying ammonium nitrate for?

21 A. Lawn fertilizer.

22 Q. And you told the FBI about that, didn't you?

23 A. That's correct.

24 Q. And then three days later on Sunday, Agent Coffey
with the

25 FBI -- excuse me -- with the ATF and Agent Budke, B-U-
D-K-E --

Jerry Showalter – Cross

1 remember him?

2 A. I remember the meeting.

3 Q. The FBI agent that interviewed you and took notes?

4 A. I remember the meeting.

5 Q. Pardon me?

6 A. I remember the meeting.

7 Q. Okay. And he -- by that time, you all had located
the

8 ticket for September 30; is that correct?

9 A. That's correct.

10 Q. And he asked you your recollection of that
transaction?

11 A. That's correct.

12 Q. And you told him you had no recollection of that
13 transaction?

14 A. I told him that I made the ticket out, it was a
cash sale,

15 not check, and it was for 40 bags of ammonium nitrate.

16 Q. And you told him you didn't have any idea who Mike
Havens

17 was and couldn't give a description?

18 A. That's correct.

19 Q. Okay. And you said -- you looked at the sales
tickets --

20 actually, they came back two days later on May 2.
Remember

21 that interview that they came back for the third time?
22 A. Yes, I do.
23 Q. And tried to pinpoint a time that the transaction
occurred
24 by looking at the sequence of the sales tickets for
that day?
25 A. That's correct.

7434

Jerry Showalter – Cross

1 Q. Remember that?
2 A. Yes, sir.
3 Q. And you picked the time as being in the afternoon;
is that
4 correct?
5 A. That's correct.
6 Q. Okay. And you told them that based on these
sequence of
7 sales tickets that you were the one who likely loaded
this
8 order up because you didn't write up the subsequent
sales
9 ticket?
10 A. No, sir.
11 Q. Do you recall telling them that?
12 A. I wrote up that sales ticket that they had for
13 September 30.
14 Q. Exactly. But then didn't you tell them that you

were

up the 15 likely the one that loaded it because you didn't write

16 next sales ticket?

17 A. That's possible, yes.

that the 18 Q. Okay. Have you reviewed those memorandum (sic)

19 FBI wrote up of those three interviews with you?

20 A. No, sir, I have not.

21 Q. The Government didn't share those with you?

me the 22 A. We had discussed some of it, but they did not show

23 memorandums, no.

24 Q. When you discussed some of it, what do you mean?

pinpointed the 25 A. Well, basically we discussed as to how we

7435

Jerry Showalter – Cross

after. 1 time according to the number of tickets before and

2 Q. Did they read these memorandum of interview to you?

3 A. No, sir, they did not.

4 Q. And didn't let you read them?

5 A. I did not ask, and they did not offer.

Government you 6 Q. Now, this was May, '95. You're telling the

7 don't have any recollection of the transaction. Is

that

8 correct?

9 A. That's correct.

10 Q. And then you're aware the grand jury met and
returned an

11 indictment in August, '95?

12 A. Yes, sir.

13 Q. Okay. Because some of your people went down there;
right?

14 Mr. Showalter -- excuse me -- Mr. Schlender went to
grand jury.

15 You're aware of that?

16 A. I was not aware of that, no.

17 Q. You didn't know that?

18 A. I did not know where he went. He took some time
off, but

19 that's all I know.

20 Q. Okay. How many people work there in McPherson
branch?

21 A. Then, or now?

22 Q. At that time.

23 A. Four.

24 Q. Okay. And then you started meeting with the FBI
agent,

25 Mr. Hersley over here, and Mr. Mendeloff; is that
correct?

Jerry Showalter – Cross

1 A. That's correct.

2 Q. And when was that meeting, the first one, because
you've

3 had a number, but --

4 A. I can't remember the explicit time frame on it. I
think it

5 was in -- in the late fall, I believe.

6 Q. Late fall of what year?

7 A. That same year.

8 Q. '95?

9 A. I believe. I don't --

10 Q. Keep in mind we're in '97.

11 A. Yeah.

12 Q. I'm not trying to put words in your mouth. I'm
just trying

13 to --

14 A. I just -- I don't recall the exact time frame of
it, no.

15 Q. Okay. Where was the first meeting that you met
with the

16 FBI agent and the prosecutor?

17 A. It was at the local law enforcement center across
the

18 street from the co-op.

19 Q. Okay. Can you give us an estimation of the month
and year?

20 A. Well, let's see. I believe it was about a year ago
last

21 October. That would be '96.

22 Q. Okay. Okay. Is that your best recollection --

23 A. It's my best --

24 Q. -- when the meeting started?

25 A. That's my best recollection, yes.

7437

Jerry Showalter - Cross

1 Q. And who was present at the meeting?

2 A. Mr. Hersley and Mr. Mendeloff and myself.

3 Q. Okay. And was it at that time that you began to
recall the

4 event and could describe the person?

5 A. It was during those meetings, yes.

6 Q. How many meetings did you have?

7 A. Well, it was during the first meeting, yes. I had
three

8 meetings with Mr. Hersley and Mr. Mendeloff.

9 Q. What period of time did the meetings take place?
When you

10 say three, the first one you've pinpointed is October,
'96.

11 When was the second one?

12 A. Trying to -- let's see. This is '97. The last one
was

13 just before Thanksgiving of '96, so they would have
been in --

14 that would have been the last one. The first one would

have

15 had to have been sooner than October. I just do not
recall the

16 exact time frames.

17 Q. Okay. And those were meetings with Mr. Hersley
with the

18 FBI and Mr. Mendeloff, one of the prosecutors?

19 A. That is correct.

20 Q. And then you started meeting with Mr. Mearns, a new
21 prosecutor on the team; is that correct?

22 A. That is correct.

23 Q. And do you recall when you first met with him?

24 A. I first met with him in July, first part of July,
this

25 year.

7438

Jerry Showalter - Cross

1 Q. Okay. And how many meetings have you had with him?

2 A. I have met with him four times.

3 Q. Okay. And what -- can you give us the months that
you met

4 with him?

5 A. I met with him in July. He was -- in August and
then again

6 in September.

7 Q. Okay. And then you met with him, I assume --

8 A. And then this week.

9 Q. How many times have you met with him this week?

10 A. Just once.

11 Q. And when was that?

12 A. Monday evening.

13 Q. How long did that meeting last?

14 A. Approximately an hour.

15 Q. Okay. And your now testimony is that you can describe the

16 individual -- is that correct -- and have a recollection of

17 phone calls and everything?

18 A. Yes, sir.

19 Q. Okay. Do you know what time that phone call was that came

20 from Stuart Vogts over in the Galva branch on September 29?

21 A. Middle to the late morning.

22 Q. Had you seen the phone records of the co-op that shows the

23 long distance calls?

24 A. They showed me that record once, yes.

25 Q. What time was that phone call?

7439

Jerry Showalter - Cross

1 A. If I recall, it was 10:38 or something like that on the

2 records.

3 Q. Was there also a call at 10:04?

4 A. I do not remember.

5 Q. Between Galva and McPherson?

6 A. It's possible. We call locations quite regularly.

7 Q. Was the FBI telling you that it's the 10:30 phone
call?

8 A. No, sir, they did not.

9 Q. What did they show you the records for?

10 A. They showed me the records the second meeting --
the
11 meeting after I told them about the phone call.

12 Q. Okay. And did they -- what was the purpose of
showing you
13 the records?

14 MR. MEARNS: Objection.

15 THE COURT: Sustained.

16 BY MR. WOODS:

17 Q. What did they say when they showed you the phone
record

18 between Galva and McPherson -- the phone call?

19 A. They just showed me the records. We had been
discussing

20 what I had told them the meeting before, and they
showed me the
21 record of the phone call.

22 Q. Okay. Is your now recollection three years later
-- is it

you had 23 your recollection that the man was wearing glasses when

24 the transaction with him?

were 25 A. I do not recall whether the glasses were -- there

7440

Jerry Showalter - Cross

1 glasses or not.

testimony 2 MR. WOODS: Okay. Thank you, sir, for your

3 now.

4 THE COURT: Any redirect?

5 MR. MEARNS: Briefly, your Honor.

6 REDIRECT EXAMINATION

7 BY MR. MEARNS:

never met. 8 Q. Mr. Woods indicated to you that you and he had

9 Is that correct?

10 A. That's correct.

from 11 Q. Were you recently interviewed by an investigator

12 Mr. Nichols' defense team?

13 A. Yes, I was.

14 Q. When was that interview approximately?

15 A. Approximately three weeks ago or so.

16 Q. And where was that interview?

17 A. At the co-op.

18 Q. Did you answer all of the investigator's questions?

19 A. I asked -- answered everything he asked.

20 Q. Did he ask you why it was that you told the FBI
initially

21 that you couldn't recall the details of the
transaction?

22 A. He did not.

23 Q. Why did you not tell the FBI initially?

24 A. Fear.

25 Q. Excuse me?

7441

Jerry Showalter - Redirect

1 A. Fear.

2 Q. You were asked by Mr. Woods about Mr. Schlender's
possible
3 appearance before the grand jury. Do you recall that
question?

4 A. Yes, I do.

5 Q. Have you ever spoke with Mr. Schlender about this
6 transaction of September 30, 1994?

7 A. It was requested that we did not -- do not -- not
to

8 discuss the transaction, and we have not.

9 Q. Who asked you not to speak about it?

10 A. The FBI.

11 Q. With respect to your meetings with various
prosecutors and

12 agents, during any of those meetings, did the agents or
13 prosecutors ever tell you what to say?

14 A. They never did.

15 Q. Did they ever suggest to you what your testimony
should be?

16 A. They never did.

17 MR. MEARNS: No further questions, your Honor.

18 MR. WOODS: Nothing further, your Honor.

19 THE COURT: All right. This witness now
excused?

20 MR. MEARNS: Yes, your Honor.

21 THE COURT: Is that agreed?

22 MR. WOODS: Yes, your Honor.

23 THE COURT: You may step down. You're
excused.

24 Next, please.

25 MR. MACKEY: Your Honor, we'd call FBI Agent
Mary

7442

1 Jasnowski.

2 THE COURT: All right.

3 THE COURTROOM DEPUTY: Raise your right hand.

4 (Mary Jasnowski affirmed.)

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

6 Would you state your full name for the record
and
7 spell your last name.

8 THE WITNESS: My name is Mary Y. Jasnowski,
9 J-A-S-N-O-W-S-K-I.

10 THE COURTROOM DEPUTY: Thank you.

11 DIRECT EXAMINATION

12 BY MR. MEARNS:

13 Q. Good afternoon, ma'am.

14 A. Good afternoon.

15 Q. How are you employed?

16 A. I'm a special agent with the Federal Bureau of
17 Investigation.

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

19 A. Since 1978.

20 Q. Prior to joining the FBI, where did you go to
college?

21 A. I went undergrad to the University of Nebraska at
Lincoln.

22 Q. When did you graduate?

23 A. In 1974.

24 Q. And what was your major?

25 A. I majored in Russian.

Mary Jasnowski – Direct

1 Q. What did you do after graduating from college?

2 A. I went to law school.

3 Q. Where did you go to law school?

4 A. At the University of Notre Dame.

5 Q. When did you graduate from law school?

6 A. In 1977.

7 Q. And what did you do after graduating from law
school?

8 A. Well, I applied for and became a special agent with
the

9 FBI.

10 Q. What training have you received during your nearly
20 years

11 as an FBI agent?

12 A. Well, in addition to the initial training that I
received

13 as an FBI agent, I've received training in evidence
recovery

14 and collection, homicide investigations, blood splatter
study,

15 post-blast investigations.

16 Q. And what kind of experience have you had in the
FBI?

17 A. I've been in four offices in the FBI, and in those
offices

18 I've worked white-collar crimes, I've worked --
assisted in

19 criminal matters and worked foreign counterintelligence
as

20 well.

21 Q. Where are you presently assigned?

22 A. I'm assigned to the Omaha division.

23 Q. That's Omaha, Nebraska?

24 A. Yes, Omaha, Nebraska. It covers all of Nebraska
and Iowa.

25 Q. How long have you been assigned in the Omaha field
office?

7444

Mary Jasnowski - Direct

1 A. Since January of 1995.

2 Q. What are your present duties and responsibilities?

3 A. Well, I basically serve as the chief division
counsel for

4 the Omaha division.

5 Q. What is the chief division counsel?

6 A. I'm basically the legal officer. I advise the
special

7 agent in charge. I conduct training for agents and for
police

8 officers and other law enforcement officers. I also
handle any

9 kind of administrative claims or lawsuits that are
filed

10 against the FBI in the Omaha division.

11 Q. What -- You identified a position within the FBI as
the

12 special agent in charge. What is that?
13 A. He's basically the head of the Omaha office or of
any
14 office.
15 Q. Do you have any other duties and responsibilities
in the
16 Omaha office?
17 A. Yes. I'm the Evidence Response Team coordinator
for the
18 Omaha office.
19 Q. What is the Evidence Response Team?
20 A. Well, the Evidence Response Team is basically a
relatively
21 new development in the FBI. Each office -- each field
office
22 in the FBI has an Evidence Response Team now, but it's
23 gradually developed over the years. What we do -- it's
a group
24 of agents and support personnel who specialize in the
25 collection and custody of evidence in searches.

7445

Mary Jasnowski - Direct

1 Q. Have you received any training in connection with
your
2 duties with the Evidence Response Team?
3 A. Yes, I have.
4 Q. What kind of training have you received?

Response 5 A. Well, in addition to the -- the initial Evidence

6 Team training and fingerprints, retrieval and
collection, I've

7 also received training, as I said before, in the blood
8 splatter, the death-scene investigations, the post-
blast

9 investigations, and similar seminars.

10 Q. You told us that you're the Evidence Response Team
11 coordinator. What does that mean, to be the
coordinator?

12 A. Well, that is the -- basically within each field
office,

13 that's the administrator for the Evidence Response
Team. I

14 make sure that we have enough people on the Evidence
Response

15 Team; that they get the training that they receive --
that they

16 require; that the supplies are there, things of that
nature.

17 But more in the administrative -- in the administrative
realm,

18 rather than hands-on.

19 Q. So you're essentially a supervisor for the Omaha
Evidence

20 Response Team?

21 A. Yes.

22 Q. Is there also somebody who serves in the capacity
as the

23 team leader?

to-day 24 A. Yes. That's an agent who actually handles the day-
direct 25 searches, who actually will go out on the searches and

7446

Mary Jasnowski - Direct

search. 1 people as to what their assignments will be during a

Evidence 2 Q. Are you presently the team leader for the Omaha

3 Response Team?

4 A. No, I'm not.

5 Q. Were you ever the team leader?

6 A. Yes, I was.

7 Q. When was that?

as the 8 A. When I first took on the position, I was -- served

9 coordinator and the team leader.

10 Q. And for how long were you the team leader?

11 A. Probably until February of '96.

12 Q. Prior to April of 1995, how many searches had you
13 participated in?

division, 14 A. In the Omaha division, only one; but in my other

15 Chicago, approximately 20 to 25.

Evidence 16 Q. And how many had you participated in as the

17 Response Team leader?

18 A. Three.

1995, do 19 Q. Directing your attention now to Friday, April 21,

20 you recall that day?

21 A. Yes, I do.

22 Q. Where were you that morning?

a 23 A. That morning, I was in Des Moines, Iowa, attending

there. 24 session of the National Academy Associates that we had

25 Q. Did you return to Omaha that day?

7447

Mary Jasnowski - Direct

1 A. Yes. Later that afternoon, I returned to Omaha.

2 Q. What happened when you returned to Omaha that day?

collect the 3 A. Well, the special agent in charge told me to

Kansas, to 4 Evidence Response Team and to report to Fort Riley,

5 assist the Kansas City division.

did you 6 Q. At the time that you were given that assignment,

7 know what investigation that assignment related to?

Murrah 8 A. Yes. It was in connection with the bombing of the

9 Federal Building.

on 10 Q. And that was -- that had occurred two days earlier
11 April 19?
12 A. That is correct.
13 Q. What did you do after receiving that assignment?
there 14 A. Well, I assembled the supplies that we had on hand
15 and was able to round up people for the evidence team
from the 16 evidence team and told them what to wear and how to
report; and 17 I set off for Kansas myself.
18 Q. How did you get to Kansas?
19 A. I drove.
20 Q. And where did you go when you got to Kansas?
21 A. I drove to Fort Riley, to the military police
headquarters 22 there.
23 Q. Was there some kind of a command post set up there
at that 24 time?
25 A. Yes, there was.

7448

Mary Jasnowski - Direct

1 Q. What kind of a command post was set up there?
2 A. Well, the Kansas City division had an assistant
special

there 3 agent in charge there and a number of agents that were
4 manning a command post.

Riley on 5 Q. And approximately what time did you arrive at Fort
6 April 21?

7 A. Between 6 and 7 p.m.

day, 8 Q. Did you conduct any investigative activities that
9 April 21?

10 A. No. No, we did not.

11 Q. What did you do the next morning?

well, 12 A. The next morning, we went to the Junction City --

gathered up 13 first of all, we went back to the command post and

to the 14 some extra supplies from the military police and went

individuals that 15 Junction City airport, where we picked up some

to assist 16 we were told were flying in from our FBI headquarters

17 in any searches that we would conduct.

18 Q. Who did you pick up that morning?

Eugene 19 A. We picked up four people: Gene Grindstaff --

Hupp, who 20 Grindstaff, who is a latent print photographer; Lou

Special Agent 21 was a fingerprint processor; Steve -- Supervisory

22 Steven Burmeister, and Ron Kelly, who is a chemist from

the

23 lab.

24 Q. Where did you go then?

25 A. We drove down to Herington, Kansas, to the Public
Safety

7449

Mary Jasnowski - Direct

1 Building, which was set up as a command post there.

2 Q. When you arrived, did you receive an assignment?

3 A. Yes, we did.

4 Q. What was your -- what was your assignment at that
point?

5 A. We were told to go to a storage shed not far from
the

6 command post and to make some plaster casts of ruts
that had

7 been discovered there.

8 Q. Okay. The command post at that point was where in
Kansas?

9 A. Herington.

10 Q. And did you go pursuant to that assignment -- did
you go to

11 a storage facility in Herington?

12 A. Yes, we did.

13 Q. What did you see when you got there?

14 A. When we got there, there were FBI agents on the
scene from

15 the Kansas City division. There was an area that was
roped

16 off, and we saw the storage units that they were
interested in

17 as well as ruts in front of the storage units.

18 Q. What do you mean by "ruts"?

19 A. Where something, either a car or a truck, had made

20 impressions in the soil.

21 Q. And did you -- your assignment then was to make
impressions

22 of those ruts or tracks?

23 A. Yes.

24 Q. Did you do that that day?

25 A. No, we did not.

7450

Mary Jasnowski - Direct

1 Q. Why not?

2 A. As we were about to begin, an agent from the Kansas
City

3 office told us to stop because headquarters had decided
they

4 were going to send someone out from headquarters to do
that

5 task.

6 Q. Who would do that task?

7 A. His name -- Supervisory Special Agent William
Bodziak.

8 Q. Where did you go at that point?

9 A. We returned to the command post in Herington.

10 Q. What did you do when you returned to the command
post in
11 Herington?

12 A. We waited until a briefing was scheduled.

13 Q. What was the purpose of the briefing?

14 A. The briefing was to tell us that there was a search
warrant
15 and that my team would be conducting a search based on
this
16 warrant.

17 Q. Did you learn where the search was going to be?

18 A. Yes, I did.

19 Q. Where was the location?

20 A. It was 109 South 2nd Street in Herington.

21 Q. And you understood that to be Mr. Nichols' -- Mr.
Terry
22 Nichols' residence?

23 A. Yes, I did.

24 Q. Who conducted the briefing?

25 A. Basically the man in charge was the other assistant
special

7451

Mary Jasnowski - Direct

1 agent in charge, not the man that we met the night
before, a

2 Dale Watson.

3 Q. Who else conducted the briefing?

4 A. Well, at numerous times, different supervisors from
the
and we
from the
to us
5 Kansas office would give input into what was going on;
6 also had the chief division counsel -- my counterpart
7 Denver division gave part of the briefing. He talked
8 about the warrant.

9 Q. Who else was present for the briefing?

10 A. There were -- my entire team was present in
addition to the
agents
11 people who came from headquarters, and there were also
12 from the Kansas City division at this briefing.

13 Q. And how long did the briefing take?

14 A. Approximately an hour.

15 Q. Did you review any documents during the briefing?

16 A. Yes, we did.

17 Q. What did you review?

18 A. The search warrant and its attachment.

19 Q. And what information is reflected on the search
warrant and
20 the attachment?

21 A. The search warrant basically lays out the property
to be

22 searched, and the attachment basically lays out what it

is

23 we're permitted to seize.

24 Q. That is, you're permitted by the court-ordered
search

25 warrant?

7452

Mary Jasnowski - Direct

1 A. That's correct.

2 Q. Did the other people who were going to participate
in the
3 search also review the search warrant and the
attachment?

4 A. Yes, they did.

5 Q. What was your role going to be in the search?

6 A. My personal role -- they announced that my team
would be
7 doing the search and then I would be the team leader,
so I was
8 going to coordinate the search that night.

9 Q. Would you have responsibilities, then, to direct
the other
10 agents who would be assisting you in the search?

11 A. That's correct.

12 Q. About how many agents were going to assist you in
executing
13 the search warrant?

14 A. We had five people from Omaha in addition to
myself, two of

15 whom were not agents. And I asked for an additional --
some
16 additional agents from the Kansas City division, and I
received
17 five additional Kansas City agents.
18 Q. So about how many people total were going to work
on the
19 search?
20 A. Approximately 15.
21 Q. What time did the briefing conclude?
22 A. Approximately 4 or slightly before 4.
23 Q. What did you do at that time?
24 A. Well, we coordinated and drove over to the -- Mr.
Nichols'
25 residence.

7453

Mary Jasnowski - Direct

1 Q. And what did you see when you got there?
2 A. I saw -- we weren't able to drive directly up to
it. The
3 streets were blocked off. And I saw numerous FBI
personnel and
4 police personnel and Army personnel as well on the
scene.
5 Q. Were you able to go immediately to the residence to
begin
6 the search?

7 A. No, we weren't.

8 Q. What was going on in the house before you began to
execute

9 the search warrant?

10 A. A protective sweep was being conducted.

11 Q. What did you do after that protective sweep was
finished?

12 A. We set up -- we had already decided who was going
to make

13 the initial entries. And two members of the team, Mr.
--

14 Supervisory Special Agent Burmeister and Ron Kelly went
into

15 the house to set up their equipment; and while they
were doing

16 that, myself, Sonya Hernandez, and Gene Grindstaff went
around

17 the exterior of the house and the property. And while
they

18 photographed, I made a sketch of the premises.

19 Q. Did you see what Agent Burmeister and Mr. Kelly
were

20 wearing when they went into the house?

21 A. Yes, I did.

22 Q. What were they wearing?

23 A. They were wearing protective coveralls and booties.

24 Q. And who were the next people to enter the house
after Agent

25 Burmeister and Mr. Kelly?

Mary Jasnowski – Direct

1 A. After them, they called us in: myself, Ms.
Hernandez and

2 Mr. Grindstaff.

3 Q. Before going into the house with Ms. Hernandez and

4 Mr. Grindstaff, did you give them any instructions?

5 A. Yes, I did. I told them that we would be
photographing the

6 interior prefatory to doing the search, prefatory to
beginning

7 the search.

8 Q. Did you give them any instructions with respect to
touching

9 any of the objects inside the house?

10 A. Yes. I told them we would not begin searching
until after

11 we had finished the survey, so they were not to conduct
any

12 search.

13 Q. What were you wearing at that time?

14 A. I also was wearing protective coveralls and
booties.

15 Q. And what were Mr. Grindstaff and Ms. Hernandez
wearing?

16 A. They always donned protective coveralls and
booties.

17 Q. Explain what you did with Ms. Hernandez and Mr.
Grindstaff

18 during this initial entry into the house.

19 A. Well, I basically shadowed them, because we didn't
want to
20 disturb the activity that Mr. -- or Special Agent
Burmeister
21 was conducting; so we stayed in the background -- but
generally
22 followed them around and would -- they would take
photographs,
23 and I would sketch each room of the house.
24 Q. And that's what you did?
25 A. Yes.

7455

Mary Jasnowski - Direct

1 Q. About how long did it take you to sketch and
photograph the
2 interior of the house?
3 A. Approximately an hour, hour and a half.
4 Q. What I'd like you to do is find within that folder
you have
5 in front of you Government's Exhibit 2086.
6 A. Yes.
7 Q. Do you recognize that?
8 A. Yes, I do.
9 Q. What is that?
10 A. It's a computer-generated diagram based on the
sketches
11 that I made that night.

the
rooms?

12 Q. And is it essentially a fair and accurate sketch of
13 exterior of the house, the property, and the interior

14 A. Yes, it is.

15 Q. Is it, in fact, drawn to scale?

16 A. No, it is not.

17 Q. But it's a fairly accurate representation of the
18 structures?

19 A. Yes.

20 MR. MEARNS: Your Honor, we'd offer 2086.

21 MR. TIGAR: May I inquire, your Honor?

22 THE COURT: You may.

23 VOIR DIRE EXAMINATION

24 BY MR. TIGAR:

25 Q. Good afternoon, Agent Jasnowski.

7456

Mary Jasnowski - Voir Dire

1 A. Good afternoon.

appointed
2 Q. My name is Michael Tigar. I'm one of the lawyers

3 to help Terry Nichols.

4 A. Yes.

that
5 Q. This computer thing that you've described here: Is

6 a -- is it something that plays on a television? You
say it's
7 a computer-designed sketch. I don't understand what it
is.
8 A. I don't exactly know how it was created myself.
All I know
9 is it wasn't drawn by hand.
10 Q. Okay. And when we see it, what will we see? Is it
a
11 computer -- is it like a cartoon simulation of us going
through
12 the house?
13 A. No. It's nothing quite so complicated, no.
14 Q. Okay. It just shows us what is -- what's in the
different
15 rooms?
16 A. I'm sorry. It's just a diagram.
17 Q. Oh, okay.
18 A. It's just a diagram.
19 Q. So it doesn't purport to show us what you found
there?
20 A. There are some things that are noted, but generally
no.
21 Q. Okay. And what sorts of things are noted?
22 A. Well, for instance, there is some barrels that are
noted in
23 the garage. But other than that -- and there are
crates and --
24 shovels and crates and things like that that are noted
25 basically as landmarks.

Mary Jasnowski - Voir Dire

1 Q. Oh, I see. Okay. So it just -- and later on
you're going

2 to tell us more about what we saw there and where you
found it,

3 and so on?

4 A. Yes.

5 Q. And it is based on what you saw?

6 A. Yes.

7 MR. TIGAR: Okay. Thank you very much for
explaining

8 it to me.

9 I don't have any objection to it, your Honor.
I'm

10 sorry.

11 THE COURT: All right. 2086 received.

12 DIRECT EXAMINATION CONTINUED

13 BY MR. MEARNS:

14 Q. If we can begin with the first page of 2086,
please. Could

15 you tell us what we see in that diagram, Agent
Jasnowski.

16 A. Yes. This is the exterior looking down of 109
South 2nd

17 Street basically in relation to the rest of the houses
on the

18 street.

19 Q. And so beginning on the far right side of the
diagram, that
20 is 2nd Street. Is that correct?
21 A. Yes.
22 Q. And which direction is north?
23 A. North is at the top of the page.
24 Q. And could you just put a big circle around the
residence?
25 A. I can. The residence is located here.

7458

Mary Jasnowski - Direct

1 Q. Now, if you would click that.
2 This is the driveway, then, located just to
the south
3 of the residence?
4 A. Yes.
5 Q. If you could clear the screen. If you click the
pen . . .
6 There you go.
7 What is the structure, I guess, just to the
left or to
8 the west of the residence?
9 A. That's the garage.
10 Q. How many rooms are in that garage?
11 A. There is the main auto garage and there is a
storage room.

12 Q. Where is the front door to the residence?

13 A. Front door to the residence is here off of the porch.

14 Q. Is there another door entrance to the house?

15 A. Yes. Off the driveway, there is a door.

16 Q. That is just kind of north and west of the driveway there?

17 A. Yes.

18 Q. And those little Xs represent windows on the residence?

19 A. Yes, they do.

20 Q. How many stories -- how many floors in this house?

21 A. There is there is a main floor, an attic, and a basement.

22 Three floors.

23 Q. And is there any storage space down in that basement?

24 A. Yes, there is.

25 Q. Now, if we could turn to the second page, please.

7459

Mary Jasnowski - Direct

1 What do we see in that diagram?

2 A. This is a diagram of the first floor of the residence.

3 Q. Would you show us how you proceeded through the house when

4 you entered for the first time on April 22?

5 A. Well, basically we came in here, into the storage
room,
6 went through the kitchen, into the living room, went
over here,
7 into the first bedroom, came back out, over here, into
the
8 second bedroom, through this door, into the laundry
room, the
9 bathroom, back into the kitchen, back into the storage
room,
10 and back into the laundry room. There was a door and
steps
11 leading down into a furnace basement.

12 Q. Okay. So if you could clear your pen and we could
have the
13 third page, please.

14 Which room in the basement were you referring
to just
15 a moment ago?

16 A. This is the room that we went to next.

17 Q. Okay. And then what was the next room you went to?

18 A. Then we went back up and then through the house
again and
19 down into the basement storage on the other side.

20 Q. Is there any way when you're in the basement to
walk from
21 that furnace room to the basement storage room?

22 A. No, there is not.

23 Q. And what's indicated there to the upper right?
There is a

24 large area referred to as a crawlspace. What's there?

the 25 A. Right. This is a crawlspace. It's not as deep as

7460

Mary Jasnowski - Direct

as if 1 furnace room was, and these lines here -- they appear

If 2 it's solid, but actually it's not. There is openings.

crawlspace 3 you're in the furnace room, you can see into this

4 area.

have the 5 Q. Okay. Now, if you would clear your pen and we'll

6 fourth page.

7 What is this a diagram of?

8 A. This is a diagram of the garage behind the house.

south 9 Q. Beginning with the room that's on the bottom on the

10 side, what is that room?

garage. 11 A. We called it the storage room. It's not an auto

12 It's a storage room.

13 Q. Where is the room you refer to as the auto garage?

14 A. This room. It's marked as J.

15 Q. That's the room just to the north there?

16 A. Yes.

17 Q. Were there any cars or trucks in that room when you

entered

18 that day?

19 A. No, there weren't.

20 Q. What was in that room?

21 A. Oh, there were a number of things in there. As you
can

22 see, we marked here crates and saws and -- crates and
shovels,

23 all sorts of hardwarish-type things.

24 Q. Okay. Did you take -- before you entered the house
to draw

25 this sketch, did you take photographs of the exterior
of the

7461

Mary Jasnowski - Direct

1 house?

2 A. Yes.

3 Q. What I'd like to do now is if you'd look in the
folder for

4 Government's Exhibit 1778.

5 THE COURT: Well, we'll break in and recess at
this

6 point for the day.

7 So be back at 8:45 in the morning to resume
your

8 testimony.

9 Members -- excuse me. Members of the jury,
we'll, as

10 usual, recess at this time -- you can step down.

11 THE WITNESS: Thank you.

12 THE COURT: And we'll resume at 8:45 in the
morning.

13 And, of course, it's again my obligation to
remind you

14 of your obligation to be careful about all of the
things that

15 you may read, see, and hear in the meantime, to avoid
anything

16 which could in any way relate to the issues on trial in
this

17 case and also, of course, to maintain open minds and
avoid

18 discussion about the trial with all of other persons,
including

19 other jurors.

20 We'll resume at 8:45 in the morning. You're
excused

21 now.

22 (Jury out at 5:00 p.m.)

23 THE COURT: We'll expect just to take one
recess

24 tomorrow, I would hope in the middle of the four hours,
or

25 whatever we've got to work with.

1 Okay. Recess.

2 (Recess at 5:01 p.m.)

3 * * * * *

4 INDEX

Page 5 Item

6 WITNESSES

7 Tejal Bhakta

7301 8 Direct Examination by Mr. Mearns

7306 9 Cross-examination by Mr. Woods

10 Helen Mitchell

7308 11 Direct Examination by Mr. Ryan

7324 12 Cross-examination by Mr. Woods

7326 13 Redirect Examination by Mr. Ryan

14 Sharri Furman

7327 15 Direct Examination by Mr. Mearns

7355 16 Cross-examination by Mr. Woods

17 Frederick Schlender

7359 18 Direct Examination by Mr. Mearns

7385 19 Cross-examination by Mr. Woods

7409 20 Redirect Examination by Mr. Mearns

7412	21	Recross-examination by Mr. Woods				
7414	22	Redirect Examination by Mr. Mearns				
	23	Jerry Showalter				
7415	24	Direct Examination by Mr. Mearns				
7431	25	Cross-examination by Mr. Woods				
7463						
	1	(Jerry Showalter)				
7440	2	Redirect Examination by Mr. Mearns				
	3	Mary Jasnowski				
7442	4	Direct Examination by Mr. Mearns				
7455	5	Voir Dire Examination by Mr. Tigar				
7457	6	Direct Examination Continued by Mr. Mearns				
	7	PLAINTIFF'S EXHIBITS				
Withdrawn	8	Exhibit	Offered	Received	Refused	Reserved
	9	64-68	7366	7366		
	10	86	7303	7303		
	11	88	7317	7317		
	12	90	7321	7321		

13	91	7320	7320
14	92	7314	7314
15	93	7322	7322
16	94	7323	7323
17	96	7323	7324
18	97	7312	7312
19	100-105	7331	7331
20	105-106	7333	7333
21	107-107A	7341	7341
22	108	7341	7341
23	109-109A	7341	7341
24	110	7353	7353
25	111-111A	7341	7341

7464

	1	PLAINTIFF'S EXHIBITS (continued)				
	2	Exhibit	Offered	Received	Refused	Reserved
Withdrawn						
	3	112	7341	7341		
	4	113	7351	7351		
	5	114	7342	7342		
	6	226	7306	7306		
	7	1951	7313	7313		
	8	2086	7455	7457		

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REPORTERS' CERTIFICATE

11 transcript from

We certify that the foregoing is a correct

Dated

12 the record of proceedings in the above-entitled matter.

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

14

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Paul Zuckerman

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Kara Spitler

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