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IN THE UNITED STATES DISTRICT COURT  
OF THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

FILED-EDS

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CLERK  
U.S. DISTRICT COURT

AUG 9 - 1989

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

NORBY WALTERS and LLOYD BLOOM,

Defendants.

89-2352

No. 88 CR 709

Chicago, Illinois

March 14, 1989

10:00 a.m.

8-2353

REPORT OF PROCEEDINGS  
BEFORE THE HONORABLE GEORGE M. MAROVICH

For the Plaintiff:

**RECEIVED**

MR. ANTON R. VALUKAS

DEC 10 1990

MR. HOWARD M. PEARL

H. STUART CUNNINGHAM  
CLERK, U. S. DISTRICT COURT

MS. HELEN B. GREENWALD

For the Defendants:

MR. ROBERT GOLD

MR. ETHAN LEVIN-EPSTEIN

MR. MATTHEW KENNELLY

MR. DAN K. WEBB

MR. STEVEN F. MOLO

MR. GEORGE LOMBARDI

Official Court Reporter:

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U.S.C.A. - 7th Circuit  
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1 (PAGES 1106 TO 1120 SEALED PER ORDER OF COURT AND  
2 FILED UNDER SEPARATE COVER.)

3 (The following proceedings were had in open court:)

4 THE COURT: Counsel?

5 MR. VALUKAS: Your Honor, one other item. In the  
6 preliminary portion of Mr. Franzese's testimony, he will be  
7 testifying as to the social and business relationship he had  
8 with Mr. Walters prior to 1981. We are not alleging these as  
9 bad acts but as background which explains to the jury the  
10 nature and the scope of their relationship, and that is  
11 relevant to what takes place later.

12 I think it is appropriate to instruct the jury that  
13 that's not being offered against Mr. Webb's client, Mr. Bloom.  
14 That is, that which predates 1981 is not being offered --

15 THE COURT: Can you suggest the language of a  
16 limiting instruction?

17 MR. WEBB: Here's the problem. I think, as I  
18 indicated on the record yesterday with my motion for severance,  
19 any evidence of the relationship between Mr. Franzese and Mr.  
20 Walters prior to -- at least at a minimum prior to the time  
21 that World Sports & Entertainment was created --

22 THE COURT: You are talking about the testimony of --

23 MR. VALUKAS: Weisner.

24 MR. WEBB: Now, my position yesterday, Judge, and  
25 that's why this is a problem this morning, is that any

1 testimony of Mr. Franzese about his relationship with Mr.  
2 Walters prior to the creation of World Sports & Entertainment  
3 in December of 1984 and attributing that conduct to Mr. Bloom I  
4 believe to be a requirement for severance for the reasons I set  
5 forth yesterday, and I won't repeat, concerning the fact that  
6 it's not part of the conspiracy that Mr. Bloom participated in  
7 and agreed to be involved in, according to the Government's  
8 allegations on the face of the indictment.

9           Therefore, trying to limit the evidence that Franzese  
10 is going to give before 1981 simply highlights that -- what the  
11 Government is apparently going to say is that what happened  
12 between 1981 and 1984, when Mr. Bloom didn't even know Mr.  
13 Walters and wasn't involved in his entertainment business, is  
14 being attributed to Mr. Bloom, and, therefore, it's going to  
15 highlight for the jury that very fact.

16           However, I will accept the Government's offer to have  
17 the limiting instruction given.

18           THE COURT: And what limiting instruction shall I  
19 give?

20           MR. VALUKAS: Your Honor, my suggestion is that the  
21 Court simply instruct the jury that the testimony concerning  
22 the nature and scope of the relationship between Mr. Walters  
23 and Mr. Franzese prior to 1981 when the conspiracy is alleged  
24 to have begun is admitted against Mr. Walters and is not to be  
25 considered against Mr. Bloom.

1 MR. WEBB: Well, I would like to leave out "when the  
2 conspiracy is alleged to have begun."

3 THE COURT: Let me just make sure that I can say  
4 something that is agreeable to you both, if possible. But it  
5 is that the testimony concerning the nature and what?

6 MR. VALUKAS: Scope of the relationship.

7 THE COURT: And scope?

8 MR. VALUKAS: Right, of the relationship between Mr.  
9 Walters and Mr. Franzese.

10 THE COURT: You're going faster than I have the  
11 capacity to digest here.

12 MR. VALUKAS: I'm sorry.

13 THE COURT: "...prior to 1981 is limited to..."

14 MR. VALUKAS: Is being offered against Mr. Walters,  
15 only, at this time.

16 MR. WEBB: At this time?

17 THE COURT: I think "only" is a good place to put a  
18 period.

19 MR. VALUKAS: Okay.

20 THE COURT: The instruction is that: "The testimony  
21 concerning the nature and scope of the relationship between Mr.  
22 Walters and Mr. Franzese prior to 1981 is offered against Mr.  
23 Walters only."

24 MR. WEBB: That's fine. Could I -- I think the  
25 standard cautionary instruction goes on to say, "and should not

1 be considered by you for any purpose as to Mr. Bloom." And I  
2 would accept that limiting instruction.

3 THE COURT: Let's have the jury.

4 MR. VALUKAS: Bring out Mr. Franzese.

5 THE COURT: I presume you wish the jury to be brought  
6 out before he is sworn; is that correct?

7 MR. PEARL: Yes.

8 THE COURT: Are you ready for the jury?

9 MR. VALUKAS: Yes, your Honor.

10 (JURY IN.)

11 THE COURT: Please be seated. Good morning.

12 Mr. Witness, will you be sworn.

13 (Witness sworn.)

14 THE COURT: Before the examination begins, ladies and  
15 gentlemen, I will take you back to some preliminary  
16 instructions that I gave you. And I indicated that from time  
17 to time, testimony will be presented to you for a limited  
18 purpose and you are to consider that evidence for that purpose  
19 only. You are about to hear testimony from Mr. Franzese, and  
20 that testimony concerning the nature and scope of the  
21 relationship between Mr. Walters and Mr. Franzese prior to 1981  
22 is offered against Mr. Walters, only, and should not be  
23 considered by you for any purpose against Mr. Bloom.

24 With that limiting instruction, you may inquire, Mr.  
25 Valukas.

1                   MICHAEL FRANZESE, GOVERNMENT'S WITNESS, DULY SWORN.

2                   DIRECT EXAMINATION

3 BY MR. VALUKAS:

4 Q. Mr. Witness, could you state your name and spell your last  
5 name for the record, please.

6 A. Yes. Michael Franzese, F-r-a-n-z-e-s-e.

7 Q. Mr. Franzese, how old are you?

8 A. 37.

9 Q. Are you married?

10 A. Yes.

11 Q. And how many children do you have?

12 A. Five.

13 Q. Are some by your first marriage?

14 A. Yes.

15 Q. How many?

16 A. Three.

17                   MR. GOLD: Your Honor, I can barely hear. Could you  
18 ask the witness to keep his voice up?

19                   THE COURT: Would you do that, please.

20                   THE WITNESS: Yes.

21 BY MR. VALUKAS:

22 Q. Would you please speak into the microphone, Mr. Franzese.

23                   Mr. Franzese, is your father still alive?

24 A. Yes, he is.

25 Q. And what is your father's name?

- 1 A. John Franzese.
- 2 Q. Does he have a nickname?
- 3 A. Yes.
- 4 Q. What is that?
- 5 A. Sonny.
- 6 Q. Mr. Franzese, where did you go to high school?
- 7 A. Holy Cross High School in Flushing, New York.
- 8 Q. And when did you graduate?
- 9 A. 1969.
- 10 Q. Did you go on to college?
- 11 A. Yes.
- 12 Q. And which college did you go to?
- 13 A. Hofstra University in Hempstead, Long Island.
- 14 Q. And were you a major in any subject?
- 15 A. I was a biology major, pre-med student.
- 16 Q. Did you graduate?
- 17 A. No.
- 18 Q. When did you leave college?
- 19 A. I believe it was 1972.
- 20 Q. Mr. Franzese, from the period of time 1973 through 1986,
- 21 were you associated with any organized crime family?
- 22 A. Yes.
- 23 Q. And which family was that?
- 24 A. Columbo family in New York.
- 25 Q. And did there come a time when you held a supervisory

1 position within that organized crime family?

2 A. Yes.

3 Q. And what was the position that you held?

4 A. I was a captain in the family.

5 Q. Mr. Franzese, are you familiar with your father's public  
6 reputation for association with organized crime?

7 A. Yes, I am.

8 Q. And have you seen publications detailing that association?

9 A. Yes, I have.

10 Q. Such as?

11 A. Life Magazine and several other magazine and newspaper  
12 reports.

13 Q. What is your father's public reputation for association  
14 with organized crime?

15 A. He's also alleged to be a captain in the family.

16 Q. When you say "the family," you are talking about which  
17 family?

18 A. The Columbo family.

19 Q. Do you know a person by the name of Norby Walters?

20 A. Yes, I do.

21 Q. And do you see that person in the courtroom?

22 MR. GOLD: We will stipulate to the identification.

23 BY THE WITNESS:

24 A. Yes.

25 THE COURT: The stipulation will be received.



1 BY MR. VALUKAS:

2 Q. Mr. Franzese, would you keep your mouth close to the  
3 microphone so everyone can hear your testimony.

4 A. Yes.

5 Q. How long have you known Norby Walters?

6 A. Just about all my life.

7 Q. During the period of time 1972 through 1986, what was the  
8 nature of your relationship with Norby Walters?

9 A. I had both a social and business relationship with him.

10 Q. Are you familiar with whether or not your father had a  
11 relationship with Norby Walters?

12 A. Yes, I am.

13 Q. And what was the nature of the relationship between your  
14 father and Norby Walters?

15 A. He also had a social as well as a business relationship  
16 with him.

17 Q. Have you on occasion discussed that relationship, that is,  
18 the relationship between your father and Mr. Walters, with Mr.  
19 Walters?

20 A. Yes, I have.

21 Q. Let me direct your attention to the year 1985. Were you  
22 indicted for racketeering charges in New York?

23 A. Yes, I was.

24 Q. And in which district were you indicted?

25 A. It was in the Eastern District of New York in Brooklyn.

1 Q. Had you previously been indicted in another district for  
2 racketeering charges?

3 A. Yes.

4 Q. Which district was that?

5 A. It was the Southern District of New York in Manhattan.

6 Q. Now, was there a jury verdict on the first case?

7 A. Yes.

8 Q. And what was that?

9 A. I was acquitted on all charges.

10 Q. In connection with the second case, the second indictment,  
11 would you tell the ladies and gentlemen of the jury briefly  
12 what are the nature of the charges which were contained in the  
13 second indictment?

14 A. Basically they were fraud charges having to do with a  
15 gasoline tax business that I was involved in. Also various  
16 bank frauds, labor racketeering and insurance frauds.

17 Q. Did it also include tax evasion?

18 A. Yes, it did.

19 Q. Now, in connection with this second indictment, did you  
20 enter into an agreement with the Organized Crime Strike Force  
21 in Brooklyn?

22 A. Yes, sir.

23 Q. I want to direct your attention to what has been previously  
24 marked as Franzese Government Exhibit No. 1, which is in the  
25 book which the jurors have under Tab M.

1 Do you have Government Exhibit Franzese 1 in front of  
2 you?

3 A. Yes.

4 MR. VALUKAS: Excuse me a moment, your Honor.

5 Your Honor, I believe there is an item in the book  
6 which we have agreed that should not be there if it is not  
7 going to be offered into evidence, and it is there.

8 THE COURT: Do you want to take the opportunity to  
9 just remove it from the book?

10 MR. VALUKAS: In fairness and pursuant to our  
11 agreement, I think we should remove it.

12 THE COURT: Would you just set your books aside for  
13 for the moment and the marshal will collect them.

14 MR. GOLD: Your Honor, while this is being done,  
15 could we have a sidebar?

16 THE COURT: Sure.

17 (Sidebar conference.)

18 THE COURT: Go ahead.

19 MR. GOLD: Judge, I'm embarrassed. I was told by my  
20 colleagues as we were concluding our session in the robing room  
21 that some people had thought we had reached an agreement that  
22 was clearly not in my mind. I want it to be clear that's not  
23 what I thought we were talking about.

24 I certinaly have no objection to your eliciting  
25 testimony from this witness about the fact that you sent a

1 letter to Judge Nickerson. It was the documentary exhibit  
2 which I characterized to Judge Marovich as constituting a  
3 summation that I thought was unfair and prejudicial to present  
4 to the jury. And I certainly expect, and I have no objection  
5 to your making reference to the fact that you sent a letter to  
6 Judge Nickerson and that the witness understands that that was  
7 done. It's the documentary evidence in summation form that I  
8 object to.

9 MR. VALUKAS: Okay. And in fairness, my  
10 understanding is that you didn't want that to go to the jury  
11 and I agreed that it wouldn't go to the jury at this stage.

12 THE COURT: And you're removing it.

13 MR. VALUKAS: That's why I'm removing it.

14 MR. GOLD: I was not seeking to foreclose you.

15 MR. VALUKAS: No.

16 MR. GOLD: He understands that that's what you did.

17 MR. VALUKAS: And as I said, whether we offer it or  
18 not depends on the cross.

19 (End of sidebar conference.)

20 THE COURT: Mr. Valukas, you may continue.

21 BY MR. VALUKAS:

22 Q. Mr. Franzese, please direct your attention to Government  
23 Exhibit 1. Do you have that in front of you?

24 A. Yes.

25 Q. Would you direct your attention to the last page of that

1 document. Does your signature appear on that document?

2 A. Yes.

3 Q. And does the signature of your attorney also appear on that  
4 document?

5 A. Yes.

6 Q. Is this the plea agreement that you entered into in  
7 connection with the indictment which was returned by the Strike  
8 Force in Brooklyn against you and others?

9 A. Yes.

10 MR. VALUKAS: Your Honor, I would offer into evidence  
11 Government Exhibit 1 Franzese at this point.

12 MR. GOLD: I join in the offer, your Honor.

13 THE COURT: It will be admitted.

14 (Government Exhibit Franzese 1 received in evidence.)

15 BY MR. VALUKAS:

16 Q. Now, Mr. Franzese, directing your attention to the first  
17 paragraph in that indictment -- I mean that plea agreement,  
18 what is it that you agreed to plead guilty to?

19 A. Count 1, which is racketeering conspiracy. And Count 28,  
20 which is conspiracy to defraud the Government and the IRS.

21 Q. Now, was there an agreed sentence in connection with this  
22 case?

23 A. Yes.

24 Q. What was that?

25 A. Ten years.

- 1 Q. Ten years imprisonment?
- 2 A. Ten years imprisonment, yes.
- 3 Q. Are you presently serving that sentence?
- 4 A. Yes, I am.
- 5 Q. Now, was there a fine and restitution which was required
- 6 also?
- 7 A. Yes.
- 8 Q. And what was the amount of the forfeiture that you were
- 9 required?
- 10 A. Four million seven hundred forty-eight thousand dollars.
- 11 Q. And the amount of the fine?
- 12 A. Ten million dollars.
- 13 Q. Now, in connection with this plea agreement, did you agree
- 14 to the entry of a judgment against you in the amount of
- 15 \$14,783,000?
- 16 A. Yes, I did.
- 17 Q. And did you also agree to have certain property sold under
- 18 the supervision of the Court?
- 19 A. Yes.
- 20 Q. At the same time that you entered into this plea agreement
- 21 which dealt with prosecutions in the New York area, did you
- 22 also plead guilty to an indictment in Florida?
- 23 A. Yes.
- 24 Q. And what was that indictment about?
- 25 A. It was a relating indictment in the wholesale gas business

1 I was in. I was also indicted there for defrauding the state  
2 of Florida out of tax on the sale of gasoline.

3 Q. Was there an agreed jail sentence in connection with that?

4 A. Yes.

5 Q. What was that?

6 A. I was to serve 9 years state time concurrent with the  
7 federal time.

8 Q. Now, in connection with this plea agreement, was there an  
9 agreement reached as to whether or not you would be prosecuted  
10 for any other crimes which were presently under investigation  
11 by the agencies which signed this plea agreement?

12 A. Yes.

13 Q. And what was your understanding of that?

14 A. My understanding was that I would not be prosecuted for any  
15 other investigations that were in place at the time.

16 Q. Directing your attention then to the last page, which  
17 agencies signed this agreement?

18 A. Assistant District Attorney of Suffolk County in New York,  
19 the acting attorney in charge in the Newark Strike Force, the  
20 Chief of the Criminal Division, Office of the United States  
21 Attorney for the Southern District of New York, U. S. Attorney  
22 for the Southern District of Florida and the Assistant Attorney  
23 General in the state of New York.

24 Q. And that also from the Strike Force from Brooklyn; correct?

25 A. Yes.

1 Q. In connection with this agreement, was it further your  
2 understanding that if a matter was then under investigation by  
3 any of these agencies, with the exception of murder, that you  
4 could not and would not be prosecuted for that matter?

5 A. That's correct.

6 Q. And did they also state that they had no evidence that you  
7 in fact were involved in murder?

8 A. That's correct.

9 Q. Now, in connection with then and carrying forward, did  
10 there come a time when you entered into a second agreement with  
11 the Strike Force in Brooklyn?

12 A. Yes.

13 Q. And when was that?

14 A. I believe that was in November of '86.

15 Q. Does that agreement have anything to do whatsoever with  
16 your testimony in this trial?

17 A. No, sir.

18 Q. Are any of the terms of that agreement involved in what  
19 you're testifying to here today?

20 A. No.

21 Q. By the way, concerning your agreement to plead guilty in  
22 connection with these various charges in New York, Florida and  
23 elsewhere in 1985 and '86, did the United States Attorney's  
24 office in Chicago have anything to do with that prosecution, to  
25 your knowledge?



1 A. To my knowledge, no.

2 Q. Now, prior to your entering into this plea agreement, which  
3 is Government Exhibit 1, were you involved in criminal acts  
4 relating to loan sharking?

5 A. Yes.

6 Q. Labor racketeering?

7 A. Yes.

8 Q. Theft of securities?

9 A. Yes.

10 Q. And mail fraud?

11 A. Yes.

12 Q. Mr. Franzese, I want to turn your attention please if you  
13 will to a document which is now marked as Government Exhibit  
14 2. Do you have that in front of you?

15 A. Yes, I do.

16 Q. And what is the date of that document?

17 A. December 4, 1987.

18 Q. And is that a document which was related to a proffer, that  
19 is, a proffer of testimony which you were giving to the United  
20 States Attorney's office in Chicago?

21 A. Yes.

22 Q. And you were given, were you not, a signed copy of this  
23 document, a document which I signed or Mr. Pearl signed?

24 A. Yes.

25 MR. VALUKAS: Your Honor, I would offer into evidence

1 Government Exhibit 2 at this point.

2 MR. GOLD: I join in the offer, your Honor.

3 THE COURT: It will be admitted.

4 (Government Franzese Exhibit No. 2 received in evidence.)

5 BY MR. VALUKAS:

6 Q. Now, in terms of this proffer, did you understand that the  
7 proffer required you to give full and complete truthful  
8 testimony?

9 A. Yes.

10 Q. And that anything that you gave us in the way of  
11 information could not be used against you in your case in chief  
12 if you were ever prosecuted?

13 A. Yes. I understood that.

14 Q. But we were not prevented from using the substance of your  
15 proffer in rebuttal testimony if you were ever prosecuted for  
16 purposes of cross examining you?

17 A. That's correct.

18 Q. And that there were no other agreements with you in  
19 connection with this?

20 A. Correct.

21 Q. At that point?

22 A. Yes, right.

23 Q. Now, let me direct your attention if you can to a document  
24 identified as Government Exhibit 3, which is Franzese 3.

25 Excuse me. This is -- I apologize. They pulled No.

1 3 out. This is Government Exhibit 4, Franzese.

2 Mr. Franzese, was Government Exhibit 4 an immunity  
3 order entered in connection with your testimony at some point?

4 A. Yes.

5 Q. And was that order entered by Judge Grady?

6 A. Yes.

7 Q. And was that after an agreement had been reached by the  
8 United States Attorney's office with you and your lawyer in  
9 connection with your testimony?

10 A. Yes.

11 MR. VALUKAS: Let me distribute, if I can, a copy of  
12 that. Your Honor, it was attached to the back of the exhibit  
13 which was pulled.

14 THE COURT: Okay.

15 MR. VALUKAS: I apologize, your Honor, but when we  
16 pulled the exhibit, this was attached to it.

17 Your Honor, I'm going to mark this document Franzese  
18 Exhibit No. 8 and tender copies to the witness and ask  
19 permission to distribute a copy of the same to the jury. May I  
20 distribute this to the jury, your Honor?

21 THE COURT: Do you know what the document is?

22 MR. VALUKAS: It's the letter agreement, your Honor,  
23 with the United States Attorney.

24 MR. GOLD: I join in that offer, too.

25 THE COURT: Fine.

1 MR. VALUKAS: It's Exhibit 8.

2 MR. GOLD: Oh, wait. Let me see that.

3 THE COURT: I'm not sure what you are talking about.

4 MR. GOLD: Neither am I.

5 To make absolutely sure, I gather what Mr. Valukas is  
6 now proposing to do is circulate both Exhibit 4 and Exhibit 8.  
7 Is that it?

8 MR. VALUKAS: 4 is already to the jury, your Honor.  
9 8 is the letter agreement reached with the United States  
10 Attorney's office which was attached to the exhibit which at  
11 the request of defense counsel we removed from the jury.

12 MR. GOLD: Then I join in the offer.

13 THE COURT: Then it will be distributed as well.

14 (Government Franzese Exhibit No. 8 received in evidence.)

15 BY MR. VALUKAS:

16 Q. Mr. Franzese, do you have Government Exhibit 8 in front of  
17 you? Franzese 8?

18 A. Yes.

19 Q. Would you turn to that document and -- give us the date of  
20 that document which is now in evidence.

21 A. April 5, 1988.

22 Q. And did you sign that document, along with your attorney?

23 A. Yes, I did.

24 Q. Mr. Franzese, by this document did you agree to cooperate  
25 fully with the Government by providing complete and truthful

1 testimony in connection with matters under investigation in  
2 this district?

3 A. Yes.

4 Q. And did the United States Attorney's office agree in  
5 connection with that that we would make known the full extent  
6 of your cooperation to the judge who was involved in sentencing  
7 you?

8 A. Yes.

9 Q. And that was in connection with a motion to reduce your  
10 sentence which was then pending before the judge; is that  
11 correct?

12 A. Yes.

13 Q. Did the United States Attorney's office agree to make any  
14 recommendation to that judge?

15 A. No.

16 Q. Who, if anyone, was to make a recommendation to the judge  
17 as to whether or not your sentence should be reduced?

18 A. The Strike Force in the Eastern District of New York.

19 Q. Was that the individual who had prosecuted you?

20 A. Yes.

21 Q. And in connection with that, was the United States Attorney  
22 in Chicago to do anything to arrange any type of recommendation  
23 for you?

24 A. No.

25 Q. So all we would do is make known the nature and scope of

1 your cooperation; is that correct?

2 A. That's correct.

3 Q. Mr. Franzese, in connection with this, did we also say that  
4 we would have an order of immunity entered concerning your  
5 testimony compelling you to testify?

6 A. Yes.

7 Q. In connection with that order of immunity, a copy of which  
8 was entered by -- or the matter was entered by Judge Grady,  
9 what did you understand would be used -- could be used against  
10 you in a subsequent proceeding?

11 A. I understood that any information that I were to give could  
12 not be used against me in any subsequent proceeding. However,  
13 any information that was derived from independent sources could  
14 be used against me in a prosecution.

15 Q. Meaning that you could still be prosecuted for the matters  
16 which you're testifying or information that you have given, but  
17 your own testimony could not be used against you; is that  
18 correct?

19 A. That's correct.

20 Q. Now, Mr. Franzese, presently, how much time have you served  
21 in jail in connection with your -- the charges that you pled  
22 guilty to?

23 A. 40 months.

24 Q. And would you tell the ladies and gentlemen of the jury  
25 what is the recommendation which was made by the Strike Force

1 chief in Brooklyn concerning any reduction in your sentence?

2 A. The Strike Force chief recommended that my sentence be  
3 reduced from ten years to nine years.

4 Q. In practical terms, Mr. Franzese, what would that amount to  
5 in terms of actual time that you would spend spend in jail if  
6 in fact Judge Nickerson were to agree to that reduction?

7 MR. GOLD: I object, your Honor, unless the witness  
8 is qualified as an expert.

9 MR. VALUKAS: He knows.

10 THE COURT: I'll allow the question.

11 BY THE WITNESS:

12 A. 28 days.

13 BY MR. VALUKAS:

14 Q. Mr. Franzese, under the terms of this agreement, is the  
15 judge bound in any way to in fact reduce your sentence?

16 A. No.

17 Q. Is he free to accept or reject the recommendations of the  
18 Strike Force chief in connection with this matter?

19 A. Yes, he is.

20 Q. Are there any other promises that have been made to you in  
21 connection with your testimony here today?

22 A. None whatsoever.

23 Q. Mr. Franzese, I want to turn your attention for a moment if  
24 I can to a second order which was entered this morning which is  
25 marked Government Exhibit 5, Franzese 5. Do you have that in

1 front of you?

2 A. Yes.

3 Q. And was that an order of immunity compelling you to testify  
4 and waive your Fifth Amendment privilege entered by Judge  
5 Marovich this morning?

6 A. Yes.

7 Q. At the request of the Government; isn't that correct?

8 A. Yes.

9 Q. And what is your understanding in connection with that  
10 order and your testimony here today insofar as the use of your  
11 testimony against you in any subsequent criminal proceedings?

12 A. It's my understanding that my testimony could not be used  
13 against me in any subsequent proceedings. However, again,  
14 anything from independent sources can be used against me in  
15 subsequent proceedings.

16 Q. Meaning you could be prosecuted for the crimes to which you  
17 are testifying, but your testimony and its leads could not be  
18 used against you?

19 A. That's correct.

20 MR. GOLD: I object.

21 THE COURT: What is basis for your objection?

22 MR. GOLD: It's a leading question. He can ask a  
23 question about what he understands. He shouldn't tell him what  
24 he understands so he can say yes or no.

25 THE COURT: It's like getting toothpaste back into



1 the tube, isn't it?

2 MR. GOLD: I couldn't agree with you more.

3 THE COURT: Then I'll let it stand.

4 MR. VALUKAS: Your Honor, I would offer Government  
5 Exhibit 5 at this time.

6 MR. GOLD: I'll join in that offer, as well.

7 THE COURT: It will be admitted.

8 (Government Franzese Exhibit No. 5 received in evidence.)

9 BY MR. VALUKAS:

10 Q. Mr. Franzese, is there any crime that your testimony can be  
11 used against you to prosecute you for in connection with this  
12 proceeding?

13 A. I don't believe so, no.

14 Q. How about perjury?

15 A. Yes.

16 Q. So it could be used against you for that one area; is that  
17 correct?

18 A. Yes. Perjury, yes.

19 Q. Now, in connection with this -- your cooperation with the  
20 United States Attorney's office in Chicago, a letter was in  
21 fact send to Judge Nickerson; is that correct?

22 A. Yes.

23 Q. And that letter was then -- is now pending before the judge  
24 as part of the matters to consider in determining whether or  
25 not to reduce your sentence; is that correct?

1 A. Yes, that's correct.

2 Q. Was an identical letter sent to the parole board?

3 A. Yes.

4 Q. Mr. Franzese, if you know, assuming that the judge does not  
5 grant you a reduction in any manner, how much time will you  
6 have to serve before you are released from prison?

7 A. If I have to do the entire remainder of my sentence without  
8 parole, a little less than two years.

9 Q. And would six months of that be in a halfway houses?

10 A. 6 to 9 months would be in a halfway house. Actual prison  
11 time, about 14 months.

12 Q. Mr. Franzese, when you testified -- when you were indicted  
13 in New York in connection with this racketeering charge to  
14 which you pled guilty, was there a detention hearing?

15 A. Yes.

16 Q. And did you testify at that detention hearing before a  
17 federal judge?

18 A. Yes, I did.

19 Q. And did you lie in that detention hearing?

20 A. Yes.

21 Q. And to what areas did you lie? In what areas?

22 A. I lied when I spoke about some of my other organized crime  
23 associates and involving some criminal activity that I was  
24 involved in.

25 Q. What criminal activity did you deny that you in fact were

1 involved in?

2 A. Loan sharking.

3 Q. And when you say you lied about other organized crime  
4 associates, would you tell the ladies and gentlemen of the jury  
5 what we are talking about?

6 A. There was other associates of mine in the family that I  
7 didn't feel I was at liberty to talk about, and I denied  
8 knowing them.

9 Q. Mr. Franzese, when did you first come to know Mr. Walters?

10 A. Back in the 1950s.

11 Q. And under what circumstances did you first come to know  
12 him?

13 A. It was social relationship back then.

14 Q. And would you describe that social relationship in the  
15 '50s, please?

16 A. We often ate together, we vacationed together. It was a  
17 social relation.

18 Q. You mean your family and his family?

19 A. Yes.

20 Q. In the '60s, did Mr. Walters own a nightclub, to your  
21 knowledge?

22 A. Yes.

23 Q. And where was that located?

24 A. Manhattan.

25 Q. And was it near any other famous night club?

1 A. Yes. It was near the Copa Cabana.

2 Q. Were there occasions when you went to that club?

3 A. Yes.

4 Q. In whose company?

5 A. My father's.

6 Q. And was that while you were still in high school or  
7 otherwise?

8 A. Yes.

9 Q. Now, in the 1960s, was your father associated with a  
10 company known as Buddah Records?

11 A. Yes, he was.

12 Q. And what was Buddah Records?

13 A. It was a record label, record company.

14 Q. And where was it located?

15 A. Also in Manhattan.

16 Q. And in connection with that, did you ever have occasion to  
17 visit the offices of Buddah Records?

18 A. Yes, I did.

19 Q. And where were they located?

20 A. Again in Manhattan. I don't remember exactly where.

21 Q. What was your father's association with Buddah Records?

22 A. It was my understanding that he was a partner in the  
23 company.

24 Q. Was that on any records, though?

25 A. I don't believe so, no.

1 Q. Did there come a time when your father was sent to prison?

2 A. Yes.

3 Q. And when was that?

4 A. March of 1970.

5 Q. And what was the prison term he was given?

6 A. 50 years.

7 Q. And after your father was sent to prison, did you begin  
8 receiving something from Mr. Walters?

9 A. Yes, I did.

10 Q. And what was that?

11 A. Cash.

12 Q. Did you -- initially, did you receive that money directly  
13 or through someone else?

14 A. Through a third party.

15 Q. Who was that third party?

16 A. Fellow by the name of Joe Broncata.

17 Q. Is Mr. Broncata associated with any organization?

18 A. Yes, he is.

19 Q. And what organization is that?

20 A. Columbo family.

21 Q. Did there come a time when you had a conversation with Mr.  
22 Walters about the money you were receiving?

23 A. Yes.

24 Q. And approximately how long after your father went to prison  
25 did you have that conversation with Mr. Walters?

1 A. Short time after. I believe within a year or so.

2 Q. Where did that conversation occur?

3 A. At his home, which were also his offices, in Jericho, Long  
4 Island.

5 Q. Was there anybody else present for that conversation?

6 A. Not to my recollections, no.

7 Q. To the best of your recollection, what did Mr. Walters say  
8 and what did you say?

9 A. Mr. Walters assured me that he was doing the right thing.  
10 He was meeting his obligation to my father. And he asked me to  
11 pass that on to him when I went to visit him.

12 Q. And did you in fact pass that information on to your  
13 father?

14 A. I did.

15 Q. Did there come a time when someone else received money,  
16 that is to say, Mr. Broncata stopped receiving the money from  
17 Mr. Walters and delivering it you to and someone else received  
18 that money?

19 A. Yes.

20 Q. And who was that person?

21 A. Me.

22 Q. Approximately when did that begin?

23 A. I believe just shortly after 1975.

24 Q. And how frequently did you receive money from Mr. Walters  
25 in the period of time 1975 through 1979?

1 A. Normally on a monthly basis. Either monthly or every other  
2 month.

3 Q. And was there a set amount that you were receiving from Mr.  
4 Walters?

5 A. Yes.

6 Q. And what was that?

7 A. Between two hundred fifty and five hundred dollars a week.

8 Q. In what form did you receive the money?

9 A. Cash.

10 Q. Mr. Franzese, during that period of time, where were you  
11 when you would receive this money money from Mr. Walters?

12 A. Either at his offices in Manhattan or the Stage  
13 Delicatessen in Manhattan.

14 Q. Did there come a time when Mr. Walters moved his office  
15 from the location in Jericho that you described?

16 A. Yes.

17 Q. Where did he go?

18 A. Went to Manhattan.

19 Q. Now, in connection with the monies that you were receiving  
20 from Mr. Walters during the period of time 1975 through 1979,  
21 did you perform services for him?

22 A. Yes, I did.

23 Q. And would you describe to the ladies and gentlemen of the  
24 jury the services that you performed for Mr. Walters?

25 A. Yes. Norby was an agent for many groups, rock groups on

1 Long Island, Manhattan and New Jersey. Quite often he would  
2 have problems with various clubs and various club owners  
3 whereby they would not want to accept his act or they wouldn't  
4 want him as agent for the club. Oftentimes these other club  
5 owners were associated with other organized crime members and  
6 oftentimes I would sit down and resolve disputes with him and  
7 other members of the family when they arose.

8 Q. Now, during this period of time, '75 through '79, did you  
9 also see Mr. Walters socially?

10 A. Yes.

11 Q. And under what type of circumstances would you, if you can  
12 recall?

13 A. For lunch.

14 Q. Did there come a time when your father was paroled from  
15 prison?

16 A. Yes.

17 Q. When was that?

18 A. 1979.

19 Q. After your father was paroled from prison, did you have  
20 occasion to have a meeting with Mr. Walters and your father?

21 A. Yes.

22 Q. Can you fix the year for us, please?

23 A. I believe it was the latter part of '79 or early 1980.

24 Q. And, Mr. Franzese, where did that meeting occur?

25 A. Stage Delicatessen in Manhattan.



1 Q. Was there anybody else present besides your father,  
2 yourself and Mr. Walters for this meeting?

3 A. Not that I recall, no.

4 Q. To the best of your recollection, what was said by your  
5 father, what was said by Mr. Walters and what was said by you?

6 A. My father had told Norby Walters at that meeting that  
7 before he went to prison in 1970 it was his understanding that  
8 along with whatever other business relationship they had that  
9 they were to be fifty-fifty partners in the agency business.  
10 Norby Walters said that his understanding was that he always  
11 had an obligation to my father and to the family but that he  
12 didn't believe that it was a fifty-fifty relationship in the  
13 agency business.

14 They had a discussion about it, and at the end of the  
15 meeting it was resolved and decided that they were fifty-fifty  
16 partners.

17 Q. Now, after this point, did you handle the collections in  
18 connection with money received from Mr. Walters or did someone  
19 else?

20 A. Someone else did.

21 Q. Who was that?

22 A. It was normally my brother John; sometimes my father.

23 Q. At this meeting that you have described, was there other  
24 discussion with Mr. Walters about other activities?

25 A. Yes.

1 Q. And will you tell the ladies and gentlemen of the jury what  
2 discussions there were?

3 A. Yes. We discussed various ways that money could be  
4 generated through the agency. And Norby said at that time that  
5 there were lot of larger acts that he could pursue and he could  
6 do this with my help. And he wanted me to be available at any  
7 time to help him puruse some larger contracts and larger acts.

8 I told him at the time that I would be available, and  
9 we had agreed that any business or any concerts that would  
10 arise out of this relationship we would split fifty-fifty.

11 Q. Over the years, were there in fact any concerts which arose  
12 in which you did a fifty-fifty split?

13 A. No.

14 Q. Now, let me direct your attention to the year 1981. In the  
15 year 1981, did you have occasion to have a conversation with  
16 Mr. Walters about a group called the Jackson Five?

17 A. Yes, I did.

18 Q. Where did that conversation occur?

19 A. I believe it was in his office in Manhattan.

20 Q. And to the best of your recollection, was anybody else  
21 present for that conversation?

22 A. I don't believe so, no.

23 Q. And what, if you can tell us, was said by Mr. Walters and  
24 what was said by you.

25 A. Mr. Walters told me that the Jackson Five was going out on

1 tour. He told me also that he had an in or a relationship with  
2 their father, Joe Jackson. He said to me that Michael Jackson  
3 and I believe the rest of the family was represented by a  
4 management team by the name of Weisner and De Mann. He told me  
5 that Weisner and De Mann had given the tour to another agent  
6 and he wanted me to go out and speak with them and try to  
7 convince them that the tour should be given to Norby Walters.

8 Q. Did you discuss at that meeting or in a subsequent meeting  
9 how it was that you were going to approach Mr. Weisner and Mr.  
10 De Mann?

11 A. Yes.

12 Q. Will you tell us, was anybody else present for this  
13 conversation besides you and Mr. Walters?

14 A. Not that I recall.

15 Q. And what did Mr. Walters and you say to each other?

16 A. It was decided and discussed that Norby would make known to  
17 Weisner who I was, who I was associated with, and that he would  
18 more or less lay the groundwork before I got there, let them  
19 understand I was his partner. And then he would actually  
20 produce me at the meeting and I would do my best to convince  
21 Weisner that the tour should be with Norby Walters.

22 Q. Did there come a time when you went out to California?

23 A. Yes.

24 Q. In connection with this?

25 A. Yes.

- 1 Q. And did you go with someone else?
- 2 A. Yes, I did.
- 3 Q. And who was that?
- 4 A. I believe an associate of mine by the name of Larry Crozza.
- 5 Q. Who is Larry Crozza?
- 6 A. He was an associate of the family and a friend of mine,  
7 close friend of mine.
- 8 Q. When you say "the family," what family?
- 9 A. The Columbo family.
- 10 Q. Did you meet someone out there before you met with Mr.  
11 Weisner and Mr. De Mann?
- 12 A. Yes.
- 13 Q. Who was that?
- 14 A. Norby.
- 15 Q. And where it did that meeting occur, if you recall?
- 16 A. It occurred in the offices of Weisner and De Mann. I  
17 believe it was Hollywood.
- 18 Q. And was there thereafter a meeting with Mr. Weisner or Mr.  
19 De Mann or both of them?
- 20 A. Yes, there was.
- 21 Q. Who was present initially in that meeting, as you recall?
- 22 A. As I recall, it was myself, Norby, Larry Crozza, Weisner,  
23 and I believe De Mann was there. I'm not sure, but I believe  
24 he was.
- 25 Q. Tell us to the best you can recall what was said at the

1 meeting and what happened. Strike that.

2 Prior to that meeting, had you had any discussions  
3 with Mr. Walters about him leaving the meeting at some point?

4 A. Yes.

5 Q. And would you tell the ladies and gentlemen of the jury  
6 what had been said by you and what had been said by Norby  
7 Walters?

8 A. Yes. I told Norby that at some point in time I would ask  
9 him to leave the meeting so that I could speak with Weisner  
10 alone, myself and Larry.

11 Q. Now take us into the meeting. What was said, as you best  
12 recall in the meeting and what happened?

13 A. As I recall, Mr. Weisner stated at the time that the tour  
14 had been given to a fellow by the name of Howard Rose, who was  
15 another agent, as I understood, and that he didn't know if he  
16 could break the contract or break the arrangement with him.

17 We spoke about then giving the tour to Norby. At  
18 some point in time I asked Norby to leave the room. I had  
19 further discussion with Weisner and I explained to him that if  
20 Norby wasn't involved in the tour in some manner that there was  
21 -- there might not be a tour.

22 Q. When you left the meetings on that day, had it been  
23 resolved as to whether or not Mr. Walters was going to be  
24 involved in the tour?

25 A. No. The only resolution was at that point that Mr. Weisner

1 would speak with Howard Rose, and in fact set up a meeting  
2 between the two of them, and see if something could be worked  
3 out.

4 Q. After that meeting, did you speak with Mr. Weisner again,  
5 that is, you personally?

6 A. Yes. I believe I did.

7 Q. And was that face to face or on the telephone?

8 A. By phone.

9 Q. Do you recall those conversations?

10 A. Not really. I just know I spoke with him just to follow up  
11 on to see whether or not a meeting had been set up with Rose  
12 and Norby.

13 Q. Do you know whether or not Mr. Walters in fact ever got  
14 that tour?

15 A. I don't believe he did, no.

16 Q. Let me direct your attention -- by the way, did you ever  
17 own the movie rights to something called "Deadend Kids?"

18 A. "Deadend Kids?"

19 Q. Yes.

20 A. No.

21 Q. Did you ever attend a meeting in which you offered to sell  
22 the movie rights to the "Deadend Kids" to someone?

23 A. No.

24 Q. I direct your attention to the latter part of 1982. Did  
25 you have occasion to have a conversation with Norby Walters

1 about Dionne Warwick?

2 A. Yes.

3 Q. And where did that conversation occur?

4 A. In his office in Manhattan.

5 Q. Was there anybody else present for that conversation?

6 A. Initially, no. Not that I recall.

7 Q. And to the best of your recollection, what was said by Mr.  
8 Walters and what was said by you?

9 A. Norby explained to me that he represented Dionne Warwick  
10 when she went out on tour and on concerts. He told me that he  
11 had a relationship I believe that was approximately seven  
12 months old at the time and he was doing what he felt to be a  
13 good job and that their manager for some reason wanted to  
14 switch agents. And he asked that I accompany him to go see the  
15 manager out in California.

16 Q. Okay. And what was the purposes of your going out to  
17 California?

18 A. The purpose was to make sure that the act, Dionne Warwick,  
19 remained with Norby Walters.

20 Q. Did you in fact go out to California?

21 A. I did, yes.

22 Q. Now, prior to your going out there, was there any  
23 discussion with Mr. Walters about what it was that you would  
24 say in the meeting and what he would do?

25 A. Yes.

1 Q. And would you tell the ladies and gentlemen of the jury  
2 what was said about that.

3 A. Yes. I wanted to make sure that Norby laid the groundwork,  
4 explained again to the manager who I was so that there was no  
5 reason to, you know, outward threaten the guy when we went into  
6 the meeting. And he explained to him that -- he told me he  
7 would explain to him that I was his partner and there would be  
8 no reason to use that kind of language when we get into the  
9 meeting.

10 Q. Did you in fact have this meeting?

11 A. Yes, I did.

12 Q. Do you now recall the name of the individual with whom you  
13 met?

14 A. Yes.

15 Q. What was his name?

16 A. Joe Grant.

17 Q. To the best of your recollection, what was said in the  
18 meeting and what do you recall having taken taken place?

19 A. It was a discussion. I believe Mr. Grant said at the time  
20 that he was dissatisfied with the service Norby was providing  
21 as agent. We spoke about it. Norby laid out his case.

22 At some point in time, I asked him to leave the  
23 meeting again, and I told Grant that I would be very  
24 appreciative if he would leave the act with Norby for at least  
25 another six months and that if there was any problem after that



1 that we would get back and discuss it again.

2 Q. To your knowledge, did the act remain with Mr. Walters for  
3 some period of time after that?

4 A. To my knowledge, yes, it did.

5 Q. Now, in addition to your being there and Mr. Walters being  
6 there and Mr. Grant, was there anybody else present?

7 A. Yes. I believe so.

8 Q. And who was that?

9 A. Friend and associate of mine by the name of Jerry  
10 Zimmerman.

11 Q. Was he a person associated with you in connection with the  
12 Columbo family?

13 A. Yes.

14 Q. Was he also an individual who pled guilty in connection  
15 with the oil and gas fraud case that we discussed earlier?

16 A. Yes, in Florida.

17 Q. To your knowledge, did Mr. Walters know Mr. Zimmerman?

18 A. Yes, he did.

19 Q. And had you been in the company over the years of Mr.  
20 Walters and Mr. Zimmerman together?

21 A. Yes.

22 Q. On more than one occasion?

23 A. Yes. Several times.

24 Q. Now, when you were initially debriefed by the FBI in  
25 connection with the Warwick incident and the Jackson incident,

1 did you tell the FBI and the Grand Jury that De Mann and  
2 Weisner were Warwick's manager?

3 A. Yes.

4 Q. And had you not recounted the fact that you had gone out  
5 with Walters in connection with the Jackson Five?

6 A. That's right, yes.

7 Q. Had you forgotten the Jackson Five incident?

8 A. Yes. I just didn't recall.

9 Q. Now, was there to come a point when your recollection was  
10 refreshed?

11 A. Yes.

12 Q. And how was your recollection refreshed?

13 A. At some point in time I believe after I testified in the  
14 Grand Jury, I was -- I received a phone call from Agent  
15 Randolph out in Boron. And he asked me at that conversation if  
16 I knew if Weisner ever represented the Jacksons. And after he  
17 asked me that, I started to think about it and then I recalled  
18 a meeting that I had, and I realized I had confused the  
19 incidents.

20 Q. Did Mr. Randolph or anybody else from the Government supply  
21 you with any other information concerning that incident?

22 A. No.

23 Q. Now, one other question in connection with that matter.  
24 The Weisner and De Mann offices, were they also in the building  
25 -- were they in a building which you visited for purposes of

1 the Dionne Warwick matter?

2 A. Yes. I recall that they had been -- both offices were  
3 located in the same building.

4 Q. Is that Mr. Grant's office as well as Mr. Weisner and Mr.  
5 De Mann's offices?

6 A. Yes.

7 Q. Let me direct your attention then to the year 1984. Did  
8 you become aware of a group called the New Edition?

9 A. Yes.

10 Q. And how did you become aware of that group?

11 A. Through Norby Walters.

12 Q. And to the best of your recollection, did you have a  
13 conversation with Mr. Walters about that group?

14 A. Yes, I did.

15 Q. And where did that conversation occur?

16 A. In his office in Manhattan.

17 Q. And was there anyone else present that you recall for the  
18 conversation with Mr. Walters about the New Edition?

19 A. Not that I recall.

20 Q. And what did Mr. Walters tell you about the New Edition?

21 A. He explained to me that he had -- he represented the act as  
22 their agent again for concerts and tours. He further told me  
23 that when the act got together, he had loaned the act, through  
24 the managers, \$20,000, and for that \$20,000 he was to receive I  
25 believe a 25-percent share in the act itself. And he said he

1 was having trouble with the managers again. They wanted to  
2 renege on the deal and they wanted to switch agents.

3 Q. What if anything did he ask you to do?

4 A. He asked me to come with him to a meeting and again  
5 describe to them that I was Norby's partner and that the  
6 \$20,000 was actually mine and I had given him the money and  
7 that I was actually his partner.

8 Q. Mr. Franzese, during the period of time 1980 to 1984, did  
9 you see newspaper publications describing your reputation as  
10 related to organized crime?

11 A. Yes. Many times.

12 Q. And what, if you recall, was the reputation that was  
13 described?

14 A. I was reputed to be a high-ranking member of the Columbo  
15 crime family.

16 Q. Now, did you in fact have a meeting with the managers of  
17 the New Edition?

18 A. Yes, I did.

19 Q. And where did that meeting occur?

20 A. Took place in their offices in Manhattan.

21 Q. And to the best of your recollection, who was present for  
22 that meeting?

23 A. Myself, Norby, and I believe there were two managers  
24 involved, two people.

25 Q. Do you recall the names of those individuals?

1 A. No, I don't.

2 Q. Were the two individuals -- were both of them present  
3 through the meeting?

4 A. One kept walking in and out, as I recall. And one stayed  
5 the whole time.

6 Q. And to the best of your recollection, what was said during  
7 that meeting by you what was said by these individuals and what  
8 was said by Mr. Walters.

9 A. Mr. Walters more or less told them again that I was their  
10 partner, that I had -- the \$20,000 came from me. And again at  
11 some point in time I asked Norby to leave the room. I spoke  
12 with the two fellows myself and explained to them that I  
13 expected them to live up to their deal, that the \$20,000 was in  
14 fact mine and that Norby Walters should remain as the agent.

15 Q. To your knowledge, did that group, the New Edition, continue  
16 with Norby Walters after that meeting?

17 A. To my knowledge, yes, they did.

18 Q. Was there any discussion in that meeting about doing a  
19 film?

20 A. Yes.

21 Q. And how did that discussion come about?

22 A. Towards the end of the meeting, I believe one of the  
23 fellows said that he understood that I was involved in the film  
24 business. I told him I was and I said that the relationship  
25 might benefit both parties because at some point in time a lot

1 of these groups want to get into the film business, and I told  
2 him I would assist him in any way I could.

3 Q. Did they ever contact you for any activity in the film  
4 business?

5 A. No.

6 Q. Did you ever contact them in connection with that?

7 A. No.

8 Q. Let me direct your attention to a document marked  
9 Government Exhibit 6 Franzese, which is an application for the  
10 Friar's Club in New York.

11 Do you have that in front of you?

12 A. Yes, I do.

13 Q. Is that an application on behalf of you?

14 A. Yes.

15 Q. And would you turn to the second page. Do you see your  
16 signature thereon?

17 A. Yes.

18 Q. And what is the date of that document?

19 A. January 19, 1984.

20 Q. And at that time, did you make application to the Friar's  
21 Club?

22 A. I did.

23 Q. In connection with this, did you identify another  
24 individual as being someone with whom you were acquainted who  
25 was a Friar's Club member?

1 A. Yes.

2 Q. Who was that?

3 A. Norby Walters.

4 Q. Now, prior to making this application, did you speak with  
5 Mr. Walters?

6 A. Yes.

7 Q. And was there anybody else present for that conversation?

8 A. I believe one of the Rivkin brothers might have been  
9 present. I'm not sure.

10 Q. What did Mr. Walters say to you and what did you say to Mr.  
11 Walters?

12 A. I asked him to sponsor me for membership into the club, and  
13 he told me at that time that he thought it would not be a good  
14 good idea for him to sponsor me because he had certain problems  
15 within the club itself but that he would -- I should put him  
16 down as a reference.

17 Q. Did you in fact thereafter become a member of the Friar's  
18 Club?

19 A. Yes.

20 Q. What is the Friar's Club?

21 A. It's an entertainment-oriented club where a lot of  
22 entertainers go in both New York and California.

23 MR. VALUKAS: Your Honor, I would move Government  
24 Exhibit 6 into evidence at this point.

25 MR. GOLD: I would join in that as well.

1 THE COURT: It will be received.

2 (Government Exhibit Franzese 6 received in evidence.)

3 BY MR. VALUKAS:

4 Q. Let me direct your attention to early 1985 -- I'm sorry,  
5 late 1984, early 1985. Did you have occasion to have a  
6 conversation with Mr. Walters about the sports agency business?

7 A. Yes, I did.

8 Q. And to the best of your recollection, was this one  
9 conversation or more than one conversation?

10 A. More than one.

11 Q. Where was the first of these conversations?

12 A. I believe it was in the Polo Lounge of the Beverly Hills  
13 Hotel, Beverly Hills.

14 Q. Was this a meeting which had been prearranged?

15 A. Yes.

16 Q. Was there anyone present at any point at the meeting  
17 besides you and Mr. Walters?

18 A. Yes.

19 Q. Who was that?

20 A. Fellow by the name of Leon Kennedy.

21 Q. Who was Leon Kennedy?

22 A. He was an actor that starred in a movie I produced and a  
23 good friend of mine.

24 Q. During the period of time '83-84, had you produced movies?

25 A. I acted as executive producer on a number of films, yes.



1 Q. Did you have a conversation with Mr. Walters at that time  
2 about the sports agency business?

3 A. Yes.

4 Q. Was there also conversation about other matters during the  
5 course of that meeting?

6 A. Yes.

7 Q. Focus, if you will, on the matters relating to the sports  
8 agency business. Would you tell the ladies and gentlemen of  
9 the jury what was said by you and what was said by Mr.  
10 Walters.

11 A. Yes. Norby told me at the time that he would be going into  
12 the sports agency business. He told me that he would be  
13 pursuing mostly black athletes, college athletes and try to  
14 represent them in their professional contracts and  
15 endorsements.

16 He explained that it was a natural extension of the  
17 business that he was in now because he would go after mostly  
18 black talent. And I believe at the time he told me he was  
19 going to associate himself with a fellow by the name of Lloyd  
20 Bloom who had some prior experience as a football player and  
21 had prior experience I believe with some of the colleges and  
22 athletes.

23 Q. Was there any discussion in this meeting about the use of  
24 cash?

25 A. At this meeting, not to my knowledge, no.

- 1 Q. What if anything did he say to you at this meeting about  
2 your being associated with this venture?
- 3 A. He asked me to participate in some way.
- 4 Q. What did you say?
- 5 A. I told him I would be interested.
- 6 Q. Did there come a time when you had a second meeting  
7 concerning this matter?
- 8 A. Yes.
- 9 Q. Where was that meeting?
- 10 A. I believe it was in his office in Manhattan.
- 11 Q. How long after the first meeting was the second meeting?
- 12 A. Not too long. A few months later, I believe.
- 13 Q. Would that have been early 1985 or thereabouts?
- 14 A. Yeah. Thereabouts.
- 15 Q. And to the best of your recollection, was there anybody  
16 else present for this meeting?
- 17 A. Not that I recall, no.
- 18 Q. And what was said at this meeting?
- 19 A. Norby went into the business arrangement in further  
20 detail. I believe he told me he had started a company. He  
21 explained to me at that time that he would be using cash to  
22 sign a lot of these athletes, and he asked me at that time to  
23 participate on a cash basis.
- 24 Q. What did he ask for?
- 25 A. He asked for \$50,000.

1 Q. And what if anything were you to receive in return for the  
2 \$50,000?

3 A. 25 percent of the business.

4 Q. Were you to perform any other services in connection with  
5 this?

6 A. I would continue to perform the service that I had always  
7 performed for him, yes.

8 Q. Was there any talk at that meeting about when the \$50,000  
9 would be returned or how it would be returned?

10 A. Yes. He said that if things went well, it should be  
11 returned within a year.

12 Q. Following that meeting, did you have a third meeting with  
13 Mr. Walters?

14 A. Yes.

15 Q. And where did that meeting occur?

16 A. Also in his office in Manhattan.

17 Q. And to the best of your recollection, approximately when  
18 did that meet occur?

19 A. It was July or August of 1985.

20 Q. And was that meeting around the time that you were in New  
21 York for other reasons?

22 A. Yes. I took my family on vacation to Lake George, Upstate  
23 New York. It was just either prior or subsequent to that  
24 vacation.

25 Q. Now, in this third meeting, who was present?

1 A. Myself, Norby Walters, my father-in-law and brother-in-law  
2 attended the meeting Fred Garcia and Dino Garcia.

3 Q. Which one is your father-in-law?

4 A. Fred Garcia.

5 A fellow by the name of Carlos, who was a friend of  
6 my father-in-law and also an agent that booked acts out in  
7 California. Norby was there, the rest of his staff. And I  
8 believe Lloyd Bloom was at the office.

9 Q. When you say the rest of the staff, were they present for  
10 the meeting?

11 A. No. They were just in the offices.

12 Q. You mentioned Lloyd Bloom. Had you met an individual by  
13 the name of Lloyd Bloom prior to that time?

14 A. No.

15 Q. Did you see Mr. Bloom after that time?

16 A. No.

17 Q. Now, was Mr. Bloom present throughout the meeting or at any  
18 point in the meeting?

19 A. He wasn't really present for the meeting. I was just  
20 introduced to him and then he left.

21 Q. Can you identify the Lloyd Bloom that you met on that day  
22 in the courtroom today?

23 A. I believe he's sitting with his back to me at the end of  
24 the table.

25 MR. VALUKAS: All right.

1 MR. WEBB: We will stipulate if he says he recognizes  
2 him.

3 Is this the gentlemen here you are talking about?

4 BY THE WITNESS:

5 A. Yes.

6 MR. WEBB: That's fine.

7 BY MR. VALUKAS:

8 Q. Other than being introduced to Mr. Bloom on that occasion,  
9 did you have any other further conversation with him?

10 A. Never, no.

11 Q. Now, in the course of that meeting, what was discussed?  
12 Was the sports agency business discussed or something else?

13 A. It was another matter that was discussed.

14 Q. What was that?

15 A. My father-in-law and brother-in-law --

16 MR. WEBB: Your Honor, I'm going to object. I'm not  
17 sure who is present at the meeting.

18 BY MR. VALUKAS:

19 Q. Who was present at the meeting that you are now describing  
20 at this point?

21 A. Fred Garcia, Dino Garcia, Carlos, I believe Norby Walters'  
22 son Richard attended the meeting, and Norby and myself.

23 Q. Now, in connection with that meeting, what was being  
24 discussed during the course of that meeting?

25 A. Fred Garcia, Dino and Carlos were interested in booking

1 acts out in the Anaheim Convention Center in California. I  
2 brought them into town for the purpose of introducing them to  
3 Norby so that Norby could supply the acts for them and also  
4 give them advice as to how to proceed.

5 Q. And at some point in the meeting, did someone give  
6 something to Mr. Walters?

7 A. Yes.

8 Q. And who gave something to Mr. Walters?

9 A. My brother-in-law, Dino.

10 Q. And what was it that he gave to Mr. Walters?

11 A. It was a bag with money inside.

12 Q. What type of bag?

13 A. Brown paper bag.

14 Q. And how much money was inside?

15 A. \$50,000.

16 Q. In what form?

17 A. Cash.

18 Q. Where did that money come from?

19 A. Came from me.

20 Q. Why didn't you carry the bag in?

21 A. I just -- because of the problems I had, I just never  
22 carried money on me in that amount.

23 Q. What was the \$50,000 for?

24 A. It was for my participation in the sports agency business.

25 MR. VALUKAS: Your Honor, with the Court's

1 permission, this might be an appropriate time to break.

2 THE COURT: Okay. I will excuse the ladies and  
3 gentlemen for ten minutes.

4 MR. VALUKAS: That would be fine, your Honor.

5 (A short recess was had.)  
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1 (PAGES 1175 THROUGH 1183 SEALED PER ORDER OF COURT  
2 AND FILED UNDER SEPARATE COVER.)

3 THE COURT: Shall we have the jury in, please.  
4 (JURY IN.)

5 THE COURT: Please be seated.

6 You may continue your inquiry.

7 MR. VALUKAS: Thank you, your Honor.

8 BY MR. VALUKAS:

9 Q. I have two more questions. Mr. Franzese, in December of  
10 1985, you previously testified you were indicted; is that  
11 correct?

12 A. Yes.

13 Q. And were you taken into custody at that time?

14 A. Yes, I was.

15 Q. And were you subsequently put out into a halfway house for  
16 a period of time?

17 A. Yes. About three months later.

18 Q. When were you put into custody and when did you go to the  
19 halfway house?

20 A. I went into custody on December 20, 1985, and after I  
21 entered into the plea agreement in March, I was put into a  
22 halfway house on March 26, I believe, 1986.

23 Q. Prior to March of 1986, did you have occasion to have a  
24 conversation with Mr. Walters about a person by the name of  
25 Frank Campione?



1 A. Yes.

2 Q. Who was he?

3 A. He was a close friend and an associate of mine and my  
4 father's.

5 Q. Was he also associated with the Columbo family?

6 A. Yes.

7 Q. Where did that conversation occur?

8 A. I believe it was someplace in Manhattan. I believe it was  
9 in Norby's office.

10 Q. To the best of your recollection, was anybody else present  
11 besides you and Mr. Walters?

12 A. No. Not that I recall.

13 Q. At the time you had this conversation, did you know that  
14 you were going to be indicted?

15 A. Yes.

16 Q. And to the best of your recollection, what did you say to  
17 Mr. Walters and what did Mr. Walters say to you?

18 A. I told Norby that if he had any problems in the future to  
19 be in touch with Frankie.

20 MR. GOLD: Your Honor, along with the ruling just  
21 made outside the presence of the jury, I'd like an offer of  
22 proof on this. I think we're going to wind up in the same  
23 place.

24 MR. VALUKAS: I am not going to ask those other  
25 questions.

1 THE COURT: All right. Does that satisfy you?

2 MR. GOLD: So far.

3 THE COURT: Okay.

4 BY MR. VALUKAS:

5 Q. In March of 1986, you testified that you were at that point  
6 in a halfway house?

7 A. Yes. I was brought to a halfway house in Los Angeles.

8 Q. Did you have occasion at that time while you were in a  
9 halfway house to have a conversation with Norby Walters?

10 A. Yes.

11 Q. During that time did you ever have a conversation which  
12 related to the sports agency business?

13 A. Only insofar as that business was going well. We never got  
14 into any details about it.

15 MR. VALUKAS: One second, your Honor.

16 I have no further questions of this witness, your  
17 Honor.

18 THE COURT: Mr. Gold?

19 MR. GOLD: Your Honor, I need a minute to assemble  
20 some documents.

21 CROSS EXAMINATION

22 BY MR. GOLD:

23 Q. Mr. Franzese, I'm Robert Gold, and I represent Norby  
24 Walters.

25 Early on in your direct examination you told us that

1 in connection with what you described as a detention hearing  
2 held before a federal judge just like Judge Marovich; correct?

3 A. Yes.

4 Q. You were sworn to tell the truth, the whole truth and  
5 nothing but the truth just like you were sworn this morning;  
6 correct?

7 A. That's correct, yes.

8 Q. And you disregarded that oath and you lied; correct?

9 A. Yes, I did.

10 Q. And has the Government prosecuted you for that crime of  
11 perjury, sir?

12 A. No.

13 Q. Do you expect to be prosecuted for that crime of perjury,  
14 sir?

15 A. Not that I'm aware of, no.

16 Q. As you sit here right now under oath this morning, do you  
17 expect to be prosecuted for having lied under oath before a  
18 federal judge? Yes or no.

19 A. No. I don't believe so.

20 Q. Thank you.

21 Mr. Franzese, when did you start wearing glasses?

22 A. About seven or eight years ago.

23 Q. Are they for reading or distance?

24 A. They're for distance.

25 Q. Now, on your direct examination, Mr. Valukas had you focus

1 your attention on the fact that at the end of December 1985,  
2 you learned that an indictment had been filed against you by  
3 federal prosecutor in New York. Do you recall that?

4 A. Yes.

5 Q. And you were not the only defendant named in that  
6 indictment; were you?

7 A. No, I wasn't.

8 Q. In fact, in that indictment you were the lead defendant  
9 among eight other defendants; is that true?

10 A. That's correct, yes.

11 Q. And you were not in New York when you learned for the first  
12 time that that indictment had been filed; is that a fact?

13 A. That's correct.

14 Q. You were in Florida; is that right?

15 A. No. That's not right.

16 Q. Did there come a time, sir, virtually immediately after  
17 learning of the filing of that indictment that you made  
18 arrangements to surrender to law enforcement authorities? Yes  
19 or no.

20 A. No.

21 Q. How soon after learning of the indictment did you surrender  
22 to law enforcement authorities?

23 A. I surrendered to law enforcement authorities in the state  
24 of Florida on the Florida indictment, and that had been  
25 prearranged for several days with my attorney in New York.

1 Q. And do you recall traveling from Florida to New York and  
2 appearing before a federal judge on that indictment for the  
3 first time?

4 A. On the federal indictment?

5 Q. That's right.

6 A. Yes.

7 Q. Now, that indictment charged you with fourteen different  
8 felony counts; didn't it?

9 A. That's correct, yes.

10 Q. And this morning you told us that there came a time by  
11 pre-arrangement that you pled guilty to two of those fourteen  
12 counts; correct?

13 A. Yes. That's right.

14 Q. But you didn't plead guilty immediately upon appearing  
15 before the federal judge on that first occasion; did you?

16 A. No.

17 Q. In fact, there came a time when you entered a plea of not  
18 guilty; correct?

19 A. That's correct, yes.

20 Q. And so as you stood before that federal judge facing that  
21 fourteen-count indictment on which you pled not guilty, you  
22 were facing more than a hundred years in jail should you be  
23 convicted after trial on that indictment. Is that a fair  
24 statement?

25 A. I would say that's possible, yes.

1 Q. What is your best recollection as to the number of years in  
2 jail you faced had you chosen to go to trial?

3 A. If I were to be found guilty, I realized I faced in excess  
4 of 20 years.

5 Q. In excess of 20 years on Count 1 and Count 28, the two  
6 counts to which you eventually pled guilty?

7 A. I realize I faced in excess of 20 years had I been  
8 convicted on any number of counts in that indictment.

9 Q. And if you had been convicted after trial on the entire  
10 indictment, sir, did it occur to you that if the judge  
11 sentenced you harshly, you might spend the rest of your adult  
12 life in jail?

13 A. Yes, it did.

14 Q. And that was not in your game plan, was it?

15 A. I did not want to spend the rest of my life in jail, no.

16 Q. In fact, sir, not only did you wish to avoid spending the  
17 rest of your life in jail, isn't it a fact that when you  
18 appeared before the federal judge, you sought to avoid going to  
19 jail at all; is that right?

20 A. Excuse me. Can you repeat that?

21 Q. Sure. When you appeared before the federal judge, was it  
22 your hope that that judge would let you leave the courtroom on  
23 bail?

24 A. At which time?

25 Q. Your first appearance, sir.

- 1 A. My first appearance when I was arrested?
- 2 Q. That's right.
- 3 A. Yes. I was in hope that I would be bailed out, yes.
- 4 Q. But the Government wanted no part that of; did they?
- 5 A. That's correct.
- 6 Q. They asked the federal judge to hold you in jail without
- 7 bail pending resolution of those charges; is that correct?
- 8 A. That's correct.
- 9 Q. And you opposed that; correct?
- 10 A. Yes, I did.
- 11 Q. And a hearing was held; correct?
- 12 A. That's correct.
- 13 Q. That's the hearing at which you lied under oath; correct?
- 14 A. Yes.
- 15 Q. And the Government prevailed; didn't they?
- 16 A. Yes, they did.
- 17 Q. They convinced the judge that you should not be admitted to
- 18 bail but instead you should be sent directly to jail and stay
- 19 there until the charges against you were resolved; correct?
- 20 A. Correct.
- 21 Q. And the charges which had to await resolution while you
- 22 were waiting in jail included one count of RICO; correct?
- 23 A. Correct.
- 24 Q. On which you faced 20 years in jail, a fine of \$250,000,
- 25 and forfeiture of almost five million dollars; is that correct?

1 A. I believe so, yes.

2 Q. In addition, there were four counts of mail fraud facing  
3 you; isn't that right?

4 A. I believe so, yes.

5 Q. And on each one of those, you faced a possible five years  
6 in prison and a \$250,000 fine; correct?

7 A. I believe so, yes.

8 Q. And if the judge wanted to, after a trial at which you had  
9 been convicted of those counts, he could have imposed that  
10 sentence consecutively to the 20 years you got on the RICO  
11 count; isn't that right?

12 A. Yes.

13 Q. Do you remember on your direct examination this morning Mr.  
14 Valukas asked you a question having to do with your guilty plea  
15 in Florida and you responded to these ladies and gentlemen of  
16 the jury that that 9-year sentence was concurrent with your  
17 federal sentence. Remember that?

18 A. Yes.

19 Q. Explain to these ladies and gentlemen what you mean by a  
20 concurrent sentence.

21 A. Concurrent sentence means that the two sentences are served  
22 simultaneously. They're served at the same time.

23 Q. When sentences are imposed concurrently, you don't spend  
24 any extra time in jail. Is that a fair statement?

25 A. Yes. That's right.



1 Q. In addition to the mail fraud charges, you were facing a  
2 federal charge of counterfeiting; is that right?

3 A. Contained in that indictment?

4 Q. Yes.

5 A. I believe it was something like that. I don't know exactly  
6 what the charge was.

7 Q. Would you like to see the indictment to refresh your  
8 recollection?

9 A. No. It's something like that, yes.

10 Q. And on counterfeiting, you faced a 15-year sentence and a  
11 \$250,000 fine; is that right?

12 A. Yes.

13 Q. You had an extortion count, Count 6 in the indictment, and  
14 on that you faced 20 years and a \$250,000 fine. Does that  
15 sound right?

16 A. Yes.

17 Q. You also were charged with a scheme involving kickbacks  
18 involving a pension fund, and on that you faced three years in  
19 in jail and \$250,000 fine. Does that sound right?

20 A. Yes.

21 Q. And then there was a charge involving pension embezzlement  
22 from the pension fund, and on that you faced five years and  
23 \$25,000 fine; is that right?

24 A. Yes.

25 Q. Then there was a charge involving counterfeit credit cards,

1 five years and a \$250,000 fine; correct?

2 A. Yes.

3 Q. There were various wire fraud charges, each of which  
4 carried five years and a \$250,000 fine; is that right?

5 A. Yes.

6 Q. A charge involving credit card fraud, ten years and a  
7 \$10,000 fine?

8 A. Yes.

9 Q. Does that sound right?

10 A. Yes, it does.

11 Q. And finally we come to Count 28, one of the two counts to  
12 which you eventually pled guilty, and that involved conspiracy  
13 to cheat on taxes; is that right?

14 A. Yes.

15 Q. That was five years and \$25,000 fine; is that right?

16 A. Yes.

17 Q. And would you take my word for it, sir, the charges I just  
18 described to you add up to a possible 113 years in prison and  
19 fines of \$3,250,000? Does that sound right?

20 A. Yes, sir.

21 Q. You decided, is it fair to say, it was not in your best  
22 interest to go to trial on that indictment and take that jail  
23 risk; is that true?

24 A. That's correct, yes.

25 Q. Now, following your detention hearing where you hoped to

1 persuade a federal judge to admit you to bail but failed to  
2 persuade him and in fact were sent to jail, you were  
3 incarcerated at a facility known as the Metropolitan Correction  
4 Center in New York City; is that right?

5 A. Yes.

6 Q. Is it fair to say, sir, that that is a maximum security  
7 federal prison?

8 A. Yes.

9 Q. You weren't able to live in a room, wearing a blue suit and  
10 white shirt and tie, were you?

11 A. No.

12 Q. In fact, when you arrived there, you had to be processed as  
13 a federal prisoner; is that true?

14 A. That's correct.

15 Q. You were fingerprinted?

16 A. Yes.

17 Q. Photographed?

18 A. Yes.

19 Q. Some of your personal belongings were taken away from you?

20 A. All of them.

21 Q. Including the clothing; is that right?

22 A. Everything.

23 Q. And during the time that you resided at the MCC as a  
24 federal inmate, you had to wear the standard prison clothing  
25 commonly known as a jumpsuit; is that right?

1 A. That's right, yes.

2 Q. Did they have orange jumpsuits in those days, sir?

3 A. Orange, brown, yellow, yes.

4 Q. As a matter of fact, sir, Christmas Eve of 1985 was the  
5 very first time in your life you had spent Christmas Eve away  
6 from your friends and family because Christmas Eve of 1985 you  
7 spent as a federal prisoner; is that true?

8 A. Yes. That's correct.

9 Q. Mr. Franzese, do you have the March 20, 1986 agreement  
10 before you? It was offered this morning as a government  
11 exhibit. Do you have that?

12 MR. LEVIN-EPSTEIN: Government Exhibit 1 Frnazese.

13 BY MR. GOLD:

14 Q. Do you have that?

15 A. Yes.

16 Q. Approximately three months after entering federal prison  
17 after being denied bail by a federal judge, you had decided  
18 that you were not going to go to trial on the underlying  
19 indictment but that instead you were going to enter guilty  
20 pleas to two of the charges against you in that indictment; is  
21 that correct?

22 A. Yes.

23 Q. And you reached that decision after having consulted with a  
24 lawyer; is that right?

25 A. Several lawyers, yes.

1 Q. And there came a time when, in connection with pleading  
2 guilty, you, your lawyer and the Government decided to  
3 memorialize your guilty plea agreement in a document which is  
4 now before you as Government Exhibit 1; is that correct?

5 A. Yes.

6 Q. And you told us this morning when Mr. Valukas asked you to  
7 identify that document that in fact you signed that document on  
8 Page 5; correct?

9 A. Yes, I did.

10 Q. And if you turn to Page 5, you will also see that you and  
11 your lawyer signed, together with at least six other  
12 representatives of prosecutorial jurisdictions; is that  
13 correct?

14 A. Yes, it is.

15 Q. Now, let's go to Page 1.

16 Do the ladies and gentlemen have this exhibit before  
17 them?

18 THE COURT: I think they do.

19 MR. GOLD: No. 1, ladies and gentlemen.

20 BY MR. GOLD:

21 Q. Now, in Paragraph 1, Mr. Franzese, reference is made to  
22 Rule 11(e)(1)(c). Do you see that?

23 A. Yes.

24 Q. And was it explained to you, sir, before you signed this  
25 agreement that an agreement reached under that particular rule

1 assured you of an agreed-upon sentence?

2 A. Yes, it was.

3 Q. And it was clear in your mind when you signed Exhibit 1  
4 that the sentence that would be imposed upon you, in fact, the  
5 only sentence, the only maximum sentence that Judge Nickerson  
6 could impose upon you would be the ten years specified in the  
7 document; correct?

8 A. Yes. It was my understanding that was the only sentence.

9 MR. VALUKAS: Just so there's clarification, that is  
10 unless the judge rejected the plea agreement.

11 MR. GOLD: I accept that.

12 BY MR. GOLD:

13 Q. But so the record is clear, if for any reason the judge  
14 were to reject the agreement reflected in Exhibit 1, you would  
15 then be relegated to the position of facing trial on the entire  
16 indictment, fourteen counts totaling 113 years; correct?

17 A. Yes. That's correct.

18 Q. And Paragraph 1-A and B reflect the two counts to which you  
19 pled guilty. You pled guilty to the racketeering count and the  
20 to tax count, and you got ten years on the RICO count under  
21 Subparagraph A, and a probation term of five years on the  
22 conspiracy to do tax evasion, Paragraph B; is that right?

23 A. Yes, it is.

24 Q. And then in Paragraph C you agreed that you would pay  
25 forfeitures in the amount of \$4,748,000. Do you see that?

1 A. Yes.

2 Q. And then you agreed that in addition to that, you would  
3 make restitution payments of ten million dollars to be paid to  
4 the federal government, the state governments of New York,  
5 Florida and New Jersey; correct?

6 A. Yes.

7 Q. And tell the ladies and gentlemen of the jury who was to  
8 make the decision as to when and to whom those monies were  
9 paid.

10 A. The way I understand, it was the Eastern District of New  
11 York, the Strike Force or the federal government, was to make a  
12 decision as to where the various -- how the various money would  
13 be distributed among the states.

14 Q. The federal prosecutors with whom you were entering into  
15 this agreement would ultimately decide when and to whom you  
16 were to pay that almost fifteen million dollars. Is that fair  
17 to say?

18 A. I don't know if they were to decide when, but they were to  
19 decide how the money would be distributed.

20 Q. Tell these ladies and gentlemen of the jury how much of  
21 that \$15 million you've paid as of today.

22 A. Well, the forfeiture in the amount of \$4,748,000 consisted  
23 of my selling, under the supervision of the Government, various  
24 properties that I had owned.

25 It also required me to sign over the proceeds of a

1 movie that I had been involved with. All that had been done at  
2 the time of plea agreement, shortly after, with the exception  
3 of the one property.

4 As far as the ten million dollars restitution, none  
5 of it has been paid back at this point.

6 Q. In addition to the fact that you still owe the ten million  
7 dollars reflected in Paragraph D, go on to Paragraph E and tell  
8 us whether or not any civil proceedings have been instituted  
9 against you by the Government to recover by civil means any  
10 other assets of yours or any monies of yours. Has that  
11 occurred?

12 A. At this point in time, the IRS has within the last month  
13 completed -- as you see, it provides in the plea agreement that  
14 the IRS was supposed to account for whatever money they felt  
15 was owed to them.

16 Within the last two or three months they have come up  
17 with all these figures, and proceedings are being held between  
18 my attorneys and the IRS as to the collection of this monies.

19 Q. And as you sit here today under oath, you cannot tell us  
20 the dollar amount that is being requested and demanded of you  
21 by the Government; is that correct?

22 A. At this point in time?

23 Q. Today.

24 A. As I said, no. The IRS just now submitted figures that my  
25 attorney and accountants are going over with them. So the



1 actual dollar amount as I sit here today I'm not sure of, no.

2 Q. If you turn to Page 2, Paragraph 2-A, in addition, the  
3 Government required of you that you would consent to the entry  
4 of a judgment against you in amount of fourteen million  
5 dollars. Do you see that?

6 A. Yes.

7 Q. And the Government has done that; correct?

8 A. As far as I know.

9 Q. Do you know how much money they have collected under that  
10 judgment?

11 A. Under the judgment?

12 Q. Yes.

13 A. As I said, I know the forfeiture clause has been taken care  
14 of or has been complied with with the exception of one  
15 property. And as for the ten million dollars, we've had -- I  
16 spent several days and weeks and months with the government  
17 attorneys in depositions. And I don't know if they actually  
18 instituted any other proceedings at this point, but we have  
19 gone over this several times in the past three years.

20 Q. Well, the properties that you just talked about having  
21 given over to the Government are the very properties described  
22 right under that in Paragraph B; right?

23 A. Yes.

24 Q. And you understood that the objective of the language set  
25 forth in this agreement was to give the Government the

1 opportunity, if it chose to pursue it, to find your money, to  
2 find your assets and take those monies and assets away from  
3 you; correct?

4 A. Yes.

5 Q. But as you sit here today, as a minimum, you still owe at  
6 least ten million dollars, as far as you know; correct?

7 A. Well, no. The Government has pursued it and they've  
8 pursued it very vigorously over the past three and a half  
9 years.

10 Q. And you still owe ten million dollars?

11 A. Yes.

12 Q. Now, a moment ago you mentioned some entitlement you had  
13 under a movie. Would you invite your attention to Paragraph C  
14 at the bottom of Page 2.

15 A. Yes.

16 Q. In that paragraph, in order to make sure the Government  
17 could get its hands on your money, you agreed to turn over any  
18 monies you were to receive through a movie company called Miami  
19 Gold Productions. Do you see that?

20 A. Yes.

21 Q. And you told the Government that you would be able to give  
22 them a million dollars under that paragraph of the agreement  
23 because you had produced a movie called "Nights of the City."  
24 And in connection with that movie, you were going to be paid  
25 about a million dollars; correct?

1 A. Yes. What I explained to the Government --

2 Q. Is that correct, sir?

3 A. Well, no. I have to explain. It's not correct.

4 Q. Then let me rephrase the question if it's confusing to  
5 you.

6 Paragraph C reads, does it not:

7 "In order partially to satisfy the fine, forfeiture  
8 and restitution for provisions of the plea agreement, Franzese  
9 will cause to be remitted to the Government whatever monies,  
10 assets, property, et cetera are paid or to be paid to him or to  
11 Miami Gold Productions..."

12 And, by the way, that was a company owned or  
13 controlled by you, is it not?

14 A. Yes.

15 Q. "...or to any other person or entities on Franzese's behalf  
16 in connection with the film, "Knights of the City." This plea  
17 agreement is predicated upon the understanding that Franzese is  
18 to be paid at least one million dollars by New World Pictures,  
19 Inc. for "Knightsof the City."

20 Is that what it provides?

21 A. Yes.

22 Q. And have you paid the Government the million dollars  
23 referred to in that paragraph?

24 A. Have I paid them? No.

25 Q. Has the Government received from any person the million

1 dollars referred to in that agreement?

2 A. I don't know how much they received according to this  
3 agreement so far, because I signed over all my rights and the  
4 Government has now been dealing directly with New World and  
5 another company. I'm not aware of how much has been received.

6 Q. Isn't it a fact that the million dollars that the  
7 Government -- strike that.

8           Isn't it a fact that the million dollars referred to  
9 in Paragraph C of that exhibit derived from your production of  
10 "Nights of the City" has never been paid to the Government?

11 A. I don't know if any part of that has been paid.

12 Q. Now, we have just talked about the procedures available to  
13 the Government to pursue your monies and assets and take them  
14 away from you. And with that in mind, sir, would you look at  
15 the very last line, Page 2, which provides as follows:

16           "This office (meaning the Brooklyn Strike Force)  
17 reserves the right to abrogate entirely..."

18           That means tear this agreement up, does it not?

19 A. Yes.

20 Q. "...or seek to modify the plea agreement..."

21           And the plea agreement we're talking about is the  
22 document before you, Exhibit 1; is that correct?

23 A. Yes.

24 Q. "...between the date Franzese pleads guilty and the date of  
25 sentencing should it (meaning the Government) not be satisfied

1 that the provisions of the plea agreement set forth in  
2 Paragraphs 2-A through C have been satisfied."

3 Is that what that documents provides?

4 A. Yes.

5 Q. The ten million has not been paid; correct?

6 A. That's correct.

7 Q. And as you sit here today, you believe and expect that the  
8 plea agreement reflected as Government Exhibit 1 is still in  
9 force and effect and the Government does not intend to tear it  
10 up; is that correct?

11 MR. VALUKAS: Your Honor, excuse me. I object to the  
12 question in terms of it -- because the question -- because the  
13 plea agreement specifically provides it can only be torn up by  
14 the Government in New York between the time of the sentencing  
15 -- between the time of plea and the time of sentencing. That's  
16 the answer. To suggest there is any subsequent authority to do  
17 so is inappropriate.

18 MR. GOLD: I think that's proper redirect. This is  
19 certainly proper cross.

20 THE COURT: Proceed. We'll get it on redirect as  
21 well. Again on redirect.

22 MR. GOLD: I'll stipulate to that.

23 BY MR. GOLD:

24 Q. Now, Mr. Franzese, on your direct examination, you told us  
25 that from roughly 1975 until the time of your incarceration,

1 you were a relatively high-ranking member of an organized crime  
2 family; correct?

3 A. That's correct, yes.

4 Q. And if we can refer to them as your official duties as a  
5 high-ranking member of organized crime, is it fair to say that  
6 your job was to make money for your family?

7 A. Yes.

8 Q. Between 1975 and the day you went to jail in December of  
9 1985, how much money did you make for your family?

10 A. Several million dollars.

11 Q. More than a hundred million, sir?

12 A. No. I don't believe more than a hundred.

13 Q. More than three hundred million, sir?

14 A. No. Not more than three hundred million.

15 Q. Do you know a man by the name of Murat Belagula (phonetic)?

16 A. I don't recall that name, no.

17 Q. Do you deny under oath that you know a man by the name of  
18 Murat Belagula?

19 A. I don't deny it. I said I don't recall that name.

20 Q. Isn't it a fact, sir, that you know that man, and together  
21 with that man and his associates, you made more than three  
22 hundred million dollars in one fraudulent transaction? Do you  
23 deny that?

24 A. I don't recall that name Murat Belagula. I had several  
25 associates in this business. I just don't recall that name.

1 Q. Are you prepared to deny that under oath before this Court  
2 and jury as you sit here right now?

3 MR. VALUKAS: I object.

4 THE COURT: Asked and answered, I think.

5 BY MR. GOLD:

6 Q. Paragraph D on Page 3 provides:

7 "At the time Franzese enters his plea of guilty  
8 pursuant to this plea agreement, Franzese will have no monies  
9 or other assets in any foreign bank accounts and will so state  
10 under oath at the time of his guilty plea."

11 A. Yes.

12 Q. Correct?

13 A. That's correct, yes.

14 Q. On the date you signed Exhibit 1, sir, how much money did  
15 you have in foreign banks?

16 A. None.

17 Q. You had no money in any bank account in Mexico; is that  
18 your testimony?

19 A. Absolutely not.

20 Q. You had no money in any bank account in Austria. Is that  
21 your testimony?

22 A. I had no money in any foreign bank account anywhere.

23 Q. Now, moving on to Paragraph 3, the Government promised you  
24 as an inducement to having you sign this agreement that at the  
25 time Judge Nickerson sentenced you on the two counts to which

1 you had pled guilty, the Government for it's part of the deal  
2 would dismiss the remaining counts, which were Counts 2 through  
3 27; is that correct?

4 A. That's correct.

5 Q. Yes?

6 A. Yes.

7 Q. And in addition to that, the Government also promised you  
8 that they would give you transactional immunity on any matter,  
9 on any transaction contained in all fourteen counts of that  
10 indictment; is that correct?

11 A. It was my understanding that I would not be prosecuted for  
12 the remainder of the counts, yes.

13 Q. In addition to that, Mr. Franzese, was it your  
14 understanding that you would not be prosecuted for any of the  
15 subject matter underlying any of those fourteen counts?

16 A. Yes. That's my understanding.

17 Q. And that understanding was based on language contained in  
18 Paragraph 4 which specifically stated, did it not, that the  
19 Government would forego any prosecution of you with respect to  
20 any fraud charges arising out of your past involvement in  
21 schemes to defraud the Government? Do you see that?

22 A. Yes.

23 Q. And the Government also agreed to forego any prosecution of  
24 you for any past money laundering activities. Do you see that?

25 A. Yes.



1 Q. And the Government also agreed to forego any prosecution on  
2 fraud charges involving, for example, the Apple Bank for  
3 Savings, the Michigan National Bank, the Union Indemnity  
4 Insurance Company, and for films called " Mausoleum" and  
5 "Savage Streets." Do you see that?

6 A. Yes.

7 THE COURT: Mr. Gold, when you get to a convenient  
8 spot, we'll break, whenever it is.

9 MR. GOLD: You know I have a lot more than five  
10 minutes, your Honor, so at your discretion.

11 THE COURT: No. I know that. I'm just saying in  
12 your presentation of this continued --

13 MR. GOLD: I'll do my best in five minutes to finish  
14 this paragraph. How's that?

15 BY MR. GOLD:

16 Q. We have already talked earlier in your cross examination  
17 about the various prosecutorial agencies that were bound by the  
18 promises in this agreement. Let me ask you about the subject  
19 matter referred to in the very last sentence in Paragraph 4.  
20 Would you look at that?

21 A. Yes.

22 Q. Before you signed this agreement, you and your lawyers were  
23 able to obtain a promise from the Government which says:

24 "While this office does not now have evidence of  
25 Franzese's involvement in (quote) any act of murder under 18

1 U.S.C. 1961, this plea agreement does not foreclose a  
2 prosecution of Franzese for any such act of murder."

3 Do you see that?

4 A. Yes, I do.

5 Q. And that was a promise made to you not only by the chief of  
6 the Brooklyn Strike Force, Mr. Ed McDonald, but that was a  
7 promise made to you by the head of the Newark Strike Force in  
8 New Jersey; is that correct?

9 A. I don't understand what promise you mean by this. In my  
10 mind they're telling me I could be prosecuted for murder, but  
11 at the time there was no evidence that there was any  
12 investigation or any involvement that I had in any murder.

13 Q. And all of those promises reflected in Paragraph 4 were  
14 joined in not just by Ed McDonald but by the prosecutors listed  
15 on the last page of that exhibit; correct?

16 MR. VALUKAS: I object. The witness just said that  
17 that last line is not a promise. So when he says "all those  
18 promises --"

19 THE COURT: The jury has heard the testimony.

20 MR. GOLD: Let's take our lunch break.

21 THE COURT: It's a good time for our break. Could we  
22 get back a little early, quarter to two? How does that sound  
23 for everybody? Am I giving you enough time for lunch.

24 JURORS: Yes. That's fine.

25 THE COURT: Quarter to two.

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Do you anticipate anything we need to do before  
then?

MR. VALUKAS: No, your Honor.

THE COURT: Then I will see you at quarter quarter to  
two.

MR. VALUKAS: Thank you, your Honor.

(Luncheon recess to 1:45 p.m.)



1 (Proceedings had outside the presence of the jury.)

2 THE COURT: Counsel.

3 MR. KENNELLY: One minute. Judge, we got from the  
4 Government a little bit ago a memorandum in opposition to our  
5 request of the production of the agents' notes and I gather  
6 that they have given the notes to you.

7 THE COURT: I haven't looked at them.

8 MR. KENNELLY: I just wanted to make sure, because we  
9 recognize what the law is in this Circuit about notes. We  
10 were not requesting them just under 3500, we're also  
11 requesting that you review them to determine whether there is  
12 any potential Grady or Giglio material.

13 THE COURT: I did look them over. I find they  
14 qualify for none of the above.

15 MR. KENNELLY: Very good.

16 MR. VALUKAS: And let me, just so that counsel knows,  
17 I looked at them for purposes of Grady or Giglio material  
18 before I turned them over.

19 THE COURT: Okay.

20 MR. KENNELLY: Thanks, your Honor.

21 MR. WEBB: Judge, there is a lawyer from NCAA here  
22 who -- they filed a motion to quash subpoenas I served.  
23 Could we hear that now?

24 THE COURT: We sure can. I thought I had exhausted  
25 that subject.

1 MR. WEBB: Let me explain what it is and then I'll  
2 make counsel make his argument. I had served a subpoena on  
3 the NCAA after the trial started, which addressed itself to I  
4 thought a totally different subject matter.

5 To explain to the Court what happened, the Government  
6 filed a motion in limine at the beginning of the trial and,  
7 quite frankly, it was because of the Government's motion in  
8 limine that gave me an idea, and the motion in limine --

9 THE COURT: It's amazing what motivates you, isn't  
10 it, Mr. Webb?

11 MR. WEBB: It does. It's the strangest thing. The  
12 motion in limine is that the Government wants to forbid me  
13 from calling anyone from NCAA to be able to establish that  
14 NCAA knew some time ago that Bloom and Walters were engaging  
15 in the conduct that is now the subject matter of this case,  
16 and, therefore, they went on to say NCAA is not named as a  
17 victim, we ought not be able to do that.

18 Well, I couldn't understand what that was, okay, and  
19 I didn't know what knowledge the NCAA had of Bloom and  
20 Walters' activities but realized it might be relevant to some  
21 issue in the case, and so I did serve upon the NCAA what I  
22 thought was a great limited subpoena, which asked for all  
23 documents relating to any complaints, investigations, reports,  
24 analysis or incidents related in any manner to the way Bloom  
25 and Walters conducted their business for the years 1984

1 through 1988, and that was what my Subpoena was for, and I  
2 believe, respectfully, that the relevance -- all I'm asking  
3 for is anything relating directly to where Walters and Bloom's  
4 names come up in a NCAA investigative report.

5 THE COURT: Aren't you sorry you planted the seed,  
6 Mr. Valukas?

7 MR. VALUKAS: Your Honor, I don't even remember  
8 planting it.

9 MR. HOEFT: Steven Hoeft for the NCAA. We thought  
10 this was resolved by the Court's prior order where you limited  
11 the scope of the subpoena to the NCAA to those student  
12 athletes named in the indictment.

13 We have complied with that. We now received late  
14 last week a subpoena calling to disclose any documents  
15 relating to Mr. Bloom or Mr. Walters, which goes far beyond,  
16 if such documents exist, goes far beyond the incidents  
17 described in the indictment; and this was exactly what was  
18 argued earlier and the Court limited the scope of the  
19 subpoena.

20 THE COURT: Well, I thought that my desire to limit  
21 these proceedings to those matters that are before the Court  
22 was abundantly clear, although I must say, it has been the  
23 subject of numerous sidebars as new seeds are planted and  
24 allowed to see what fruit they bear.

25 All that I am saying about these subpoenas, as far as

1 the Big Ten and the NCAA is concerned, is that I am not going  
2 to allow them except as they deal with these charges, and  
3 these universities, these defendants, and the 40 some-named  
4 people in the indictment that is before the Court.

5 I am not going to allow the subpoenas to be used as a  
6 fishing expedition to get into other areas that I do not feel  
7 are relevant to these proceedings.

8 If you have complied with my original orders --

9 MR. HOEFT: We have.

10 THE COURT: -- then you have complied, sir.

11 MR. WEBB: Now, wait a minute. Respectfully, this  
12 subpoena calls, limited on its face, expressly limited to  
13 documents relating to the two defendants on trial in this  
14 case, and nothing beyond that.

15 THE COURT: Oh, I understand the difference.

16 MR. WEBB: Your Honor's first ruling dealt with the  
17 broad subpoena where I was looking for all NCAA violations  
18 with any and all players and I accepted the Court's ruling.

19 THE COURT: No, I understand.

20 MR. WEBB: Judge, this subpoena, the first subpoena  
21 was quashed except for some limited exceptions. This  
22 subpoena, your Honor, just said limited to these defendants,  
23 these players, these universities. This subpoena, Judge, is  
24 limited expressly to the two defendants on trial and nothing  
25 more than that.



1 THE COURT: I understand that.

2 MR. WEBB: Okay.

3 THE COURT: I have a great capacity to understand  
4 what you're saying and what you're looking at is to have  
5 subpoenas issued that would require at this stage of the  
6 proceedings, and that's not the guiding criteria, of the NCAA  
7 to search through their files and see if there is involvement  
8 with Norby Walters or Bloom and institutions other than those  
9 named in these proceedings, and if that's what you're asking  
10 for, and I think that it is, I don't see the relevance. I'll  
11 quash the subpoenas and let the record so indicate and we will  
12 proceed.

13 MR. HOEFT: Thank you, Judge.

14 MR. VALUKAS: Thank you, your Honor.  
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THE COURT: Are you ready now for Mr. Franzese again?

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THE CLERK: Should I get the jury?

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THE COURT: Yes, by the time they get here, I'm sure he will be here. You might as well get them.

6

(Proceedings in open court. Jury in.)

7

THE COURT: Please be seated. Mr. Gold, I believe you still had questions.

8

9

MR. GOLD: Thank you, Your Honor.

10

11

CONTINUED CROSS EXAMINATION

12

BY MR. GOLD:

13

Q. Mr. Franzese, when we adjourned for lunch, we had been discussing your entry into the agreement before you as Government Exhibit 1, do you remember that?

14

15

16

A. Yes.

17

Q. And, sir, within a few days after you entered into the agreement now in evidence as Exhibit 1, you traveled to Florida to appear before a judge down there; is that right?

18

19

20

A. Within a few days of the guilty plea, yes, that's correct.

21

22

Q. And you appeared before the judge down there and pled guilty to all 65 counts against you in that Florida indictment; is that correct?

23

24

25

A. Yes.

1 Q. And in Florida indictment, among other things, you were  
2 charged with a Florida state equivalent of RICCO, is that fair  
3 to say?

4 A. Yes.

5 Q. And you did that pursuant to a plea agreement which  
6 guaranteed you that you would not spend one extra day in jail  
7 after your federal sentence, correct?

8 A. I did that and agreed to accepting a 9-year concurrent  
9 prison term, yes.

10 Q. And the extra benefit you got was that instead of  
11 serving a single day of that 9 years in a Florida  
12 penitentiary, you got to serve your entire sentence in federal  
13 custody, is that correct?

14 A. I don't consider that a benefit, but I served the time  
15 in federal prison, yes.

16 Q. Let me absolutely sure I understand what you're saying.  
17 It was of no benefit to you to be able to serve every single  
18 day of the 9 years that you faced in Florida in federal  
19 custody rather than in a Florida penitentiary, is that your  
20 testimony?

21 A. I don't believe it would have been in a Florida  
22 penitentiary, this was a very low level security crime.

23 Q. RICCO --

24 A. But to answer your question, I don't believe it was a  
25 benefit to serve the time in federal prison, no.

1 Q. You pled guilty to 65 counts including RICCO under  
2 federal law, correct?

3 A. That's correct.

4 Q. And you're telling me that you did not think at the time  
5 that you were exposed to serving a single day of that 9 years  
6 in a Florida penitentiary, is that your testimony?

7 A. No, I didn't say that.

8 Q. What did you say?

9 A. I said that I don't believe that it was benefit to do  
10 the time in a federal prison versus a state prison.

11 Q. Your lawyer consulted with you before you entered into  
12 that agreement, did he not?

13 A. Yes, he did.

14 Q. And you're telling this Court and jury that it was of no  
15 benefit to you to serve federal time instead of state time?

16 THE COURT: Mr. Valukas.

17 MR. VALUKAS: Asked and answered, your Honor.

18 THE COURT: It is argumentative and he's asked and  
19 answered and you can move on to the next query.

20 BY MR. GOLD:

21 Q. Sir, focusing on July of 1986, sir, do you recall  
22 appearing before Judge Nickerson, July 1st, 1986?

23 A. Yes.

24 Q. And when you appeared before Judge Nickerson, you were  
25 back in New York, correct --

1 A. Correct.

2 Q. -- in Federal Court and Judge Nickerson imposed the full  
3 10-year sentence that you had bargained for, correct?

4 A. That we had agreed upon, yes.

5 Q. Right. But then he did something to you that you had  
6 not bargained for; is that right?

7 A. Which is what?

8 Q. Did you bargain for the right to surrender directly to a  
9 federal prison in California without having to be transported  
10 there by the marshals?

11 A. I had -- all the time I was in the halfway house, I  
12 was -- remained in the custody of the United States Marshals.  
13 The agreement was that I was to be able to surrender directly  
14 to Terminal Island from the halfway house. As it turns out,  
15 no, it didn't happen that way.

16 Q. And the reason it turned out not to happen that way is  
17 because Judge Nickerson specifically ordered that that would  
18 not happen, is that correct?

19 A. That's correct, yes.

20 Q. And the reason he entered that order against you was  
21 because you had bounced checks to the marshal service, is that  
22 right?

23 A. I don't believe that was the full reason but that was  
24 part and parcel.

25 Q. Was that part of the reason?

1 A. Yes.

2 Q. And the very next day, you were taken in federal custody  
3 on a four-month journey through the federal prison system; is  
4 that right?

5 A. No, it was about 6 weeks.

6 Q. Did you travel by bus?

7 A. Bus and plane.

8 Q. During all or part of that time, sir, were you in  
9 handcuffs and shackles?

10 A. When I was transported?

11 Q. Yes.

12 A. Yes.

13 Q. And as a matter of fact, you were taken from federal  
14 custody in New York City at a facility known as the MCC and  
15 the first stop on that trip when you were transported in  
16 handcuffs and shackles was at a place called Otisville, do you  
17 remember that?

18 A. Yes.

19 Q. That is a maximum security prison, is it not?

20 A. No.

21 Q. Are you guarded 24-hours a day?

22 A. In answer to your question, it's a medium security  
23 facility.

24 Q. Level three, does that sound right?

25 A. Yes, level three.

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1 Q. And you stayed there for a couple of weeks?

2 A. I believe about a week, two weeks, something like that.

3 Q. And then you were taken from Otisville to a place called  
4 Louisberg; is that right?

5 A. Yes.

6 Q. Was that a maximum security prison, sir?

7 A. Yes.

8 Q. That's a level five, isn't it?

9 A. Yes.

10 Q. And how long did you stay there?

11 A. Three weeks.

12 Q. Compared to the time that you spent at Otisville, was  
13 the time at Louisberg hard time?

14 MR. VALUKAS: Your Honor, relevance -- your Honor,  
15 objection.

16 THE COURT: I suppose you're going to tie this up  
17 with something that is relevant?

18 MR. GOLD: I'll rephrase it, your Honor.

19 BY MR. GOLD:

20 Q. Was there a difference in the quality of your  
21 confinement between the facility at Otisville and the facility  
22 at Louisberg?

23 A. When you travel through the bureau of prisons, when  
24 you're a holdover so to speak, enroute from one place to your  
25 designated prison, you travel in more or less the same way at

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1 any prison you stop at, you're a holdover, you're not kept in  
2 general population. It's just holdover status and it's just  
3 normal when you're being transported.

4 Q. And are you locked up at night?

5 A. You're always locked up at night in prison.

6 Q. And after you left Louisberg, you were taken to a place  
7 in Oklahoma called El Reno, is that right?

8 A. I believe so, yes.

9 Q. That's a level four, correct?

10 A. Yes, it is.

11 Q. And you stayed there for several weeks?

12 A. I believe about a week.

13 Q. And then you were taken to a place in Arizona near  
14 Phoenix; is that right?

15 A. That's correct, yes.

16 Q. Also a level four?

17 A. Level four, yes.

18 Q. And you arrived there in the fall, 1986?

19 A. Summer of 1986.

20 Q. When do you recall arriving in Phoenix for the first  
21 time?

22 A. I recall being there in August of '86.

23 Q. And between August of '86 and November of '86, where  
24 were you kept by the marshals?

25 MR. VALUKAS: Again, relevance, your Honor.



1 THE COURT: I don't need a whole bunch of reporters  
2 and people, would just the two of you come here and tell me  
3 where you're going?

4 MR. GOLD: I'm moving to another subject as soon as I  
5 get through this.

6 THE COURT: Then that will solve the problem.

7 BY MR. GOLD:

8 Q. Do you remember where you were kept until the fall of  
9 1986 after arriving in Phoenix?

10 A. I was kept in Phoenix, FCI Phoenix.

11 Q. Directing your attention to the month of November, 1986.

12 A. Yes.

13 Q. Did you and your lawyers reach another agreement with  
14 the government at that time?

15 A. Yes, we did.

16 Q. And according to that agreement, as you understood it,  
17 you received the right to get a dollar for dollar credit off  
18 the 15 million dollars you owed the government in the event  
19 that any information you provided to the government or any  
20 evidence you gave to the government led to another person or  
21 another defendant having to pay money or forfeit money to the  
22 government, correct?

23 MR. VALUKAS: I'm going to object, your Honor. He's  
24 already testified that that agreement has nothing to do with  
25 his testimony here and it's irrelevant to his testimony.

1 MR. GOLD: I will be happy to address that at a  
2 sidebar, your Honor.

3 THE COURT: I will let you go ahead and answer it. Go  
4 ahead.

5 THE WITNESS: Could you repeat that question,  
6 please.

7 MR. GOLD: Would you be kind enough to read it back?  
8 (Question read.)

9 THE WITNESS: A. No, that's not my understanding.  
10 No.

11 BY MR. GOLD:

12 Q. Let's be very clear about this. In the fall of 1986 --

13 THE COURT: Mr. Valukas.

14 MR. VALUKAS: I object, your Honor. As I indicated  
15 before and I had him testify on direct, that agreement has  
16 nothing to do with his testimony here. It raises an issue  
17 which is not relevant to this case.

18 THE COURT: Counsel, we had an extensive sidebar about  
19 this. Are you proceeding in conformity thereto? Yes or no?

20 MR. GOLD: I think I better visit with you at a  
21 sidebar to be absolutely sure.

22 THE COURT: Well, I wish that you would just to  
23 see -- I don't know that you are.

24 (At sidebar on the record.)

25 THE COURT: Go ahead.

1 MR. GOLD: I'm referring to the agreement of November  
2 7th, 1986.

3 THE COURT: You want to get that door.

4 MR. GOLD: I'm referring to the agreement of November  
5 7th, 1986 which provides that in the event the information  
6 provided by Mr. Franzese results in forfeiture of the  
7 government of sums of money or otherwise results in the  
8 recovery or receipts of sums of money by the federal  
9 government, those sums of money will be credited to the debt  
10 Franzese currently owes to the federal government. That's all  
11 I want to ask.

12 MR. VALUKAS: And let me respond because I think this  
13 is very important, your Honor. This is like the letter  
14 yesterday. Mr. Franzese will testify, because it's absolutely  
15 true, that this agreement has nothing to do with his testimony  
16 in this courtroom, that he understands that, he knows it, it  
17 is specifically set forth.

18 THE COURT: Hasn't he said that?

19 MR. LEVIN-EPSTEIN: Your --

20 THE COURT: You're entitled to inquire, but I just  
21 wonder --

22 MR. VALUKAS: But if he asked the question --

23 THE COURT: Let me address my concern. I wonder how  
24 many times we are going to address this question before it's  
25 finally put at rest. Is there any problem with anybody

1 understanding what it is that I intend to have you do here or  
2 do I have to do what I did with Mr. Webb this morning and have  
3 him ask every damn question you have to ask and get off the  
4 record an objection to it and then deal with him so that we  
5 don't have to keep coming back and back and tell me what  
6 you're doing.

7 MR. GOLD: I must tell you, I do not recall a  
8 conversation on the subject of Paragraph 3 with respect to his  
9 economic incentive to testify as a government witness in this  
10 case.

11 MR. PEARL: That's precisely it.

12 THE COURT: It's not in this case and I have given  
13 you a great deal of latitude but I'm not going to let you go  
14 on forever about it.

15 MR. LEVIN-EPSTEIN: Judge, briefly, Mr. Webb -- I'm  
16 sorry.

17 MR. VALUKAS: That's all right. I called you Allan  
18 yesterday.

19 MR. LEVIN-EPSTEIN: I will answer to almost anything.  
20 Mr. Valukas represents, and I take him at his representation,  
21 that in so far as the government is concerned and insofar as  
22 the government understands Mr. Franzese's understanding, if  
23 it's not too convoluted, this agreement has nothing to do with  
24 the case on trial. That may or may not ultimately be the  
25 Aristotelian fact, but we are entitled to -- we are entitled

1 to cross examine Mr. Franzese as to what his understanding is.  
2 If after appropriate cross examination he says what Mr.  
3 Valukas has represented he will say, then it's the end of it,  
4 but if he says -- excuse me --

5 THE COURT: But now what we are doing, and I can  
6 understand what it is that you're trying to do, is like I  
7 suggested about putting the toothpaste back into the tube.  
8 You want to go through the whole litany of every sin that he  
9 might have been visited and ask the ultimate question, does  
10 this have anything to do with the plea agreement and if you  
11 get a no answer the deal is done.

12 MR. LEVIN-EPTSTEIN: This was document that was  
13 elicited on the direct examination by the witness by the  
14 government and I don't mean to sound impatient but my  
15 understanding --

16 THE COURT: Better you should worry that I start  
17 sounding impatient.

18 MR. LEVIN-EPTSTEIN: I'm very concerned about that as  
19 you know but I don't want to sound impatient to you. It  
20 sounds, though, that your Honor is precluding us from  
21 inquiring into whether or not a matter that was opened on  
22 direct examination is in fact the case. Mr. Franzese has  
23 testified that based upon the question put to him by Mr.  
24 Valukas, this document, namely, the November 7th, 1986  
25 agreement was not part of this case.

1 THE COURT: I suggest you ask the question that you  
2 want to elicit, "Does anything about this agreement have  
3 anything to do with your deal here?"

4 MR. VALUKAS: And if he says no to that --

5 THE COURT: -- that's the end of it.

6 MR. LEVIN-EPTSTEIN: We are not bound by a no answer.  
7 This is collateral evidence rule, you brought it out on  
8 direct.

9 MR. VALUKAS: I brought it up for purposes of  
10 establishing it had nothing to do with this case.

11 THE COURT: You asked him -- ask him, but don't go  
12 through every sin that you think real or imaginary there and  
13 ask if that's --

14 MR. GOLD: That's the only subject matter.

15 MR. VALUKAS: If they would ask the question without  
16 reading it into the record, "What do you want?" It goes to  
17 the jury, they hear it and then he says no, it doesn't have  
18 anything to do with the case.

19 THE COURT: That's my point. You would ask the  
20 question of what you want to know, "Does anything that you  
21 bargained for over there have anything to do with here?" And,  
22 it's like, for example, when you're going through the business  
23 of where he's going through one prison to another or the  
24 judge -- now, I'm just citing it as an example -- I'm sitting  
25 there and I'm wondering, why do you want them to know this, as

1 I do, with a number of things.

2 MR. GOLD: 'Cause I want them to know that he does not  
3 like jail.

4 THE COURT: I understand that, maybe, but I don't know  
5 that that needs to have 74 questions asked about it. I think  
6 that maybe they can take judicial notice of the fact that  
7 people, if they have a choice, would rather not be in jail.  
8 If you're going to ask him all of these questions about they  
9 shoved you through three-four places and they made you do this  
10 and this, if you want to establish that the government reneged  
11 on their promise and Judge Nickerson just stuck it to him, I  
12 don't know that that has anything to do with his prejudice or  
13 bias, or are you going to say they are playing hard ball in  
14 sending him to Arizona in July and August? And I was at that  
15 prison in July and August.

16 MR. LEVIN-EPSTEIN: You know what he's talking about.

17 THE COURT: I know what he's talking about. If the  
18 questions lead up to the fact that at that time it led to some  
19 further agreement, then go ahead and ask but other than that,  
20 I don't see it's relevant.

21 MR. LEVIN-EPTSTEIN: Judge, all these benefits that  
22 get conferred, I believe we allege get conferred, we want to  
23 argue to the jury were conferred -- have to be taken in the  
24 overall context of the overall scheme. It can't be taken  
25 abstractly and nobody is going to understand the way that Mr.

1 Valukas and Mr. Pearl and you and presumably we understand,  
2 unless they are told about it.

3 THE COURT: I think you have underrated it. I ruled  
4 on this subject and I don't want to be visiting on a question  
5 by question basis,

6 MR. LEVIN-EPSTEIN: All right.

7 (Proceedings in open court. Jury in.)

8 BY MR. GOLD:

9 Q. Mr. Franzese, in the fall of 1986, you decided for the  
10 first time to become a federal informer, correct?

11 A. I guess so, yes.

12 Q. I didn't hear your answer, sir?

13 A. Yes.

14 Q. And within days after your having made that decision,  
15 you were visited by some special agents of the FBI who wanted  
16 to interview you, is that correct?

17 A. Yes.

18 Q. Now, on your direct examination this morning, you  
19 described for us some conversations you claim you had with Mr.  
20 Walters relating to the sports business, remember that?

21 A. Yes.

22 Q. And you told us this morning that there came a time you  
23 believe in 1985 when a meeting occurred at which \$50,000 was  
24 passed to Mr. Walters, do you recall that?

25 A. Yes.



1 Q. And you told us that occurred in his office in  
2 Manhattan, you recall that?

3 A. Yes, I do.

4 Q. But within days after your having to -- your having  
5 decided to become a federal informer and share your  
6 information with agents of the Federal Bureau of  
7 Investigation, you had a meeting with some special agents that  
8 included one by the name of Dan Lyons, do you remember that?

9 A. Yes.

10 MR. GOLD: Excuse me.

11 BY MR. GOLD:

12 Q. And those special agents told you that if you want to be  
13 a federal informer, you have to answer our questions and you  
14 have to be completely truthful, correct?

15 A. They told me that I had to be completely truthful, yes.

16 Q. And that was your intention, to answer their questions,  
17 be completely truthful and tell them whatever you knew that  
18 they were interested in, correct?

19 A. Answer their questions, yes.

20 Q. And they told you that they wanted to talk to you about  
21 some criminal activity, correct?

22 A. Correct.

23 Q. They asked you questions and you gave them answers?

24 A. Correct.

25 Q. And you never said one word about Norby Walters, did

1234

1 you?

2 A. I don't believe that's correct, no.

3 MR. GOLD: Could I have Exhibit 9, please.

4 BY MR. GOLD:

5 Q. I'm going to show you a document, sir, marked Walters  
6 Exhibit 9 for identification. You want to read that over to  
7 yourself and I'll ask you a question.

8 A. Yes, I see it.

9 Q. I didn't hear your answer, sir?

10 A. Yes, I see it.

11 Q. And you didn't say one word about Norby Walters to those  
12 FBI agents, did you?

13 A. Doesn't appear on that particular statement, but that  
14 was one of several statements we spoke about at the time.

15 MR. GOLD: Your Honor, could I have a word with  
16 Counsel.

17 BY MR. GOLD:

18 Q. In the early part of 1987, Mr. Walters filed some  
19 lawsuits against some football players who he claimed had  
20 breached some contracts with him. Did you learn that, the  
21 winter of 1987?

22 A. No.

23 Q. You never learned that?

24 A. No.

25 Q. And then in the spring and summer of 1987, you gave an

1 interview to a reporter from Sports Illustrated, is that  
2 correct?

3 A. Yes.

4 Q. And after that interview, you read the story that that  
5 reporter and other reporters from Sports Illustrated published  
6 in the summer of 1987, correct?

7 MR. VALUKAS: Your Honor, objection as to relevance.

8 MR. GOLD: I'll be happy to lay that out at the  
9 sidebar.

10 THE COURT: I think if you make that representation, I  
11 will allow you to proceed without a side bar.

12 MR. GOLD: Thank you.

13 BY MR. GOLD:

14 Q. Can you answer that question, sir?

15 A. I believe I read it in part, yes.

16 Q. There is a picture of you in that article, wasn't there?

17 A. Yes.

18 Q. And you remember seeing that, don't you?

19 A. Yes, I do.

20 Q. And the story described Mr. Walters and his sports  
21 business, didn't it?

22 A. Yes, I do. I'm sorry, yes, it did.

23 Q. And you remember reading that article very clearly, do  
24 you not?

25 A. No, I don't remember reading it very clearly but I do

1 remember reading it.

2 Q. The fact is, Mr. Franzese, that you read that article in  
3 1987 and learned everything that you needed to know to testify  
4 today against Mr. Walters, isn't that a fact?

5 A. No, that's not a fact.

6 Q. Mr. Franzese, this morning you told us that \$50,000 of  
7 your money was given to Mr. Walters in his office in New York,  
8 correct?

9 A. That's correct, yes.

10 Q. I'm reading from 3503.

11 MR. VALUKAS: You're going to ask him questions?

12 MR. GOLD: Yes, I'm going to ask him questions.

13 BY MR. GOLD:

14 Q. You told special agents of the FBI that that money  
15 passed hands in the Beverly Wilshire Hotel in California,  
16 didn't you?

17 A. No, I did not.

18 Q. I'm going to show you a document marked Walters 10 for  
19 identification. I invite your attention to the date on the  
20 top, October 5th, 1987 and invite you to read the last  
21 paragraph on Page 1, top one on the top of Page 2.

22 A. I've read it.

23 Q. Does that refresh your recollection, sir, that you told  
24 the agents of the FBI that the money passed hands not in New  
25 York City but in the Beverly Wilshire Hotel in California?

1 A. No, I don't believe that I told him that.

2 Q. When you were interviewed by special agents of the FBI,  
3 sir, were they taking notes? Yes or no?

4 A. At which time?

5 Q. On October 5th, 1987?

6 A. I don't recall. I believe one of them might have been  
7 taking notes, yes.

8 Q. Do you have Government Exhibit 2 before you?

9 THE COURT: Excuse me one minute, Mr. Gold. I know  
10 that it's getting very warm in here and if anybody wants to  
11 take off their jacket or sweater, please do. I have contacted  
12 the maintenance people about 20 minutes ago to see when they  
13 can do something about it, but in the meantime, try to be as  
14 comfortable as you can.

15 THE WITNESS: A. I have this Exhibit.

16 BY MR. GOLD:

17 Q. You have that Exhibit, sir. May I invite your attention  
18 to the last paragraph on Page 1 and the top of Page 2. You  
19 see that?

20 A. Yes.

21 Q. That's an agreement between Mr. Valukas' office and your  
22 lawyer, correct?

23 A. Yes, it is.

24 Q. Entered into on your behalf, and that lawyer's name is  
25 Bruce Kelton, is that correct?

1 A. This -- what I have here is a proffer letter, Exhibit 2.

2 Q. Do you have Government Exhibit Number 2, Franzese,  
3 addressed to Bruce Kelton?

4 A. Yes, it is a proffer letter.

5 Q. Right. And the last paragraph of that reads as follows:

6 "The government requires a completely truthful  
7 statement of your client in this proffer."

8 You see that?

9 A. That's correct, yes.

10 Q. Then it goes on to provide, does it not:

11 "Anything related to the government by or your client  
12 during the proffer cannot and will not be used  
13 directly against your client, Michael Franzese, in  
14 the Government's case in chief."

15 You see that?

16 A. Yes.

17 Q. And then there is a sentence that appears in the  
18 original version of Government Exhibit 2, which reads:

19 "However, the government is completely free to pursue  
20 any and all investigative leads derived in any way  
21 from the proffer which could result in the  
22 acquisition of evidence admissible against your  
23 client -- meaning you -- in subsequent proceedings."

24 Correct?

25 A. Yes.

1 Q. And then there is some initials that appear to the left  
2 on the bottom paragraph on Page 1, you see that?

3 A. Yes.

4 Q. And there are the initials of Howard Pearl, the  
5 prosecutor sitting right here, am I right?

6 A. I don't know whose initials they are.

7 Q. And that last sentence has been deleted so it is no  
8 longer part of this agreement, is that right?

9 A. It appears to be that way, yes.

10 Q. As you sit here today, sir, you know that the last  
11 sentence in that agreement no longer permits the government to  
12 remain completely free to pursue any and all investigative  
13 leads against you, is that correct?

14 MR. VALUKAS: That is not the last sentence in the  
15 agreement, your Honor.

16 MR. GOLD: Forgive me, the last sentence in the only  
17 paragraph that I've been referring to.

18 MR. VALUKAS: No. No, it's not.

19 THE COURT: I don't know when it is or not.

20 MR. GOLD: It must be hot in here.

21 BY MR. GOLD:

22 Q. The last sentence on Page 1, the sentence that is  
23 deleted, the one that originally reads:

24 "However, the government is completely free to pursue  
25 any and all investigative leads derived in any way

1 from the proffer."

2 That language is no longer part of this agreement, is  
3 it?

4 A. That's how it appears to be, yes.

5 Q. I need the April 5th agreement. Do you have Government  
6 Exhibit 8 before you, sir?

7 A. Yes.

8 Q. The date of that Exhibit is April 5th, 1988 and once  
9 again, it is between representatives of the prosecution and  
10 your same lawyer, Mr. Kelton, correct?

11 A. Yes.

12 Q. And in Paragraph 1, it describes a procedure by which  
13 you will be given immunity, meaning nothing you say can be  
14 used against you, correct?

15 A. That's correct, yes.

16 Q. And in Paragraph 2, if you look at the last sentence of  
17 Paragraph 2, it says:

18 "This information and testimony will include complete  
19 and truthful disclosure of any and all prior unlawful  
20 activities in which your client -- meaning you -- has  
21 been involved."

22 Correct?

23 A. Yes, that's correct.

24 Q. And you understood when this agreement was signed that  
25 you had an obligation to tell about any and all prior unlawful



1 activities and what you said could not be used against you,  
2 correct?

3 A. Yes, I understood that.

4 Q. And then, sir, having understood that, as you've just  
5 testified, later that day you went to the grand jury and  
6 testified against Norby Walters, correct?

7 A. After this agreement, yes, I went to the grand jury.

8 Q. And roughly a month after testifying in the grand jury  
9 in this case, for the first time you learned that Mr.  
10 McDonald, the prosecutor from the Brooklyn Strike Force, was  
11 not pleased with your cooperation, correct?

12 A. I had known that all along. I hadn't learned it at that  
13 point.

14 Q. You had known all along all the time that you were an  
15 informant for the FBI that Mr. McDonald was not satisfied with  
16 the level of your cooperation?

17 A. I understood that Mr. McDonald said that information  
18 that I had supplied or questions that I had answered had not  
19 led to any criminal prosecution. Yes, I understand that.

20 Q. And you were concerned, were you not, that until Mr.  
21 McDonald was satisfied with the cooperation you were giving to  
22 the government and to the FBI, that he might one day come  
23 after you and prosecute you for some other crime, correct?

24 A. Absolutely not.

25 Q. But on June 28th of that year, you were called back to

1 testify in this grand jury for a second time, correct?

2 A. Yes.

3 Q. And after you did that, you were transferred to another  
4 federal correctional institution known as Boron, correct?

5 A. That's correct, yes.

6 Q. And in comparison to the facilities we've spoken of  
7 before, is it fair to say that the Boron facility was  
8 substantially more comfortable?

9 A. In comparison to where I had been just prior to Boron?

10 Q. In comparisons to the prisons that we described earlier,  
11 including Otisville, Louisberg and others?

12 A. Well, I know there's being Terminal Island where I had  
13 been two years prior to this.

14 Q. Right.

15 A. I would have preferred to stay at Terminal Island.

16 Q. Because Terminal Island was a more comfortable facility?

17 A. Yes, for me it was.

18 Q. In connection with your trial today, Mr. Franzese, you  
19 know that certain materials were provided to us by the  
20 government, do you know that?

21 A. I believe so, yes.

22 Q. And in connection with preparing for your testimony on  
23 direct and for your cross examination today, I gather you had  
24 an opportunity to review some of those documents with the  
25 prosecution, correct?

1 A. Certain documents, yes.

2 Q. Certain files provided to us from the Department of  
3 Justice reflect that you've been accused of committing the  
4 crime of paying a bribe in connection with a parole revocation  
5 hearing. Do you deny having committed that crime?

6 A. Yes.

7 Q. And those files from the Justice Department also reflect  
8 that you tried to suborn perjury in connection with a  
9 proceeding concerning your father. Do you deny having  
10 committed that crime?

11 A. Yes.

12 Q. Those files from the Justice Department also reflect  
13 that you've been accused of participating in a conspiracy  
14 concerning stolen and counterfeit bonds. Do you deny  
15 committing that crime?

16 A. No.

17 Q. And do you expect that you will not be prosecuted for  
18 that, correct?

19 A. I think it was part of my indictment. Those charges  
20 were contained in my indictment.

21 Q. And files also reflect that you were accused of  
22 committing a crime involving a company called the Linn Mazda  
23 Automobile Dealership?

24 A. That's correct.

25 Q. Do you deny having committed that crime?

1 A. No.

2 Q. Was that one of the two counts to which you pled guilty  
3 earlier?

4 A. No, but it was contained as counts in the indictment.

5 Q. It was part of your original plea agreement in which you  
6 could never again be prosecuted?

7 A. It was part of the indictment, yes.

8 Q. Those documents from the Justice Department also reflect  
9 that you've been accused of controlling through illicit means  
10 various locals of the Teamsters' Union. Do you deny  
11 committing those crimes?

12 A. No.

13 Q. The Justice Department files also reflect that you've  
14 been accused of committing various criminal income tax  
15 evasion. Do you deny committing those crimes?

16 A. No.

17 MR. GOLD: Bear with me a moment, your Honor.

18 BY MR. GOLD:

19 Q. The Justice Department files also reflect that some time  
20 in early '85 you participated in discussions with the Ruling  
21 Commission of Organized Crime in New York City in connection  
22 with taking certain retaliatory action against law enforcement  
23 officials. Do you deny having committed that crime?

24 A. I agree that I was party to a discussion, that I've  
25 heard discussions about it, yes. I didn't participate but I

1 heard about it, yes.

2 Q. And what is the Ruling Commission in connection with  
3 which you remember having this discussion?

4 A. They were -- it a was leadership body, comprised of all  
5 five families in New York.

6 Q. And do you know the names of the persons with whom you  
7 spoke at that time?

8 A. Yes, I do.

9 MR. VALUKAS: Objection as to relevance, your Honor,  
10 talking about 608.

11 THE COURT: Sustained.

12 MR. GOLD: Give me one second.

13 BY MR. GOLD:

14 Q. Those files reflect, Mr. Franzese, that in March of 1986  
15 you participated in a conspiratorial discussion in which a man  
16 by the name of Carmine Persico and others discussed the  
17 possibility of taking retaliatory action against law  
18 enforcement officials who were involved in prosecuting Mr.  
19 Persico. Do you deny having participated in that  
20 conspiratorial discussion?

21 A. No.

22 Q. This morning on your direct examination you told us  
23 about some contact that you had with a gentleman by the name  
24 of Ron Weisner, you remember that?

25 A. Yes.

1 Q. And as you understood it, he was one of the managers for  
2 the Jackson Five, correct?

3 A. Yes, he was.

4 Q. And you told us that there came a time when you met with  
5 him face-to-face, you remember that?

6 A. Yes.

7 Q. And you did your best to convince him to knuckle under  
8 to your pressure to give a job to Norby Walters, correct?

9 A. I wouldn't describe it that way but I did have a  
10 conversation in which I asked him to make Norby Walters the  
11 agent for that tour, yes.

12 Q. You asked him, you made a friendly request of him?

13 A. No, I didn't make a friendly request.

14 Q. Did you try to threaten and intimidate him?

15 A. Yes, in a way I did.

16 Q. In a way you did, but you're not sure?

17 A. No, I'm positive that in a way I did, yes.

18 Q. Well, you consider yourself a threatening and imposing  
19 person, don't you?

20 MR. VALUKAS: Objection, your Honor. That's  
21 argumentative.

22 THE COURT: Sustained.

23 BY MR. GOLD:

24 Q. As you sit here today under oath, Mr. Franzese, you know  
25 that whatever efforts you made on that occasion failed because

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1 Norby Walters never got the job, correct?

2 A. I know that I did what I was asked to do by Norby  
3 Walters. I accomplished that purpose. Whatever happened  
4 subsequent to that was in his hands.

5 Q. Mr. Weisner never gave the job to Norby Walters and you  
6 know that, don't you?

7 A. As far as I know, he was not the agent who did the tour,  
8 that's correct.

9 Q. You also spoke this morning about some contact you had  
10 with some persons on behalf of a performer known as Dionne  
11 Warwick, correct?

12 A. Yes.

13 Q. But in that connection, you never made a threat to  
14 anybody, did you?

15 A. Wasn't necessary.

16 Q. You spoke this morning about passing \$50,000 to Mr.  
17 Walters and then in return for that \$50,000, you tell us, you  
18 acquired a 25 percent interest in a sports business. Do you  
19 remember that?

20 A. Yes.

21 Q. And as a 25 percent partner, you tell us, that you  
22 became entitled to receive 25 percent of the money he earned  
23 in that business, correct?

24 A. Profits, yes.

25 Q. And in connection with your first agreement with the

1 government, Government Exhibit 1, we spoke of at the beginning  
2 of your cross examination, do you recall that you were  
3 obligated to testify under oath to help the government find  
4 all your money and to help the government take that money away  
5 from you. Do you remember that?

6 A. That's not the way I recall it, no.

7 Q. Do you have Government Exhibit 1 before you?

8 A. One?

9 Q. Yes.

10 A. Yes.

11 Q. Take a look at Paragraph 12.

12 MR. VALUKAS: Which paragraph?

13 MR. GOLD: 12.

14 BY MR. GOLD:

15 Q. You see that, sir?

16 A. Yes.

17 Q. Paragraph 12 provides:

18 "Franzese also agrees as a condition of his  
19 subsequent parole and probation as well as a  
20 condition of this plea agreement to cooperate with  
21 any civil means or processes to be used by the  
22 government to recover from any monies, assets,  
23 properties, et cetera from Franzese or others in  
24 connection with all matters covered by this plea  
25 agreement."



1                   You see that?

2           A.     Yes.

3           Q.     And there came a time, did there not, when you had to  
4           submit to give testimony under oath in connection with the  
5           government's attempt to find your money and assets, correct?

6           A.     Yes.

7           Q.     And you were sworn at that time and given an oath  
8           identical to the oath you took in this courtroom, correct?

9           A.     Yes.

10          Q.     I'm reading from the transcript at 151.

11                   MR. VALUKAS: Which case?

12                   MR. GOLD: I'm reading from Volume II. Do you have  
13           it?

14                   MR. VALUKAS: 151?

15                   MR. GOLD: 151.

16           BY MR. GOLD:

17           Q.     One of the officials of the Justice Department asked  
18           some questions of you that day, was a Mr. Germain, you  
19           remember that man?

20           A.     Yes.

21           Q.     Question at line 9:

22                   "Do you currently have any source of income, you,  
23           yourself?"

24                   "Answer. Well, other than what would have been owed  
25           to me from Miami Gold, you know, from the proceeds of

1 the film, no."

2 The proceeds from Miami Gold were the million dollars  
3 we spoke about earlier in the examination, remember that?

4 A. Yes.

5 Q. At 245, reading at line 23:

6 "Question: Do you have any vested or contingent  
7 further interest in any property or payment of any  
8 money from any person for any reason whatsoever."

9 Answer at the top of Page 246, line one:

10 "Answer. No."

11 Going on the Page 254, line 6, question by Mr.

12 Germain:

13 "Are you due any fees, commissions or bonuses or  
14 anything of value in return for services rendered  
15 By any corporation or individuals?"

16 "Answer. Not at the present time, no."

17 Sir, you gave that testimony on April 30th, 1986,  
18 didn't you, when you had an obligation to tell the truth, the  
19 whole truth and nothing but the truth, right?

20 A. That's correct.

21 Q. And the testimony you gave that I've just read to you  
22 was the truth, was it not?

23 A. At the time my membership in organized crime family  
24 would not allow me to speak about any of my associates and,  
25 therefore, I was not able to talk about that, I felt.

1 Q. Are you telling us today as you sit here right now that  
2 you have committed another perjury you never told these  
3 gentlemen about before right now?

4 A. That's correct, yes.

5 Q. Having said that, sir, do you expect Mr. Valukas is  
6 going to prosecute you for the perjury you just admitted?

7 A. I really don't know.

8 Q. In December of 1987 before you testified in this grand  
9 jury for the first time, you gave an interview to some  
10 reporters from Life Magazine, do you remember that?

11 A. Yes, I did.

12 Q. And you said to them in part:

13 "I had only one choice, I have to get out and get  
14 away."

15 MR. VALUKAS: I object as to the form of the question,  
16 your Honor. What he's doing is he's reading something into  
17 the record which may not have any relevance whatsoever, as a  
18 form. If he's going to ask him whether or not he asked  
19 something, et cetera -- now, he's reading and asserting and  
20 that's improper cross examination.

21 THE COURT: Mr. Gold.

22 BY MR. GOLD:

23 Q. Did you say to any person, sir, in December of 1987,  
24 referring to the government, "I have only one choice. They  
25 are going to get me and they're going to destroy me." Did you

1 say that, sir?

2 A. I don't know if I said it in those words but I did say  
3 something to that effect, yes.

4 MR. GOLD: I have no further questions.

5 CROSS EXAMINATION

6 BY MR. WEBB:

7 Q. Sir, my name is Dan Webb, I represent Mr. Bloom. As you  
8 might imagine, I don't have very many questions to ask of you,  
9 just a few.

10 As I sat here and listened this morning -- by the  
11 way, we haven't met each other?

12 A. No.

13 Q. Never met. I never talked to you before your testimony?  
14 That's correct?

15 A. That's correct, yes.

16 Q. The only people you met with before you testified, you  
17 met with the government representatives in the U.S. Attorney's  
18 Office to prepare for your testimony, is that correct?

19 A. Yes, we met. Yes.

20 Q. I'm going to ask you to keep your voice up just a little  
21 bit, sir?

22 A. Sure.

23 Q. I'm not going to get into any details of any of the  
24 underlining criminal activity you may have engaged in, but  
25 would it be a fair statement, as I have listened to you

1 testify here for the past several hours and read over the  
2 material that the government has given me, would it be fair to  
3 say, would it not, that during most of your adult life, you  
4 have been involved in organized criminal activity, is that  
5 correct?

6 A. Yes, it is.

7 Q. And being involved in organized criminal activity, I  
8 think you used the term, you called yourself, referred to  
9 yourself this morning as a racketeer, you recall that?

10 A. I didn't use those words but I think --

11 Q. Is it an apt description?

12 A. I would say-so, yes.

13 Q. In fact, you have actually pled guilty in two different  
14 court proceedings, as I understand it, in New York and one in  
15 Florida, in which you actually pled guilty to being a  
16 racketeer?

17 A. Yes.

18 Q. Now, I take it you pled guilty in front of those judges,  
19 swore that you were telling the truth when you said you were a  
20 racketeer, you were a racketeer, is that correct?

21 A. I pled guilty to the crimes that I pled guilty to, yes.

22 Q. And you were in fact guilty of those crimes, is that  
23 correct?

24 A. Yes.

25 Q. All right. Now, as I understand it, you told us that

1 you were actually a member of an organized group of people in  
2 New York called an organized crime family known as the Columbo  
3 family, is that correct?

4 A. Yes, it is.

5 Q. And I believe you told us this morning that in  
6 connection with your criminal activity, you've been associated  
7 with other racketeers in performing criminal activity over the  
8 past many years, is that a fair statement?

9 MR. VALUKAS: Objection, your Honor, he did not  
10 testify to that and it's irrelevant.

11 THE COURT: Well, he's asked if it's a fair statement  
12 and he can answer yes or no.

13 BY MR. WEBB:

14 Q. Is that a fair statement?

15 A. Yes.

16 Q. Mr. Bloom, I want you to please come up here. Sir, I  
17 want to take you a look at my client. I noticed this morning  
18 you seemed to have some trouble picking him out in the  
19 courtroom, is that because you indicated you only think you  
20 met him on one occasion?

21 MR. VALUKAS: I object to Mr. Webb's speech and  
22 characterization. He stipulated to --

23 THE COURT: Why don't you ask him the question.

24 BY MR. WEBB:

25 Q. Sir, did you tell us this morning that you thought you

1 met this man on one occasion in Norby Walters?

2 A. Yes.

3 Q. In passing and a very brief introduction, I think you  
4 told us, is that correct?

5 A. That's correct.

6 Q. Is this someone who you ever, ever in your life were  
7 associated with in criminal activity?

8 A. No.

9 Q. You were not trying to leave the impression with the  
10 jury this morning that you were ever associated with the man,  
11 with this man, in performing any type of racketeering  
12 activity, is that a fair statement?

13 A. I was never associated with him personally, no.

14 Q. And you weren't trying to leave the jury with that  
15 impression, were you?

16 A. No.

17 Q. Okay. In fact, as you sit here now, do you have any  
18 evidence or any facts at all that you would like to give this  
19 jury that in any way would indicate that this man has ever  
20 been involved in any criminal activity to your knowledge?

21 MR. VALUKAS: Your Honor, I object. He's not required  
22 to give any facts or give any absolute. He's required to  
23 answer questions, and Mr. Webb standing up there making a  
24 speech with Mr. Bloom there, if Mr. Webb is willing to give  
25 the evidence, I'd be more than willing to summarize it for Mr.

1 Franzese.

2 THE COURT: Maybe you can rephrase your question.

3 BY MR. WEBB:

4 Q. Sir, do you know of any facts at all, do you know of any  
5 facts at all that you can communicate to us that would  
6 indicate any knowledge you have that this man was ever  
7 involved in any criminal activity?

8 MR. VALUKAS: Again, I object, your Honor. He's  
9 asking him to make legal conclusions in connection with that.

10 THE COURT: No, he's asking whether he has any facts  
11 and I will let him answer the question..

12 THE WITNESS: A. Only as to what I testified to.

13 BY MR. WEBB:

14 Q. Did did you testify to any facts that would indicate he  
15 was involved in any criminal activity?

16 MR. VALUKAS: Your Honor, again, I object.

17 He's asking for the --

18 THE COURT: The jury has heard the facts. Move on Mr.  
19 Webb.

20 MR. WEBB: You may sit down. Sit down.

21 BY MR. WEBB:

22 Q. As I understand your testimony this morning, tell me if  
23 I'm correct, you can correct me if I'm incorrect, you  
24 testified you thought you met Mr. Bloom on one brief occasion  
25 in Norby Walters' office in July or August of 1985, is that



1 correct?

2 A. That's correct, yes.

3 Q. And I take it, at that time -- do you actually remember  
4 or are you telling us what you think happened?

5 A. No, I remember meeting him on one occasion in that  
6 office, yes.

7 Q. And was it on that occasion in July or August of 1985?

8 A. Yes.

9 Q. And you indicated it was a very brief meeting, someone  
10 just introduced you, you said hello and that was the end of  
11 it?

12 A. That's correct.

13 Q. Okay. Do you have any reason to believe that Mr. Bloom  
14 would even remember that he met you on that occasion?

15 MR. VALUKAS: Objection, your Honor.

16 THE COURT: Sustained.

17 BY MR. WEBB:

18 Q. Well, sir, let me ask you this: First of all, while you  
19 told us today that your name has appeared in the newspaper,  
20 you do recognize that your name is not a household word in  
21 America, is it?

22 MR. VALUKAS: Objection, again, argumentative, calling  
23 for a conclusion.

24 THE COURT: I don't know where you're going, Mr. Webb.

25 MR. WEBB: He brought it up on direct, Judge, about

1 the newspaper publicity about this man as if he's that  
2 well-known.

3 THE COURT: Well, go ahead then. I don't know what  
4 your point is but I will allow you to make it. I'm sure you  
5 will clarify it for me.

6 BY MR. WEBB:

7 Q. Sir, the fact is, as you lived your life and you live  
8 your life and are introduced to people, you don't go around  
9 bragging about the fact that you're a member of the New York  
10 mob family, the Columbo family, do you?

11 A. No, I do not.

12 Q. And quite frankly, as far as you know, based on what you  
13 know, based on your contact with Mr. Bloom, there was nothing  
14 in that brief introduction that would ever have indicated to  
15 him who you were, is that a fair statement?

16 MR. VALUKAS: I object. He's trying to conclude as to  
17 what Mr. Bloom knew.

18 THE COURT: Sustained.

19 BY MR. WEBB:

20 Q. At that time, did you have any discussions with Mr.  
21 Bloom at all about your background?

22 A. No.

23 Q. Now, I believe you indicated that the first time in your  
24 life that you ever heard my client's name mentioned to you was  
25 in a meeting that you had with Mr. Walters in late 1984 or

1 early 1985 at a place called the Polo Lounge in Los Angeles,  
2 is that correct?

3 A. That's correct, yes, Beverly Hills.

4 Q. And at that time, Mr. Walters told you that he had  
5 hooked up with a young man named Norby -- Strike that --  
6 strike the question.

7 Mr. Walters told you in that meeting that -- strike  
8 the question.

9 That meeting with Mr. Walters dealt with a number of  
10 different subject matters, is that correct?

11 A. More than one, yes.

12 Q. Okay. In that meeting, Mr. Walters mentioned to you  
13 that he was getting into or thinking about getting into the  
14 sports agents business with a person he had met by the name of  
15 Lloyd Bloom, is that correct?

16 A. Yes.

17 Q. Okay. And he told you that Lloyd Bloom was somebody who  
18 he, Walters, believed knew something about football?

19 A. Yes, I believe he told me he was either a football  
20 player himself at one time and he knew something about college  
21 sports and professional sports. Yes.

22 Q. As far as you know, that's the first time that you were  
23 ever aware that there was any relationship between Mr.  
24 Walters, who you'd known for all your life, and this man,  
25 Bloom, is that correct?

1 A. As far as I know, yes.

2 Q. You had never heard Bloom's name mentioned in all the  
3 years you'd known Mr. Walters, is that correct?

4 A. I don't believe so, yes.

5 Q. And at that time, did Mr. Walters tell you that this  
6 kid, Bloom, did not have any money and that Walters was going  
7 to try to finance the sports agent business?

8 A. No.

9 Q. Okay. Did you at that time -- Strike that. As I  
10 understand it, the next time that you saw Norby Walters was  
11 some time later when you met with him in his office in  
12 Manhattan in New York in which the sports agent business was  
13 discussed, is that correct?

14 A. The next time we met to discuss this sports agency  
15 business, yes.

16 Q. And that was well into 1985, some time?

17 A. I believe so, yes.

18 Q. Okay. And at that time, whatever business you discussed  
19 with Mr. Walters on that occasion, Mr. Bloom was not present?

20 A. That's correct.

21 Q. Okay. And then the third time that you saw Mr. Walters  
22 about the sport agent's business which I think you said was in  
23 July or August of 1985, on that occasion, you think you met  
24 Mr. Bloom in passing, is that the time, the third time?

25 A. Yes.

1 Q. Okay. By the way, just so the jury understands, Mr.  
2 Walter -- you indicated this morning that Mr. Bloom was around  
3 with the other employees in the office on that occasion, is  
4 that your recollection?

5 A. I recall him being in Norby Walters' office at the time  
6 I met him.

7 Q. Okay. And that office, Mr. Walters has about 40  
8 employees in the office, is that correct?

9 A. I don't know exactly how many.

10 Q. He has a number of employees, does he not?

11 A. Yes.

12 Q. And whatever business that you conducted with Mr.  
13 Walters on that occasion in the office, whenever you sat down  
14 and actually talked about business, Mr. Bloom was not present,  
15 is that correct?

16 A. That's correct.

17 Q. And in fact, it's fair to say that because you didn't  
18 know Bloom or anything about him, you didn't want him around,  
19 did you?

20 A. That's correct, yes.

21 Q. Because a man who's in the business that you are in, you  
22 do try to operate in some type of a concealed, secret fashion,  
23 is that a fair statement?

24 A. Yes, it is.

25 Q. In fact, if Mr. Bloom had even been present, you would

1 have felt extremely uncomfortable, wouldn't you?

2 A. Yes.

3 Q. And you would not talk business in front of him, would  
4 you?

5 A. Good possibility I wouldn't have, yes.

6 Q. And you would have been extremely uncomfortable if he  
7 had been around, is that correct?

8 A. Yes.

9 Q. And in fact he was not around when you talked business  
10 on that occasion?

11 A. That's correct.

12 Q. Now, other than this mention that Mr. Walters told you  
13 that Bloom knew something about football, did you know  
14 anything else about this man's background, what he did, where  
15 he grew up or anything about him?

16 A. No.

17 Q. To this day, do you know anything about him?

18 A. No.

19 Q. Now, let me ask you about this sports agent business,  
20 that's what my questions are going to be directed to at this  
21 point, sir. First of all, do you know the name of the  
22 business under which Mr. Walters and Mr. Bloom conducted the  
23 sport's agent business?

24 A. Actually, I'm not quite certain, no.

25 Q. I take it, you were not -- whatever the name of the

1 company was, you never really got involved in the operations  
2 of the company, is that a fair statement?

3 A. Yes.

4 Q. And in fact, if I were to tell you the name of the  
5 company was World Sports and Entertainment, does that ring a  
6 bell?

7 A. Yes, it does.

8 Q. OKay. Whatever Mr. Bloom did in working for that  
9 company, I take it, as you sit here now, you have no idea what  
10 his actual role was or what things he did?

11 A. That's correct.

12 Q. Is that correct?

13 A. Yes.

14 Q. And you mentioned this morning that -- well -- Strike  
15 that question. This -- did you ever do anything at all in  
16 connection with this business, World Sports and Entertainment,  
17 this sports agent business, did you ever go to any meetings or  
18 meet anybody or promote their company or do anything like  
19 that?

20 THE COURT: Mr. Valukas.

21 MR. VALUKAS: Your Honor, I'm going to make note, if  
22 that question is answered, that other issue that we were  
23 talking about, we are going to go in on it on redirect.

24 MR. WEBB: I have no idea what we are talking about.

25 THE COURT: Maybe you ought to ask him.

1 MR. WEBB: Ask who?

2 (Discussion between Mr. Valukas and Mr. Webb off the record)

3 BY MR. WEBB:

4 Q. Sir, did you ever attend any meetings in which my client  
5 was present carrying out any business activities for World  
6 Sports and Entertainment?

7 A. No.

8 Q. Were you ever -- you were never present at any time when  
9 my client dealt with any sports figures, is that a fair  
10 statement?

11 A. Yes.

12 Q. Now, and there -- as far as whatever meetings that you  
13 had with Mr. Walters, you clearly were not an actual owner of  
14 this company, I mean, you didn't get stock issued to you or  
15 anything?

16 A. No, I don't believe Mr. Walters wanted me to have stock  
17 issue.

18 Q. And in fact, as I understand, your testimony, shortly  
19 after this last meeting with Mr. Walters in July or August of  
20 1985, shortly after that, you became preoccupied with some --  
21 your own personal legal problems, is that a fair statement?

22 A. Yes.

23 Q. Okay. And you never again in your life ever saw Lloyd  
24 Bloom to the best of your knowledge until you walked into this  
25 courtroom today?



1 A. That's correct, yes.

2 Q. Now, I believe you told us this morning and I don't  
3 intend to go back into any of the details, but you told us  
4 this morning that in connection with the entertainment  
5 business, not the sports business, but the entertainment  
6 business, you told us about certain meetings that you attended  
7 over the years in connection with disputes that Mr. Walters  
8 allegedly had with some of his clients, do you recall that  
9 testimony?

10 A. Clients and club owners, yes.

11 Q. Okay. And on these occasions, you actually went and met  
12 with these clients and club owners and had discussions with  
13 them, is that correct?

14 A. Yes.

15 Q. In connection with the sports business, is it fair to  
16 say that at no time, sir, did you ever attend or ever contact  
17 any football player that was a client of World Sports and  
18 Entertainment?

19 A. That's correct, yes.

20 Q. And at no time did Mr. Bloom ever directly or indirectly  
21 ever ask you if he could use your name or try to use your  
22 reputation to try to threaten people, did he?

23 A. Directly, no.

24 Q. Indirectly, did Mr. Bloom ever do anything to indicate  
25 to you that he was going to use your name to threaten people?

1 A. No, but if he was Norby's partner, he had the same  
2 ability to use my name as Norby did.

3 Q. But you're assuming that Mr. Bloom knew who you were, is  
4 that correct?

5 A. Yes, I am.

6 Q. Tell me what evidence you have to give to this jury that  
7 Mr. Bloom ever knew who you were?

8 A. Mr. Webb, I don't have -- I don't supply evidence but I  
9 assume if Norby Walters was Mr. Bloom's partner --

10 Q. I prefer not to have assumptions. I want to ask you, do  
11 you have any evidence to give this jury, now, that my client  
12 ever used your name to threaten anyone in the world?

13 MR. VALUKAS: Again, objection. He's not required to  
14 produce evidence, he's required to testify as to what facts he  
15 knows.

16 THE COURT: If he's got facts to state, he can state.  
17 It's not his job to produce evidence.

18 BY MR. WEBB:

19 Q. Do you know of any facts that you can tell us that my  
20 client ever used your name to threaten anybody in the sports  
21 business?

22 A. No.

23 Q. And my client never contacted you and never asked you to  
24 come to any meetings to come to threaten anybody, did he?

25 A. Not directly.

1 Q. Did my client ever indirectly ask you to attend any  
2 meetings with any sports figures that he was dealing with?

3 A. Sports figures, no.

4 Q. I'm talking about my client, Mr. Bloom.

5 A. No.

6 Q. Now, sir, let me ask you about your contact with the  
7 government in connection with the particular case dealing with  
8 the sports agent business. I take it based on what you told  
9 us this morning that at all times during your conversations  
10 with government representatives, that any time they asked you  
11 any questions about your knowledge about the sports agent  
12 business conducted by Mr. Bloom and Mr. Walters, that you  
13 always did your very best to tell them the truth, is that  
14 correct?

15 A. Yes.

16 Q. You never intended to lie or make up things, did you?

17 A. No.

18 Q. You never intended to ever exaggerate or embellish or  
19 make up anything about my client, Lloyd Bloom?

20 A. No.

21 Q. You always decided you'd tell them exactly what you  
22 knew?

23 A. That's correct, yes.

24 Q. And as far as Mr. Bloom, you really didn't know  
25 anything, is that a fair statement?

1 A. Only to what I testified to so far.

2 Q. That you met him on one occasion in passing?

3 A. Yes.

4 Q. Now, the first time that anybody from the government  
5 ever came to interview you about this sports agent business  
6 and Mr. Bloom and Mr. Walters was on October 5th, 1987, is  
7 that correct?

8 A. I believe so, yes.

9 Q. And that was two FBI agents that visited you in a  
10 federal penitentiary?

11 A. Yes.

12 Q. Where did that take place?

13 A. At a federal correctional institution, Terminal Island,  
14 California.

15 Q. Okay. And then on that occasion, the FBI asked you some  
16 questions about this fellow, Lloyd Bloom, did they not?

17 A. They asked me questions about the business in general, I  
18 believe, Lloyd Bloom and Norby Walters. I think so.

19 Q. Didn't the FBI ask you -- the FBI ask you on that  
20 occasion when you might be able to give them some information  
21 that would incriminate Lloyd Bloom or help them prosecute  
22 Lloyd Bloom, is that correct?

23 MR. VALUKAS: Your Honor, I object. That's an  
24 assertion which is absolutely untrue and Mr. Webb has no basis  
25 for making that assertion.

1 MR. WEBB: Judge --

2 THE COURT: If this is impeachment, I suppose your --

3 MR. WEBB: I intend to complete my impeachment.

4 THE COURT: You intend to complete your impeachment?

5 MR. WEBB: Yes, I do.

6 MR. VALUKAS: Just for the Court, Mr. Webb asserted  
7 that the FBI went to them, said give us incriminating  
8 information concerning them or tell us things that will  
9 incriminate these individuals. That assertion is patently  
10 untrue.

11 MR. WEBB: I'll find out. I'll ask the witness.

12 MR. VALUKAS: That's not what he did. He asserted  
13 it.

14 THE COURT: I think that you are talking about form  
15 rather than substance, are you?

16 MR. WEBB: I will withdraw the question.

17 THE COURT: Am I right?

18 MR. VALUKAS: I'm also talking about what his  
19 obligation is.

20 THE COURT: I know what you are talking about.  
21 Rephrase the question and I think you can move right along.

22 BY MR. WEBB:

23 Q. In substance, did the FBI ask you if you had any  
24 information that would incriminate or implicate Lloyd Bloom in  
25 criminal activity regarding the sports agent business?

1 A. I don't remember if they asked me the question that way.  
2 They asked me a number of questions regarding this  
3 investigation into the world sports or sports business. I  
4 don't remember in particular what the questions were.

5 Q. And at that time, you answered their questions; is that  
6 correct?

7 A. To the best of my ability, at that time, yes.

8 Q. Okay. And I take it, that you told them the truth to  
9 the best of your ability, is that correct?

10 A. To the best of my ability, at that time, yes.

11 Q. And that included the truth about Lloyd Bloom, is that  
12 correct?

13 A. Truth about whatever I was asked, yes.

14 Q. OKay. And at that time, in substance, you told them  
15 the -- you told the FBI, essentially, the same thing you told  
16 this jury here today, that you only recalled meeting Bloom on  
17 one occasion in passing, is that correct?

18 A. I don't recall if it came up at that meeting but if I  
19 was asked that, that's most likely what I answered, yes.

20 Q. Well, let me ask this: I take it, for example, you  
21 certainly did not tell the FBI in that interview on October  
22 5th, 1987 that my client was present and involved in the  
23 discussion when you gave the \$50,000 to Norby Walters, you  
24 didn't tell him that, did you?

25 A. Involving the discussion when I gave the \$50,000 to

1 Norby Walters?

2 Q. Here is my question: Did you tell the FBI on this first  
3 occasion when they interviewed you, did you tell them that my  
4 client was actually present and involved in the meeting and  
5 was there when you handed the money to Mr. Walters? Did you  
6 tell the FBI that?

7 A. No, I did not.

8 Q. And you didn't -- and if you told them that, it wouldn't  
9 be true, would it?

10 A. That's correct.

11 Q. And in preparing for your testimony here today and in  
12 working with the government representatives, you have reviewed  
13 the FBI report that was prepared on October 5th, 1987 after  
14 the FBI agents left you on that day, is that correct?

15 THE COURT: Mr. Valukas.

16 MR. VALUKAS: Where Mr. Webb is going is improper  
17 impeachment if he's going to ask him what's in the report,  
18 because that's not proper.

19 THE COURT: Are you trying to impeach the FBI or the  
20 witness?

21 MR. WEBB: Your Honor, I will use the same Exhibit  
22 that Mr. Gold did.

23 MR. VALUKAS: But he has to ask the question when he  
24 told him that and after he answers he can finish the  
25 impeachment at a later time.

1 THE COURT: Confront him with the question, I guess.

2 BY MR. WEBB:

3 Q. In preparing for your testimony, did you -- Mr. Gold a  
4 few moments ago showed you Walters' Exhibit Number 10, and I  
5 will direct your attention to the same portion that Mr. Gold  
6 directed you to down here, and then -- actually, the part I'm  
7 interested in is right here, but you can go ahead and read  
8 that (indicating).

9 A. Right here (indicating)?

10 Q. Start here (indicating).

11 A. "Franzese supposedly --"

12 MR. VALUKAS: Your Honor, I object. He cannot read  
13 that report in. That's not proper impeachment. He can ask  
14 him when he told the agents that. If he denies telling the  
15 agents that, then that is the end of it and Mr. Webb can call  
16 the agents in rebuttal. He can't impeach in this matter. I  
17 object.

18 THE COURT: That is my understanding of how you do  
19 impeachment, Mr. Webb. Confront him with the question.

20 MR. WEBB: I am.

21 THE COURT: I suppose that there is some reason for  
22 the battle of semantics between the two of you but as god is  
23 my judge, I don't know what it is.

24 MR. VALUKAS: There is.

25 MR. WEBB: I will ask. The report says what you



1 said.

2 MR. VALUKAS: Objection.

3 THE COURT: Can I see you at a a sidebar so you can  
4 clarify because I don't know what you're arguing about.

5 (Sidebar conference.)

6 MR. VALUKAS: Your Honor, it's absolutely improper to  
7 try and impeach a witness with a statement by this -- by  
8 reading the statement to this witness or saying, "Is that what  
9 the statement means?" That's a hearsay statement. The only  
10 relevant question, and Mr. Webb in impeaching evidence  
11 certainly knows that, is that you ask him did he tell the  
12 agents this, if he says, "No, I didn't", or, "Yes, I did",  
13 whatever the answer is, that's where it ends with this  
14 particular guy. If Webb wants to call -- if Mr. Webb wants to  
15 call the agents to complete impeachment, please feel free to  
16 do so but he's not free to read a report in there and show it  
17 to the witness. That cannot be done.

18 MR. WEBB: Judge, I have a right to read off what's  
19 in the report and ask him if he made the statement and that's  
20 what I was doing. When I read it or he reads it --

21 THE COURT: Excuse me, we are going to run over a  
22 Magistrate.

23 MR. VALUKAS: Your Honor, is not what's in the  
24 report. He can ask, "Did you tell the agents this?" Because  
25 there is -- what he's doing is he's causing the impression

1 that that report accurately reflects what the report says.  
2 That's what he's got to ask, did he tell --

3 THE COURT: Then if I have to deal with specificity,  
4 ask him: "Did you tell this?" And take your answer and move  
5 on.

6 MR. WEBB: I will, your Honor.

7 (End of sidebar conference.)

8 BY MR. WEBB:

9 Q. Sir, on October 5th, 1987, in meeting with FBI Agents  
10 Leeman and O'Neil, did you at that time ever tell those agents  
11 in form, affect or substance that you gave Walters and Bloom  
12 the \$50,000 in cash at a meeting? Did you ever tell them  
13 that?

14 A. I don't believe I told them that way, no.

15 Q. In preparing for your testimony, this report that is  
16 marked as Walters Exhibit Number 10, the FBI report, did you  
17 discuss this report with the FBI or with the United States  
18 Attorney's office?

19 A. I read it and I discussed it with Mr. Valukas, yes.

20 MR. GOLD: Your Honor, I'm sorry, I can't hear.

21 THE COURT: Would you repeat the answer, please.

22 THE WITNESS: A. I said I read it and discussed it  
23 with Mr. Valukas, yes.

24 BY MR. WEBB:

25 Q. And at that time -- did you at that time ask the FBI or

1 Mr. Valukas why this report had incorrect and false  
2 information about Mr. Bloom in it?

3 MR. VALUKAS: Objection, your Honor. That's  
4 irrelevant.

5 MR. WEBB: Judge --

6 MR. VALUKAS: He's not required to ask.

7 THE COURT: I think we have covered the subject of  
8 impeachment on this particular matter and we can move on, Mr.  
9 Webb.

10 MR. WEBB: I have no more questions, your Honor.

11 THE COURT: Thank you. Redirect?

12 MR. VALUKAS: I do. Would you give me a few minutes  
13 to get it together. It might be an appropriate time ...

14 THE COURT: Well, we might as well take our afternoon  
15 break, about 10 minutes will that be enough time?

16 MR. VALUKAS: Thank you, your Honor.

17 THE COURT: Let me ask you at a sidebar one question  
18 so that I know where we are going here.

19 (Discussion had off the record.)

20 (Recess)

21 THE COURT: You're ready to resume?

22 MR. VALUKAS: Very short redirect, your Honor.

23 THE COURT: Let's have the witness.

24 (Jury in.)

25 THE COURT: Please be seated.

1 THE COURT: Mr. Valukas, you have some redirect?

2 MR. VALUKAS: I have some, your Honor, brief.

3 REDIRECT EXAMINATION

4 BY MR. VALUKAS:

5 Q. Mr. Franzese, let me direct your attention, first, to  
6 this interview which Mr. Webb was questioning you about in  
7 connection with a meeting with two agents out at Terminal  
8 Island, you recall that?

9 A. Yes.

10 Q. Would you just take us through, step by step, the  
11 interview process that day. Did you know you were going to be  
12 interviewed before you were interviewed?

13 A. No, I had no idea.

14 Q. Where were you taken?

15 A. I was taken to a room in the Administrative section of  
16 the prison.

17 Q. And approximately how long did that interview occur?

18 A. About a half hour.

19 Q. And during the course of that interview, were both  
20 agents asking questions?

21 A. Yes.

22 Q. All right. Did the agents at any time go back over  
23 their notes with you before they concluded the interview?

24 A. No.

25 Q. How was the interview concluded, what concluded the

1 interview?

2 A. The -- one of the prison officials came in and said they  
3 had to use the room and had to terminate the interview.

4 Q. And what happened then?

5 A. The agents left and I went back to my -- back to the  
6 prison.

7 Q. When was the first time that you saw the results of that  
8 interview?

9 A. A few days ago.

10 Q. And at that time, did you call this matter to my  
11 attention?

12 A. Yes.

13 Q. Mr. Franzese, in the years 1984 forward, where did you  
14 live?

15 A. California.

16 Q. And where in California?

17 A. Los Angeles.

18 Q. Now, you were asked about a deposition in which you have  
19 acknowledged that you lied, that was in April of 1986?

20 A. Yes.

21 Q. And you withheld information about monies that were  
22 involved with the Columbo family; is that right?

23 A. That's correct, yes.

24 Q. After November of 1986, did you begin providing  
25 information to the government?

1 A. Yes.

2 Q. Mr. Franzese, on the cross examination of Mr. Gold, he  
3 stated that you were or that it was alleged in the government  
4 files that you were present at a meeting with the heads of the  
5 five families in which retaliation against the United States  
6 attorneys or the prosecutors was discussed, is that correct?

7 A. Yes.

8 Q. Who provided that information to the government?

9 A. I did.

10 Q. And that was after November of 1986?

11 A. Yes.

12 MR. VALUKAS: Thank you.

13 THE COURT: Mr. Gold.

14 MR. GOLD: I have no questions.

15 THE COURT: Mr. Webb.

16 MR. WEBB: I have no questions.

17 THE COURT: Then you may be excused, sir.

18 THE COURT: Ladies and gentlemen, I am of the opinion  
19 that that concludes our witnesses for today, am I correct?

20 MR. VALUKAS: That is true, your Honor. If we could  
21 have a moment, maybe we might talk about scheduling before the  
22 jury leaves.

23 THE COURT: That's what I was going to suggest but I  
24 don't know as of now what we anticipate. I would ask that you  
25 return to your jury room and I will advise you momentarily as

1 to our schedule for tomorrow before I excuse you.

2 (Jury out.)

3 THE COURT: All right. Where are we schedulewise?

4 MR. VALUKAS: Your Honor --

5 (Discussion had off the record.)

6 THE COURT: We are not going to reconvene tomorrow  
7 until 2:00 o'clock in the afternoon. The testimony today was  
8 shorter than anticipated and so that we don't have any breaks  
9 while we wait for other witnesses, we will start at 2:00  
10 o'clock and have -- take the rest of the afternoon.

11 (Discussion had off the record.)

12 (Whereupon, the proceedings were continued until 2:00  
13 o'clock p.m. on the 15th day of March, 1989.)

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