

EXHIBIT A

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA . Criminal Action
. No. 09-342

VS.

ROBERT ALLEN STANFORD .
LAURA PENDERGEST-HOLT . October 14, 2009
GILBERT LOPEZ . 1:37 P.M.
MARK KUHRT . HOUSTON, TEXAS

TRANSCRIPT of PROCEEDINGS
BEFORE THE HONORABLE DAVID HITTNER
UNITED STATES DISTRICT JUDGE

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produced by computer-aided transcription.

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PROCEEDINGS

(October 14, 2009)

THE COURT: Thank you. Be seated, please.

The Court calls the case, United States --

01:37:00PM

well, I am just going to call the number of the case, 09-342, United States versus Stanford, Pendergest-Holt, Lopez, Kuhrt, and King.

Who represents Mr. Stanford, please?

01:37:20PM

MR. SCHAFFER: Kent Schaffer and Michael Sokolow, Your Honor.

MR. SOKOLOW: Good morning, Your Honor -- or afternoon.

THE COURT: Now, who else is standing up?

MR. KENNEDY: James Kennedy, Your Honor.

01:37:25PM

MR. SCHAFFER: James Kennedy with my office.

THE COURT: Give me one second.

(Pause in proceedings)

THE COURT: Pendergest-Holt?

01:37:36PM

MR. COGDELL: Good afternoon, Your Honor. Dan Cogdell, Jimmy Ardoin, and Chris Flood for Ms. Holt.

THE COURT: She goes by "Holt"; is that correct?

MR. COGDELL: She does, Your Honor.

THE COURT: Okay. Thank you.

MR. COGDELL: Thank you.

01:37:54PM

THE COURT: For Lopez?

1 MR. ZIMMERMANN: Your Honor, Jack Zimmermann and Jim
2 Levine for Gilbert Lopez.

3 THE COURT: Thank you.

4 MR. ZIMMERMANN: And just for the record, Your
01:38:03PM 5 Honor, it is "Gilbert" and not "Gilberto," which the
6 indictment has.

7 THE COURT: Okay. If the Government will make a
8 note on that, please.

9 For Defendant Kuhrt?

01:38:14PM 10 MR. KUNIANSKY: Good afternoon, Your Honor. Richard
11 Kuniansky on behalf of Mr. Kuhrt.

12 THE COURT: And for the Government, please?

13 MR. COSTA: Gregg Costa for the United States; along
14 with Paul Pelletier, Jack Patrick, and Matthew Klecka from the
01:38:30PM 15 Fraud Division.

16 THE COURT: Okay. Thank you.

17 I want to make one statement first. Then we're
18 going to get right into this, as to getting a scheduling order
19 done or not a scheduling order done, depending upon what the
01:38:45PM 20 argument is; and we're going to get this case underway. I am
21 just going to make a statement. I am not commenting one way
22 or another.

23 Just for the record, any private attorney
24 entering this case will have to do so unconditionally for me
01:39:01PM 25 to approve the substitution or someone coming in for me to

1 approve a change of status from appointed counsel to retained
2 counsel. Additionally, any such future Court approval will
3 also be conditioned that no continuances or delays will be
4 granted due to any new counsel entering the case at any stage.

01:39:26PM 5 So, I am just stating that for the record.

6 Government, give me an overview of what we're
7 here for today. Then we'll get to each defendant.

8 MR. COSTA: Your Honor, the Government believes that
9 the Court should set a trial date today. It has been more
01:39:40PM 10 than three months since the indictment was returned in this
11 case and the defendants made their initial appearances. Since
12 that time, the Government has created a database with all the
13 documents the Government's obtained --

14 THE COURT: How many are there?

01:39:51PM 15 MR. COSTA: The document -- it's a little over
16 4 million now. And I know at first blush that seems like a
17 lot.

18 THE COURT: It does.

19 MR. COSTA: But it translates into gigabytes to, you
01:40:00PM 20 know, the Enron case I know that --

21 THE COURT: It also relates to somebody having to
22 read it.

23 MR. COSTA: Well, sure, although there's a search
24 engine that allows anyone to search for their defendant's
01:40:08PM 25 name, for key terms. I would point out, because the

1 defendants are citing the Enron trials as a benchmark for when
2 the trial should be set --

3 THE COURT: And most of them are at least two years.

4 MR. COSTA: Right. And Enron, though, vastly more
01:40:21PM 5 documents, even though 4 million seems like a lot at first
6 blush. The documents in this case translate into gigabytes of
7 computer data. They were talking about terabytes in the Enron
8 investigation. And I don't know all -- I know that a terabyte
9 is 1,000 gigabytes. So, it's an entirely different scope of
01:40:40PM 10 documents in the Enron case. And I also think those cases
11 were -- were far more complexed. I mean, this is focused on
12 the CD program.

13 So, those documents are all --

14 THE COURT: So, it's solely focused on the CDs?

01:40:50PM 15 MR. COSTA: The Government's case is based on
16 misrepresentations made to investors who bought the CDs, as
17 well as the efforts to cover up what the CD money was invested
18 in.

19 THE COURT: If it's so simple -- and, you know, I'm
01:41:02PM 20 all for simplification -- where do you get 4 million
21 documents?

22 MR. COSTA: A lot of the documents, we asked the
23 receiver, by a letter request, for the hard drives and e-mails
24 of all the defendants, as well as other key employees of the
01:41:17PM 25 Stanford companies. So, as we point out in the -- the notice

1 we filed, a lot of these documents may have nothing to do with
2 the case. You know, it might just be an e-mail, "Let's go to
3 lunch tomorrow," from one of the defendants to another
4 defendant.

01:41:29PM 5 I mean, we just obtained all that data. We
6 wanted to make it available to the defense so there's no
7 issues about not having full disclosure. And that's why the
8 search capability will allow the defendants to find documents
9 that are relevant to the issues in the case.

01:41:47PM 10 And as we also mentioned, we're going to --
11 we're working on and will provide a smaller universe of
12 documents, sort of a hot documents file, of what we think are
13 the key documents that will be used at trial.

14 So, given that all the documents are available,
01:42:03PM 15 it has been three months since the indictments, one of the
16 defendants is detained, the Government believes it is
17 appropriate certainly to set a trial date at this time. And,
18 really, there's no downside to setting a trial date.

19 THE COURT: Well, how about Defendant King?

01:42:20PM 20 MR. COSTA: He -- we have filed with -- through the
21 state department all the extradition papers.

22 THE COURT: He is where now?

23 MR. COSTA: He is Antigua. He was arrested on a
24 provisional arrest warrant. They allowed him to be under
01:42:32PM 25 house arrest there in Antigua. He is now in the process of

1 having the opportunity to respond to our filings, and I
2 believe that's due at the end of this month.

3 THE COURT: How is that going to affect this trial
4 of this case?

01:42:45PM 5 MR. COSTA: It just depends when he's extradited. I
6 mean, that -- that could be -- the hearing is set for
7 December. You know, the Government's hope is he'll be here
8 sometime at the beginning of next year; but, you know, there
9 could be appeals. That's really an uncertainty. If he is
01:42:56PM 10 here, we obviously believe he should be part of this trial and
11 we would like to see that, but -- but those things aren't
12 really in our control.

13 But with -- with setting a trial date, what the
14 Government has proposed is to have some status conferences
01:43:09PM 15 every 60 days. So, if discovery issues develop down the road,
16 if there are -- you know, the defendant is having difficulty
17 obtaining certain documents, whatever arises, can be brought
18 to the Court's attention well before trial and hopefully
19 resolved well before trial. I mean, obviously, if there
01:43:24PM 20 are -- if the defense wants to make a motion for more time,
21 those can be considered at those 60-day status hearings.

22 THE COURT: All right. Well, we'll get down to
23 duration of the trial and the date you suggest as the next
24 order of business; but I want to hear now, if we may, from
01:43:42PM 25 each of the defense counsel.

1 First from Mr. Stanford's counsel,
2 Mr. Schaffer.

3 MR. SCHAFFER: Thank you, Your Honor.

4 The prosecutor points out that this case is now
01:43:49PM 5 three months old. But the Court will recall that less than a
6 month ago, you appointed the public defender's office; and you
7 also appointed me.

8 THE COURT: You also have in your brief that they've
9 been working on it longer than you.

01:44:03PM 10 MR. SCHAFFER: The public defender?

11 THE COURT: No.

12 MR. SCHAFFER: Oh, the Government has been working
13 on this case since back in February, Your Honor. So, it's no
14 wonder that they're almost ready for trial. On the other
01:44:10PM 15 hand, I am about to lose co-counsel because of the change --
16 or I assume I will -- that Mr. Sokolow will --

17 THE COURT: Well, we'll get to that. In other
18 words, I want to everyone who's on has -- for counsel to be
19 throughout this hearing. The last matter of this hearing we
01:44:26PM 20 will take that up. And remind me. Don't let me get up and
21 walk out without handling that counsel matter. Okay?

22 MR. SCHAFFER: I promise you I won't.

23 THE COURT: All right. Keep going.

24 MR. SCHAFFER: But the point is, since the day that
01:44:34PM 25 we were appointed, Mr. Sokolow and I put in hundreds of hours

1 on this case together. We have worked on this case almost
2 seven days a week just trying to survey what is out there, and
3 we have made a lot of discoveries. For instance, it is not
4 just 4 million documents -- or 4 million pages. It is
01:44:51PM 5 actually 5.56 million, from what I understand. The prosecutor
6 can correct me if I am wrong.

7 We also understand that there are approximately
8 several dozen terabytes of information in the possession of
9 the receiver. Mr. Sokolow and I, soon after getting on this
01:45:10PM 10 case -- it took us about two weeks until we got a password to
11 access the iCONNECT system. Once we were able to access it,
12 what we both discovered is to search it is almost impossible
13 at this stage.

14 THE COURT: Why?

01:45:23PM 15 MR. SCHAFFER: Because the data is not coded. So,
16 in other words, you could go through there and put in a
17 keyword search. For instance, you can put in the word "bank"
18 and it will pull up all the documents that say "bank," but it
19 is going to miss several thousand or more. In order to get
01:45:40PM 20 this in usable form, we found it necessary to contact
21 third-party vendors.

22 Mr. Sokolow and the national office that
23 supports the public defender's office has been working to find
24 third-party vendors that can code the information to make it
01:45:51PM 25 more easily searchable and also to put it in the form that our

1 forensic experts can use. The way it is now, everything is on
2 PDF; and it's almost impossible -- unless they take each
3 document one at a time, open it up, and then somehow reprogram
4 information into their database, they can't use it in this
01:46:10PM 5 form. So, we have been in contact with different vendors.
6 There's one or two that we sort of narrowed it down to at this
7 point.

8 THE COURT: That do what?

9 MR. SCHAFFER: Well, that can actually take this
01:46:20PM 10 information, the raw data from the Government; and instead of
11 using iCONNECT, they will program it into their system and code
12 it so that you can tell who the document was from, who the
13 document was to, and basically what the key words are that
14 will get picked up in a search so we don't miss data.

01:46:33PM 15 THE COURT: All right. On that point -- on that
16 point, I want to address this to the Government.
17 Eventually -- and I will move quickly. I have got 16 points
18 that I am going to go over today, as far as possible dates go,
19 if indeed I do have a scheduling order here.

01:46:49PM 20 The first one -- I am just going to read it to
21 you because it is something that I have a concern about. And
22 we will get back with you, after the defense counsel has
23 spoken, for another just short response; and then we'll get on
24 to the next matter.

01:47:02PM 25 Government -- a date for the Government to

1 produce all documentary evidence with a compact disc
2 containing an index of all the documents. So, I am concerned
3 about that. So, it is a point that I want to get back with
4 you relative to you, in effect, indexing it somehow as to the
01:47:22PM 5 ones that you are going to intend to use. So, my index is
6 right there, also. I understand that concern.

7 So, go on.

8 MR. SCHAFFER: Well, the second part of it is that
9 the third-party vendors will require approximately 60 days
01:47:36PM 10 from the time that they are hired and they receive the data to
11 make this conversion so that it is usable. Now, the other
12 thing is --

13 THE COURT: You're saying it is not usable now
14 with -- as an index for you.

01:47:46PM 15 MR. SCHAFFER: Well, it's semi-accurate. You don't
16 know what you're missing. But it doesn't give you all the
17 data that will have the keywords that you're looking for, and
18 it also -- since it is in PDF form, it is not compatible with
19 the programs of the forensic accountants that we have actually
01:48:04PM 20 met with. And there have been a number of them. But the
21 information, as it comes in on iCONNECT, is not usable by these
22 accountants in the form it is currently in.

23 But the second part of that is we need training
24 on iCONNECT. Mr. Kuniandy set up training for us; and the
01:48:20PM 25 soonest date that somebody could come down from iCONNECT to

1 meet with us is toward the end of October, if it's a date
2 that's good with everybody. So, we're talking three weeks
3 down the road before we're even trained by the iCONNECT people;
4 and that's in the event we haven't already hired another
5 vendor since then.

01:48:35PM

6 Now that we know that there are insurance
7 proceeds available, it's possible that all counsel can
8 contribute; and we can do this jointly instead of the public
9 defender's office having to weigh whether or not they've been
10 reported to do it. So, that question will be settled in the
11 next few days.

01:48:47PM

12 The prosecutor also points out in their
13 memorandum their concern that if you don't impose a trial date
14 on us, in essence --

01:48:56PM

15 THE COURT: Repeat that again. Please repeat the
16 sentence.

17 MR. SCHAFFER: Well, the prosecutor, in their
18 memorandum, sets out that if you don't impose a trial date on
19 us, that these lawyers, these defense lawyers who you've known
20 for decades, have no incentive to work on this case. Well,
21 every one of us in here have tried cases in front of you; and
22 you know our work ethic. We don't need a trial date to force
23 us to get to work. Mr. Sokolow and I have been working dozens
24 and dozens of hours on this case every week. We don't need
25 the Court telling us we have a trial date to know that we have

01:49:09PM

01:49:26PM

1 a responsibility to our clients and to you.

2 On the other hand, the problem that we have is

3 at this point -- because of a large volume of discovery;

4 because of the witnesses that are located in many countries

01:49:43PM 5 around the world, that are located in many states within the

6 United States -- it would be difficult, if not impossible, to

7 sit here and tell you that it will take us six months, nine

8 months, or even 18 months to complete the investigation and

9 review the documents. The reason we ask for a 60-day, I

01:50:00PM 10 guess, setoff of this hearing --

11 THE COURT: Well, what -- 60 days. What then?

12 MR. SCHAFFER: Well, within 60 days, we'll know,

13 first off, what our capabilities are as far as using

14 third-party vendors; or we'll have been trained on iCONNECT so

01:50:12PM 15 we can better access the volume of documents we have and how

16 long it is going to take us to complete that, also how long it

17 will take us to really complete a significant and meaningful

18 investigation into the facts of the case.

19 Third, the fact that the Government says that

01:50:26PM 20 they have 4 or 5 million documents available for us to look

21 at, well, you know, from your experience, that the key to a

22 defense is not always in what the Government turns over to the

23 defense. We need to be able to conduct our own investigation,

24 Your Honor. We need to be out interviewing witnesses.

01:50:44PM 25 The Government has not only the resources you

1 see here and the FBI agents and the SEC investigators
2 involved; but they have the fruits of the labor of over
3 hundred lawyers from Baker Botts, from other law firms that
4 are working with the receiver, providing them with the
01:51:00PM 5 information to help them get ready.

6 THE COURT: All right. Let me ask you this. What
7 are you going to need from the receiver, and how do you go
8 about that? Do you feel that I issue such an order or the
9 judge up in Dallas, Judge Godbey, issue such an order, if
01:51:14PM 10 there is a request for an order to the receiver to turn over
11 documents?

12 MR. SCHAFFER: I think you do because you have a
13 different -- different mandate. Yours is to ensure the fair
14 trial of the defendants who are before you on a criminal
01:51:27PM 15 proceeding.

16 THE COURT: Okay.

17 MR. SCHAFFER: Judge Godbey is protecting money in
18 trying -- I guess, sort of overseeing the estate. There is
19 two competing interests.

01:51:35PM 20 THE COURT: Have you touched base with the receiver
21 to see what his -- what his opinion on that is? I'm not
22 saying he -- I'm not talking about whether I issue a court
23 order or not; but his opinion whether or not it's available,
24 what you want, to turn over, again, in electronic form.

01:51:49PM 25 MR. SCHAFFER: Interestingly, right before you came

1 out, I did talk with the prosecutors; and they are going to
2 provide me with contact information for a point person at
3 Baker Botts. Because, as you know, we filed a Motion for
4 Protective Order with you yesterday.

01:52:02PM

5 THE COURT: Right. Now, Baker Botts is the counsel
6 for the receiver.

7 MR. SCHAFFER: For the receiver, yes, your Honor.

8 Our concern is that we do not want to take
9 possession of any documents or information that could then get

01:52:14PM

10 us, the lawyers, in trouble in the court in Dallas in
11 violation of the court order. And the prosecutors --

12 THE COURT: Any -- any subpoena would be -- if I
13 choose to issue one, if it comes to that, if they won't
14 respond to your request -- or I guess you could issue a

01:52:32PM

15 subpoena to, but -- would that be served on the attorneys or
16 on the receiver himself?

17 MR. SCHAFFER: It would probably be served on the
18 receiver, unless the receiver would agree to have the lawyers
19 served in his state, which we would prefer to do, if they will

01:52:46PM

20 accept service.

21 THE COURT: All right. By the way, when you are
22 done, I want to hear from all the other attorneys, too.

23 MR. SCHAFFER: I am almost done.

24 THE COURT: All right.

25 MR. SCHAFFER: What I was going to say --

1 THE COURT: How did you know I had that in mind?

2 MR. SCHAFFER: Well, I could tell -- I've been here
3 enough I could tell that, Your Honor.

4 They did say they would provide me with
01:53:02PM 5 information. And it's possible that after conferring with the
6 lawyers for the receiver and with the Government, we can reach
7 an agreed order on our Motion for Protective Order. That's
8 all I have.

9 THE COURT: Okay. All right. Thank you.

10 Mr. Cogdell.

11 MR. COGDELL: Good afternoon, Your Honor.

12 THE COURT: I assume you're letting Mr. Ardoin argue
13 this.

14 MR. COGDELL: I don't intend to be arguing much.

01:53:19PM 15 THE COURT: Mr. Flood?

16 MR. COGDELL: But they're welcome to chime in at any
17 point.

18 MR. ARDOIN: I'm just letting him take the bullet,
19 Judge.

01:53:27PM 20 THE COURT: All right. Go on.

21 MR. COGDELL: I'll try not to be duplicitous.

22 Mr. Costa informed the Court that it was
23 basically just one focus of the indictment. I will pull back
24 for a second. The indictment covers a decade. It doesn't
01:53:39PM 25 cover one transaction. It doesn't cover a few months. It

1 covers a decade. It literally covers every single day

2 Ms. Holt was employed by the Stanford companies.

3 If you believe -- and I do not adopt his
4 positions entirely or probably at all; but Mr. Davis' counsel,

01:53:54PM 5 Mr. Finn [phonetics], was quite vocal outside the courthouse
6 in saying that this thing was, quote, a fraud ab initio. It
7 was a fraud from the very beginning. Anticipating that
8 testimony it will go more than a decade back, we are looking
9 at 15 years or so of conduct. To that extent --

01:54:11PM 10 THE COURT: How long was your client with the
11 company?

12 MR. COGDELL: You were there --

13 DEFENDANT HOLT: 13 years.

14 MR. COGDELL: -- 13 years.

01:54:17PM 15 THE COURT: All right. Go on.

16 MR. COGDELL: It -- it doesn't take much to
17 understand, then, quickly we are not just talking about one
18 discrete allegation. We are talking about decades -- or a
19 decade of transactions. We are talking about thousands of
01:54:32PM 20 transactions. We're talking about hundreds of witnesses.

21 He resists -- Mr. Costa does, Your Honor, who I
22 respect and who I admire -- but he resists using the Enron
23 trials as a benchmark or a gauge in terms of how long it takes
24 to prepare for trial. Those are really the most complex
01:54:47PM 25 trials that I have been associated with, and I was involved --

1 THE COURT: Slow down a little bit.

2 MR. COGDELL: Sure.

3 Those are the most complex trials that I have
4 been associated with, and I was in three of them. In the
01:54:55PM 5 barge trial -- and Mr. Zimmermann and Mr. Levine were in the
6 Enron -- I mean, they were in the Broadband trial. But in the
7 barge trial, that was a one-transaction deal. That was a
8 single transaction. We were in trial, I believe, a year and a
9 half after indictment. That was the first trial. But that
01:55:13PM 10 transaction alleged in the barge case literally lasted about a
11 month.

12 The Broadband trial, it took over two and a
13 half years to get to trial on that matter. The NatWest case
14 which I was also -- I had a defendant in, that took two years
01:55:29PM 15 to resolve; and that was a plea. He says that, you know, you
16 can reduce this to terabytes or gigabytes. Those sound like
17 dinosaurs to me. I don't even know what those are. But the
18 Court pointed out a pretty simple thing --

19 THE COURT: You are not asking me, are you?

01:55:43PM 20 MR. COGDELL: No, I'm not. But you said: Well,
21 somebody has got to read them. And we have looked at studies
22 that tell us that it takes about -- about 11 years -- well,
23 there's the study. Mr. Schaffer has it. But it takes
24 somewhere around 12 to 14 years, I stand corrected, for a
01:55:59PM 25 single individual to read 5 million documents. It is slow.

1 What I want to point out is -- just to echo
2 what Mr. Schaffer said, and then I will be through -- it is
3 critical to understand in these cases, whether they have got
4 5 million documents in their database now or 4 million
01:56:17PM 5 documents, it is --

6 THE COURT: Slow down. Slow down.

7 MR. COGDELL: I'm sorry.

8 THE COURT: The court reporter is trying to take
9 everything down.

01:56:19PM 10 MR. COGDELL: Too much caffeine. Too much caffeine.

11 THE COURT: Go on.

12 MR. COGDELL: It is critical to reiterate what
13 Mr. Schaffer said, which is what the Government has in the
14 database is inevitably not what we need. We have gone over
01:56:33PM 15 with -- in some detail with our client, the witnesses that we
16 anticipate needing to locate and interview and some of the
17 document titles. As he pointed out, very few of the witnesses
18 that we need to locate and interview and all of that are here.
19 They are in other states. They're in other countries. This
01:56:50PM 20 is not a case that we can set for trial in nine months,
21 ten months, or whatever and have any realistic setting that we
22 are going to go.

23 THE COURT: Well, when can you have a realistic
24 setting?

01:57:05PM 25 MR. COGDELL: I'm going to follow Mr. Schaffer's

1 lead, Judge. I'm going to say 90 days we could have a
2 realistic expectation of when to estimate that we can set a
3 trial date. What I don't want to do is what I'm sure the
4 Court -- well, the Court probably doesn't want to do a lot
01:57:14PM 5 more things than what I don't want to do; but that's another
6 story.

7 What I am trying to say is this: What I don't
8 want to do, Your Honor, is set a date, pick it arbitrarily,
9 and then blow past that. I want to set a date when
01:57:28PM 10 realistically we can and all of us work towards that date as a
11 reality.

12 THE COURT: All right. Mr. Zimmermann.

13 MR. ZIMMERMANN: Your Honor, I'm not going to repeat
14 anything they said; but you had asked earlier -- at some point
01:57:40PM 15 in this trial we are going to talk about length of trial, and
16 I think that has something to do with it. Because I think, as
17 Mr. Cogdell said, to set a trial date that's unrealistic and
18 have us all schedule out, including Your Honor, that time to
19 try that case and then it be continued because of lack of
01:57:57PM 20 preparation time would be just a waste of time. And so that
21 you know, we're estimating, without having seen all
22 documents --

23 THE COURT: I don't want to know the trial estimate
24 yet.

25 MR. ZIMMERMANN: Okay.

1 THE COURT: I mean, I'm going to ask. That's on the
2 list. That's the last thing on the list.

3 MR. ZIMMERMANN: Okay. It will be a long trial, put
4 it that way. And we'll have to, all of us, allocate time from
01:58:14PM 5 other cases that we represent other human beings on; and the
6 Court has a full docket, I'm sure.

7 Let me just say this, as far as Mr. Lopez is
8 concerned. We have done -- Mr. Levine and I have done what we
9 can without searching the database. In other words, we have
01:58:30PM 10 pressed ahead on other types of investigation; but we --
11 because of the lack of resources -- Gil Lopez does not have
12 the funds to -- to pay lawyers or accountants or other experts
13 himself out of his own resources. We didn't come to you for a
14 court-appointed status because we thought that eventually when
01:58:50PM 15 the Court ruled in Dallas, it was going to rule, you know,
16 that the insurance proceeds would be there.

17 Now that that has happened -- and it just
18 happened last Friday --

19 THE COURT: I think that if I've read it correctly,
01:58:59PM 20 what he said was that it would now be left up to the insurance
21 company --

22 MR. ZIMMERMANN: Correct.

23 THE COURT: -- that, in effect, the receiver
24 wouldn't -- or the judge would not block it.

01:59:07PM 25 MR. ZIMMERMANN: Right. And that's what happened.

1 As soon as we got in the case, the day we got in the case, the
2 receiver sent a letter to the insurance company saying: If
3 you pay these claims, you will be in contempt of court. And
4 so, obviously, the insurance carrier decided not to pay. That
01:59:22PM 5 put a real crimp in our preparation. We could not commit to
6 paying resources that we didn't have.

7 Now that that has been -- at least that
8 roadblock is taken away, what we are requesting is that the
9 Court set some time -- 60, 90 days from now, another status
01:59:40PM 10 conference and then set a trial date when we have our hands
11 around it a little bit better, when we can coordinate to see
12 if the four accused persons in this room can share the cost of
13 a third-party vendor that will give us a searchable database,
14 if we can share the cost of expert witnesses, and that type of
15 thing.

16 We just aren't able to tell you with any
17 certainty whether we can do that right now because of -- as
18 you might be well aware from just having read the indictment
19 and having held the bond hearing, there's potential conflicts
02:00:10PM 20 of interest in this case. So, we are just not at a state
21 where we can tell the Court, you know, how long we think it
22 should be. And that's why we are suggesting that you not set
23 a trial date but you set a time in the future for a status
24 conference and let us get back to you.

02:00:26PM 25 THE COURT: Mr. Kuniansky.

1 MR. KUNIANSKY: Your Honor, the only thing I have to
2 add is I've sort of been the point man on the iCONNECT
3 training; and to this date, I really have not been able to do
4 any meaningful search of the documents because I am not
02:00:36PM 5 trained properly. And so, I just want to --

6 THE COURT: Can you hire somebody who is trained
7 properly?

8 MR. KUNIANSKY: Well, they -- they actually will
9 train us. And I've applied for and received court-appointed
02:00:47PM 10 funds for that training, and I am trying to line it up. And
11 right now I don't know if we are going to go forward on that
12 because I'm not sure if we are going to have a third-party
13 vendor or stick with iCONNECT. But I suppose the only point I
14 wanted to make is that at least up until this point in time,
02:01:01PM 15 there really has not been a meaningful review of the documents
16 that I have been able to do.

17 THE COURT: Okay. Government, do you want to
18 respond to that, to what was said, and include the index
19 question that I have?

02:01:14PM 20 MR. COSTA: Your Honor, this case obviously has to
21 go to trial at some point.

22 THE COURT: Right.

23 MR. COSTA: And nothing they have said is a reason
24 not to set a trial date. We are agreeing with Mr. Schaffer
02:01:23PM 25 and the other defense counsel that we'll be back here in

1 60 days, just like he wants, and that he can raise any issues
2 that come up in that time; and we'll be back here again
3 60 days after that. But there should be a trial date that
4 people can start planning around, that people can start
02:01:36PM 5 working towards. And, you know, it has been more than
6 three months since the indictments.

7 I know there's -- you know, these attorneys fee
8 issues, as you pointed out, probably aren't going to get
9 solved very soon because Lloyds of London -- it is up to them
02:01:50PM 10 at this point. There may be litigation over that. So, we
11 can't be in a situation where people just can -- there's no
12 trial date and people are focused on working out these
13 attorneys fee issues and no progress is being made towards
14 getting ready for trial.

02:02:04PM 15 I want to go through just a few of the issues
16 they raised. On the iCONNECT, we have told them from the
17 beginning that if they're uncomfortable with iCONNECT, either
18 because they -- they're having trouble using it or because of
19 security concerns, they can download the documents on their
02:02:17PM 20 own and get the entire universe of documents. It sounds like
21 that's what Mr. Schaffer wants to do. It sounds like it's
22 mainly an issue with their accountants they want to use and
23 then the compatibility. They have the option to do that.

24 THE COURT: It sounds like a format problem.

02:02:32PM 25 MR. COSTA: Right. And I don't know who his

1 accountants are. I don't know anything about that. But they
2 can download all the documents. I was on iCONNECT this morning
3 looking at documents, I mean, using keyword searches. I mean,
4 it works. I was on there this morning, and I'm no technology
02:02:45PM 5 whiz. They are correct that iCONNECT will come down here and
6 train them. That's probably the best option. We have also
7 offered -- we haven't been able to set it up yet -- that the
8 agents on the case would sit down with the defense lawyers and
9 train them because the agents have been through training.

02:03:00PM 10 So, we're willing to do everything we can.
11 We've already made it available, and we're willing to do
12 everything we can to make them -- their use of it as efficient
13 as possible; with them still having that option, that it
14 sounds like Mr. Schaffer wants to exercise, to download them
02:03:14PM 15 and create their own system in there.

16 But, regardless, there should be a trial date
17 set. I mean, there's no -- there's simply no downside. It is
18 going to be something that people have to schedule around.
19 And, you know, Mr. Cogdell is saying that the indictment goes
02:03:32PM 20 back 10 years. That is true. But the conduct is pretty much
21 the same conduct over those -- those 10 years. It is just a
22 disclosure case. It's misrepresentations to investors. That
23 resulted in billions of dollars in losses, which makes it, you
24 know, a high-stakes case; but it doesn't change the fact that
02:03:50PM 25 it is just simply about misrepresenting what the money was

1 being invested in, misrepresenting the assets of the
2 company --

3 THE COURT: Transaction by transaction?

4 MR. COSTA: No. We're not getting into transaction
02:04:00PM 5 by transaction. We're saying put a witness on.

6 Mr. Investor, what were you told?

7 I was told X, Y, and Z.

8 Next witness. What were they actually invested
9 in?

02:04:08PM 10 Well, it was A, B, and C. It wasn't X, Y, Z.

11 I mean, that's the case. We are going to try a
12 lean case. The indictment alleges various misrepresentations
13 that were made, but it's not -- the transaction by transaction
14 simply isn't going to be an issue in the case.

02:04:25PM 15 So, we would ask the Court to set a trial date
16 with these periodic status conferences. I mean, it is not a
17 hundred-percent ironclad date. The Court knows that. There
18 is always the opportunity for them to bring issues to the
19 Court. And by holding these status conferences every 60 days,
02:04:42PM 20 hopefully the Court will be able to deal with them before they
21 require moving the date; but it will be a mechanism for
22 everyone to voice their issues and provide the Court with a
23 status report on the case.

24 On the index issue, Your Honor -- I mean, the
02:04:55PM 25 documentary evidence, we have already pretty much made that

1 available. That's already accessible. On the index issue, we
2 are actually already working towards having an index of the
3 general categories of documents. You know, for example, these
4 documents are from this bank; these are from this bank; these
02:05:13PM 5 are from this person's e-mail account, et cetera. I don't
6 think there's any way to index them document by document; but
7 certainly by categories of documents, that's something we've
8 actually already started working towards and will be able to
9 provide.

02:05:27PM 10 Do you want a date on the indexing?

11 THE COURT: Not yet.

12 MR. COSTA: Okay.

13 THE COURT: Not yet. That's on my list.

14 Anybody else want to join in before we go down
02:05:41PM 15 the list?

16 Mr. Sokolow.

17 MR. SOKOLOW: Your Honor, just because I have been
18 speaking with the federal public defender national computer
19 consultant -- and I am not all that computer savvy, but I want
02:05:52PM 20 to try to explain to the Court what I understood from them.

21 There are documents on iCONNECT. They are --
22 some of them are in native language. Some of them are in PDF.
23 I tried --

24 THE COURT: What do you mean by "native language"?

02:06:06PM 25 MR. SOKOLOW: Well, let's say you create an

1 accounting program with -- say you have a Word document.

2 Okay. You use Microsoft Word. You can turn that into a PDF

3 document, and it's sort of like just a picture of the Word

4 document. So, if you have -- let's say you have an accountant

02:06:23PM

5 who wants to look at the Government's documents and wants to

6 do an analysis, a computer analysis, of how much was spent on

7 airplanes. With accounting software, if they're a PDF

8 document, you can't do that because they're just pictures of

9 documents. So, you need the documents that are in the

02:06:44PM

10 Government's database put in their native language so an

11 accountant can sit down, use an accounting computer program,

12 and do the analysis the accountant needs to do.

13 There are third-party vendors who I have talked

14 to who will do things like take all of the data that the

02:07:01PM

15 Government has, put it all in its native language, and then

16 they have people who code it. So, for each document it will

17 be who created it, who sent it, who received it, what date it

18 was. So, when you are looking at a document, you see all

19 those things.

02:07:15PM

20 When I tried to use iCONNECT, it was like me

21 trying to read Chinese. I didn't even know what I was looking

22 at. So -- and then there are also -- Mr. Costa says you can

23 do keyword searches. Well, from what I understand, if you use

24 keyword searches, you miss a lot of documents. And it depends

02:07:36PM

25 on how well iCONNECT has done what it's done. But there are

1 also other vendors who have something like a concept search.

2 And they used a bad example with me, Your Honor.

3 They said: For example, you could type in
4 "football"; and it comes up -- you'll find Texas A&M.

5 And I said: No. You'll find Ohio State
6 Buckeyes.

7 But in any event, you don't need to do a
8 keyword -- you don't need the keyword -- if you pick the wrong
9 keyword, you don't find the documents; but if you put in --

02:08:00PM 10 THE COURT: So, what is the alternative?

11 MR. SOKOLOW: The alternative is to, I guess -- I
12 have nothing to do with insurance money; but if there is money
13 available, if there's insurance money or whatever, you pay a
14 vendor. They take the data on iCONNECT. They convert it to
02:08:17PM 15 native language. They code it. And by the way, iCONNECT is
16 going to charge \$150 per month, per user, per password. So,
17 if you have 20 people on a defense team per month for
18 20 months, that adds up to a lot of money; whereas, some of
19 the vendors might charge 20,000 a month with all these
02:08:40PM 20 different services that I talked about and there's no charge
21 for no matter how many users you have. So, you could have 20
22 people, 20 law students, 20 lawyers, 30 lawyers, 40 lawyers,
23 reading the document on the third-party vendor's website; and
24 there is no extra charge.

02:08:57PM 25 And I apologize. I am not very computer savvy,

1 and this is a translation of what they told me. But there are
2 things available that will make the defense more efficient,
3 potentially less costly, and may help the case get to trial
4 sooner.

02:09:13PM

5 So, that's all I have to add, Your Honor.

6 THE COURT: All right.

7 MR. COGDELL: I have one other area, Your Honor.

02:09:22PM

8 With deference to the Government, we probably ought to do it
9 at the bench with the parties present, if you don't mind, in
10 terms of the scheduling of the trial date. I don't want to
11 prejudice them in any way, if we could approach real quickly;
12 or I can do it from here. I just don't want to cause a
13 problem for them.

02:09:33PM

14 THE COURT: Well, let me ask the attorneys. Would
15 all the attorneys waive the presence of your clients up here
16 at the bench?

17 MR. SCHAFFER: We would, Your Honor.

18 MR. ZIMMERMANN: Yes.

19 MR. COGDELL: Ms. Holt would, Your Honor,

02:09:41PM

20 MR. KUNIANSKY: Yes, Your Honor.

21 THE COURT: All right. Well, the easiest way to do
22 it is to get everybody up here. Lead -- the lead counsel and
23 the others would gather around. And we need to get the court
24 reporter over here.

02:10:23PM

25 (At the bench)

1 MR. COGDELL: I apologize for the drama, but I do
2 think it should be brought up here. I am led to believe that
3 there may be additional indictments with additional defendants
4 in the near future. I don't want to call the Government out
02:10:36PM 5 on that in open court, but that is a scheduling issue.

6 THE COURT: If that comes to pass, I will cross that
7 bridge if I set a trial date now or if I set a trial date in
8 60 days, if we set a tentative time here with -- subject to
9 your reporting back in 60 days --

02:10:56PM 10 MR. COGDELL: I'm not trying to put them on the
11 spot --

12 THE COURT: Yeah. That would be a difference.
13 Thank you.

14 (In open court)

02:11:47PM 15 MR. COGDELL: Thank you, Your Honor.

16 THE COURT: All right. Let me ask this, then: I am
17 going to ask the Government that -- now, I will -- I will set
18 for a final ruling on setting any kind of dates and/or a date
19 for a next go-round; but what I want to do while you are here,
02:12:08PM 20 I want to go down all these 16 points that I have and get some
21 input whether or not I will be issuing a timing order or a
22 scheduling order or whether we'll defer it for a bit. I'm not
23 sure yet. But while you're all here -- I appreciate you being
24 here and your clients being here. I think it is important for
02:12:27PM 25 clients to be present.

1 As this moves down the line, I may say
2 attorneys only or you can bring clients if you want to; but
3 for the early stages, I want the clients here because they can
4 provide the attorneys some backup information on the spot, if
02:12:42PM 5 necessary, like a couple have conferred with their clients
6 during this short hearing already.

7 I am going to ask this to the Government and
8 then ask the defense. Now, I am telling you this. Nothing
9 based upon what I hear from the defense is locked in at this
02:12:57PM 10 time, but I don't want everybody being here and, in effect, we
11 adjourn right now because we can do some of these things, at
12 least get a feel, even though it is projected down -- you
13 know, down the track, no matter how long.

14 My next to last item here is if -- what date or
02:13:20PM 15 dates or time frame would the Government feel is reasonable in
16 this case for jury selection? When do you feel at this time
17 that -- what date do you want to volunteer?

18 MR. COSTA: We would ask -- the indictment was
19 returned on June 19th -- or it was unsealed that day. We
02:13:44PM 20 would ask for a date within a year of that or within --
21 certainly within a year of when Mr. Schaffer came on the case,
22 which was a few weeks ago.

23 THE COURT: So, that would be -- your position --
24 then at the latest time you would suggest would be October --

02:13:59PM 25 MR. COSTA: Right after Labor Day.

1 THE COURT: -- October, 2010?

2 MR. COSTA: I think September. I think he was
3 appointed in September.

4 THE COURT: Oh, I will give him one month. He has
02:14:09PM 5 been working since then, I assume.

6 All right. So, you're looking at, ballpark, a
7 year from today?

8 MR. COSTA: We would certainly think that it should
9 be set within a year from today.

10 THE COURT: Okay.

11 MR. COSTA: Because that's almost 16 months out
12 from the indictment date.

13 Did you want to know the length at this time
14 or --

02:14:26PM 15 THE COURT: Pardon me?

16 MR. COSTA: Did you want to know the --

17 THE COURT: Yeah, because I am going to get both
18 inputs. What do you estimate time for trial? And as you know
19 the way I do it is -- what is your estimate for the whole
02:14:35PM 20 case? In theory, the defense doesn't have to put on one
21 witness. They don't have to cross-examine. But what is your
22 best estimate as to what you think this whole case would take?
23 I'm going to ask the defense the same question, knowing that
24 we're projecting down the line quite a bit.

02:14:51PM 25 MR. COSTA: Well, the Government expects to present

1 its case within six weeks, assuming there's reasonable limits
2 on cross-examination, especially duplicative
3 cross-examination. You know, we don't know how many witnesses
4 the defense is going to call.

02:15:06PM

5 THE COURT: Wait a second. What was that?
6 Duplicative cross-examination? Not a chance of that. You can
7 ask Mr. Flood about that.

8 MR. FLOOD: I can speak about that.

9 MR. COSTA: I know the Court runs an efficient

02:15:23PM

10 trial.

11 THE COURT: All right. Let's say six weeks for the
12 Government.

13 Let me ask this, then, without pending down
14 anybody on the defense: What is your best estimate for the
15 whole trial, ballpark? Now, that includes their six weeks and
16 any time that you may or may not take. Just give me an
17 absolute out -- you know, time frame for the whole trial.

02:15:27PM

18 MR. SCHAFFER: Right before this hearing, we had a
19 meeting with all defense counsel; and the best estimate we
20 could come up with is four months, Your Honor.

02:15:44PM

21 THE COURT: Okay. Total of four months?

22 MR. SCHAFFER: Yes, Your Honor.

23 THE COURT: Okay. All right. I'm going to go down
24 this list. I want to have anybody -- spokesman on both sides.

02:15:57PM

25 We talked about already the compact disc, about an indexing

1 system. So, we have discussed that.

2 When could -- I mean, the Government is going
3 to have expert witnesses, correct? Or not?

4 MR. COSTA: We're not sure. We don't have any right
02:16:14PM 5 now, but --

6 THE COURT: Well, see, if you are going to do a
7 scheduling order, that's the first thing we do is say: When
8 would you designate expert witnesses? By what date? Give me
9 a few months down the line, if you have anybody.

02:16:25PM 10 MR. COSTA: Sure.

11 THE COURT: A couple of months?

12 MR. COSTA: End of -- beginning of 2010. End of
13 January.

14 THE COURT: I'm telling you I'm not going to hold
02:16:39PM 15 anybody to these dates. Okay. That's the date they said they
16 would have theirs. We are not going get the defense
17 designating experts because it's a little too early. You may
18 not have one. I didn't have a question here, but what is your
19 response?

02:16:53PM 20 MR. SCHAFFER: Well, see, that's part of the
21 problem. Up until Friday, after -- when I went from being
22 appointed to retained --

23 THE COURT: You are not retained yet, not as far as
24 I am concerned.

02:17:03PM 25 MR. SCHAFFER: Well, I hope I am, as far as the

1 insurance company is concerned.

2 THE COURT: Well --

3 MR. SCHAFFER: But in either event --

4 THE COURT: You don't have a court order. We have

02:17:09PM 5 been through that once already in this case because some

6 people try to come in for limited purposes and so forth.

7 Okay.

8 MR. SCHAFFER: But whatever the case --

9 THE COURT: I'm not saying it is not going to be the

02:17:19PM 10 case, but we are not there yet.

11 MR. SCHAFFER: No. I understand.

12 THE COURT: Go on.

13 MR. SCHAFFER: When there were public funds

14 available to hire experts, then it would have been easier to

02:17:27PM 15 tell you, yes, we could have designation of experts in X

16 amount of months. But if public funding is no longer

17 available, that means we could still go to those same experts,

18 or even different ones, and still retain them; but it hasn't

19 been done yet because I'm here on -- in the early part of this

02:17:42PM 20 area, on an appointed basis, which may or may not change.

21 THE COURT: Okay. Let me -- now, keep in mind --

22 okay.

23 Then the Government said that it ought to be

24 ready, the case ought to be ready by October, 2010. I want to

02:17:56PM 25 go down the listing here. Again, I am not going to hold you

1 to it. But if I come up tomorrow or early next week with a
2 scheduling order, saying trial in 2010, how about all motions?
3 When should all motions be filed? Because, you know, this is
4 pretty standard.

02:18:24PM 5 MR. COSTA: And you're working off assuming an
6 October date?

7 THE COURT: Well, that's what you say that you could
8 do it on.

9 MR. COSTA: Right. July, July 1, which would be
02:18:32PM 10 three months for responses and court rulings.

11 THE COURT: All right. All pretrial motions file
12 cutoff? Pretrial motions. Because I said all motions except
13 as stated below. A few of these, pretrial motions.

14 MR. COSTA: And Motions in Limine?

02:18:50PM 15 THE COURT: Everything like that -- no. Motion in
16 Limine comes later. I said all motions except as stated
17 below. I want now specific dates. Pretrial motion cutoff the
18 same date, July, 2010?

19 MR. COSTA: Sure.

02:19:02PM 20 THE COURT: Correct?

21 MR. COSTA: That would be the Government's
22 recommendation.

23 THE COURT: I will be perfectly frank with you.
24 Okay. I am not going to set a trial date at this time. I
02:19:16PM 25 will go with the defense. But I will go with you about

1 60 days, not longer; and I will set that. But let me just
2 read down all of these items because there's no sense in me
3 going through those items if, in effect, I am going to at
4 least defer it for one more hearing. But the next hearing you
02:19:35PM 5 will get a trial date. That's all I can tell you.

6 Let's go down -- I want just to give you a list
7 of what I have.

8 Parties to exchange all trial exhibits.

9 Government to give notice of intent to use
02:19:49PM 10 404(b), if any.

11 All objections to exhibits and evidence.

12 All Motions in Limine filed by what date?

13 Responses to Motions in Limine filed by what
14 date?

02:20:07PM 15 Proposed voir dire questions and proposed jury
16 charge. I will state this right now. I will select the
17 entire jury in this case. I will do it myself. I will do the
18 voir dire.

19 The Government produces witness lists by what
02:20:24PM 20 date?

21 And then, again, if anybody has an interest in
22 the following -- for sure we'll do it. I did it in the case I
23 just -- the following that I just had. It worked very well.

24 All attorneys of record for both Government and
02:20:38PM 25 defendant ordered to attend a conference to confer on each and

1 every pending motion and exhibit objection and remain until
2 each is resolved, if possible. And I do that down here at the
3 courthouse. It is done at the courthouse in a jury room. And
4 it worked very well. The attorneys might have been going at
02:21:02PM 5 each other from time to time; but, academically, it proved, I
6 think, invaluable.

7 Then remaining objections left unresolved from
8 the conference must be filed in writing, setting forth in
9 detail the grounds and support and case law for each.

02:21:17PM 10 Final pretrial conference. Ruling on all
11 remaining objections to exhibits in evidence.

12 Jury selection date. And then that will be a
13 date that I will set.

14 I will go with that. I will set this case
02:21:32PM 15 probably before the end of the year for a final status
16 conference. No -- no putting off anything after this. I
17 think the points brought by the defense have, you know,
18 certainly value to the extent they want to get a hands-on
19 around it.

02:21:49PM 20 The attorneys fees, at least to some extent --
21 I wouldn't say have been resolved, but a decision has been
22 made on that. And we're certainly going to move forward. The
23 Government shouldn't think in any way that I am going to
24 necessarily shorten it or lengthen it by too much because I
02:22:06PM 25 will set a date and then get everybody in here and, if

1 necessary, get everybody here, have multiple conferences in
2 jury rooms, and -- if you can't do it on our own. Everybody
3 has worked together over the years.

4 Now, is there anything else that you want to
02:22:24PM 5 talk about before we get to the attorneys appearances?

6 Yes, sir?

7 MR. ZIMMERMANN: For clarification, Judge, on the
8 pretrial motions date, you didn't cover that in that separate
9 list. Is that because we covered it --

02:22:38PM 10 THE COURT: Yeah. We covered it already. I'll tell
11 you what the first items were.

12 Government to produce all documentary evidence
13 with an index of all documents filed by a certain date.

14 Government to designate expert witnesses by a
02:22:51PM 15 certain date.

16 All motions except as specifically stated
17 below, meaning Motions in Limine and so forth.

18 And then we'll set specifically all pretrial
19 motions relative to the trial itself. Those are the four that
02:23:06PM 20 I did not cover, and all the others we had nothing filled in.
21 So, at least I have a ballpark thinking.

22 Is there anything else, while everybody is
23 here, that we want to discuss?

24 MR. ZIMMERMANN: If I could, along that line,
02:23:21PM 25 because the Court may consider this and then have a date set

1 before we have our next meeting. There are certain pretrial
2 motions that could affect a trial date. We still haven't
3 examined their database; but from what we do know, I just want
4 the Court to know that there are potential conflicts of
5 interest to the extent that there may be motions that could
6 separate this into more than one trial.

02:23:40PM

7 THE COURT: You mean what? Bruton problems?

8 MR. ZIMMERMANN: Well, it could be Motions to Sever
9 that would require multiple trials is what I'm getting at.

02:23:51PM

10 THE COURT: I understand.

11 MR. ZIMMERMANN: So, I just wanted the Court to
12 be -- know that --

13 THE COURT: Well, generally, that comes down to a
14 Bruton matter, also.

02:23:57PM

15 MR. ZIMMERMANN: That could be one reason; but there
16 could be some other reasons in this particular case, Judge.

17 THE COURT: Well, we'll consider that, then, you
18 know, as it occurs.

19 MR. ZIMMERMANN: Right.

02:24:05PM

20 THE COURT: Yes, sir.

21 MR. COSTA: Your Honor, just one issue.

22 Mr. Stanford filed a Motion for Protective Order this morning,
23 I think Mr. Schaffer referenced it, asking what their
24 obligations are with the receiver's order once they start
25 accumulating documents. We just want to let the Court know

02:24:16PM

1 the receiver plans on filing a response because that's really
2 the receiver's issue, not the Government's. They're hoping
3 they can work it out with Mr. Schaffer, and they're going to
4 talk about that. But if it is not resolved, I just wanted the
02:24:28PM 5 Court to know that the receiver plans on filing a motion, so
6 if the Court could await that before ruling.

7 THE COURT: All right. Okay. Any -- while we're
8 all here -- I appreciate everybody being here. I appreciate
9 the clients -- some traveling in. I think it is important
02:24:42PM 10 that the clients be here, also, occasionally. And I'm not
11 going to make it all the time, not certainly as it goes along.
12 We have complicated motions. But on status conferences, I
13 think it is important at least that the clients be here to
14 assist their lawyers if there's anything that arises.

02:24:59PM 15 Is there anything else you want to talk about?

16 MR. SCHAFFER: Yes, Your Honor. In regard to what
17 Mr. Costa just mentioned, I --

18 THE COURT: By the way, is Mr. Stanford okay?

19 MR. SCHAFFER: It looks like he's --

20 DEFENDANT STANFORD: I'm okay.

21 MR. SCHAFFER: Are you all right?

22 DEFENDANT STANFORD: Yeah.

23 THE COURT: Is he okay?

24 MR. SCHAFFER: I think so.

02:25:24PM 25 MR. SOKOLOV: He may need some sort of medical

1 attention afterwards, Your Honor; and we can address -- tell
2 the Court about that.

3 THE COURT: Okay. All right. We don't have -- all
4 right. What else?

02:25:33PM 5 MR. SCHAFFER: Well, what I was going to say is with
6 regard to the receiver filing some sort of response with this
7 Court, the protective order -- while I think we might be able
8 to reach an agreement on it, it's extremely important to us
9 because before our investigators go out and take possession of
02:25:50PM 10 documents, which we are planning to do within the next few
11 days, I want to get something in place so that we don't end up
12 getting prosecuted or threatened with prosecution by the
13 receiver. So, you could impose --

14 THE COURT: Okay. Hang on a second. Hang on.

02:26:01PM 15 Let me see the lawyers over here. I don't need
16 the court reporter. Just quickly.

17 (Discussion had off the record)

18 THE COURT: All right. Yes, sir.

19 MR. SCHAFFER: What I was saying, Your Honor, is
02:27:03PM 20 that we have plans right now that, starting next Monday, our
21 investigators are beginning to work on a project where we
22 anticipate we'll be getting a number of documents in, probably
23 stuff that the receiver already has. It could be things the
24 Government has.

02:27:21PM 25 But I would ask that the Court impose some

1 deadline on responses, whether by the receiver or the
2 Government or whoever wants to respond to our motion, because
3 I don't want to get into a protracted drawn-out discussion
4 with the receiver's lawyers; and we don't have a resolution --

02:27:37PM

5 THE COURT: All right. Let me put it this way: If
6 anybody has any trouble in this case, let me know. I will
7 jump into it, and I will take care of it. Okay? If
8 necessary, get them all down here in front of this Court. I
9 think you can work it out, but I understand your position.

02:27:50PM

10 Work with the Government. And if both sides cannot get it
11 resolved, let me know. I can always fit you in for a
12 15-minute status conference, just lawyers only; and then if
13 anything needs to be issued, I will be glad to do it.

02:28:07PM

14 The case is going to move; but I agree with the
15 defense that, you know, a few more weeks will allow you,
16 as one of the attorneys said, to get a hand on -- get some
17 arms around it. That's fine. But after that, whenever the
18 next one is set, dates are going in; and I am going to hold
19 you to them. And -- all right.

20 Yes, you want to go in to the attorneys matter,
21 please?

02:28:36PM

22 MR. SCHAFFER: Well, yes, Your Honor. As the Court
23 knows, last Friday Judge Godbey issued an order, in essence,
24 instructing Lloyds of London that they were not prohibited by
25 his order from making payments. Since -- I guess the result

1 of that is that there are funds available for Mr. Stanford to
2 employ private counsel.

3 THE COURT: Is that for the other attorneys, also?

4 MR. SCHAFFER: As far as I understand, yes, sir.

02:28:53PM 5 There's only one other lawyer who was appointed outside of
6 Mr. Sokolow and I, and that would be Mr. Kuniansky.

7 MR. ZIMMERMANN: But it does apply to the other
8 lawyers, as well.

9 THE COURT: Okay. All right. So, what's your
02:29:04PM 10 request?

11 MR. SCHAFFER: Well, Your Honor, at this point I
12 will be staying on on a retained basis.

13 THE COURT: Is that the desire of your client?

14 Mr. Stanford, is that your request, sir?

02:29:15PM 15 DEFENDANT STANFORD: Yes, sir.

16 THE COURT: Okay.

17 MR. SOKOLOW: Your Honor, I would move the Court to
18 revoke our order of appointment and, in light of what
19 Mr. Schaffer said, to revoke his order of appointment. And I
02:29:25PM 20 would ask the Court to order the insurance company to pay for
21 the services rendered to reimburse the Criminal Justice Act of
22 the services we've rendered, and I can submit my hours to
23 them, if there's money available. I don't believe the
24 taxpayers should be required to pay.

02:29:40PM 25 THE COURT: Okay. I am going to reserve ruling on

1 that motion ordering any insurance company to do anything.

2 MR. SOKOLOW: Yes, Your Honor.

3 THE COURT: But make that application. If you run
4 into a problem, let me know. As far as -- so, what are you
02:29:51PM 5 requesting as far as the public defender's office?

6 MR. SOKOLOW: We're moving for the order of
7 appointment to be revoked and that we be relieved of our
8 appointment in this case, Your Honor.

9 THE COURT: Okay. Also, Mr. Schaffer, then you are
02:30:02PM 10 requesting to come in on behalf of your client who is here
11 present in court.

12 Mr. Stanford, is that your desire, again, sir?

13 DEFENDANT STANFORD: Your Honor, I want to thank
14 Mr. Sokolow and I thank you, Your Honor, for your support in
02:30:16PM 15 this case; but I understand we do have money through the
16 insurance. And I would love to have Mr. Sokolow stay on, but
17 he has told me he can't. But I want to thank you, Your Honor.

18 THE COURT: How about -- is this, Mr. Schaffer,
19 your -- your -- the request that he be joined now to represent
02:30:29PM 20 you as a retained counsel?

21 DEFENDANT STANFORD: Yes, sir. I appreciate that.

22 THE COURT: All right. I will get an order out. It
23 is a motion made in open court. I am going to put in there,
24 though, of course, that your appearance now is unconditional;
02:30:41PM 25 is that correct, counsel?

1 MR. SCHAFFER: Of course, it is, Your Honor.

2 THE COURT: Unconditional. Run into problems later
3 on with the reimbursement, just you -- everybody is onboard.

4 All right. I do want to specifically thank
02:30:53PM 5 Marjorie Meyers, the U.S. Public Defender, and Mr. Sokolow,
6 who is the first assistant public defender, for --

7 MR. SOKOLOW: Thank you, Your Honor.

8 THE COURT: -- just a super job and appreciate all
9 of your assistance; and your client does, also.

10 DEFENDANT STANFORD: Yes, sir.

11 THE COURT: That it's a -- it's what the system is
12 all about; that if deed someone cannot afford an attorney and
13 there's no funds to pay for one, we just have an outstanding
14 public defender's office. And I had no reservations

02:31:22PM 15 whatsoever in both appointing the public defender's office and
16 upon, also, an application to the Court, Mr. Schaffer.

17 So, as far as your volunteer work goes,
18 Mr. Schaffer, or at least your appointed service, that's
19 terminated with our thanks. And I'll reserve any other

02:31:41PM 20 compliments until, you know, we get rolling in this case, as
21 far as your representation.

22 MR. SCHAFFER: So, you want to see what happens.

23 THE COURT: That's correct.

24 All right. Is there anything else, ladies and
02:31:50PM 25 gentlemen, that you want to talk about?

1 MR. COGDELL: Thank you very much, Your Honor.

2 THE COURT: Okay.

3 MR. SCHAFFER: Could I have just one second?

4 THE COURT: Yeah.

02:32:01PM 5 (Pause in proceedings)

6 MR. SCHAFFER: Mr. Stanford wanted to address the
7 Court, just to thank Mr. Sokolow for his service.

8 THE COURT: That's in the record, and that's on
9 behalf of the Court and behalf -- and it's noted by the
10 defendant.

02:32:12PM

11 DEFENDANT STANFORD: Thank you, sir.

12 THE COURT: Government's position -- what else?

13 MR. COSTA: We just wanted to emphasize, Your
14 Honor -- you said you would be willing to have a short

02:32:19PM

15 hearing, if necessary, that -- in this period between the next
16 hearing. We just want to emphasize that we're -- you know,
17 want to be in communication if there's discovery issues, if
18 there's issues with this database. We're available. We want
19 to move that forward. So, we would just ask that the defense
20 let us know. We just don't want to be back here in December,
21 and then those issues come up for the first time.

02:32:34PM

22 THE COURT: No. Okay. Everything -- work with the
23 Government. I appreciate what appears to be almost an open
24 file on the Government's side and the willingness of the
25 defense counsel to work with the Government as best they can.

02:32:46PM

1 Everybody has been here. We've all been around. And,
2 academically, it is going to be an interesting exercise. And
3 I know it will be well tried on both sides. So, thank you.

4 I want to thank everyone for coming, the family
02:33:05PM 5 and certainly -- I will say this to the defendants, some who
6 have had to travel here. I think it is important that you be
7 here to see what is going on. I'm not going to require your
8 presence each time; but certainly on the next status
9 conference, I will. And then after that, we can do things
02:33:23PM 10 piecemeal as the time goes on.

11 You will get a trial date set by me a number --
12 a few days after the next conference. It will be probably in
13 December sometime. I'm going to ask my case manager, Ellen
14 Alexander, if you would, just touch base generally with the
02:33:39PM 15 counsel and with our schedule. So, we will do the best we can
16 since we're projecting a couple of months down the line.

17 Yes, sir.

18 MR. COGDELL: Just for traveling purposes, Your
19 Honor, should the clients -- I believe my client may be the
02:33:49PM 20 out-of-town client. Should she anticipate coming here for the
21 next status conference? I'm certainly not opposed to it.
22 That's fine.

23 THE COURT: That's correct.

24 MR. COGDELL: Okay.

02:33:57PM 25 THE COURT: After that -- after that I may waive it,

1 unless anyone desires to be here.

2 MR. COGDELL: Yes, sir.

3 THE COURT: Certainly on any criminal matter, the
4 clients can be present, unless it is just a ministerial
02:34:07PM 5 matter.

6 Anything further from the Government?

7 MR. COSTA: No, Your Honor.

8 THE COURT: Anything further from the defense?

9 MR. SCHAFFER: We have nothing, Your Honor.

02:34:14PM 10 THE COURT: Thank you. We'll stand adjourned.

11 (Proceedings concluded)

12 * * *

13 I certify that the foregoing is a correct transcript from the
14 record of proceedings in the above-entitled cause, to the best
of my ability.

15

16 //s _____
Stephanie Kay Carlisle-Neisser CSR, RPR
17 Official Court Reporter

11/23/2009
Date

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