

Disclaimer:

The following are notes from Irwin Schiff's trial in Las Vegas, Nevada. These notes began on October 11, 2005, I do not have notes from before this date. The trial had been in progress for approximately three weeks. Although I was diligent in my attempts to make accurate notes, these notes are not a complete record of what transpired in the courtroom. I regret that I have never taken shorthand, and therefore these notes are transcribed from actual notes taken in the courtroom. Also while typing these notes up I have added some recollections, which may or may not be correct. I hope that in the near future that the actual transcripts from the trial will be published on the Internet. These notes are only for the interested public to read until those transcripts are available. You can hear these notes discussed in the audio bogs, under the archives section at <http://www.triallogs.blogspot.com/> Sorry for any typos or misspelling of names.

Before Judge Dawson

The prosecution in this case, consisted of two Department of Justice attorneys, and I believe 2 special agents of IRS. A Mr. Cristalli represents Miss Cynthia Nuen, Larry Cohen is represented by Mr. Bowers. Mr. Schiff is representing himself with the assistance of the court-appointed attorney. Larry and Cindys lawyers are also court appointed.

October 11, 2005.

9:38 a.m.

Mr. Schiff arrived late Judge Dawson, already on the bench.
17 spectators on Mr. Schiff's side of the courtroom
6 spectators on the prosecution side of the courtroom

9:45 a.m.

Mr. Schiff starts off having a bit of trouble finding his witness list. Once Mr. Schiff finds the witness list, He submits his witness proffer to the judge and prosecution. Mr. Schiff goes on to state that he filed his proffer with the clerk of the court. Mr. Schiff also states that he filed a motion for a mistrial.

9:50 a.m.

Judge Dawson, reviews, Mr. Schiff's submitted documents. Mr. Schiff states he supplemented his rule 29 motion stating he wants the whole congressional services report admitted or he would like all of it thrown out. At this point in time, Mr. Schiff objects to the judge making him right out all the questions he intends to ask his witness. And all the questions he intends to ask himself. At this point, Mr. Schiff also requests transcripts from the judge due to his hearing problems. Mr. Schiff goes on to state that his sister in New York may die, Mr. Schiff requests Thursday off so that he may go and visit his sister.

9:57 a.m.

Mr. Schiff addresses the court. In regards to an apparent exparte meeting that transpired between the judge and the prosecution. Mr. Schiff requests a mistrial at this point in time. Mr. Schiff goes on to state that the judge can't be impartial in a tax trial and that if the judge does not grant the mistrial he wants an immediate transcript of the exparte meeting. Mr. Schiff goes on to tell the judge that apparently he has used the word OK in his statements after the judge has given him sanctions. Mr. Schiff wants the record to reflect that he doesn't believe sanctions are okay and that he doesn't even know how many days in jail he has at the present time. Mr. Schiff tells the judge, the prosecution hasn't put in one scintilla of evidence that he's breaking the law. Irwin tells the judge that the charge and the indictment advocating fraudulent uses of W-4's that the prosecution has given no testimony to that fact. Irwin goes on the state the that the prosecution hasn't proven anything that he says is false. Irwin asked the judge how he could be guilty of conspiracy when the IRS has no authority, nor asked the IRS received delegation from the Secretary of the Treasury.

10:02 a.m.

Prosecution response: Mr. Schiff's issues have already been addressed. At this point, the prosecution goes on to discuss some type of problem with the jury instructions, the prosecution goes on to object to two witnesses that Mr. Schiff intends to call Mr. Border and Mr. Bean, claiming that their minimally relevant.

10:07 a.m.

Mr. Cristalli addresses the court at this time. Mr. Cristalli goes on to say that he does not care whether Mr. Border or Mr. Bean is called in this case. But that he does want to call a Mr. J Lindsey a retired FBI agent. He states that Cindy had conversations with this gentleman. In regards to the law and CDP hearings. Mr. Cristalli goes on to state that the government claims that they gave Cindy notice as to what the law was. These witnesses will refute that stating that she was never shown what the law was.

10:10 a.m.

Mr. Bowers, who is Mr. Cohen's attorney discusses the conversations Mr. Cohen had with Mr. Lindsey, the FBI agent. Mr. Bauer believes that Mr. Lindsey's testimony is very relevant to this case. Mr. Bauer goes on to state that he believes Mr. Schiff should be able to visit his dying sister, and that the court should grant Mr. Schiff's request for immediate transcripts.

10:11 a.m.

Mr. Schiff goes on to state he does not believe that the laws are unconstitutional. Mr. Schiff states that he wants a mistrial, if the prosecution states that he believes they are unconstitutional. Judge Dawson, tells Mr. Schiff to sit down.

10:14 a.m.

Judge Dawson rules on all the above motions. As far as a mistrial is concerned, your motion is denied. Take this issue to the Ninth Circuit. There has been no violation of the defendant's rights. As far as transcripts are concerned this motion is denied, the court reporter cannot provide them. Judge Dawson goes on to rule that Mr. Schiff will be required to provide proffers of all of his witnesses. So that the court can establish relevancy to this case. Judge goes on to discuss the sanctions he's imposed on Mr. Schiff stating that they are few and far between. And that they usually occur after the defendant tries to introduce information that the judge has denied. The judge goes on to state that the tax laws are not on trial and that Mr. Schiff and his followers don't follow the law. At this point in time, the judge discusses the witnesses on Mr. Schiff's list stating that most are marginally relevant and that he can't rely on another person's beliefs to establish a good-faith belief. The prosecution objects to all the witnesses Mr. Schiff intends to call.

10:20 a.m.

Mr. Cristalli argues again at this point in time stating that he wants to call retired FBI agent Jan Lindsey. The judge states that Mr. Lindsey has been ruled against in court as frivolous and the past. Mr. Cristalli objects and states that he wants Mr. Lindsey to testify. In regards to Cindy's discussions with him. Judge Dawson states "counsel I've ruled." Mr. Cristalli goes on to discuss Bob Shultz and other witnesses at this time stating that he believes there are all relevant to this case that all of the witnesses Mr. Schiff intends to call are well educated and will contradict government witnesses.

10:25 a.m.

Mr. Bowers attempts to clarify whether or not he can argue willfulness as far as circumstantial evidence goes. The judge states once again that he's ruled. At this time Mr. Cristalli states "well based on those court rulings there may not be any witnesses". Judge Dawson states that the witness's testimony will be incorrect. Judge Dawson goes on to state that a sanctioned FBI agent's testimony and arguments are irrelevant. And that Mr. Lindsey's beliefs have nothing to do with Cindy. At this point, Mr. Cristalli argues again and the judge states he's going to get it in anyway and Mr. Cristalli discusses the Cheek decision and his client's beliefs and the relevance of willfully committing a crime. Judge Dawson goes on to state that the fact that Mr. Lindsey was an FBI agent does not make incredible. Judge Dawson. "You just want to put on an FBI agent."

10:30 a.m.

Irwin wants to comment, Judge Dawson refuses. Mr. Schiff goes on to state that the judges misstating the standard as far as willfulness goes. Judge Dawson. "We have already gone over this and we are in recess" at this point Mr. Cristalli request time to converse with his client. Since no witnesses are going to be allowed to be called in this case at this point in time, I believe the attorneys had a sidebar meeting and the morning break took place.

11:10 a.m.

court back in session jury not present. Mr. Bowers presents some case law to the judge. Mr. Cristalli asked for a sidebar, which is granted, the attorneys are at sidebar

until 11:38 a.m. at this point in time Mr. Schiff calls his first witness. This first witness takes the stand and is basically read his Miranda rights.

11:40 a.m.

Jury Enters.

Calvin Borders called to the stand, he's a facility engineer at a local hotel. Mr. Border goes on to explain that in 1995 he heard Irwin Schiff's radio show and originally did not believe Irwin's information. In 1996 he became a regular listener to Irwin's radio show. Irwin asked the witness if reading the Federal Mafia had changed his beliefs in regards to the income tax. The witness replied that it had changed his beliefs in the income tax laws. Irwin asked the witness to look and the Federal Mafia, at which point the prosecution objected and the judge sustained. The witness went on to explain that he had researched the law in a public library to verify Irwin's information provided in the Federal Mafia. At this point in time the prosecution objected to Irwin asking the witness about the law. The judge sustained this objection stating that Irwin can only ask about what's in his proffer. Mr. Border went on to explain that in 1996, he filed a zero return, he filed an amended prior income tax returns. In 1997, He received a frivolous letter from the IRS, the witness states that he replied to this frivolous letter using Irwin's information. The witness went on to testify that he was facing severe penalties from the IRS and that he discussed these penalties with their Irwin, approximately 3 to four weeks later, these penalties were dropped. Mr. Border went on to testify that in 1998 he received a \$41,000 refund from the IRS and went on to state that the IRS had not attempted to get this money back. He asked the witness if he had the come to any conclusions based on his own research into the income tax laws. The witness stated he had made a determination that he wasn't liable for income taxes. The prosecution objected to this and the judge sustained. Mr. Schiff asked the witnesses if he had met with him many times, and whether or not he had determined whether Irwin held his believe sincerely, and the witness stated that he absolutely believed Irwin held his believe sincerely. Irwin asked the witness, if anybody in his office gave him any reason to believe that he didn't believe his information and the witness replied no. The witness testified that he roughly read three of Mr. Schiff's books.

11:55 a.m. Government cross of Calvin border

The prosecution asked Mr. border if he was getting paid for his work at a local hotel and whether or not he had informed Mr. Schiff of this. The witness replied that he did inform Mr. Schiff, he was getting paid. The government asked the witness if he had IRS levies against him for the years 96 97 2000. The government reviewed an Exhibit 335, which was a tax lien against Mr. Border . Mr. Schiff objected to the stating it to notice of levy. It's not a lien. The judge sustained Mr. Schiff objection. The prosecution said they would call it a notice of levy. At this point, the prosecutor again called that a federal tax lien to which Irwin objected and the prosecutor rephrased the question. The prosecutor asked Mr. Border if you received a notice of federal tax lien around Christmas 2000, the witness replied that he had. The prosecution reviewed Exhibit 336, which is a zero return Mr. border had filed. The prosecution asked Mr. border if it was safe to say that the IRS wants money from him. Mr. Border replied that that was incorrect and stated

"for four years. They gave me my money back, for four years they want me to pay. Now were getting into a law matter, and I didn't think we were supposed to talk about that." The prosecution went on to ask the witness about calling in to Irwin's radio show the witness testified that he called irregularly or periodically into the show. At this point in time, the government produced exhibit 225 the Congressional research service's report, which Mr. Cristalli objected to based upon relevancy. The judge overruled Mr. Cristalli's objection. The prosecution asked the witness if he had received a copy of the CRS report from John Ensign's office and whether or not he had discussed it with Irwin. The witness replied that he had discussed it with Irwin. The prosecution then asked the witness what his status was with the IRS. The witness replied that he was in bankruptcy and tried to expound upon his answer. Unfortunately, the prosecutor cut him off saying that was enough.

Redirect of Calvin border

Irwin: is a notice of lien signed?

Prosecution: objection relevance.

Judge: sustained.

Witness: it's not signed.

Prosecution: objection relevance

Mr. Cristalli: How can the government object to the relevance of a government document?

Judge: sustained.

At this point in time Irwin asked the witness about the printed name on the bottom of the IRS document. The prosecution objected and the judge sustained. Irwin went on to ask the witness about pocket commissions. The prosecution objected based upon relevance and the judge sustained.

Irwin: do you consider wages taxable?

Witness: no.

Prosecution: objection.

Judge: sustained.

Irwin: did you get a frivolous return letter?

Witness: yes.

Irwin: how many legal decisions were included with your return?

Witness: 13 or 14 court decisions were included with my return.

Irwin: do you consider your return frivolous?

Witness: no, I do not consider it frivolous, and no court cases are specified in IRS replies

Irwin: Is the government collecting income taxes illegally?

Prosecution: objection.

Judge: sustained

October 11, 2005 12:15 p.m. Witness excused, court in recess for lunch

1:34 p.m. court back in session jury not present.

The prosecution addresses the court and discusses Irwin's request to put on character witnesses. The judge goes on at this point to state that if Irwin intends to call the witnesses to testify about his character for truthfulness then Mr. Schultz would be a proper witness. Mr. Schiff states that he should be able to call of his witnesses. The judge rules that he will allow Bob Schultz to testify. Although he had refused them earlier.

1:37 p.m.

Irwin: you're honor I want to call agent Sam Holland.

Prosecution: objection, your honor, I'm not sure how agent Holland is relevant.

Judge: will hear his testimony on a question by question basis.

Prosecution: the government objects your honor, Mr. Schiff is going to attempt to claim that agent Holland at a bad investigation.

Judge: I guess we'll find out shortly.

1:40 p.m. **Jury in Agent Sam Holland called the witness stand.**

Irwin: are you familiar with CDP hearings?

Agent Holland: vaguely.

Irwin: do you know what the purpose of a CDP hearing is?

Agent Holland: I heard about it here in court.

Irwin: do you remember what you told the grand jury?

Agent Holland: I don't recall.

Irwin: what did you tell the grand jury about CDP hearings?

At this point in time, the witness read, from his testimony to the grand jury.

Irwin: do you believe freedom books is an illegal operation?

Agent Holland: we didn't charge it but I believe it is.

Irwin: did you read the Federal Mafia or attend any of my seminars?

Agent Holland: no.

Irwin: then how do you know, I provided false information to people?

Prosecution: objection.

At this point in time Irwin requests that the witness be provided with copies of his income tax returns stating that the witness testified before the grand jury that the documents were false. The witness is given Irwin's 2003 income tax return, which apparently was not in evidence. Apparently the government had not charged Mr. Schiff for the year 2003 and the judge ruled this return a relevant.

Irwin: do you have a copy of my 2002 tax return in which I filed zero income?

Agent Holland: yes.

Irwin: can you turn to any page and tell me any statement and there that is false?

Prosecution: objection grand jury testimony not relevant.

Irwin: Mr. Schiff questions the judge how the jury can understand what's wrong with his return. If agent Holland won't state what's wrong with it.

Judge: sustained.

Irwin questions agent Holland In regards to the search warrant obtained to search freedom books. The prosecution objected and the judge sustained stating it was irrelevant.

Irwin goes on to state that he may be wrong about the law, but the government hasn't produced any evidence of and breaking the law to which the prosecution objected and the judge sustained.

Irwin: are you aware the government is using the CRS report as notice to me that I have to pay taxes backspace?

Prosecution: objection judge: sustained.

Congressional research service's report is placed on the overhead.

Irwin: are you familiar with this report?

Agent Holland: I found it in your office.

At this point in time Irwin has agent Holland read a section of this report where the port rules that the income tax is being imposed as an excise tax.

Irwin: do you know the difference between a direct tax in an indirect tax?

Prosecution: objection judge: sustained sanctions (this means jail to Irwin).

At this point in time Irwin attempts to ask multiple questions about agent Holland's testimony before the grand jury all of which are objected to by the prosecution and the judge sustains all.

Irwin: have you ever been confronted by people saying, "Show us the law?"

Prosecution: objection judge: sustained.

In regards to agent Holland listening to Irwin Schiff's radio show. Irwin asked agent Holland why he didn't call in for the reward Irwin offers to anyone that can show me statute that makes them liable to pay income tax. Agent Holland replied that to Mr. Schiff would not pay. At this point in time, there is an objection from the gallery and that party was escorted from the courtroom. Irwin goes on to discuss his willingness to pay the reward for anyone that can show him the statute that makes him liable. Agent Holland, states that he believes Mr. Schiff has been sued for not paying that reward after someone claimed it.

Cross-examination of agent Holland by the prosecution

Mr. Cristalli objects stating that Mr. Schiff didn't get any of his questions answered.

Prosecution: agent Holland, are there any regulations preventing you from calling into Mr. Schiff's radio show.

Agent Holland: there are

October 11, 2005 2:10 p.m. Agent Holland excused

Irwin: I guess since you won't let any of my witnesses testify so I guess I will have to

Mr. Schiff takes the witness stand in his sworn in. Mr. Schiff had to previously provide the court a list of the questions he intended to ask himself. Mr. Schiff standby counsel is going to read the questions to Mr. Schiff. The judge gave the jury some instructions on this matter.

Question: Mr. Schiff do you agree with all the IRS laws?

Irwin: I agree with them all and one of these days, the IRS will follow them!

At this point in time, the attorney questions Irwin about his background where he was from where he went to college. The fact that he roughly written six books. He had Irwin explain the kingdom of Maltz and another book. Mr. Schiff was asked about what TV shows he had been on and there were many.

Question: Mr. Schiff was the purpose of you being on all these TV shows and writing these books?

Irwin: to inform people they don't have to pay taxes.

Question: do you claim the imposition of federal income taxes is voluntary?

Irwin: if you look and the index of the Internal Revenue Code, you cannot find a statute and imposes liability for income taxes, nor a statute that requires you to keep books and records. However, you can find these four wagering tobacco.

Prosecution objection: Mr. Schiff can't testify about the law judge: sustained.

Irwin: There may be a law, but I can't find it. If they can show it to me, I will take back all my books and apply at McDonald's.

Question: Mr. Schiff you file a zero return. Don't you?

Mr. Schiff: yes, I started in 1996.

Question: what makes you think a zero return is legal?

At this point Irwin went into a long discussion that he had with the previous parole officer and the fact that he had zero liability.

There was discussion at this time of Irwin's 1993 income tax addendum and the wording of the addendum. Irwin asked for an Internal Revenue Code book and discussed section 4401 where a wagering tax shall be liable, Irwin discusses code section 5005 that states a distiller shall be liable, discusses section 5703 dealing with tobacco taxes shall be liable.

Question: what is the commonality of these three code sections?

Irwin: they all make a liability; the government is trying to tell you that five different code sections make be liable for income taxes.

At this point in time Irwin discussed section 4374, 5061, 5703 and went on to read more from his income tax return. There is a statement on the income tax return and says it is not being filed voluntarily. It's been filed to avoid prosecution Irwin states that his returns were coerced and the return should not be admitted as evidence. The prosecution objected to this and the judge sustained. At this point in time Irwin read the privacy act from a 1040 booklet.

Question: what is your understanding of the privacy act?

Irwin: if you have to pay the government has to tell you. (Irwin read again from the privacy act.) But they don't tell you what you are liable for. If you look and the IRS code under liability income tax is not even listed.

In time there was some discussion about the OMB number on the top of the 1040 form and Irwin's stated that that OMB numbers assigned to a foreign earned income account. Irwin goes on to discuss that he believes that that he is being compelled to file his income tax turns, and it's not consistent with his Fifth Amendment right. He goes on to discuss a court ruling that a zero return is a return. I believe these were Campbell Long and Moore. Irwin goes on to state that he believes he is complying with the ninth Circuit Rulings in Kimball and Long.

Irwin goes on to state that he has no income and he discusses the Supreme Court merchant's loan ruling and the definition of income. Based on that Supreme Court ruling Irwin can only swear to having no income. Irwin states income is an abstract concept and states that income has to be defined. The Supreme Court defined income as a corporate profit. At this point in time, the judge cut them off and told them to discuss the next question. Irwin went on to discuss the footnote of his return. The case called Dole versus Mitchell. In 1909 corporate excise taxes passed only corporations pay the tax and that same definition of applies today.

Question: is it your believe that the meeting of income has never been changed?

Irwin: as far as I'm aware it's never been reversed (Irwin discussed Shepherdizing)

The court went into recess for an afternoon break

October 11, 2005 3:30 p.m. Judge Dawson back in court.

Irwin made a motion to interrupt his testimony to put Bob Schultz on the stand. Judge Dawson allowed this motion with the stipulation that he is only a character witness. The government objected to the admittance of Irwin's five other books due to relevance. Mr. Cristalli makes arguments for the admittance of the rest of Mr. Schiff's books. Mr. Schiff was unable to find Bob Schultz.

3:40 p.m. Mr. Schiff retakes the witness stand

Question: do you know Robert Schultz?

Irwin: yes, he is the chairman of We the People (Irwin went on to discuss how he knew him).

Question: how many times you spoken with Mr. Schultz?

Irwin: 10 to 15 times.

Question, what is we the people?

Prosecution: objection judge: sustained. Mr. Schultz good faith belief is not relevant

To this point in time, Mr. Schiff discussed Government Exhibit 46, which is a 1040 form for the year 2003 in which he filed a zero return and states that he had another court case to it and that he had added the House and Senate reports to it.

Question: why did you do that?

Irwin: income is a corporate profits, I came across these reports. In 1954 the Internal Revenue Code changed. The IRS is not mentioned and the 54 code and is replaced with the Secretary of the treasury. The IRS has no authority. And section 61 of the 1954 code. The word income is used in its constitutional sense. Income is used in section 61, but the word income is not defined. The House and Senate reports state income is used in its constitutional sense. (Irwin discussed the meaning of the constitutional sense). If a tax is placed on its source, it must be apportioned.

Question: did you read this Supreme Court Bushaber decision? What do you believe the ruling was?

Irwin: the 16th amendment gave the government no new taxing power (to seize Irwin on to discuss direct versus apportioned taxes and their uniformity and that the Constitution restricts the government's taxing authority. The 16th amendment established income tax

is an excise tax. Congress removed all enforcement provisions from the law to be in compliance with the Constitution.

At this point Irwin went on to discuss his attached House and Senate reports that say the meaning of the word income in law is used in its constitutional sense.

October 11, 2005 3:55 p.m. Mr. Schiff leaves the witness stand. Robert Schultz takes the stand.

Mr. Schultz went on to testify that he was from New York and has a degree in engineering, but it worked for the EPA and for 40 years he was a banker with Prudential. He met Irwin Schiff in 1999. (Mr. Shultz was only allowed to testify to Mr. Schiff's reputation). Mr. Shultz testified that Irwin Schiff was an elder statesman in the tax honesty movement and that he was honest and truthful and that everybody had good things to say about him. The prosecution cross examined Mr. Shultz and asked if he was aware of Mr. Schiff's tax convictions he said yes. The prosecution asked Mr. Schultz if he sold any of Irwin materials. He said no, at which point the government rested.

4 p.m. Mr. Cristalli requests a sidebar.

4.30 p.m. Mr. Schiff retakes the witness stand

Question: are you familiar with the CRS report

Irwin: yes, the government and reduce the CRS report.

Question: have you used this report?

Irwin: I used it to show how they try to mislead people, the government uses paragraph 8 do we have a voluntary tax system. Agent Holland testified that it is a voluntary system.

Mr. Schiff went on to explain that they use the word liable and the CRS report. It went something along the lines that anyone who is liable for tax shall pay it. Mr. Schiff states that he is upset because the government says that raising issues of liability is blatant nonsense.

Irwin: the government tells you and the privacy notice that you must pay any tax you are liable for; so raising this issue is not nonsense. Section 6011 says any person made liable shall, liability is not defined in section 61 or 63.

Question: who is Dan Burton and did you receive a letter from Congressman Burton?

Irwin discussed receiving a letter from Congressman Burton and Congressman Ensign You said there unable to find of a specific statute that makes one liable for income taxes. Irwin says don't take his word for it, if a congressman can't find it how can I.

Mr. Schiff goes on to discuss the CRS report on pages 13 words is do we have a voluntary tax system. Mr. Schiff states that of course we do, but the report is trying to say that we don't. Mr. Schiff goes on the state of the missing statement of the IRS says

its job is to achieve the highest rate of voluntary compliance. Mr. Schiff goes on to give further examples of voluntary compliance. Mr. Schiff was on the cover somewhere his testimony before Congress stating that income taxes is voluntary. And that alcohol tax is 100% mandatory.

Irwin goes on to discuss the CRS report and reads from and what does it mean when the courts as the taxes and manager of an excise tax. Mr. Schiff states, the Supreme Court has ruled that the income tax must be imposed as an excise tax. Mr. Schiff states Congress resolve these conflicts in constitutionality by making it voluntary.

425p.m. Irwin Schiff's testimony is interrupted so that Mr. John Turner can take the stand. Mr. Turner's testimony was limited by Judge Dawson to be a character reference only.

Mr. Turner briefly testified that he met Irwin Schiff in 1997 and he was an IRS agent. (The judge restricted his testimony at this point in time, and Mr. Schiff was only to ask Mr. Turner about his reputation). Mr. Turner states that Mr. Schiff is absolutely honest, and he can't find anything that Mr. Schiff is set as dishonest. Mr. Turner went on to state that Mr. Schiff is a absolutely honest straightforward and brilliant. Mr. Bowers nor Mr. Cristalli have any questions for this witness.

The prosecution briefly asserts that Mr. Turner was a follower of Mr. Schiff's teaching the witness asked him to be more specific. The prosecution asked the witness when he talks about the community, what community are you talking about, the witness replied that the community he was referring to was people who are interested in the tax honesty movement. Mr. Bowers asked this witness if other individuals believe Mr. Schiff, the witness replied yes.

4:35 p.m. jury out of the courtroom.

The prosecution stated the 10th circuit court case, I believe it was Payne that allows the court to exclude Irwin's book. This concluded, October 11, 2005

October 12, 2005 Wednesday.

9:15 a.m. Court in Session.

Mr. Schiff addresses the court, and request five witnesses to be able to testify to his reputation. Mr. Schiff states. He doesn't know if President Bush is available or not. (Judge Dawson had previously ruled that Mr. Schiff's witnesses could only be character witnesses).

Judge Dawson: Rules on the admissibility of Irwin's books.

As far as Mr. Schiff's books are concerned. They will not be admitted based on inconsistent statements and the ability to confuse as to the matter of law. As far as Ms.

Nuen and Mr. Cohen are concerned the books are admissible only as far as the defendants reliance on them.

9:20 a.m. Jury In.

Mr. Schiff calls Jim Davies to the witness stand. Judge Dawson instructs the witness to limit his testimony to the reputation of Mr. Schiff and instructs him what to do in case of an objection by an attorney.

Mr. Davies testified that he met Mr. Schiff in 1996. He testified that Mr. Schiff has an outstanding reputation, and he's admired and the community and that Mr. Schiff has a high reputation for truth and honesty.

Prosecution Cross of Jim Davies.

The prosecution asked Mr. Davies, what community he was referring to, Mr. Davies for replied freedom loving people. The prosecution asked if Mr. Davies used Mr. Schiff's info, Mr. Davies replied he had. Mr. Davis was excused from the bench.

October 12, 2005 9:25 a.m.

Mr. Schiff called Robert Brown to the stand. Judge Dawson advised the witness to only answer questions asked and that his testimony was limited to being a character witness only. Judge Dawson instructed the witness what to do in case of an objection by an attorney.

Mr. Brown briefly testified that he met Irwin Schiff in 1997 and that he now lives in Seattle. Mr. Brown testified that he believe nobody had a better reputation than Mr. Schiff.

Prosecution Cross Examination of Robert Brown

The prosecution asked Mr. Brown, if the government sued him in Nevada, and that he had lost. Mr. Brown replied that he had lost. The prosecution went on the asked Mr. Brown if he appealed that case to the Ninth Circuit Court. Mr. Brown replied that he had. The government then asked him, isn't it true that you lost. Mr. Brown replied that he had lost and that he appealed to the Supreme Court. Mr. Brown testified that the Supreme Court refused to hear the case.

At this point, Mr. Schiff on recross asked Mr. Brown, if he was aware that no hearing means there is no ruling. (The notes aren't very clear at this point, but I believe the prosecution objected to Irwin asking this question.) I believe that the judge ruled that the government opened the door for this question. Mr. Brown testified that he still believes he's entitled to refunds for the taxes he paid. At this point, the witness was excused.

October 12, 2005, 9:37 a.m.

Mr. Schiff calls a Mr. Robert Wesley to the stand. Judge Dawson informs the witness. He's only allowed to testify to Mr. Schiff's truthfulness and character. Judge Dawson also informs the witness what to do in case of an objection by an attorney.

Mr. Wesley testified that he is from California. He works for the Department of Corrections. In 1998. He heard Mr. Schiff's radio show. Mr. Wesley testified that he believes Irwin abides by all Supreme Court rulings and that he's very highly regarded.

Prosecution Cross-Examination of Mr. Robert Wesley

The prosecution asked Mr. Wesley if he followed Mr. Schiff's teachings. Mr. Wesley replied yes. The prosecution asked Mr. Wesley if he had in fact held a seminar that Irwin attended and lectured at. Mr. Wesley replied that he had. The prosecution asked Mr. Wesley if he charged money for that seminar; Mr. Wesley replied that he had yet he personally made no money from it. The prosecution asked Mr. Wesley, if the IRS claims that he owes them money. Mr. Wesley replied that the IRS fraudulently claims that he owes them money. Mr. Schiff briefly recrosses this witness. 9:40 a.m., the witness is excused.

October 12, 2005 9:40 a.m. Mr. Schiff retakes the witness stand

Mr. Schiff goes on to testify that he relied on the privacy act notice of the 1040 booklet. Mr. Schiff read from the booklet where it says, you only have to pay a tax you're liable for.

Mr. Schiff went on to testify that he relied on section 6201 of the Internal Revenue Code. And that 6201 is reproduced in the Federal Mafia.

The overhead projector in the courtroom was an operable at this time.

Mr. Schiff goes on to discuss Internal Revenue Code section 6201, and specifically the assessment authority. Mr. Schiff related there are 2 types of taxes listed here, the first being one that is payable by return and one that is payable by stamp.

Mr. Schiff goes on to discuss section 6201 A1, Mr. Schiff reads from the section of the Internal Revenue Code, which goes something along the lines the Secretary shall assess all taxes. Mr. Schiff goes on to state that this basically breaks down into four things.

- (1) The Secretary of the treasury shall assess the tax.
- (2) That the amount of tax is determined by the taxpayer.
- (3) or the Secretary of the treasury will determine the amount of tax.
- (4) and that the Secretary must prepare & a return.

Mr. Schiff states that no provision in the code allows the Secretary to estimate my tax return.

Mr. Schiff explains the difference between a lien and levy. Mr. Schiff states that a notice of levy is used to harass our intimidate third parties to give up your property. Mr. Schiff stated that notice of Levy's or fraudulent. The prosecution objected to this. I believe saying it was irrelevant. The three defense lawyers state that the witness's beliefs are relevant.

Mr. Schiff testifies. In regards to his Pill Bank Account. Mr. Schiff states that he had this account so that the government could not seize his money without a court order.

Mr. Schiff went on to testify that the Freedom Foundation is a fund to help people with Internal Revenue Service problems or to put out information as to the voluntary nature of the income tax. Mr. Schiff went on to state that some of those funds were used in a lawsuit against a boulder damn credit union. Apparently, a lady had had money seized by the IRS from her bank account. This lady won in court and the judge ruled the bank should have made sure that the agent who sent out the levy was authorized to do so.

Mr. Schiff Went on to Testify about a Christian Patriot Account. Mr. Schiff states this count was used to prevent the IRS from seizing money from his account. This is the bank account; he used to pay freedom books bills.

Question: who is Robert Islers?

Mr. Schiff explained that he had owned a lucrative insurance company. In his past and that Mr. Islanders plot that insurance company from him. The prosecution objected to this base on relevancy and the judge sustained.

Question: who is Simon & Schuster?

Mr. Schiff testified that Simon & Schuster was a publisher, and that he wanted them to distribute his book. The Federal Mafia, which was a best seller. Apparently, Simon & Schuster received a notice of levy from the Internal Revenue Service. Initially, Simon & Schuster did not comply with that notice of levy, telling the IRS they must obtain a court order. Simon & Schuster held Mr. Schiff's money in an escrow account.

Mr. Schiff became upset with his court-appointed attorney at this time for not asking the right questions.

Mr. Schiff went on to testify that he terminated his agreement with Simon & Schuster due to the fact that Simon & Schuster was withholding his money. As soon as Mr. Schiff terminated his agreement with Simon & Schuster. They then started sending money to the Internal Revenue Service. Mr. Schiff states he sued Simon & Schuster for breach of contract, apparently, the judge in that case ruled that Simon & Schuster had to comply with the notice of levy. Mr. Schiff went on to testify that he appealed this case to the Second Circuit. And that the government won a summary judgment against him. Mr. Schiff stated that this is how the government robs you under the cover of law.

Question: What is a pocket commission?

Prosecution: objection, we will address outside of the jury's presence

Mr. Schiff: Why doesn't the government want the jury to hear about pocket commissions?

Prosecution: move to strike

Judge: strike.

Mr. Schiff goes on to testify that he sold 500,000 books. Mr. Schiff states that doctor's lawyers and mostly working people. Use his books. Mr. Schiff states, the income tax is a horrible tax.

Mr. Schiff goes on to discuss the facts that he has discussed his teachings with attorneys and tax accountants. And that many of them believe him. However, they cannot adopt his stance due to their professional roles. Mr. Schiff states. At one point he had Jerry Oliver working for him, apparently Mr. Oliver was a former IRS agent.

Mr. Schiff goes on to discuss the disclaimer in his book. Mr. Schiff states that crime starts with the federal courts. Mr. Schiff stated that his son asked him to go back to paying income tax, however, Mr. Schiff refused stating that he couldn't pay their extortion. Mr. Schiff states that he discussed being in jail and the Federal Mafia and on his radio show.

Mr. Schiff states that he has conducted seminars in every major city and the US. He estimates his largest audience at 600 people. Mr. Schiff stated that he spoke at Yale Law School after being invited by the student body. Mr. Schiff said he also spoke at Toledo University and was paid for that presentation. Mr. Schiff went on to state that he invites lawyers and accountants to attend his seminars for free, and that he asked them sit and the front so that they can interrupt him at any time, if anything he says is incorrect. Mr. Schiff went on to state that he never says anything illegal and the seminars. The government objected to this and the judge sustained.

Mr. Schiff goes on to discuss his radio shows, and his background as an economist. Mr. Schiff discusses his offer to pay a \$5,000 reward. If anyone that would show him the law that makes them liable to pay income taxes. Apparently he was a sued to obtain this reward. Mr. Schiff states that three lawyers attempting to recover a \$100,000 reward for showing Mr. Schiff the law that makes him liable to pay income taxes also sued him. Mr. Schiff testified that he won both of these lawsuits.

Mr. Schiff moves to admit Exhibit 2116, which is a Las Vegas review Journal advertisement from November 6, 1997. The prosecution objected to its introduction, due to relevancy, stating that Irwin was a long way down the path to evasion by this point. Mr. Schiff states that it goes towards willfulness. Mr. Bowers attempts to refute the government's objection. Judge Dawson denies the admittance of this exhibit due to previous inconsistent statements.

Mr. Schiff goes on to testify that this article was a open letter to Congressman, in which Mr. Schiff offered to pay \$50,000 to any charity. If they could cite any statute, that made him liable to pay income taxes. Mr. Schiff states that John Ensign couldn't find the law. Mr. Schiff discussed a letter from John Ensign, who was a congressman and is now a senator. A sentence in this letter states that Mr. Ensign could find no specific place and the law where you must pay income taxes.

Mr. Schiff's counsel, who is reading of the questions at this point, reads count, one from the indictment and asked Mr. Schiff if he has tried to do any of these things. Mr. Schiff replied that he has not and that no law authorizes the IRS to do anything. The prosecution objected to this statement and the judge sustained. Mr. Schiff states he conspired to get the truth out.

November 12, 2005 10:35 a.m.

The attorneys went to sidebar; court went to recess for morning break. The prosecution states that the Powell case was overturned and superseded by 955 F second 1206

November 12, 2005, 11 a.m. Court Back in Session

There was discussion. In regards to the Powell decision, and Mr. Schiff's books. Mr. Cristalli, he states that he wants all books admitted. Mr. Bowers states he wants all books admitted due to his client's direct reliance upon them. There was some discussion of statute at 6020 and the meanings of shall versus may. The government stated something along the lines that the foundation can be Irwin relied on his own book. The prosecution states, they have a possible 403 objection. Judge Dawson reserved his ruling on this matter.

November 12, 2005 11:12 a.m. Mr. Schiff Retakes Witness Stand.

Mr. Schiff is asked by counsel about counts two through four and five and six of the indictment, which apparently have to do with filing fraudulent returns and aiding and abetting others to do so. Mr. Schiff stated he had asked Special Agent Holland to show him one line on his income tax return that was incorrect. The prosecution objected to Mr. Schiff's statement, and I believe the judge overruled. Mr. Schiff goes on to state that center Anson can't find the law and that he can't find the law. Mr. Schiff, standby counsel says he rests.

Mr. Cristalli's cross-examination of Mr. Schiff.

Mr. Schiff testified that he met Ms. Nuen at a social function, and roughly 1998 or 1999. Mr. Schiff went on to discuss the circumstances of how they met. Mr. Schiff went on to state that he had discussed with Cindy what he did for a living. Mr. Cristalli went on to question Mr. Schiff about Cindy's physical disability. The prosecution objected many times, in regards to the questions about Cindy's physical disability.

Mr. Schiff testified that he originally filed Fifth Amendment returns. Mr. Schiff went on to testify that Cindy did not take part in the development of his beliefs. In regards to income tax. Mr. Schiff states that's why the conspiracy is nonsense. The prosecution objected to the statement and the judge sustained. Mr. Schiff went on to testify that Cindy became a volunteer at freedom books and learned about the tax laws and adopted his theories. Mr. Schiff testified that he pays Cindy's bills and continues to do so. Mr. Schiff testified that he did not pay Cindy for her services at freedom books. He testified that any money he gave her was a gift. Mr. Cristalli asked Mr. Schiff about Cindy's participation in CDP hearings. The government objected, stating it was hearsay, Judge Dawson sustained.

Mr. Cristalli went on to ask Mr. Schiff about his bank accounts. Mr. Schiff stated that Cindy is not attached to the bank accounts and is not a shareholder. Mr. Cristalli then went on to asked Mr. Schiff about an IRS code manual and the Federal Mafia book that he showed him. Mr. Schiff stated that they were Cindy's. Mr. Cristalli then went on and had Mr. Schiff identify a gray binder, which included title 28 Code of Civil Procedure. A folder of exhibits, and another folder of exhibits that Cindy all used for CDP hearings. Mr. Cristalli went on to discuss with Mr. Schiff. Mr. Gross, a leader stealing money from freedom books. Mr. Schiff stated that the show would write checks and cash them. The government objected to this however, the judge overruled stating authority in evidence at this point in time the government gives a 608b objection, which the judge overruled. Mr. Cristalli then rested his cross-examination of Mr. Schiff.

Mr. Bowers Cross Examination of Mr. Schiff

Mr. Bowers asked Mr. Schiff when he met Larry Mr. Schiff replied roughly 5 or six years ago and that Larry initially started as a volunteer at freedom books. Mr. Bowers as Mr. Schiff, what Larry's duties were Mr. Schiff said that he was to take orders answer phones and answer questions. Mr. Schiff went on to state that employees were trained to follow some procedures, and that Mr. Schiff stated he and one employees to guess. In regards to answer in people's questions.

Mr. Bowers went on to discuss OMB numbers on 1040 forms with Mr. Schiff. Mr. Schiff says he still believes in that argument, but it's easier to say, show me the law that makes the liable. Mr. Schiff states at 1040 forms a bootleg document.

Mr. Schiff went on to state that the OMB number law is one good law passed by Congress. The government objected to this statement and the judge sustained.

Mr. Schiff testified that he and Mr. Cohen discuss the OMB argument. But that it was too difficult for most people understand. Mr. Bowers discussed with Mr. Schiff, whether Larry did his own research or not, and I believe he said yes. Mr. Schiff went on to state things were done in a manner at freedom books that it was his way or the highway. Mr. Bowers rested his cross-examination of Mr. Schiff.

12:15 p.m. Court in recess for lunch.

1:35 p.m. Court in session.

Mr. Schiff requests to be about calling Mr. Hartman as a character witness.

Jury brought in.

Government Cross-Examination of Mr. Schiff

prosecution: Mr. Schiff, do you pick and choose parts of statutes?

Mr. Schiff: no that's not true

prosecution: look at Defense Exhibit 2115 (placed on overhead. Mr. Ensign's letter) after the one underlined sentence doesn't it say the courts have ruled you must pay income taxes?

Mr. Schiff: Mr. Schiff argues that judges mistake the law

Prosecution: the prosecution has Mr. Schiff about a CRS report wherein is reported says we do not have a voluntary tax system.

Mr. Schiff: Mr. Schiff replied that that's wrong and the system is momentary.

Prosecution: the prosecution refers to a letter from Mr. Burton and asked Mr. Schiff, doesn't the letter from Mr. Burton say that it will provide more information to him.

Mr. Schiff went on to state that he disagrees with the CRS report except for the excise tax portion of it.

The prosecution goes on to refer to Exhibit 46 and 2003 tax return that includes the house and weighs committee tax report. The per prosecution referred to the meaning of income, and there was a lengthy comparison there than I did not catch.

The prosecution moves for government Exhibit 337 to be introduced. The court case named Long. Mr. Cristalli objects to the introduction of the document. The prosecution states they're going to introduce a series of cases. The judge received the exhibit.

The prosecution goes on to discuss US versus Long in which they rule the 10 40s of zeros is a return. Mr. Schiff replied that that's correct and that he should not be prosecuted for failure to file because he did file is in your return.

Prosecution: doesn't it say we don't condone withholding information?

Mr. Schiff: (notes say Irwin lambasted him)

prosecution: Mr. Schiff, can you cite a single case that says you can file a return was zeros if you have wages?

Mr. Schiff: no.

Prosecution: you have a long history with the IRS.

Ms. Schiff: 30 years.

Prosecution: you've challenged the IRS's authority to seize your property?

Mr. Schiff: yes

Prosecution: you've always lost all your cases?

Mr. Schiff: yes I have but the government has always gotten a summary judgment

prosecution: Mr. Schiff, when you went to tax court twice did you lose?

Mr. Schiff: yes

prosecution: Mr. Schiff, isn't it true that you lost all your court cases.

Mr. Schiff: yes I've lost them to a judge. (Mr. Schiff continued to argue and was cautioned by the judge).

Prosecution: were you convicted and the 1970s for tax evasion?

Mr. Schiff: yes, I disagree (Mr. Schiff complained about Fifth Amendment rights).

Prosecution: you were indicted in charged and the 80s weren't you?

Mr. Schiff: yes, but the judge told the jury they could convict me even without evidence.

Prosecution: Mr. Schiff, did the judge tell you had to pay taxes?

Mr. Schiff: yes, (Mr. Schiff went on to state that he appealed this decision. And apparently lost).

At this point, the government introduced Exhibit 338, which was an appeal of Mr. Schiff's second conviction. In May, a move for admittance to show evidence of notice being sent to Mr. Schiff. The judge received this document. Mr. Schiff complained an object is saying it's not notice to me.

Prosecution: you're aware of this decision. And you disagree with it.

Mr. Schiff: yes.

Prosecution: you disagree with this decision?

Mr. Schiff yes. You couldn't even give those instructions, after the Cheek decision

prosecution: you see, the prosecutor and the judge after that then you because you said they had no authority?

Mr. Schiff: they got a summary judgment I didn't even get a jury trial.

Prosecution: Mr. Schiff you didn't go to law school did you?

Mr. Schiff no.

Prosecution: did you sue Mr. Talley stating the IRS didn't have any authority?

Mr. Schiff: yes for my lawyer was ineffective, no judge is going to let you make a claim against the government in front of a jury.

Prosecution: you sued Simon & Schuster and lost didn't you?

Mr. Schiff: yes.

Prosecution: Mr. Schiff don't, you believe, you know more about the law than the judge?

Mr. Schiff: yes, absolutely, do you know, a judge that has sold 200,000 books on taxes

the government went to introduce Exhibit 32 to 1989 income tax return, which is one of Irwin's first zero income tax returns. The prosecution went on to point that Mr. Schiff's 1980 to 87 returns were filed while he was on probation/parole.

The prosecution went on to discuss government Exhibit 66, which apparently was a hearing before Judge Dorsey were on page 2 probable cause for violation of probation and parole was found based on Filing zero returns for the years 1980 to 1980.

Prosecution: you're aware of this order?

Mr. Schiff (Mr. Schiff stated he disagreed with Judge Dorsey's ruling).

Prosecution: didn't Judge Dorsey call your return gimmick? And you reject this opinion?

Mr. Schiff yes.

Prosecution: you write these books to the disadvantage of the gullible, and then follow you, who then find themselves in trouble.

Mr. Schiff: do you think any of my witnesses were gullible?

Prosecution: Dr. Dentise testified he went to jail didn't he?

Mr. Schiff: yes.

Prosecution: in 1994, you move to Las Vegas and immediately started marketing the zero return. Even though in 1991 Judge Dorsey rejected your zero return.

Mr. Schiff: if you show me the law right now. I'll plead guilty.

Prosecution: you've made millions of dollars selling your products, and you've caused thousands of the zero returns to be filed.

Mr. Schiff: yes.

Prosecution: and you knew your customers are getting in trouble.
(some of the discussion was missed here)

Mr. Schiff had sanctions imposed upon him here for arguing.

Prosecution: so you knew the courts were rejecting your position.

Mr. Schiff: I know the duty of the court is to protect income tax

prosecution: you have revised the Federal Mafia four times haven't you?

Mr. Schiff: something like that.

Prosecution: you never included a frivolous reply letter did you?

Mr. Schiff: no, it's covered in series 5.

Prosecution: them Mr. Schiff you advise people in CDP hearings?

Mr. Schiff: yes.

Prosecution: Miss Nuen went along with the sometimes?

Mr. Schiff: yes.

Prosecution: you charge hundreds of dollars for the services?

Mr. Schiff: something like that.

Prosecution: (displays government Exhibit 1) doesn't say here. We charged \$300 for that?

Mr. Schiff: yes.

Prosecution: your customers always had adverse decisions?

Mr. Schiff: yes. And we appealed them (missed some of this discussion).

Prosecution: but you never want on your merits.

Mr. Schiff we appealed, when the IRS didn't produce the required documents.

Prosecution: you disagree with all these corrupt judges?

Mr. Schiff: yes. That's why it's the Federal Mafia.

Prosecution: you've cost the government \$2 billion.

Mr. Schiff: yes.

Prosecution: you collect Medicaid don't you?

Mr. Schiff: yes.

Prosecution: your car is in someone else's name?

Mr. Schiff: yes because they've stole my car before.

Mr. Schiff goes on to argue at this point and is sanctioned by the judge.

Mr. Schiff: show me a statute that allows the IRS to seize anything, (Mr. Schiff asked the judge. How many days is that now? Referring to jail time).

The prosecution went on to discuss a \$100,000 award for anyone that would show Irwin the law . Mr. Schiff said yes, show me the law. The government asked Mr. Schiff if he got on CBS and made statements. The prosecution provided Mr. Schiff with the case. Apparently law schools talk about this case. The prosecution moves for admission of government Exhibit 339. Mr. Bowers and Mr. Cristalli object. Mr. Bauer states. Mr. Schiff said he's never seen it. Mr. Cristalli, says we've tried to get in cases without success but that the government is getting them in.

The prosecution went on and asked Mr. Schiff about when he was sued for the reward money and goes on to state that Mr. Schiff won to do a technicality of the offer lapsing. Mr. Schiff replied no. The prosecution than referred to page 7 of the opinion, in regards to the mandatory nature of the federal income tax. Schiff's claim that is voluntary is grossly mistaken. Mr. Schiff replied show me the statue.

Prosecution: you disagree with the statement?

Mr. Schiff: yes

Prosecution: the district court said, your argument is blatant nonsense

Mr. Schiff: (Mr. Schiff argued with the statement. Section 6012 on the overhead)

Prosecution: the Newman decision is cited and the CRS report

Mr. Schiff: maybe

Prosecution: page 14 of the CRS report, do we have a voluntary taxes? Isn't one of the cases cited here, one of your own rejecting this argument Newman versus Schiff and Schiff versus the commissioner?

Mr. Schiff: the IRS says they're not bound by lower court decisions

Prosecution: you would discuss the CRS reported seminars. But only a small section dealing with the excise tax, because Mr. Schiff disagrees with the report. Did you discuss these with Larry and Cindy?

Mr. Schiff: yes

Prosecution: did you read Schiff versus Commissioner? Government Exhibit 340, which is a case opinion in 1984. This is one of the two times he went to tax court, and this one for 1974-1975 you argued tax liability in tax court. The prosecution moves for admission, Mr. Bauer objects, the judge receives the document's to show notice.

Prosecution: you argue wages are in income

Mr. Schiff: yes

Prosecution: your argument was rejected

Miss Schiff: yes

Prosecution: didn't the court call them stale

Mr. Schiff: yes even though they were correct

Prosecution did you discuss this with Miss Nuen,
Mr. Schiff yes

Prosecution did you discuss your history with taxes with Miss Nuen
Mr. Schiff yes, but she knew there is no requirement and the code

At this point, the government places Exhibit 286 amends warehouse credit card application on the overhead and points out that Mr. Schiff and check the block for \$75,000. Mr. Schiff goes on to argue that income 75,000 on that form is not the same as the constitutional meaning of income.

At this point the government showed exhibit to radiate where Mr. Schiff and checked \$100,000 next income on a box. Mr. Schiff stated there was and the higher one.

Prosecution you don't want a sales tax to you?
Mr. Schiff I pay it

Prosecution: you don't want to pay Worker's Comp.
Mr. Schiff: I pay it

The government makes some statement as to Mr. Schiff's car being licensed in another state

Prosecution: your disclaimer in your book is basically saying every court rules against you
Mr. Schiff: show me a Supreme Court decision that says I'm wrong. I'm trying to uphold the law

Prosecution: Exhibit 225, the CRS report on page 4. Under the heading is federal income tax direct or indirect tax. It addresses your Bushaber argument doesn't it?

Missed some of the discussion, Irwin keeps saying, I believe.

Prosecution: Mr. Schiff, you keep saying, I believe
Mr. Schiff: yes because of if the jury believes, I believe, I have to be found not guilty

A government statement was made at this point in time, which was missed. Mr. Cristalli object and the government statement and requested a sidebar saying that it was an improper statement by the prosecution.

3 p.m. an afternoon break.

3:30 p.m. Court in session jury present

Prosecution: Mr. Schiff, I was asking you about saying I believe, is it not true that that's the advice you give your customers

Mr. Schiff: I don't know

Prosecution: didn't you give advice in series 1

Mr. Schiff: yes

Prosecution: so you're planning your defense years before your indictment
the reply was missed

Prosecution: you had a book called trial text me that include this I believe, don't you?

Mr. Schiff: yes

3:35 p.m. The Government Rests Its Cross-Examination of Mr. Schiff

Redirect by Irwin's standby counsel.

Question: the government claims you pick and choose what laws you follow, is that correct? Look at Exhibit 2001 and 15 Congressman Burton's letter and leads the line regarding to not being able to find a law

Mr. Schiff: the only relevant part of that letter is that sentence. The person who wrote the letter asked what law makes them liable. At 1040 says, you only have to pay if you're liable. The rest of the letter is designed to confuse the reader. The significance of the letter is there is no liability established.

Question: is there anything else relevant?

Mr. Schiff: there is in a statute in Internal Revenue Code that makes you liable

Question: look at John Ensign's letter

Mr. Schiff: reading from the letterquote. I cannot point to a specific place and the law that says you must pay income tax." The rest of this letter is smoke, (Mr. Schiff went on to explain that the courts are legally imposing, prosecution objection which was sustained. Mr. Schiff goes on to say that no law makes you liable, and if the judge says otherwise they are lying.

Question: referring to Mr. shares 2003 return. You attach the Ways and Means committee attachment, and you attached section 61 of the House report, which asked the definition of income in it.

Mr. Schiff stated you disagree with part of it comparing the 1939 versus the 1954 code, stating the government didn't want people to know, they change the meaning of income. Mr. Schiff compared section 22 of the 39 code section 61 of the 54 code. Mr. Schiff read the 1939 gross income definition explained it and then read the 54 definition of gross income, where wages and salaries were removed. Mr. Schiff stated they went from a statute that taxes specific things to taxing income. There was a significant change and the meaning of income.

Question: you were asked about your indictment and the 1985 case refers to Exhibit 339 the Newman decision. Did you win?

Mr. Schiff: yes, I won. And I won the appeal. The decision itself quotes me on the offer quote, if anybody calls the show and cites a section of the code that requires you to file "I'll pay \$100,000" the Newman decision stated six sections that required you to pay, the judge was trying to hit one, none of his assertions are correct.

At this point there was some discussion of the meaning shall versus may.

Mr. Schiff: the appellate court wanted to throw him a bone, none of the sections state anything about income tax

Question did the government introduced a case government versus long

Mr. Schiff: and the long case. Mr. Long filed a zero return, I didn't think of this, it was decided and the ninth Circuit Court in 1980, the zeros entered equal information, the IRS could make assessment from and that a return containing false numbers is still a return.

Question is it your understanding that long is still good, case law?

Mr. Schiff: yes as far as I know, I also cite a case in US versus Kimball on my return, And US Versus More. I believed what I was doing was lawful, and I think this court is bound by those two decisions.

Question is Nevada part of the Ninth Circuit?

Mr. Schiff: yes

Question cheeks was a Supreme Court decision January 1991

Mr. Schiff: SI cover that on page 365 of the Federal Mafia, Mr. cheek said he believed wages are not income. The prosecution objected to this being a misstatement of law, the judge sustained

Question: you are asked about the Brushaber and Pollock decisions. What is your understanding of those?

Mr. Schiff these are two of the most important cases, the first income tax is established in 1861, there was an government objection at this point the judge sustained. In 1894 or 1891 and income tax was passed. The Supreme Court overruled this income tax for lack of apportionment. All indirect taxes must be uniform, and all direct taxes must be apportioned. The Pollock decisions that income tax and personal property couldn't be taxed unless a portion. Therefore, it's unconstitutional, this brought about the 16th amendment.

Question: what is your understanding of the Brushaber decision?

Mr. Schiff: (Mr. Schiff explains the 16th amendment). In 1915, the Supreme Court said the 16th amendment didn't change the law. The whole purpose was to make it an excise tax, profit separated from its source. The government objected and the judge

sustained because Irwin was reading from the great income tax hoax. Irwin's counsel told him to put the book down and tell him, Mr. Schiff went on to explain.

Question: how many times have you been sued
Mr. Schiff: three times by lawyers

Question: how many times have you been to prison
Mr. Schiff: three times

Question: do you actually believe what you say?
Mr. Schiff: of course I do, I wrote books. I want to discuss tax court cases

Question: in Schiff versus Commissioner Exhibit 340, what do you agree with
Mr. Schiff: {Mr. Schiff went on to discuss deficiencies and total tax versus deficiencies, section 6501, section 61 and section 63. Tax court is not a court of law, all they can do is determine a deficiency, and it has no jurisdiction to do so. It was not a deficiency is the heart of the fraud. They have no authority. The government objected to this stating challenging authority of IRS and the judge sustained

Question: did an attorney represent you
Mr. Schiff: no

Question: is there anything else?
Mr. Schiff: yes, I want you asked me about the Second Circuit

Notes not clear

Question: do you agree with this and is it written up and the Journal of taxation
prosecution: objection here say
Mr. Schiff: I was charged with failing to file and pay
prosecution: objection
Judge Dawson: sustained

The judge said sanctions to separate times in this point and the trial. Mr. Schiff went on to read from that decision. The government objected stating this interpretation. Mr. Schiff argued with an attorney making objection judge warned him not to argue with attorneys making objections. The judge instructed the question to be repeated

Irwin's standby counsel asks Irwin what are your opinions of the holdings of this court, Mr. Schiff began talking. The judge cautioned him to answer the question and not narrate. Mr. Schiff stated, I disagree and filed a Cornell Novas and went on to explain.

Mr. Schiff standby counsel states that's all he has, Mr. Schiff says no nuances counsel to bring up his probation violation. And Mr. Schiff states, he was ask his own questions.

Question: your probation was violated?

Mr. Schiff: yes when I was to our three weeks away from finishing. But it wasn't my probation officer that violated me.

Question: did your probation officer know you filed tax returns

Mr. Schiff: yes improvise returns

Prosecution: objection. Irrelevant

Mr. Schiff they are relevant. I was violated because of them, Mr. Schiff goes on to say that all Judge Dorsey's rulings were lies

Prosecution objection

Mr. Bowers requests a sidebar

4:40 p.m. jury out

Mr. Bowers goes on to support earn when. The prosecution doesn't want transcripts and are discussed. Mr. Schiff states, there's multiple returns for some years. Mr. Schiff stated he won a lawyer and never got it. Mr. Schiff states. There was proof submitted this trial that they introduced, and that he'd been framed.

Judge Dawson rules and documents will be received and will be admitted, stating that Mr. Schiff's parole was violated and were not retrying the case. The jury is entitled to use that as notice of law.

Mr. Bowers asked for a sidebar, Observer left while sidebar still in progress.

Thursday, October 13, 2005

9:17 A.M. Court in Session Jury Not Present

Mr. Schiff addresses the judge about subpoenaing a witness. In regards to the Journal of taxation article. A Mr. Silverman apparently states in his article that. He also disagreed with Mr. Schiff's conviction. Mr. Schiff, once this article admitted and wants to address this on the stand. The prosecution had pointed out that Irwin disagreed with the verdict. The government objected to this witness in this witness testimony about Mr. Schiff's prior conviction, stating it was irrelevant. The government only brought about to show notice to Mr. Schiff. Judge Dawson ruled that that witness's testimony would be irrelevant.

9:24 a.m. Jury Brought in

Judge Dawson addresses in an apparent jury question of how long this case will last. Judge Dawson pulled the jurors as to who could not return on Friday, five jurors stated that they could not attend on Friday. All jurors state that they can return on Monday.

Mr. Schiff Retakes the Witness Stand

Judge Dawson, passes out proposed jury instructions to the attorneys.

Mr. Schiff standby counsel resumes questioning Mr. Schiff.

Question: do believe there is any law that makes you liable for income taxes?

Mr. Schiff: know I do not, and the government hasn't produced it

Question: do you believe the IRS has any authority to seize property?

Mr. Schiff: no

prosecution: objection

Mr. Schiff: aren't my beliefs important?

Judge: overruled

Question: do you believe the IRS has any authority to estimate your taxes?

Mr. Schiff: no. Only the Secretary of the treasury can, authority has not been delegated to the IRS and that delegation has never been published and the Federal Register

prosecution: objection, what is Mr. Schiff reading from?

Mr. Schiff: 1505 subtitle 44

Judge: it's a cut and paste I don't know what it is, it must be marked

Prosecution: objection, misstatement of the law

Judge: sustained, don't read unless it's marked

Mr. Schiff: all authority is given to the Secretary of the Treasury, this authority was never delegated to the IRS and was never published and the Federal Register, and the government hasn't produced it

prosecution: objection

Judge: sustained

Question: have you ever tried to conceal your assets?

Mr. Schiff: no, (Mr. Schiff explains), but I did try and put on assets, where IRS agents can't get them. IRS agents have no pocket commission

Prosecution: objection

Judge: sustained

Question: do you encourage people to break the law?

Mr. Schiff: no

Question: if you force anyone to file a zero return?

Mr. Schiff: no

Question: is there any statute that requires you to keep books and records?

Mr. Schiff: no there isn't and the prosecution won't show me it

Judge: the prosecution is not required to show you it

Question: what authority do you base your beliefs upon?

Mr. Schiff: the privacy act notice says, you only have to file for what you liable for. I can't find a liability. Nothing requires me to keep records or files. I also I also relied on Congressman Burton's and Senator ensign's letters. Both of them state. They can't find the law either.

9:30 a.m. Mr. Bowers and Mr. Cristalli deny having further questions for Mr. Schiff

At this point, the prosecution approaches to see what Irwin was reading from. In status in order from this court rejecting all these arguments. The judge rules to mark the exhibit is 2118. The prosecution states they're not going to move it into evidence. The prosecution states it's an order of Mr. whaler some type of refusal of due process hearing. The prosecution asked Mr. Schiff if he disagrees and he says yes. Prosecution states nothing further.

9:42 a.m.

Judge Dawson: step down, Sir

Mr. Schiff tells the judge he wants to add some cases. Mr. Cristalli states that Mr. Schiff can redirect. The judge rules there's no third redirect

9:45 A.M. New Witness Bradley Bean

Mr. Schiff questions Mr. Bean. Mr. Bean states that he is a General Electric's employee from Lynn, Massachusetts since 1985. He is assembler and a tester for oceangoing vessels. Mr. Bean states that in 1985 General Electric had 17,000 employees where he works. Now they have 2500 employees. The prosecution objected this stating irrelevant.

Mr. Bean on to testify that he saw Irwin's web site in 1999.

Mr. Schiff: did you see anything interesting on the web site?

Mr. Bean: that you claimed claimed. No one was made liable for income tax

Mr. Schiff: so what did you do?

Mr. Bean: I bought the Federal Mafia, the great income tax hoax, and a video, my wife and I watch the video.

Mr. Schiff: what was your reaction to the video?

Mr. Bean: disbelief

Mr. Schiff: what was unbelievable?

Mr. Bean: that the IRS did all these things

prosecution: objection, relevance

Judge: sustained, don't disregard prior rulings

Mr. Schiff: what did you do next?

Mr. Bean: I bought the IRS code to determine if your information is accurate

Prosecution objection relevancy

Judge: sustained

Mr. Schiff: what did you do next?

Judge: ask a specific question

Mr. Bean: after studying all this information in April 2000 I filed a completely illegal zero return. Attach to it and had 30 reasons why it was legal. It cannot be ruled frivolous

Mr. Schiff: what year?

Mr. Bean 1999

Mr. Schiff: what are the results?

Mr. Bean: one year later I got a frivolous letter and the letter stated he would get a penalty if he didn't file again

Mr. Schiff: did they address any of your arguments?

Mr. Bean: no, I requested that they tell me what was frivolous, via certified mail. The IRS didn't reply, and they hit me with frivolous penalties. They also rejected my CDP hearing. I went to the IRS and offered to pay the penalty and wrote the check and asked them to tell me what statute may be liable so that I can write it and the memo line of the check. Three IRS agents surrounded him and stated they didn't have an IRS codebook and the office to give them that information. I finally got a hearing over the IRS penalty

prosecution: objection, not tied

Judge: sustained

Mr. Bean: I claimed exempt on my W-4

Mr. Schiff: what makes you think you can do that?

Prosecution: objection, bolstering claim

Judge: sustained

Mr. Bean: General Electric honored my W-4 and the fall of 2000, the IRS told GE to disregard my W-4. I contacted you and bought the W-4 packet.

Mr. Schiff: what did you do with that information?

Mr. Bean: I sent an affidavit to General Electric and General Electric did not withhold taxes from my paycheck.

Mr. Schiff: are you satisfied with freedom book information

prosecution: objection

Judge: sustained

Mr. Cristalli and Mr. Bauer Have No Questions for Mr. Bean on Cross Examination

Prosecution Cross-Examination of Mr. Bean

Prosecution: you purchase information and talked with Mr. Schiff about no law requires you to pay income tax?

Mr. Bean: yes

Prosecution: did he tell you he's lost every time he's been to court?

Mr. Bean: to answer that question I'm aware, but he and tell me that

Mr. Schiff Redirect of Mr. Bean

Mr. Schiff: are you aware that I went to jail and that Social Security turned over all my money to the IRS?

Mr. Bean: yes

Mr. Schiff: did you make your own determinations in regards to the tax laws

Prosecution objection

Judge sustained

Witness Excused

Thursday, October 13, 2005, 10 a.m.

Mr. Schiff left the courtroom to get his next witness.

The prosecution states, the witness is limited to 404 a

The judge states, the proffer limits testimony to being a character witness

the witness takes the witness stand and request processed a sidebar

The court goes to sidebar at 10:02 a.m., the witness does not go

The sidebar ends at 10:10 a.m.

Judge Dawson states that the testimony will be limited.

The witness states, I believe there's more to this matter.

Judge Dawson states they are irrelevant. Mr. Schiff discussed them at sidebar

Mr. Cristalli asked for a proffer with the witness

Judge Dawson states. It was already done by Mr. Schiff.

The witness identifies herself as Noel Spade, she states that she is a lawyer practicing in criminal law and taxation law and that she has represented Mr. Schiff in civil cases. She testified that she met Mr. Schiff in 2001 at Bob Schultz seminar.

Mr. Schiff: have you developed an opinion as to my truth and honesty?

Ms. Spade: impeccable character and very honest

Cross examination of Ms. Spade

Mr. Cristalli and Mr. Bowers have nothing

Prosecution: you're familiar with Mr. Schiff's positions

Ms. Spade: yes

prosecution: but you cannot advocate them in court?

Ms. Spade: that's correct, because the feds can't find them accurate

10:12 A.M. Ms. Spade Excused from the Witness Stand

Mr. Schiff Rests

Morning break

10:35 a.m. Judge back in, Jury Not Present

Mr. Cristalli discusses proposed defense Exhibit 2500, which is Miss Nun's Internal Revenue Code book, he's unsure if it's in evidence or not.

The prosecution objects to its admittance, and wants a stipulation made to the jury.

Judge Dawson rules: "will let it end, but it doesn't go back to the jury unless they ask for it if they do will deal with that at that point. I don't want to send something back to the jury that invites them to research the law."

Mr. Cristalli discusses the Federal Mafia Internal Revenue Code and CDP 2508 that were identified by Mr. Schiff.

The government objects to the admittance of two notebooks of Miss Nun's. They were not tied and although Mr. Schiff identified them.

Judge Dawson rules: they will all be admitted under limited purpose to show that mission refuse them.

Thursday, October 13, 2005 10:48 a.m.

Mr. Cristalli: The Defense On Behalf Of Miss Nuen Arrests

Mr. Bowers discusses moving Mr. Cohen's income tax returns from the year 2001 2002 and 2003, which removed and the evidence.

Mr. Bowers discusses some number of an Exhibit 2810 a, which is an Internet copy of the 1040 booklet instructions, which will be accepted in place of 2810.

Mr. Bowers states that Mr. Cohen will not testify. Mr. Bowers discusses something about evidentiary evidence under 804 B3. The government states, this is creative but accurate.

Mr. Bowers moves for appellate issues and renews his motions for severance and mistrial and motions to suppress. Mr. Bowers moves to renew all these issues, and any and all motions.

Mr. Cristalli joins in Mr. Bowers motions and renews his rule 29 motion.

Mr. Schiff renews all his pretrial motions, jurisdictional issues, and states that he wants to object to the judge not letting him raise issues of law.

Judge: the government has met its burden for this case to go the jury. The court will instruct on the law.

Mr. Schiff: I believe I had the right to cross-examine on the law

Judge Dawson: I deny your motions Mr. Schiff

Mr. Schiff: I want to put in Cheek, Pollock and Merchants Loan.

Prosecution: objection, relevance, may be confusing to the jury. These are notice to lack of good faith

Judge Dawson: the Court agrees he rested. You would want to put and the entire Federal Register if I opened the door.

Judge Dawson rules: deny motion 29A, denies severance, the court is not and the changes rulings, the court finds reasonable evidence for the counts that remain

The prosecution asked the court to canvass defendants Miss Nuen and Mr. Cohen about testifying.

The judge in forms and questions Miss Nuen and Mr. Cohen about testifying, both defendants stipulate they do not want to testify.

The judge in forms a quart of his plan being that the jury will come in, they will be informed of the documents moved in to evidence. And they will it be excused for deliberation.

Thursday, October 13, 2005, 11:05 a.m. Jury Returns

Judge Dawson explains there some housekeeping matters and that exhibits were admitted into evidence. Defense Exhibit 2500 Miss Nun's Internal Revenue Code book, defense Exhibit 2501. Miss Nun's Federal Mafia, defense Exhibit 2503. Federal rules and

procedures, defense Exhibit 2508. Berts book CDP stuff, defense Exhibit 2526 Miss Nun's truth and taxation stuff. The judge goes on to explain that these exhibits were received for limited purpose to show used by the defendant.

Mr. Cristalli, the Defense Rests

Mr. Bowers explains the defense Exhibit 2801, 2002, 2003 are Mr. Colin's traditional tax returns prior to 1999 and that defense Exhibit 2810A is from the 1040 manual

Judge Dawson receives these exhibits into evidence

Mr. Bowers: The Defense on the Part of Mr. Cohen Rests

Prosecution: Your Honor, the government doesn't have a rebuttal

Judge Dawson informs the jury of what the process will be. Judge Dawson gives the jury the standard instructions about, not to discuss the case, not to talk to anybody about the case, and so for. Judge Dawson excuses the jury until 1:30 p.m.

Judge Dawson informs council, he will see them in chambers to discuss jury instructions, jury instructions will be given to the jury and then closing arguments will be heard. The lawyers were in chambers until roughly 1 p.m.

October 13, 2005 1:38 p.m. Court in Session Jury Not Present

Judge Dawson: you have received the courts proposed instructions

Prosecution: no objections, your honor

Mr. Cristalli objects to jury instruction number 22 on summary judgments

Mr. Bowers objects to the jury instructions being limited, although he has no suggestion for changes.

Mr. Schiff: objects to jury instruction number 21, Congress hasn't levied the power to lay the tax, section 63 doesn't define income, Mr. Schiff states he wants his use of the definition of income from the House reports. Gross income equals wages and salaries were removed from the code and it misleads the jury. Mr. Schiff goes on to argue that section 6201 and 6204. Don't make anyone liable for tax.

Mr. Schiff goes on to state that Congress is not given the authority to the IRS and the court is stating that they have that power.

Mr. Schiff objects to instruction number 22 because of states power has been delegated to local IRS agents, Mr. Schiff says that's not true

Mr. Schiff objects to jury instruction number 23, because it's states authority was given to the IRS to make a return. Mr. Schiff states, the IRS has no authority, if they'll show me I'll plead guilty

Judge Dawson: your objections have not been found valid in any court.

Mr. Schiff goes on to object to jury instruction number 27 stating Congress has not made the IRS an agency of the government.

Mr. Schiff objects to instruction number 40 if the government determines a deficiency it was due on the date the return was due

Judge Dawson: courts have rejected that argument move on

Mr. Schiff: I just want to get the record straight

Prosecution objection that was missed here

Mr. Schiff objects to jury instruction number 44, stating nothing allows IRS to permit an alleged bank deposit theory

Mr. Schiff objects, a jury instruction number 16. Something to do along the lines of with how Mr. Lauer was presented as an income tax computation expert.

Judge Dawson, points out that instruction number 38 asked the wrong years in it. It asked the years 1999, and it should be 1998

October 13, 2005 2 p.m. Judge Out short recess for redaction and copying of jury instructions

During this break, Mr. Schiff came to the witness gallery and stated these instructions are totally legal. And that the judges making up these instructions, and the IRS has no authority, it was never delegated to them. Mr. Schiff stated he asked the government for these documents and the government didn't produce them.

October 13, 2005 to 2:15 p.m. . Court in Session, Jury Present

Judge Dawson reads the jury instructions out loud

Jury Instruction No. 1

Members of the jury, now that you have heard all the evidence, it is my duty to instruct you on the law which applies in this case.

It is your duty to find the facts from all the evidence in the case. To those facts you must apply the law as I give it to you. You must follow the law as I gave it to you whether you agree with it or not. And you must not be influenced by any personal likes or dislikes, opinions, prejudices or sympathy. That means that you must decide the case solely on the evidence before you. You will recall that you took an oath promising to do so at the beginning of the case.

In following my instructions, you must follow all of them and not single out some and ignore others; they are all equally important. And you must not read into these instructions, or into anything I may have said or done, any suggestion as to what verdict you should return -- that is a matter entirely up to you.

The indictment is not evidence.

The law presumes a defendant to be innocent of crime. The law does not require a defendant to prove his innocence or produce any evidence at all, and no inference whatever may be drawn from the election of a defendant not to testify. The Government has the burden of proving him guilty beyond a reasonable doubt, and if it fails to do so you must acquit him.

The punishment provided by law for this crime is for the Court to decide. You may not consider punishment in deciding whether the Government has proved its case against the Defendant beyond a reasonable doubt.

Jury Instruction No. 2 + 4 & 8

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2
3 Proof beyond a reasonable doubt is proof that leaves you firmly convinced that the
4 Defendant is guilty. It is not required that the Government prove guilt beyond all possible doubt.

5
6 A reasonable doubt is a doubt based on reason and common sense and is not based
7 purely on speculation. It may arise from a careful and impartial consideration of all the evidence, or
8 from lack of evidence.

9
10 If after a careful and impartial consideration of all the evidence, you are not convinced
11 beyond a reasonable doubt that the Defendant is guilty, it is your duty to find the Defendant not
12 guilty. On the other hand, if after a careful and impartial consideration of all the evidence, you are
13 convinced beyond a reasonable doubt that the Defendant is guilty, it is your duty to find the
14 Defendant guilty. ✓

15
16 The evidence from which you are to decide what the facts are consists of: (1) the
17 sworn testimony of witnesses, both on direct and cross-examination, regardless of who called the
18 witnesses; (2) the exhibits which have been received into evidence; and (3) any facts to which all the
19 lawyers have agreed or stipulated.

20
21 (Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact,
22 such as testimony of an eyewitness. Circumstantial evidence is indirect evidence, that is, proof of a
23 chain of facts from which you could find that another fact exists, even though it has not been proved
24 directly. You are to consider both kinds of evidence. The law permits you to give equal weight to
25 both, but it is for you to decide how much weight to give to any evidence.

1 It is for you to decide whether a fact has been proved by circumstantial evidence. In
2 making that decision, you must consider all the evidence in the light of reason, common sense and
3 experience. — Nobody has to tell you a lot about the memories —

1 Jury Instruction No. 3

2
3 In reaching your verdict you may consider only the testimony and exhibits received
4 into evidence. Certain things are not evidence and you may not consider them in deciding what the
5 facts are. I will list them for you.

6
7 1. Arguments and statements by lawyers are not evidence. The lawyers are not
8 witnesses. What they have said in their opening statements or will say in their closing statements and
9 at other times is intended to help you interpret the evidence, but it is not evidence. If the facts as you
10 remember them differ from the way the lawyers have stated them, your memory of them controls.

11
12 2. Questions and objections by lawyers are not evidence. Attorneys have a duty to
13 their clients to object when they believe a question is improper under the rules of evidence. You
14 should not be influenced by the question, the objection or the Court's ruling on it.

15
16 3. Testimony that has been excluded or stricken, or that you have been instructed to
17 disregard, is not evidence and must not be considered. In addition some testimony and exhibits have
18 been received only for a limited purpose; where I have given a limiting instruction, you must follow
19 it.

20
21 4. Anything you may have seen or heard when the court was not in session is not
22 evidence. You are to decide the case solely on the evidence received at trial.

Jury Instructions No. 4

In deciding the facts in this case, you may have to decide which testimony to believe and which testimony not to believe. You may believe everything a witness says, or part of it, or none of it.

In considering the testimony of any witness, you may take into account:

1. the opportunity and ability of the witness to see or hear or know the things testified to;
2. the witness' memory;
3. the witness' manner while testifying;
- ✓ 4. the witness' interest in the outcome of the case and any bias or prejudice;
5. whether other evidence contradicted the witness' testimony;
6. the reasonableness of the witness' testimony in light of all the evidence; and
7. any other factors that bear on believability. no good witness testified about anything. Wotse - Talby - Sam Holland - Summary witness - Total of 40 votes

The weight of the evidence as to a fact does not necessarily depend on the number of witnesses who testify.

Jury Instruction No. 5

The defendants are on trial only for the crimes charged in the indictment, not for any other activities.

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Jury Instruction No. 6

A defendant in a criminal case has a constitutional right not to testify. No presumption of guilt may be raised, and no inference of any kind may be drawn, from the fact that Defendants Cynthia Neun and Lawrence Cohen did not testify.

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Jury Instruction No. 7

Defendant Irwin Schiff has testified. You should treat this testimony just as you would the testimony of any other witness.

1 Jury Instruction No. 8

2
3 You are here only to determine whether the defendants are guilty or not guilty of the
4 charges in the Indictment: Your determination must be made ~~only from the evidence in the case.~~
5 The defendants are not on trial for any conduct or offense not charged in the Indictment. You should
6 consider evidence about the acts, statements, and intentions of others, or evidence about other acts of
7 a defendant, only as they relate to a charge against that defendant.

1 Jury Instruction No. 9

2
3 Although the defendants are being tried together, you must give separate
4 consideration to each defendant. In doing so, you must determine which evidence in the case applies
5 to each defendant, disregarding any evidence admitted solely against some other defendants. The
6 fact that you may find one of the defendants guilty or not guilty should not control your verdict as to
7 any other defendants.

8
9 A separate crime is charged against one or more of the defendants in each count. The
10 charges have been joined for trial. You must decide the case of each defendant on each crime
11 charged against that defendant separately. Your verdict on any count as to any defendant should not
12 control your verdict on any other count or as to any other defendant.

13
14 All of the instructions apply to each defendant and to each count unless a specific
15 instruction states that it applies only to a specific defendant.

Jury Instruction No. 10

1
2
3 You have heard testimony that a defendant made a statement. It is for you to decide
4 (1) whether that defendant made the statement, and (2) if so, how much weight to give to it. In
5 making those decisions, you should consider all of the evidence about the statement, including the
6 circumstances under which that defendant may have made it.

Jury Instruction No. 11

1
2
3 You have heard of other crimes, acts, and/or wrongs engaged in by defendant Irwin
4 Schiff. You may consider that evidence only as it bears on that defendant's motives, opportunity,
5 intent, preparation, plan, knowledge, identity, absence of mistake, or absence of accident and for no
6 other purpose.

Jury Instruction No. 12

1
2
3 You have heard testimony from Jason Cardiff and Toni Mitchell, witnesses who have
4 received immunity. That testimony was given in exchange for a promise by the government that
5 their testimony will not be used in any criminal case against them.

6
7
8 In evaluating their testimony, you should consider the extent to which or whether their
9 testimony may have been influenced by the government's promise of immunity. In addition, you
10 should consider their testimony with greater caution than that of other witnesses.

Jury Instruction No. 13

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You have heard evidence of the character for truthfulness of defendant Irwin Schiff.
You may consider this evidence along with other evidence in deciding whether or not to believe that witness' testimony and how much weight to give it.

Jury Instruction No. 14

You have heard evidence that Jason Cardiff, a witness, lied under oath on prior occasions. You may consider this evidence, along with other pertinent evidence, in deciding whether or not to believe this witness and how much weight to give to the testimony of that witness.

Jury Instruction No. 15

You have heard testimony from IRS Special Agents Kay Irey and Doug McEwen who were involved in the government's investigation in this case. Law enforcement officials are not precluded from engaging in stealth and deception, such as the used of informants and undercover agents, in order to apprehend persons engaged in suspected or alleged criminal activities. Undercover agents and informants may properly make use of false names and appearances and may properly assume the roles of members in criminal organizations. The government may utilize a broad range of schemes and ploys to ferret out criminal activity.

Jury Instruction No. 16

During the trial you heard the testimony of Clint Lowder, who was described to you as the summary expert in the area of ~~is~~ tax computation.

If scientific, technical, or other specialized knowledge might assist the jury in understanding the evidence or in determining a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify and state an opinion concerning such matters.

Merely because an expert witness has expressed an opinion does not mean, however, that you must accept this opinion. The same as with any other witness, it is up to you to decide whether you believe this testimony and choose to rely upon it. Part of that decision will depend on your judgment about whether the witness's background or training and experience is sufficient for the witness to give the expert opinion that you heard. You must also decide whether the witness's opinions were based on sound reasons, judgment, and information.

Jury Instruction No. 17

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2
3 Certain charts and summaries have been received into evidence to illustrate facts
4 brought out in the testimony of some witnesses. Charts and summaries are only as good as the
5 underlying evidence that supports them. You should, therefore, give them only such weight as you
6 think the underlying evidence deserves.

Jury Instruction No. 18

A jury in a federal criminal case cannot convict unless it unanimously finds that the government has proved each element.

Jury Instruction No. 19

Congress has the authority and general power to levy taxes to require the filing of tax returns, reporting taxes and income.

The federal income tax is imposed in Section 1 of the Internal Revenue Code, on the taxable income of every individual. Taxable income is defined in Section 63 of the Internal Revenue Code as gross income less deductions. Gross income is defined in Section 61 of the Internal Revenue Code to mean all income from whatever source derived and includes wages and salaries. Every individual whose gross income exceeds specified amounts is required to file an income tax return pursuant to Section 6012 of the Internal Revenue Code. When a return is required, the person required to make such return is required without assessment or notice and demand of the Secretary of the Treasury, to pay such tax along with his or her return. These sections, working together, make an individual liable for income taxes.

The Internal Revenue Service is authorized by Congress to enforce and administer the internal revenue code. The Internal Revenue Service may assess taxes and may lawfully seize or levy property without court order in order to satisfy tax liabilities.

Jury Instruction No. 20

Relevant statutes and regulations provide that the Secretary has the power to collect taxes and that such power can be delegated to local IRS agents. Section 6301 provides that "[t]he Secretary shall collect the taxes imposed by the internal revenue laws." The actual task of collecting the taxes, however, has been delegated to local IRS directors. District directors in turn are authorized to redelegate the levy power to lower level officials such as collection officers. The delegation of authority down the chain of command, from the Secretary, to the Commissioner of Internal Revenue, to local IRS employees constitutes a valid delegation by the Secretary to the Commissioner, and a redelegation by the Commissioner to the delegated officers and employees.

Yuan J. J. J. Jury Instruction No. 21

In the absence of a tax return, the Commissioner of Internal Revenue is authorized to independently calculate the tax owed and to prepare a substitute return for the taxpayer. However, the Commissioner need not prepare a return for the taxpayer before determining the taxpayer's deficiency.

Jury Instruction No. 22

1
2
3 You have heard testimony that certain motions, cases and appeals had been resolved
4 by summary judgment. I will explain what this term means. Summary judgment may be granted if
5 the pleadings, depositions, answers to interrogatories, and admissions on file, together with
6 affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party
7 is entitled to a judgment as a matter of law. Summary judgment procedure is a proper method for
8 promptly disposing of cases in which there is no genuine issue as to any material fact or in which
9 only a question of law is involved. Once a court determines that there are no disputed material facts,
10 it is free to enter a summary judgment on the basis of a determination of the governing legal issues
11 and in doing so does not deprive the parties of the right to a jury trial. Summary judgment has the
12 same force and effect as any other judgment and may be appealed.

(Jury Instruction No. 23)

Title 18, United States Code, Section 371 provides, in part, that:

"If two or more persons conspire . . . to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy . . ." each shall be guilty of an offense against the United States.

yo

Jury Instruction No. 24

This is a criminal case brought by the United States. In Count One of the Indictment, defendants Irwin Schiff, Cynthia Neun, and Lawrence Cohen have been charged with conspiracy to defraud the United States by impeding, impairing, obstructing, and defeating the Internal Revenue Service in ascertaining, computing, assessing, and collecting taxes, in violation of 18 U.S.C. § 371.

Jury Instruction No. 25

The Internal Revenue Service of the Department of Treasury is an agency of the United States. Therefore, it is a violation of Title 18, United States Code, Section 371 to conspire to frustrate or obstruct the IRS in performing its lawful function of ascertaining, computing, assessing and collecting of federal income taxes due the United States.

Jury Instruction No. 26

In order for each defendant to be found guilty of the crime of conspiracy under Title 18, United States Code, Section 371, the government must prove each of the following elements beyond a reasonable doubt:

- (1) that beginning in approximately December 9, 1999, and ending on or about February 3, 2003, there was an agreement between two or more persons to defraud the United States by impairing and impeding the Internal Revenue Service in ascertainment, computation, assessment and collection of income taxes owed by others as charged in the Indictment;
- (2) Each defendant became a member of the conspiracy knowing of at least one of its objects and intending to help accomplish it;
- (3) One of the members of the conspiracy performed at least one overt act for the purpose of carrying out the conspiracy, with all of you agreeing on a particular overt act that you find was committed; and
- (4) The means employed to accomplish the purpose of the agreement were either dishonest or deceitful.

Jury Instruction No. 27

1
2
3 A conspiracy is a kind of criminal partnership—an agreement of two or more persons
4 to commit one or more crimes. The crime of conspiracy is the agreement to do something unlawful;
5 it does not matter whether the crime agreed upon was committed.

6
7 For a conspiracy to have existed, it is not necessary that the conspirators made a
8 formal agreement or that they agreed on every detail of the conspiracy. It is not enough, however,
9 that they simply met, discussed matters of common interest, acted in similar ways, or perhaps helped
0 one another. You must find that there was a plan to defraud the United States for the purpose of
1 impairing and impeding the IRS as alleged in the Indictment.

2
3 One becomes a member of a conspiracy by willfully participating in the unlawful plan
4 with the intent to advance or further some object or purpose of the conspiracy, even though the
5 person does not have full knowledge of all the details of the conspiracy. Furthermore, one who
6 willfully joins an existing conspiracy is as responsible for it as the originators. On the other hand,
7 one who has no knowledge of a conspiracy, but happens to act in a way which furthers some object
8 or purpose of the conspiracy, does not thereby become a conspirator. Similarly, a person does not
9 become a conspirator merely by associating with one or more persons who are conspirators, nor
10 merely by knowing that a conspiracy exists.

11
12 An overt act does not itself have to be unlawful. A lawful act may be an element of a
13 conspiracy if it was done for the purpose of carrying out the conspiracy. The government is not
14 required to prove that the defendant personally did one of the overt acts.

Jury Instruction No. 28

Each member of the conspiracy is responsible for the actions of the other conspirators performed during the course and in furtherance of the conspiracy. If one member of a conspiracy commits a crime in furtherance of a conspiracy, the other members have also, under the law, committed that crime.

Jury Instruction No. 29

You have heard testimony that the Defendant made statements or took some action. This evidence is admissible against that particular Defendant in proving or disproving the case against that particular Defendant. However, this evidence may have limited value against the other Defendants on trial. Admissions or statements made by someone outside of court may not be considered as evidence against another person who was not present and did not hear the statement or see any action being taken unless they are shown to have been members of a conspiracy.

Therefore, you must determine whether or not conspiracy existed and whether a Defendant was one of the members of the conspiracy when the statements were allegedly made or the actions allegedly taken. If you are satisfied that such is the case, then these statements or actions may be considered against other individuals whom you find to also be members of a conspiracy, even though the statements or acts have occurred in their absence or without their knowledge. However, you must be certain that these statements or actions were knowingly and willfully made and done during the course of and in furtherance of the conspiracy itself.

Jury Instruction No. 30

A conspiracy may continue for a long period of time and may include the performance of many transactions. It is not necessary that all members of the conspiracy join it at the same time, and one may become a member of a conspiracy without full knowledge of all the details of the unlawful scheme or the names, identities, or locations of all of the other members.

Even though a defendant did not directly conspire with other conspirators in the overall scheme, that defendant has, in effect, agreed to participate in the conspiracy if it is proved beyond a reasonable doubt that:

- (1) the defendant directly conspired with one or more conspirators to carry out at least one of the objects of the conspiracy,
- (2) the defendant knew or had reason to know that other conspirators were involved with those with whom the defendant directly conspired, and
- (3) the defendant had reason to believe that whatever benefits the defendant might get from the conspiracy were probably dependent upon the success of the entire venture.

It is no defense that a person's participation in the conspiracy was minor or for a short period of time.

Jury Instruction No. 31

The Indictment charges that offenses were committed "on or about" a certain date.

Although it is necessary for the government to prove beyond a reasonable doubt that the offense was committed on a date reasonably near the date alleged in the Indictment, it is not necessary for the government to prove that the offense was committed precisely on the date charged.

Jury Instruction No. 32

Title 26, United States Code, Section 7201 provides in part, that:

"Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall . . ." be guilty of an offense against the United States.

Jury Instruction No. 33

Count Seventeen of the Indictment charges Irwin Schiff with willfully attempting to evade and defeat the payment of approximately \$1,369,000 in income taxes, penalties, and interest due and owing for 1979-1985. In order for you to find Mr. Schiff guilty of that charge, you must find that a tax deficiency existed for those years, that Mr. Schiff willfully attempted to evade the taxes owed for those years, and that Mr. Schiff committed at least one affirmative act to evade the taxes owed.

Jury Instruction No. 34

As to Count 17, a tax due and owing may be ascertained in three ways: by the taxpayer reporting the amount of tax due and owing; by the IRS examining the taxpayer and assessing the tax; or if the taxpayer fails to file a return and the government can prove a tax deficiency the deficiency arises on the date the return was due.

In cases where the IRS examined the taxpayer and assessed the tax, a certificate of assessments and payments is "adequate evidence" of a tax liability.

Jury Instruction No. 35

As to Count 17, a failure to act is not an attempt to evade one's taxes. But any affirmative act, "the likely effect of which would be to mislead or to conceal" one's tax liability, is an attempt to evade taxes.

10 P *un. li. l. b. owed*

An affirmative "willful attempt" to evade or defeat income tax may be inferred from conduct such as keeping a double set of books, making false entries or alterations, or false invoices or documents, destruction of books or records, concealment of assets or covering up sources of income, handling of one's affairs to avoid making the records usual in transactions of the kind, and any other conduct the likely effect of which would be to mislead or to conceal.

Other examples of affirmative acts of evasion of payment of tax include placing assets in the name of others, causing debts to be paid through and in the name of others, using bank accounts in the names of others, transacting business in cash or cashier's checks, and paying other creditors instead of the government.

Jury Instruction No. 36

Title 26, United States Code, Section 7206(1) provides in part, that:

"Any person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter" shall be guilty of an offense against the United States.

Jury Instruction No. 37

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2
3 Defendant Irwin Schiff is charged in Counts 18-23 of the Indictment with filing false
4 federal income tax returns for 1997-2002 in violation of Section 7206(1) of Title 26 of the United
5 States Code. In order for defendant Schiff to be found guilty of violating 26 U.S.C. § 7206(1) the
6 government must prove each of the following elements beyond a reasonable doubt:

- 7
- 8 (1) that defendant made and signed a federal income tax return that he ~~knew~~
9 contained false information as to a material matter;
- 10
- 11 (2) the return contained a written declaration that it was being signed subject to
12 the penalties of perjury; and
- 13
- 14 (3) in filing the false tax return, the defendant acted ~~willfully~~ *in a willful*.

15

16 The false information was material if it had a natural tendency to influence or was
17 capable of influencing or affecting the ability of the Internal Revenue Service to audit or verify the
18 accuracy of the tax return or a related return.

Jury Instruction No. 38

1
2
3 To establish a substantial understatement of the tax on the income tax return of
4 Defendant Irwin Schiff for the years 1997, 1998, 1999, 2000, 2001, and 2002, the government has
5 relied upon proof by the so-called "bank deposits method" of determining income during a particular
6 period. This "bank deposits method," if done correctly, is an indirect or circumstantial way to
7 reliably determine income. The theory of this method of proof is that if a taxpayer is engaged in an
8 activity that produces income and if that taxpayer periodically deposits money in bank accounts
9 under the taxpayer's name, or under the taxpayer's control, it may be inferred, unless otherwise
0 explained, that these bank deposits represent taxable income. If there are expenditures of cash by the
1 taxpayer from funds not deposited in any bank and not from any non-taxable source, such as by gift
2 or from inheritance, it may be inferred, unless otherwise explained, that this cash represents
3 unreported income.

4
5 In this method of proof, a taxpayer's bank deposits for the tax year are totaled, with
6 adjustments made for funds in transit at the beginning and again at the end of that year. Any "non-
7 income" deposits are excluded from this total and income which has not been deposited is included
8 in the total. This procedure provides a gross income figure. Income tax is then calculated in the
9 usual way with legitimate credits and legitimate deductions taken into account. If the resulting figure
0 is greater than that which the taxpayer reported on his tax return for that year, then that taxpayer has
1 unreported income in that amount.

2
3 Because the "bank deposits method" of determining income involves a review of bank
4 deposits and cash expenditures during a taxable year, the government must establish with a
5 reasonable degree of certainty an accurate "cash on hand" figure for the beginning of the tax year in
6 question. The government is not required to prove an exact "cash on hand" figure, but must prove a

1 figure that is reasonably accurate. If, therefore, you do not find that the government has established
2 to a reasonable degree of certainty what the defendant's "cash on hand" was at the beginning of the
3 year 1997, 1998, 1999, 2000, 2001, or 2002, then you should find the defendant not guilty for that
4 year. If on the other hand, you find that the government has proven to a reasonable degree of
5 certainty what the defendant's "cash on hand" was at the beginning of the year 1997, 1998, 1999,
6 2000, 2001, or 2002, you must then proceed to decide whether the evidence in the case establishes
7 beyond a reasonable doubt that the bank deposits and non-deductible cash expenditures of Defendant
8 Irwin Schiff substantially exceeded the amount reported on his tax return for each year. If so, you
9 should then proceed to decide whether or not the government has proven, beyond a reasonable doubt,
10 that the defendant willfully made and subscribed false income tax returns as charged in Counts 18-23
11 of the indictment.

Jury Instruction No. 39

Title 26, United States Code, Section 7206(2) provides in part, that:

"Any person who willfully aids or assists in, or procures, counsels,
or advises the preparation or presentation under, or in connection with
any matter arising under, the internal revenue laws, of a return,
affidavit, claim, or other document, which is fraudulent or is false as to
any material matter, whether or not such falsity or fraud is with the
knowledge or consent of the person authorized or required to present
such return, affidavit, claim, or document" shall be guilty of an offense
against the United States.

Jury Instruction No. 40

1
2
3 Defendant Irwin Schiff is charged in Counts 2-6 of the Indictment with aiding or
4 advising the preparation of false income tax returns in violation of Section 7206(2) of Title 26 of the
5 United States Code. Defendant Cynthia Neun is also charged with aiding or advising the preparation
6 of false income tax returns in Counts 6-12 and 24-25. Defendant Lawrence Cohen is charged with
7 aiding or advising the preparation of false income tax returns in Counts 13-16 of the Indictment.

8
9 In order for a defendant to be found guilty of violating 26 U.S.C. §7206(2), the
10 government must prove each of the following elements beyond a reasonable doubt:

- 11
12 (1) the defendant willfully assisted or advised in the preparation of an income tax
13 return that was false;
14
15 (2) the return was false as to something necessary to a determination of whether
16 income tax was owed.

17
18 The government is not required to prove that the person who actually filed the tax
19 return knew that the return was false.

Jury Instruction No. 41

Title 26, United States Code, Section 7203 provides in part, that:

"Any person required . . . by law or regulation . . . to make a return . . .
who willfully fails to . . . make such return . . . at the time or times
required by law or regulation . . ." shall be guilty of an offense against
the United States.

Jury Instruction No. 42

The receipt of a specified amount of gross income during a calendar year determines whether a person must file a federal income tax return. All persons who earn gross income in excess of the minimum required under the law are "persons" or "taxpayers" required to file income tax returns and pay income tax under the Internal Revenue laws.

only if "income" receiving AGI.

Count 26 of the Indictment charges defendant Cynthia Neun with failure to file a tax return for the tax year 1999. A single individual was required to file a federal income tax return for 1999 on or before April 17, 2000, if she earned more than \$7050.

Count 27 of the Indictment charges defendant Cynthia Neun with failure to file a tax return for the tax year 2000. A single individual was required to file a federal income tax return for 2000 on or before April 16, 2001, if she earned more than \$7200.

Count 28 of the Indictment charges defendant Cynthia Neun with failure to file a tax return for the tax year 2001. A single individual was required to file a federal income tax return for 2001 on or before April 15, 2002, if she earned more than \$7450.

Count 29 of the Indictment charges defendant Cynthia Neun with failure to file a tax return for the tax year 2002. A single individual was required to file a federal income tax return for 2002 on or before April 15, 2003, if she earned more than \$7700.

Jury Instruction No. 43

The crime of willfully failing to file income tax returns under 26 U.S.C. § 7203 contains three elements that the Government must prove:

- (1) that the defendant was required to file a tax return; *if "liable"*
- (2) that he or she did not file a return at the time required by law; and
- (3) that the failure to file was willful.

Jury Instruction No. 44

1
2
3 A person is required to file a federal income tax return for any calendar year in which
4 he or she has gross income in excess of the filing requirement. Gross income means the total of all
5 income received before making any deductions allowed by law.

6
7 Gross income ^{*is defined*} includes the following: (1) Compensation for services, including fees,
8 commissions, and similar items; (2) Gross income derived from business; (3) Gains derived from
9 dealings in property; (4) Interest; (5) Rents; (6) Royalties; (7) Dividends; (8) Alimony and separate
10 maintenance payments; (9) Annuities; (10) Income from life insurance and endowment contracts;
11 (11) Pensions; (12) Income from discharge of indebtedness; (13) Distributive share of partnership
12 gross income; (14) Income in respect of a decedent; (15) Income from an interest in an estate or trust;
13 and (16) Income derived from illegal activities, including fraud, theft, or embezzlement. Gross
14 income does not include gifts.

Jury Instruction No. 45

1
2
3 In this case the Government relies upon the so-called "cash expenditures method" of
4 proving the Defendant Cynthia Neum had income in excess of the filing threshold. The theory of this
5 method of proof is that if a taxpayer's expenditures and disbursements for a particular taxable year,
6 together with any increase in net worth exceed the taxpayer's non-taxable receipts, which include
7 gifts, and available cash at the beginning of the year by an amount greater than the minimum filing
8 threshold, then the taxpayer had an obligation to file a tax return for that year.

9
10 The "cash expenditures method" necessarily involves not only the examination of the
11 Defendant's expenditures and disbursements during the taxable year, but also an examination of the
12 Defendant's "net worth" at the beginning and at the end of that year. A person's "net worth" at any
13 given date is the difference between such person's total assets and total liabilities on that date. It is
14 the difference between what one owns and what one owes (measuring the value of what one owns by
15 its cost rather than unrealized increases in market value).

16
17 If the evidence establishes beyond a reasonable doubt that the Defendant's net worth
18 increased during a taxable year, then you may infer that the Defendant had receipts of money or
19 property during that year; and if the evidence also establishes that those receipts cannot be accounted
20 for by non-taxable sources, then you may further infer that those receipts were taxable income to the
21 Defendant.

22
23 In addition to the matter of the Defendant's net worth, if the evidence establishes
24 beyond a reasonable doubt that the Defendant spent money during the year on living expenses, taxes
25 and other expenditures, which did not add to the Defendant's net worth at the end of the year, then
26 you may infer that those expenditures also came from funds received during the year, and, again, if

the evidence establishes that those receipts cannot be accounted for by non-taxable sources, then you may further infer that those funds were also taxable ~~income~~ to the Defendant.

Because the "expenditures method" of proving unreported income involves a comparison of the Defendant's net worth at the beginning of the year and the Defendant's net worth at the end of the year, the result cannot be accepted as correct unless the starting net worth is reasonably accurate. In that regard the proof need not show the exact value of all the assets owned by the Defendant at the starting point so long as it is established that the assets owned by the Defendant at that time were insufficient by themselves to account for the subsequent increases in the Defendant's net worth. So, if you should decide that the evidence does not establish with reasonable certainty what the Defendant's net worth was at the beginning of the year, you should find the Defendant not guilty.

In determining whether or not the claimed net worth of the Defendant at the starting point (or the beginning of the year) is reasonably accurate, you may consider whether Government agents sufficiently investigated all reasonable "leads" suggested to them by the Defendant, or which otherwise surfaced during the investigation, concerning the existence and value of other assets. If you should find that the Government's investigation has either failed to reasonably pursue, or to refute, plausible explanations advanced by the Defendant or which otherwise arose during the investigation concerning other assets the Defendant had at the beginning of the year (or other non-taxable sources of income the Defendant had during the year), then you should find the Defendant not guilty. Notice, however, that this duty to reasonably investigate applies only to suggestions or explanations made by the Defendant, or to reasonable leads that otherwise turn up; the Government is not required to investigate every conceivable asset or source of non-taxable funds.

If you decide the evidence in the case establishes beyond a reasonable doubt the maximum possible amount of the Defendant's net worth at the beginning of the tax year, and further establishes that any increase in the Defendant's net worth at the end of that year, together with non-deductible expenditures made during the year, did exceed the amount of income required to file a tax return, you should then proceed to decide whether the evidence also establishes beyond a reasonable doubt that such additional funds represented taxable income (that is, income from taxable sources) such that Defendant Neun willfully failed to file a tax return as charged in the Indictment.

Jury Instruction No. 46

The second element of the offense of failure to file is that the defendant failed to file an income tax return for each of the years charged in the Indictment.

If the minimum income threshold is met, the law provides that a return made on the basis of the calendar year shall be made on or before the 15th day of April, following the close of the calendar year, except that when April 15 falls on a Saturday, Sunday, or legal holiday, returns are due on the first day following April 15, which is not a Saturday, Sunday, or legal holiday.

Jury Instruction No. 47

With respect to the tax offenses charged in the Indictment, to act willfully means to act voluntarily and deliberately with the intention to violate a known legal duty.

Jury Instruction No. 48

1
2
3 Conduct is not willful if it is based upon accident, mistake, inadvertence or due to a
4 good faith misunderstanding as to the requirements of the law. Additionally, mere negligence, even
5 gross negligence is not sufficient to constitute willfulness under the law. A defendant does not
6 willfully violates the tax laws if he or she believes in good faith that he or she is acting within the
7 law, or that his or her actions comply with the law, even if he or she is incorrect. ~~A good faith belief~~
8 ~~is one which is honestly and genuinely held.~~ Therefore, if is defendant actually believed that what he
9 or she was doing was in accord with the tax statutes, he or she cannot be said to have the criminal
0 intent to willfully fail to file tax returns, assist or advise in the filing of false tax returns, or to evade
1 or defeat a tax. A belief need not be objectively reasonable to be held in good faith. The burden of
2 proof is not on the defendant to prove his or her good faith.

3
4 Neither a disagreement with the requirements of the law, nor a belief that the tax laws
5 are unconstitutional -- no matter how earnestly held -- constitutes a defense of good faith
6 misunderstanding or mistake. A disagreement with the Internal Revenue Code, or a belief that the
7 law should be other than what it is, no matter how earnestly believed, is not a defense and does not
8 negate willfulness. In other words, a good faith misunderstanding of the law may negate the
9 willfulness of the defendant's actions, but a good faith disagreement with the law will not. It is the
0 duty of all citizens to obey the law whether they agree with it or not.

1
2 In deciding whether a defendant had a good-faith belief, you are free to consider any
3 admissible evidence from any source showing that defendant was aware of their duty including
4 evidence showing their awareness of the relevant provisions of the Internal Revenue Code or
5 regulations, of court decisions rejecting or accepting their interpretation of the tax law, of

authoritative rulings of the Internal Revenue Service or of any contents of the personal income tax
return forms and accompanying instructions.

Jury Instruction No. 50

Title 42, United States Code, Section 408(a)(3) provides in part, that:

“Whoever at any time makes or causes to be made any false statement or representation of a material fact for use in determining rights to payment . . .” for Social Security Disability Benefits shall be guilty of an offense against the United States.

Jury Instruction No. 51

Defendant Cynthia Neun is charged in Count 32 of the Indictment with making a false statement and representation of a material fact for use in determining her right to payment for disability benefits under Title II of the Social Security Act. In order for defendant Neun to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

- (1) Cynthia Neun knowingly made or caused to be made
- (2) a false statement or representation of a material fact
- (3) to the Social Security Administration for use in determining her right to payment under Title II of the Social Security Act.

Jury Instruction No. 52

A statement is a representation of material fact if it has a natural tendency to influence, or be capable of influencing, the decision of the Social Security Administration. However, whether a statement is material does not depend on whether the Social Security Administration was actually deceived or whether the Social Security Administration's decision would have been different if the statement had not been made.

Jury Instruction No. 53

Title 18, United States Code, Section 641 provides in part, that:

"Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another . . . any record, voucher, money, or thing of value of the United States or of any department or agency thereof . . ." shall be guilty of an offense against the United States.

Jury Instruction No. 54

Defendant Cynthia Neun is charged in Count 33 of the Indictment with theft of government money in violation of Section 641 of Title 18 of the United States Code. In order for defendant Neun to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

- (1) that defendant Neun knowingly stole money with the intention of depriving the owner of the use or benefit of the money;
- (2) the money belonged to the United States; and
- (3) the value of the money was more than \$1,000.

October 13, 2005, 3 p.m.

Judge Dawson addresses the court in states that unless everyone will stipulate to only 30 minutes for their closing arguments, we won't have time to conclude today. Judge Dawson determines that there will not be enough time to finish today. Due to a juror having to leave by 4:30 p.m..

The government asked for more information to be added to jury instruction number 35 (or possibly instruction number 33). The prosecution proposes reading jury instruction number 33 again. The judge grants this request.

Mr. Schiff states he thinks there is double jeopardy here; he has already been prosecuted for 1980, 1981, 1982. Judge Dawson states. Your objection is late, objection noted.

Mr. Schiff asked whether he's being charged for 1980 1981 1982. For evading taxes stating double jeopardy

October 13, 2005 3:08 P.M. Judge Dawson Exits the Court through the Juror's Door

October 13, 2005 3:10 p.m. Judge Dawson Returns and Calls the Sidebar

October 13, 2005 3:13 p.m. Sidebar Is over

At this point, the prosecution calls another sidebar that begins at 3:13 p.m. and ends at 3:16 p.m.

October 13, 2005 3:16 P.M. Court Back in Session Jury Present

Judge Dawson rereads jury instruction number 33. Judge Dawson informs the jury its 315 and cannot complete closing arguments today. Court will return to session on 9 a.m. on Monday. Judge Dawson goes on to give the standard instructions to the juror about, not to liberating are discussing with the media, and not reading the newspaper, and more similar instruction.

Monday, October 17, 2005 Closing Arguments Begin

9:13 a.m. Court Is in Session, Judge Dawson present, Jury Not Present

The court addresses some housekeeping issues. The prosecution does not want Mr. Schiff to discuss exhibits not admitted. Mr. Cristalli states he wants to discuss Mr. Schiff's books. Judge Dawson rules that Mr. Schiff is not to refer to items not in evidence. Mr. Schiff continued to argue this point. Judge Dawson states, "That's it, that is the ruling, you can't comment because they're not in evidence."

Judge Dawson states he has received a motion from Mr. Schiff to recuse himself. Judge Dawson states this motion is without merit and is denied.

Mr. Schiff tells the court he wants transcripts of the trial to help with his closing argument. Judge Dawson states this is not possible.

Monday, October 17, 2005 9:17 a.m. Jury Present and the Courtroom

Judge Dawson explains to the jury about closing arguments.

The Prosecution Begins Closing Arguments.

The prosecution thinks the jury for their time and attention. This case is about three people exploiting the desire of people to not pay taxes. The defendants encourage people to follow their advice and to break the law. This was detrimental to the IRS and was detrimental to freedom book customers, and roughly cost the government \$2 billion. Freedom books is material is nonsense and the defendants know it's wrong. Freedom book sells books, tapes packets. The Federal Mafia is nonsense and is a wrong. Freedom books customers filed these schemes, which starts a chain reaction of negative events. Frivolous letters are sent out and the zero return is nonsense.

The prosecution discussed items being sold à la cart by freedom books and went on to state that a high profile individual got individualized attention, as did other big roller

clients. Freedom books had \$4.2 million in sales. The IRS got thousands of zero returns. These returns impeded and impair the IRS. The defendants always sold more stuff, no matter what the problems people had.

Count one of the indictment charges that the defendants were working together to sell products to impede the IRS. False returns are in overt action and are evidence of a conspiracy. This also goes to counts 2 through six.

Every CDP hearing and zero return was an overt act, and they committed hundreds if not thousands of them. Why did these defendants willfully violate a law? The defendants were willful and knew that they had a duty to file and pay taxes. Notice negates a good-faith belief. Jury instruction number 48 discusses a good-faith belief. The defendants knew their information was wrong, they can't claim a good-faith belief after being told many times they were wrong.

The prosecution discussed a cab driver that had filed a zero return, who subsequently got a frivolous letter, and then paid the tax. Now that's probably good faith.

The defendants were told many times, taxes are not optional. They will not listen. Mr. Schiff has had 30 years of notice, two prior convictions, which equal notice. He can't continue to hold his beliefs in good faith. In 1991, Judge Dorsey told Mr. Schiff is your return is not valid. Judge Dorsey stated, it's a gimmick to invade taxes and is not filed in good faith. Mr. Schiff's position on the long case is wrong. Mr. Schiff testified he disagrees with the law. Every time Mr. Schiff has been a court. He has lost. And the Newman case. The judge ruled Mr. Schiff's stance was blatant nonsense.

You heard testimony that the CRS report was seized from Mr. Schiff's office. And that Mr. Schiff disagrees with it. This is also notice. What the defendants are selling is flat out wrong. The defendants are trying to deceive clients in an attempt to try and sell more products. The defendants knew their twisted logic isn't right. Mr. Schiff knows his material will fail. Mr. Schiff's products never revealed the real law. Customers reported bad outcomes to all the defendants, which in turn gave the defendants opportunities to sell more products. Dr. Dentice was convicted in 1988 and this was notice as to the scheme being illegal.

41 K Cal is a walking billboard for Mr. Schiff. He got lucky; the IRS rejects his zero returns now. (This gentleman received a \$41,000 refund from the IRS. Apparently after filing a zero return.)

Mr. Schiff disagrees with the law and disagreement is not good faith. Mr. Schiff statements of I believe throughout the trial were not a coincidence. This was intentional and willful.

Mr. Cullen got a frivolous letter before working at freedom books. He sold stuff he knew didn't work. Exhibit 94 played a clip of an IRS meeting agent meeting with Mr. Cohen.

Mr. Cohen prepared a tax return for her, knowing that she was going to get a frivolous letter. This tape shows Mr. Cullen's understanding of how stuff works. Mr. Cardiff paid Mr. Cohen, \$2000 for returns prepared by Mr. Cohen. Mr. Cardiff lied to the IRS and he lied under oath. He is not a Boy Scout, but his testimony was verified, give it weight.

The prosecution went on to discuss the Whaler decision, and that all three defendants are aware of the law, and they disagree with it. Notice negates good faith. The prosecution goes on to discuss a desk book used in freedom books that instructs employees to sell freedom books products, and it is a and Miss Nuens handwriting.

Miss Nuen talked with an undercover IRS agent. Miss Nuen told the agent to go on an offensive against the IRS; during this conversation she calls the IRS corrupt and evil. The prosecution played a part of an audio Exhibit 110. Miss Nuen discusses being and the IRS's face many times a week. Stating, show us the law. Miss Nuen hasn't filed since 1987. She doesn't want to see the law. Miss Nuen had a book full of power of attorneys for clients she represented in CDP hearing. She was shown the law. An audiotape of Exhibit 153 was played. The IRS states "Section 1 Title 26 imposes a tax, which is the same instruction the judge has given. However, this section is not tabbed into the IRS codebook sold by freedom books.

The IRS explained the law to Miss Nuen 30 or 40 times, if not more. Miss Nuen never won a CDP hearing. How many times did she need to hear the law? Counts two through four of the indictment charged Mr. Schiff with helping Dr. Dentise filing a zero income tax return. Mr. Schiff knew that Dr. Dentise had earned income. All of freedom books, customers had income, but the defendants filled out zero returns.

Mr. Schiff, hid money to prevent the IRS from collecting \$2 million. Mr. Schiff doesn't want to pay the taxes, he asked the money but doesn't want to pay. Mr. Schiff hasn't paid one dime in taxes in 30 years. The IRS had to go to lean and levies. The Simon & Schuster decision was notice to Mr. Schiff.

Mr. Schiff's transactions in cash, his use of a warehouse bank, his pill account in Belize, and his car being licensed in another state. In someone else's name is an affirmative act of tax evasion. The prosecution went on to give more examples, including that Mr. Schiff had cash sent from where his freedom books office used to be in Indiana. Mr. Schiff use cash for payroll. Mr. Schiff sent cashiers checks to Belize, which is evidence of bad faith. Mr. Schiff had a hidden bank account at the Christian fund. The prosecution went on to talk about Mr. Schiff's car. Mr. Schiff has admitted all these things on the stand and Mr. Schiff knew that his zero returns were false.

At this point, the prosecution goes on to discuss the bank deposit method. This method used by the IRS comes up with business income. Look at Exhibit 313 and the jury room. Agent Lowder gave Mr. Schiff, the benefit of the doubt when compiling this data. Evidence shows corroboration between sales and deposits. We know his business income was more than zero. And the years 2001 and 2002 tax returns filed by Cindy for Irwin were known to be false. This is willful conduct, not a mistake.

In regards to counts 26 through 29, and the Social Security counts. You must question whether Cindy worked at freedom books. She was paid in cash. She still wanted to collect Social Security, and she wanted to hide income from the IRS. The prosecution displayed in exhibit, which was a handwritten note to Cindy's landlord, in which she stated she was working at freedom books. A witness testified Miss Nuen was handed envelopes at freedom books, but that witness didn't know what was then it. Cindy wanted to be the freedom books, office manager. The prosecution shows a exhibit from Staples were Cindy says she is the manager of freedom books of.

Miss Nuen had no bank account. She was able to sign on freedom books bank accounts.

No payroll evidence was obtained. The IRS used the expenditure method to calculate Cindy's income. But this does not include soft expenditures. Miss Nuen made enough money that she had to file an income tax return. She hasn't filed since 1987. She didn't notify Social Security, although she got a form and filled it out. Social Security called, and Miss Nuen lied to them. She stated she didn't work there are help people.

This is ultimately about all three defendants, who knew the law but ignored it to sell products. Their good-faith belief has been negated. There is no reasonable doubt. Find him guilty.

Monday, October 17, 2005 10:10 a.m. The Prosecution Rests Its Case

October 17, 2005 10:15 a.m. Mr. Cristalli, we get his closing arguments on behalf of Miss Nuen

(Missed a bit of the proceedings)

Mr. Cristalli states conduct is not willful if its based on good faith believes. Even if the defendants are wrong. They cannot have criminal intent. The burden is not on the defendants to prove good faith. It's a subjective reasonable belief; its Miss Nuens believes not yours. The government has been next pounding upon that, if they disagree with the law. They're wrong. Cindy always said, show me the law, and she looked at nauseam for it. But the law is not in question here. The judge told us what the law is, it's Cindy's subjective belief of what the law is.

Cindy believes Irwin's teachings that the government has no law that requires you to pay tax. City prescribed to Irwin's believes after doing her own homework.

(Throughout Mr. Cristalli's presentation he had many overheads. In regards to Cindy's believes.)

Let's look at the evidence towards her believes.

Tony Mitchell says she saw Cindy get an envelope. This doesn't corroborate Michelle Degrosslear's Testimony. (Apparently nobody testified what was in envelope but prosecution contends it was a payment to Cindy for work at freedom books.)

Cindy believed and still does. Tony Mitchell testified that Cindy was disabled. A government has provided no evidence that she wasn't. You cannot speculate, did they prove beyond a reasonable doubt.

Overhead Ann Kennedy whose husband filed a zero return. Cindy believe what she was doing was legal. Cindy believed that's reasonable doubt

Overhead M Lewis testified that he believed what he was doing was legal. Cindy believed that's reasonable doubt. (sued employer Cindy didn't help)

Overhead, William Thompson testified that Irwin believes of all his information is correct. With all his heart and soul. He also testified he never saw Cindy get paid.

Overhead, Doug McEwen (apparently an undercover IRS agent), testified that Cindy was helpful and cooperative to him, but she encouraged him to do research and learn the law. Cindy encouraged them to contact Congress. All of the witnesses testified Cindy believes there is no law.

On December 17, 2002. Cindy met with Mr. McEwen and discusses deficiencies. She did not charge him for this. Agent McEwan testified she was honest and forthright.

Overhead, Michelle Degrosslear (Miss Nuens daughter)

This is a very unfortunate circumstances that the mother against the daughter. Mr. Degrosslear received immunity for testimony for the government, and she wanted the government to fix a warrant and give her a \$7,000 refund. Miss Degrosslear stated she wouldn't testify sober if her warrant was not fixed. She's a junkie, who uses marijuana and methamphetamine. She's accused of stealing \$50,000 from freedom books. She was the one handling the money of freedom books. Don't believe her testimony. The charges and the indictment or for the years 2000 to 2003. This time. It is after Miss Degrosslear left freedom books. Did the government prove to you beyond a reasonable doubt? Your job is to stick to the evidence don't infer.

Overhead, Matt Diamond testified that he was a bailiff and the District of Columbia, and that he was a police officer from New York, who is retired. He has seen conmen. Mr. diamond testified that he continuously asked for verification of the delegation of authority from the secretary of the treasury. He has never got. He has never got notice.

Overhead, Jackie Eller testified she never believed anything she did was illegal. She stated that she just couldn't do it anymore. This path is not for the week hearted. Books suggest this.

Overhead, Carol Brannigan testified that she believed when she was doing is legal, and that freedom books information is legal. She also testified she did not see Sandy get compensated for her work at freedom books. She also testified she never heard any complaints while at freedom books. Only Michelle Degrosslear testified Cindy got compensated.

Overhead, Dr. F. Abdullah testified that he did not believe anything he was doing was illegal. Neither did Cindy

Overhead, Charles Ernest testified that he did not believe what he was doing was a legal. He also testified he didn't see Cindy do anything illegal. He also testified that he doesn't want to follow the information anymore, because he doesn't want to be prosecuted.

Overhead, Jason Cardiff, in her testimony from Jason Cardiff, who apparently defraud the government on over making \$200,000 a year. He received immunity from the government for his testimony. You heard testimony that he lied.

Overhead, Brian Allen testified that he makes between \$600,000 and \$700,000 a year. He testified that he believes that the defendants believe.

Overhead, Gregory Cassidy he believed, Cindy believed. Every witness has said, they all believe that the defendants believe. The government hasn't proved they don't believe.

Overhead, Susan Gorech (sp) testified that Cindy is poor. And that Irwin was living with her.

Overhead, Thomas Menaugh testified that he's in appeal officer, not a lawyer. CDP hearing is to prevent deprivation of property without due process. CDP hearing is not a hearing and liability.

Overhead, Matt Diamond testified that he didn't get answers to his questions and CDP hearings.

Overhead, Donna Fisher, who was a retired IRS agent, testified. There were no transcripts of Cindy being put on notice.

Overhead, William Waller testified that he did not believe he was doing anything illegal, nor was Cindy. Mr. Waller did his own research, and he still believes.

Overhead, Kay Irely an undercover IRS agent testified that Cindy spoke about the regulations and the history of taxes. Cindy never asked the agent for money. Cindy talked at nausea about IRS due process violations.

Overhead, Tony Aquin (sp) testified he was an IRS officer. A collection due process hearing is not a liability hearing. I have transcripts of five of the hearings. They never showed Cindy the law

Prosecution: objection not in evidence

Judge Dawson: sustained

Mr. Cristalli rephrased.

Overhead, Kathy Mead from the Social Security Administration testified the only evidence used against Cindy was testimony from Michelle Degrosslear. Disability income is not reportable.

Overhead, Gayle Loschen testified she's a Social Security technical office, who stated Cindy did discos work at freedom books and discussed or disability, in a letter to the Social Security Administration. Mr. Cristalli read from this letter. The government claims that Cindy lie's. There are no lives in that letter. She told them about her work and Cindy did not profit from it. This is reasonable doubt.

At this point, Mr. Cristalli gave a hypothetical about a girlfriend receiving gifts. Gifts and expenses are not reportable.

Overhead, Miss Nuens letter to the Supreme Court. Miss Nuens in a letter to the United States Supreme Court on her own letterhead not letterhead from freedom books. Miss. Asked the court to grant cert in Brown vs the U.S. Mr. Cristalli reads from this letter. Cindy asked the court to define the law; this was not a challenge to the law that the government must lead you to believe. Cindy believes, that's reasonable doubt, you must acquit.

Overhead, Jerry Brookings testified he believes in freedom books information, and that he could not find the law that makes them liable.

Overhead Clint Louder, testified that he is the IRS agent that did the government's calculations of Miss Nuens expenses. The only witness who testified Cindy got paid was Michelle Degrosslear. Michelle left freedom books in April of 2000. The indictment covers the years 2000 to 2003. You cannot infer or speculate. There is no hard evidence. Disregard, no cash calculations. There is no guessing here, don't speculate, her life is on the line. Agent Lowder's calculations show's bills Cindy paid. The government wants you to believe that this is income. Mr. Schiff paid her expenses. The government has not established what was income, versus what was the gratuity.

Overhead, Glen Murphy testified that he believes Irwin's materials. Nothing in Irwin's teachings is nonsense. He testified that he tried to get information from the IRS. He went to a small IRS office; they said they did have answers there. He went to a big IRS

office. They said they then have answers there. He called a tax lawyer, who hung up on him. He believed and Cindy believes.

Overhead, Ken Nicholson testified the congressman couldn't state the law and that freedom books teachings. And his own research led him to believe his conclusions were correct. He believed, so does Cindy.

Overhead, Calvin border, testified there is no law that makes them liable for income tax. He testified that he files exempt, and that everyone believes Irwin's teachings.

Overhead, Irwin Schiff, you heard Mr. Schiff testified she's disabled, and that Irwin was the founder of this movement. Mr. Schiff testified. He's been doing this for 30 years before Cindy met him. Cindy admired him; she's 26 years younger than him. She became a student. You're Mr. Schiff testified there is no law. One's a mistake, and one is a challenge to the law. A mistake is not criminal. There is no direct evidence of Cindy being compensated for going to CDP hearings. Cindy believed they have not proven their case.

Overhead, Robert Schultz testified that Irwin is the elder statesman of the tax honesty movement. He is truthful and honest and has extraordinary credentials. If this man believed why shouldn't Cindy.

Overhead (missed this one) former IRS agent. He believed why shouldn't Cindy

Overhead, Robert Brown testified that he appealed an adverse decision that was filed by Irwin at no charge to him. The government claims, the defendants were profiteering.

Overhead, Robert Weasley testified he was a parole officer, and he believes why shouldn't Cindy, Noel Spade an attorney testified she believes. Why shouldn't Cindy, all of the witnesses testified Cindy did make money. It was about her believes.

The next overhead had many names on it in a diagram form that establishes Cindy's believe.

The evidence established, Cindy believed Irwin and didn't believe she violated the law. You must find her not guilty.

11:20 A.M. Mr. Cristalli Rests on the Behalf of Miss Nuen.

Court in recess for a five-minute break

11:30 A.M. Judge Dawson Present Court in Session

The prosecution objects to Mr. Schiff, having copies of his books on the defense table. Judge Dawson states he's instructed Mr. Schiff, not to discuss evidence not admitted.

Mr. Schiff: I can't talk about my books?

Judge Dawson: if it's not admitted it's not appropriate.

11:35 a.m. Jury Present Mr. Schiff's Closing Argument

Mr. Schiff, thanks the jury for their time and attention stating outcome of this case affects me and you. For 50 years we been duped into paying a tax no law requires us to pay. In my opening statements. I told you, the IRS has no authority, and there is no lawmaking be liable for income taxes. Six government witnesses and mine testify, they couldn't find a law for liability. I sell the Internal Revenue Code, I can find the law for liability. In regards to alcohol, liability for gambling taxes. Income taxes is not even listed and the index of the Internal Revenue Code. I can find no law that requires me to keep books and records. But there is for alcohol.

The government says they disagree with the law. I don't. I sell the law, one day, the IRS may start following the law. And you have the power to force them to do it. The IRS is not mentioned and the Internal Revenue Code. I offered if they would show me where the IRS was and the code I would plead guilty. You would have thought they would have stopped and showed it to me.

The government says losing a court decision means I'm wrong,(Mr. Schiff makes comments in regards to Mandela and I believe Galileo). I'm not wrong. Especially when you're trying to expose the government's illegal collection of taxes. How do we know it's illegal, look at John Ensign's letter. It's a Credit to John Ensign. "I can point to no specific place and the law that requires you to pay." Courts have determined you have to pay. Apparently judges can find laws others cannot. Many witnesses testified that they can't find the law, and neither can I.

The government keeps saying they gave me notice. Look at the 1040 booklet, how do you know, you have to pay? The privacy act notice states, you must file for a tax you are liable for. They don't tell you what law may see liable. Right here, the government saves use of time, and they say statute 6001, 6011, and 6012 are the statutes you should refer to. When you go to the jury room look at those sections, only those sections can apply. Otherwise the government is duty-bound to tell you.

Mr. Schiff refers to Dan Burton, section 6001 does not make a liable, and section 6011 says any person made liable. Yet no section makes you liable. The CRS report says being liable is not important. The government says Section 1, Section 61, and section 6151 make you liable. That's because they can't find it either.

This is how devious, the government is. The government doesn't collect taxes. They extort them. And the 1040 booklet. It states, you must file for any tax, you are liable for. Why do they use any? Because they can't state the law. The government can't show you the law.

Prosecution: objection Mr. Schiff is trying to give a seminar

Judge Dawson: sustained don't argue the law
Mr. Schiff: the government didn't show me the law here
prosecution: objection
Judge Dawson: sustained
Mr. Schiff: the government states cases, I lost and the judge made me write out all my questions. And the second District case in 1995, when I was supposedly convicted for income tax evasion. It's covered in jury instruction number 18, the government must prove each element. When you're and the jury room look at the Federal Mafia page 227.
Prosecution: objection trying to relitigate
Judge: do not relitigate
Mr. Schiff: the government brought up the case in which I was illegally convicted
Judge: sustained irrelevant

(Mr. Schiff continued to argue at this point, Judge Dawson, impose sanctions on Mr. Schiff)

Mr. Schiff: how many days is that now?
Judge: sanctions again
Mr. Schiff: I got 20 years, I guess
Judge : you will respect rulings of this court
Mr. Schiff: tax trials cause real problems for federal judges
prosecution: objection
Judge: sustained
I ask government witnesses about Tax Court. Do you believe any judge would hold there is no law that requires you to pay income tax. They answered no. Noel Spade an attorney stated that no court would hold my arguments valid. When the government says I have to believe I must be wrong. Just because I've lost trials. I want to refer you to page 96 of the Federal Mafia.

There's a short delay. Judge Dawson tells Mr. Schiff to move on and to not testify.

I asked the government, what law may be liable. Mr. Schiff reads from the Federal Mafia. In summary, you lost your case. There must be a law that makes you liable.

I don't believe the government. It's true I had money overseas, because the IRS has no authority. The judge would not allow me to ask government witnesses about IRS seizure laws.

Prosecution: objection arguing court procedure
Judge: sustained

Mr. Schiff goes on to discuss Simon & Schuster.

How anybody can stop paying income taxes sold 200,000. Simon & Schuster was supposed to keep my money in an escrow account. Simon & Schuster paid the IRS without a court order. I sued Simon & Schuster for breach of contract. The judge awarded them a summary judgment, I didn't get in front of a jury or I wouldn't have lost.

Simon & Schuster breached the contract. I appealed to the Second Circuit. Its on page 148. The judge stated the Internal Revenue Code requires a levy in compliance with it.. there is no justice in civil court, I've never got in front of a jury.

The government wants you to believe my students don't like me, but they testified otherwise. It's no secret I've been to jail, and that there's dangers in standing up in front of a biased court. Freedom entails risk. If you're not going to wrist something for freedom. It's worth nothing.

Mr. Schiff quotes Thomas Jefferson. In regards to binding the government up in chains. The Constitution limits the government's taxing powers.

Prosecution: objection not addressing evidence
Judge: sustained, I've sustained don't argue move on

We must force the government to follow Nevada's Constitution. People should be free to publish, I have a right. The government believes I should be a robot and say yes or no sir, and do and believe everything they say. America is no longer the home of the free and the brave, it's the home of the indentured and meek.

Jury instruction number two says, you have to have proof beyond a reasonable doubt. This must be based upon common sense not speculation. If you're not convinced we must be found not guilty.

Did the government put on one witness to testify that anything in my books is false? I questioned age in Holland about my income tax returns. He didn't point to anything in my return is false. In order for me to be found guilty. They have to prove that I had a duty. Does anybody believe I thought I had a duty? Agent Holland testified he never called in to my radio show. They say it's due to some regulation. They had an obligation to stop me from misleading the public. Mr. Holland heard me call the IRS. Doesn't it offend your common sense that no one called in.

I asked agent Holland about whether the government calls income tax voluntary. He replied yes. I asked if income tax is compulsory. He said no. Look and the Federal Mafia, it's voluntary, and the government says it's voluntary. Look at page 13. The IRS mission statement says, compliance is voluntary.

Mr. Schiff: when I got out of the military
prosecution: objection not in evidence
Judge: sustained

What's the confusion here. The government says they don't have enough people to run around to making file.

Mr. Schiff goes on to give examples. In regards to drug laws versus voluntary compliance. The government objects to this stating. He's going down a road not charged. The judge sustained.

Chapter 2 of the Federal Mafia gives you some reasons. The Supreme Court ruled income taxes unconstitutional and that all direct taxes must be apportioned.

Prosecution: he's going to miss state the law
Judge: the court has stated the law

Your decision must be based on common sense, you know right from wrong. Look at Judge Dawson's jury instruction number four, does the US attorney or the judge have any biases?

Prosecution: objection
Judge: sustained

Mr. Schiff holds up Jerry Brookings Internal Revenue Code book.

Prosecution: objection not in evidence
Judge: sustained I've told you

Mr. Schiff continues to argue and the judge states he's holding up a copy that is not in evidence, the judge chastised Mr. Schiff and told them not to use stuff not in evidence.

You have heard my witnesses being mirandized, and they take risks by testifying

Prosecution: objection not presented to jury Judge: sustained

(I believe a few of Mr. Schiff's witness were faradized before the jury was brought in.)

Government witnesses got immunity. My witnesses did not get immunity, and they took a risk to come here and tell you the truth that they can't find the law, and they don't pay. Government witnesses didn't take any risks when they told you stuff that was untrue. Does the government have a motive to mislead you? They make a living from it.

Look at jury instruction number 27 about conspiracy. There is no conspiracy. My employees did what I said, the government is making up the conspiracy. I fired employees for not following my directions. I asked my employees if they believe they were breaking the law all of them said no. I asked Carolyn Tony, if they believe my believes. And they said yes. I am a threat to the whole income tax system. Congress is looking to replace

Prosecution: objection Judge: sustained

When on the stand, I asked them to show me anything false on my returns, they didn't do it.

Prosecution: objection. Not sure that's correct Judge: sustained

I believe income as a corporate profit. Mr. Schiff referred to the merchant's case. And the House report. I don't believe income and the normal sense is taxable. It's not what I should have are what the court told me to believe. It's what I believed.

To lie on a tax return is fraud, and you would hide it. I wrote books and had a radio show. How many people believe, I believe I owe income tax? Agent louder added up deposits, but that doesn't prove income.

Prosecution: objection judge: sustained

I believe, income is a corporate profit, according to multiple Supreme Court cases.

Look at jury instruction 39 (something to do with fraud) the IRS says zero returns are frivolous, not fraudulent. I believe Robert Brown was entitled to a refund. We lost, but the court didn't say, we were doing anything illegal. We appeal to the Second Circuit Court, we appealed to the Supreme Court, and they refuse to hear the case.

(There was an objection by the prosecution in here somewhere and the judge sustained)

Jury instruction 15. You've heard IRS undercover agents who may use stealth and deception. There was an IRS agent present at a two-day seminar and put on. The government didn't play the tape.

Prosecution: objection, not in evidence (ruling not heard)

Mr. Schiff argues that he could address evidence, the judge must have overruled because Irwin stated "hey I got one" I can talk about lack of evidence. They went and taped it and the government didn't play at.

Prosecution: objection rules of evidence

Mr. Schiff: the jury can consider

Judge: sustained

I did a tape, a video

prosecution: objection not in evidence

Judge: sustained

Take into consideration, number four, what prejudice didn't witnesses have. The government's witnesses had motive to not tell the truth.

Instruction number 27. There is no conspiracy, Larry and Cindy took orders. We didn't interfere with the IRS, is there is not a statute and you will see and the book. If the government hasn't proved any element to you, you must dismiss. The government hasn't proved anything. The government hasn't proved anything I've said is false. And there's been no testimony that its false.

The CRS report says income is an excise tax. (Mr. Schiff explains) the income tax is not impose that way, that's why it's voluntary.

Instruction 39 false or fraudulent documents. There are two things here, must be false, and I must know it's fall. Seven are eight witnesses say I'm honest and a man of integrity.

Mr. Schiff goes on to discuss the difference between the 1939 and in 1954 code and that the government is enforcing the 1939 code. Items were removed and the 1954 code

Instruction number 48. One doesn't willfully violate the law if there is a good-faith belief. What I sell the law, if I believed I violated the law? I believe I'm not incorrect and if you believe, I believe finding not guilty. If you believe I'm a liar and a swindler find the guilty.

I've sold over 500,000 books, don't you think people would have seen through the con? Look how the IRS has treated them.

Mr. Schiff discusses his good-faith belief. I've done more research on income tax than any federal judge. The government asked the burden of proof to say, I don't believe what I believe. No witness testified, I don't believe. They wouldn't dare put one on.

Prosecution: objection Judge: sustained

Mr. Schiff states, some jury instruction should be there.

I don't have any disagreement with the law. I like the law just the way it is. I wouldn't change a thing. I have no income tax liability. The IRS has no right to seize property, and they take it without a court order. I don't disagree with the law. Cindy used to say the law is our friend.

Prosecution: objection, not in evidence judge: sustained

I can find no Supreme Court case, Brushaber says 16th amendment

prosecution: objection judge sustained

Judge: Mr. Schiff, how much longer?

Mr. Schiff 15 minutes

Look at the indictment, the government didn't approve one thing. Two witnesses claimed exempt employee got unsigned letter after court order and they took one half

prosecution: objection Judge: sustained

Mr. Schiff: I can't comment on the significance

Judge: I sustained

My employees were just that I'm responsible.

Count one charges us with interfering with the IRS. No delegation has been given from the secretary of the treasury to the IRS nor has it been published and the Federal Register. Look at page 264, the Federal Mafia.

Prosecution: objection already instructed on and contradicts

Judge: sustained move on

The indictment also accuses me of teaching seminars to stop people from paying taxes. The significance of 401K Cal, I suppose is why haven't they tried to get the money back, as he got it legally. I warn people took the chance of a refund was slim. When the government claims I told people to file false W-4's look at the Federal Mafia page 155 under 3402N

Prosecution:: objection commenting on law, province of court

Judge: sustained

(there was another obj and sustain here)

I've put the law and the book. You can read it and see it for yourself. If you understand the law, you can use it. There was a cautionary statement and the book about the risk of going to jail. That's just how it is in America. The government doesn't care about the law, they just want your money. The government never proved my witness's returns were wrong.

Prosecution: objection legal discussion inappropriate

Judge: sustained commenting on the law

Miss. Nuen Is charged with false and misleading, I didn't hear any testimony to that. That I had money offshore to conceal it is nonsense. Mr. Schiff discusses an insurance company, which he owned, the prosecution objected, as it was not in evidence and the judge sustained.

IRS agents have no authority, and I was prevented from

prosecution: objection

judge sustained

People knew what a zero return was, and people believe that when they signed it. People go back to paying due to intimidation. The government wears you down. You have to see them in court, and that's impossible. Its judicial blackmail.

Judge Dawson: Mr. Schiff, you have one minute left

You can do a favor to the rest of America. Women have to work now, they didn't used to.

Prosecution: objection

Judge: sustained

Were not slaves are wages don't belong to the government. (Mr. Schiff discusses increases in taxes) the prosecutor objects the judge sustained

My witnesses told the truth. Are you going to believe the government can take 50% of your wages without a court order.

Thanks for your time the American workers are looking to you for relief, give it to them.

Monday, October 17, 2005 1:10 p.m. Mr. Schiff Rests

Lunch break until 2:15 p.m.

2:20 p.m. Court in session Judge and Jury Present Mr. Bowers closes on behalf of Mr. Cohen.

With all due respect to Mr. Schiff. It's not about the law, are the code sections. The judge will instruct you on those. It's about their beliefs. Jury instruction number 48 includes the law of the case. If you're not willful. You're not guilty. If you have a good-faith belief. You're not guilty. The government asked the burden to prove they didn't have a good-faith belief. Whether they're right or wrong is not important, there belief is.

You can see Larry's brain as the prosecutors already told you. Larry used to file regular returns. There is no evidence Larry profited from freedom books. Larry studied the code, developed not liable return. Not important. The process of independent study and the belief is.

Agent Dalton, alias K. Irey. Mr. Bowers stipulates her tape didn't prove any wrongdoing. Mr. Cohen wasn't trying to sell or anything, he made no additional sales attempts. The agent called back and asked to buy a W-4 packet.

There were no secret actions on Larry's part. Larry signed a tax return as a preparer. He put his Social Security number on it. He was saying by this action, if it's wrong, come and get me. Larry called into Mr. Schiff's radio show. He wasn't worried about the law. Agent Holland testified when the warrant was served of freedom books. Larry offered the agent's bagels. He didn't go hide our runaway.

Mr. Cohen is not charged with tax evasion. None of the 34 or 35 government witnesses testify to any money being paid to Larry except for Jason Cardiff. Larry had no lavish lifestyle or car. No evidence of Larry's income presented. No testimony on Larry's income given. No financial incentive to Larry. No evidence has presented and he evidence that Larry didn't believe his believes and that they were illegal.

Mitchell and diamond testified that bankruptcy didn't change their beliefs. Many still believe, but sound file now due to fear.

Melvin Lewis testified about Larry's not liable return. Jason Cardiff gave direct testimony against Larry. But he admitted to lying to the grand jury, and he lied on his returns. Mr. Cardiff claimed to call Larry 30 times. Larry went to an audit for him. The government leads you to believe Larry got \$2000 for filing two income tax return for him. Even if we believe Mr. Cardiff, he still testified Larry was willing to talk to anybody. Mr. Cardiff got immunity from the government. He still didn't provide evidence that Larry intended to break the law.

Mr. Cristalli, he did an excellent job of discussing reasonable doubt. This is a felony prosecution, and we've been here a long time, you have a duty to follow the judge's instructions and your heart. It's the government's burden to prove these things. I don't have to do anything make an opening statement make a closing statement ask questions.

Larry has a good faith belief in his understandings of the law. The government claims, the CRS was notice, Irwin being in jail was notice him, these things don't negate Larry's good-faith belief. Get back to burden proof without reasonable doubt. The government states, Larry was a top salesman, I'm not sure what evidence we've heard to this regard. The government refers to orders, there was no mention of who filled the out. The government hasn't demonstrated he tried to break the law or that he didn't have a good-faith belief. Mr. Cohen left of \$15-\$16 an hour job to a minimum-wage job at freedom books. Because of his believes.

Mr. Bowers, thanks, the jury for being patient and asked them to please continue to be as long as necessary.

Monday, October 17, 2005 2:28 p.m. Mr. Bowers Rests

The Government's Response to Closing Arguments

The prosecution states, again, they appreciate the jury's time. The defendants closing arguments were fodder. This case is up to, you to decide. You heard that the defendants believed, it's not enough, because it has to be held in good faith. If you know the lawn disagree with it. That's not good faith. Once, you know the law. You cannot, not follow it. They have gotten notice.

You've heard some people still believe that they are filing income tax returns again. That's the difference. The defendants are stubborn and open. You can't be secretive and sell products are attempt to impede the IRS. Cindy saw the law multiple times. IRS agents tried to explain it to her many times. Cindy didn't want to hear the law. This is all notice that negates good faith.

The prosecution referred to Cindy Supreme Court letter, and that Mr. Brown lost. Mr. Cristalli objected to this as it was not in evidence. Judge Dawson stayed and the jury will use their recollection.

Another thing you must decide is if Miss Nuen worked at freedom books. You've heard testimony to this. She spent money from work and committed Social Security fraud. Exhibit 240 shows that Cindy signed on a bank account as an employee. The Social Security fraud boils down to one phone call. In that phone call Cindy lied to Social Security, because she would lose her benefits. You must decide if she was getting paid.

You've heard Mr. Schiff attempted talk about the law. Jury instruction 48 states that disagreement with the law is not good faith, and that notice negates good faith. Mr. Schiff won't listen to every court that's ruled against him. Once you get notice it's not good faith.

The prosecution refers to the Federal Mafia calling at cherry picking of laws. That Mr. Schiff uses just bits and pieces of it. Mr. Schiff can't claim he has a misunderstanding of the law. Mr. Schiff was the boss at freedom books. The defendants did not have to share profits to be guilty of a conspiracy. If they were all working to impede the IRS.

Mr. Schiff spent lot of time talking about good faith. He asked you to break the law, he asked you to not follow the oath you took, he asked you to not follow the judge's instructions.

Go to the jury room, review the evidence, look at all the times the defendants get notice. I'm asking you to return a verdict of guilty on all counts for each defendant.

The Government Rests At 3:02 P.M.

A federal marshal is given an oath. The court decides and gives instruction to alternate jurors and dismisses them. The judge instructs them to not discuss this case until a decision is reached, and to make sure the court asked their phone numbers.

3:05 P.M. Court in Recess Jury Begins Deliberations

One or two days later, the court was back in session. Due to a medical emergency of one of the jurors. This juror was eventually replaced with alternate juror number one. Deliberations were to begin a new.

Missing pages of notes. The court held a hearing after the jury requested to see Mrs. Nuens copy of the Internal Revenue code and a clean copy of it. Judge Dawson ruled against this request despite objections by the defense. The jury was not provided with the Internal Revenue code. (can you believe it) Judge Dawson stated "I don't want to send anything back to the jury that would encourage them to research the law"

October 24, 2005 12:50 p.m. Verdict in

There was added security at the courthouse, many federal marshals present. Double checked with a hand metal detector prior to entering court.

1:57 p.m. Mr. Schiff arrives, he is smiling and asking about all the spectators. The gallery is full, with most people wearing suits.

2 P.M. Court in Session Jury Present

Judge Dawson asked the foreperson if they have reached a unanimous verdict. The foreperson was an African-American woman sitting in the front row. She stated they had reached unanimous verdict. The verdict was passed to Judge Dawson, and he reviewed it. The clerk of the court reads the verdict.

Larry Cohen not guilty on Count one, guilty on Count 13, not guilty on counts 14, 15, and 16.

Miss Nuen guilty Count one, unanimous yes, guilty Count 6, 7, 8, 9, 10, 11, 12, 24, 25, not guilty Count 26, guilty Count 27, 28, 29, 32, 33.

Mr. Schiff, guilty Count one, unanimous one overt act. Yes. Guilty on counts 2, 3, 4, 5, 6, 17 unanimous yes, 18, 19, 20, 21, 22, 23

Mr. Cristalli asked for the jury to be polled. All jurors said yes, that was their verdict.

Judge Dawson thanks the jury for their time and dismisses them and tells them to wait and the jury room for further instruction from the federal marshals.

Mr. Schiff's arraignment is set for January 26, 2006 at 9 a.m.

Miss Nuens arraignment is set for January 27, 2006 at 9 a.m.

Mr. Cohen's arraignment is set for January 27, 2006 at 9:30 a.m.

Further info next page

Judge: the Court has recommendations for the release of defendants Nuen and Cohen.

The prosecution request to Cindy to be placed in custody as she has recently come into some money. The judge rules or will be a hearing within the next two days. Judge Dawson rules. Defendant Cowan will be released with conditions set by pretrial services and the stipulation that the defendant doesn't associate with any codefendant or victim or witness. The prosecution asked for Mr. Cohen's passport, so ordered by the judge.

Mr. Cristalli asked for Cindy to be out. He states, Cindy recently inherited \$25,000, and that Cindy can get to it. There is no evidence that she is a flight risk. And that she should be able to get her affairs together. Also, there is a Ninth Circuit issue for severance and mousse for bail pending appeal.

The prosecution of the opposes bill for Cindy, stating she's a flight risk. Judge Dawson orders that Cindy be remanded until tomorrow afternoon at 1 p.m.

Mr. Cristalli renews all his motions, Judge Dawson denies.

Judge Dawson orders. Mr. Schiff be remanded to custody.

Mr. Schiff: I have two cases pending in civil matters, I ask for bond, I will not flee, I'm going to stay and fight my conviction. I have issues for appeal, I have surrendered my passport. I am no flight risk it all. I need time to appeal and asked for reconsideration. Mr. Schiff states, his sister died on Sunday, and the funeral is on Wednesday.

The prosecution seeks detention, stating Mr. Schiff as offshore assets, and he faces significant jail time.

Mr. Schiff states, he only has \$2000 in a pill account, and no assets offshore.

Judge Dawson, as Mr. Schiff to sit down and states he is a flight risk with assets. He states that Mr. Schiff has been unmanageable and court and has no respect for the court's rulings, and that he is a threat to the community. Mr. Schiff also has matters of sanctions still pending. As for matters of appeal and medical problems. The US Marshal's can handle these. Judge Dawson, rules detention granted. Mr. Schiff states he has no assets.

The court is rapidly cleared at 2:15 p.m.